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Sherri R. Carter, Executive Officer/Clerk
By: Kenneth Johnson, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA,) CASE NO.: SA089983
Plaintiff,) **OPPOSITION TO DEFENDANT'S**
vs.) **MOTION TO EXCLUDE EVIDENCE OF**
) **MORRIS BLACK'S HOMICIDE,**
) **DISMEMBERMENT OF HIS CORPSE,**
ROBERT DURST,) **AND DISPOSAL OF HIS BODY PARTS;**
) **MEMORANDUM OF POINTS AND**
Defendant.) **AUTHORITIES IN SUPPORT THEREOF;**
) **DECLARATION OF JOHN LEWIN IN**
) **SUPPORT THEREOF**

) DEPT: 81
) DATE: January 14, 2019
) TIME: 10:00 A.M.
)

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

When Defendant Robert Durst (“Defendant”) killed and dismembered Morris Black (“Morris”) in 2001, it was the violent climax of his nearly year-long effort to conceal himself from New York authorities who had re-opened their investigation into his missing wife, Kathie Durst’s (“Kathie”), disappearance. Defendant’s actions demonstrated both his guilty conscious for having killed Kathie, as well as his plan to make it appear as though she had voluntarily abandoned her life. In addition, these actions not only revealed Defendant’s fear of being exposed to criminal prosecution for killing his missing wife, they also unveiled his motivation for killing Susan Berman (“Susan”): to eliminate her as a witness. Finally, because of the tremendous publicity associated with Morris’s killing, dismemberment, and disposal, these actions also deeply affected crucial witnesses in their decision to approach or refrain from contacting law enforcement with inculpatory information against Defendant.

On the evening of January 31, 1982, after years of exerting power and control over his wife Kathie, Defendant killed her in their Westchester County, New York home. Defendant subsequently confided in his best friend, Susan, that Kathie was dead, and enlisted Susan’s help in covering up the crime. Defendant and Susan then initiated an elaborate plan to help Defendant avoid detection, prevent his arrest, and ultimately escape justice. This plan included, among other things, making it appear as though Kathie had voluntarily run away. In order to create this false impression, Defendant manufactured evidence to confuse and misdirect New York authorities by creating a phony alibi for the night of Kathie’s death, and by lying to authorities about both his whereabouts, and his alleged contact later on that evening with his missing wife.

The morning after he killed Kathie, Defendant had Susan call Kathie’s medical school and pretend to be his wife. Through this phony call, Defendant convinced authorities that Kathie had made it back to New York City and was alive. With Susan’s assistance, Defendant’s plan

1 succeeded and he delayed responsibility for his wife's disappearance and death for more than
2 thirty-five years.

3 Nearly twenty years after Kathie vanished, Defendant faced a new and serious threat: In
4 November 1999, New York authorities unexpectedly launched a reinvestigation into Kathie's
5 disappearance. In October 2000, Defendant learned that the New York press was about to
6 publicize the existence of this reinvestigation, and he panicked. Terrified that his involvement in
7 Kathie's death would be discovered and that he would be summarily arrested, Defendant
8 modified his plan to avoid detection, prevent arrest, and ultimately escape justice. Among other
9 things, he fled from the New York authorities, concealed his true identity, and ultimately killed
10 the two witnesses who had information regarding his criminal culpability and/or current
11 whereabouts.

12 By November 15, 2000, four days after the story of the reinvestigation into Kathie's
13 disappearance hit the New York papers, Defendant had fled to Galveston, Texas and established
14 residence in a \$300/month studio apartment. He did so while posing as an elderly, mute woman
15 named Dorothy Ciner. In an effort to avoid detection and arrest, whenever Defendant did appear
16 in public in Galveston as a man, he used a fake name so that he could never be connected to his
17 true identity.

18 A month later, in late December of 2000, Defendant took his boldest step yet in his
19 master plan to cover-up the killing of his missing wife. Fearing that Susan would disclose his
20 involvement in Kathie's death to authorities, Defendant, on December 19th, flew from New York
21 to San Francisco and then took a commuter plane to Eureka. He picked up his Ford Explorer
22 from a local car dealership where it was parked, and the next morning, after making a large
23 withdrawal from a local bank, made the approximately 650-mile trip to Los Angeles. He then
24 drove to his best friend Susan's residence and, after being admitted inside, executed her at point
25 blank range with a single shot to the back of her head.

1 In February of 2001, Defendant, who was still hiding in Galveston under the alias of
2 Dorothy Ciner, travelled to New Orleans and rented a second apartment under the name of Diane
3 Wynn. As with his apartment in Galveston, Defendant rented the New Orleans property while
4 disguised as a woman so that he would have a place to hide if the New York authorities tracked
5 him to Galveston. For the next several months, Defendant travelled back and forth between
6 Galveston and New Orleans, never using his true name.

7 Ultimately, on September 28, 2001, Defendant tied up the last loose end in his effort to
8 cover up the killing of his missing wife: He murdered his close friend and neighbor, Morris
9 Black ("Morris"). Morris was the only person in Galveston who was aware of Defendant's true
10 identity. As importantly, Morris also knew that Defendant was hiding from the New York
11 authorities who Defendant believed were about to charge him in the disappearance and death of
12 Kathie Durst. In a feeble attempt to cover-up Morris's murder, Defendant dismembered his
13 corpse, placed the body parts in garbage bags, and dumped them into Galveston Bay. However,
14 this halfhearted plan failed because, as Defendant discovered, "bags don't sink, they float." As a
15 result, Morris's remains washed up almost immediately onto shore.

16 Defendant's crimes throughout 2000-2001 were the manifestations of his same common
17 design and plan to escape detection for his involvement in the death of his missing wife Kathie.
18 Shortly after Defendant learned of the reinvestigation into her disappearance, he began making
19 preparations for life on the run as a fugitive. From late-October of 2000, until he murdered
20 Morris in late-September of 2001, Defendant "structured"¹ at least 48 transactions under \$10,000
21 to avoid mandatory reporting requirements and amass a stockpile of cash to use while hiding
22 from authorities. Defendant continued to put this plan into action after he was arrested for killing

23 ¹ Under Federal Law, each financial institution is required to file a report of each withdrawal or transfer which
24 involves a transaction of more than \$10,000. (31 C.F.R. § 1010.311 (2010); see also former 31 C.F.R. § 103.22(b)
25 (2000) ["Each financial institution . . . shall file a report of each deposit, withdrawal, exchange of currency or
other payment or transfer . . . which involves a transaction in currency more than \$10,000 . . ."].) Federal law
prohibits structuring any transaction for the purpose of evading the reporting requirements. (31 U.S.C. §
5324(a)(3).)

1 Morris. He jumped bail and embarked on a six-week interstate flight from justice (which only
2 ended after he was caught shoplifting a sandwich from a Pennsylvania grocery store).

3 Defendant was eventually brought back to Texas where he stood trial for Morris's
4 murder. Defendant, who testified in his own defense, admitted that Morris had been killed with
5 Defendant's gun, but claimed a combination of self-defense and accident. Defendant admitted
6 that he then dismembered his close friend and attempted to dispose of his body. He testified that
7 he did not contact the authorities to explain to them what had happened because he did not think
8 they would believe him given who he was, how he was living, and the fact that he was a suspect
9 in the disappearance of his missing wife. The defense successfully convinced the jury that the
10 dismemberment was somehow irrelevant, and Defendant was subsequently acquitted of the
11 murder. Defendant ultimately pled guilty to bail jumping and evidence tampering (related to the
12 dismemberment and disposal of Morris's body), and served a brief time in prison after his
13 Galveston acquittal.

14 In March 2015, nearly 35 years after he killed his wife, Defendant again found himself
15 under the glare of intense media scrutiny during the airing of the final episodes of the HBO
16 miniseries, "*The Jinx: The Life and Deaths of Robert Durst*." ("*The Jinx*") As a result, Defendant
17 attempted to flee for a third and final time. Knowing that the last episode of the series would
18 show his videotaped interview where he had been confronted with the damning "Cadaver Note"
19 and "Sareb Envelope," complete with their identical handwriting and same misspelling of the
20 word "Beverley," Defendant abruptly abandoned his life in Houston and disappeared into thin
21 air. He was eventually tracked to New Orleans by the FBI through a call to his voice mail (the
22 same type of call he had made from the payphone in Garbersville, CA on December 20, 2000 on
23 his way to murder Susan in Los Angeles), and was subsequently arrested at the JW Marriott in
24 New Orleans on March 14, 2015. When taken into custody, Defendant was registered under a
25 false name, had fake IDs, a large sum of cash, a latex mask, and most concerning, a loaded

1 handgun. The day after his arrest, prior to being charged in the instant case, Defendant was
2 interviewed in the New Orleans Parish Jail by DDA John Lewin (“DDA Lewin”) and members
3 of the Los Angeles Police Department’s Robbery Homicide Division (“RHD”). During this
4 approximately three-hour interview, Defendant made numerous incriminating statements
5 amounting to a de facto confession.

6 The proffered evidence relating to Morris’s murder, dismemberment, and disposal should
7 be admitted at trial for numerous reasons. First, the alleged witness-killing special circumstance
8 requires the People to prove that when Defendant killed Susan, he did so intending to prevent her
9 from cooperating and providing information to authorities regarding his involvement in his
10 missing wife’s disappearance. Defendant’s actions in killing and dismembering Morris were
11 undertaken pursuant to that same common design and plan: to prevent Morris from alerting the
12 authorities of Defendant’s whereabouts so that he could avoid the charges he feared were
13 imminently forthcoming from authorities in Westchester County.

14 Second, Defendant’s actions with respect to Morris’s killing are clear evidence of
15 Defendant’s consciousness of guilt.² This is true not only with respect to the circumstances of
16 Morris’s death, dismemberment, and disposal, but more importantly, as to how those
17 circumstances relate back to Defendant’s involvement in the disappearance and death of his
18 missing wife.

19 Third, the manner of Susan’s and Morris’s murders--where Defendant laid in wait and
20 shot them both in the back of the head execution style--are eerily similar. In both murders, Susan
21 and Morris were killed by a close friend they each trusted, inside of a residence they each

22
23 ² It is extremely important for the Court to understand that, unlike in almost any other case, the People’s position
24 regarding Defendant’s state-of-mind at the time he killed Morris Black is not based on circumstantial evidence or
25 supposition, but instead, comes from Defendant’s own words in recorded statements which cannot legitimately be
disputed. These statements, which confirm that Morris was aware of Defendant’s true identity, also concede the
tension between Defendant and Morris over Morris’s demand that Defendant purchase a house in Galveston for he
and Morris to live in. Most importantly, these recorded statements by Defendant demonstrate his intense fear that the
New York authorities were going to find out where he was and come and arrest him for Kathie’s murder.

1 considered to be safe, and by an individual who concealed his homicidal purpose to gain a
2 position of advantage. Both killings occurred while the victims were vulnerable to attack and
3 either completely or largely helpless in their ability to defend themselves.

4 Fourth, Defendant's actions associated with Morris's killing are also admissible as
5 circumstantial evidence of Defendant's knowledge and belief that he was about to be arrested
6 and prosecuted for Kathie's death, which is also the same reason why the People have alleged
7 Defendant murdered Susan. However, because Defendant was not actually being prosecuted for
8 Kathie's disappearance at the time he murdered Susan, to prove the witness-killing special
9 circumstance allegation, the People will demonstrate that Defendant committed the charged
10 murder with the intent of avoiding an anticipated criminal prosecution. For that reason,
11 Defendant's actions in murdering Morris are relevant to prove his subjective intent (i.e. his
12 knowledge and belief that a New York arrest and/or prosecution were imminent), and are thus
13 admissible pursuant to section 1101(b).

14 Fifth, Defendant's actions in attempting to conceal Morris's death by dismembering his
15 corpse, dumping his body parts in Galveston Bay, and making other efforts to cover up the crime
16 (including obtaining a cashier's check from Walmart to pay Morris's rent months in advance to
17 make it appear that Morris was still alive and had voluntarily absented himself) are analogous to
18 the actions Defendant took to conceal Kathie's killing nineteen years earlier. For this reason, it is
19 not only Defendant's murder of Morris which is relevant to the witness-killing special
20 circumstance, but Defendant's actions in attempting to cover up the killing which are probative
21 of his overall common design and plan to escape prosecution for the disappearance and death of
22 his missing wife. The People will prove that after killing Kathie, Defendant disposed of her body
23 and made it appear as if she had made it back to Manhattan and then voluntarily abandoned her
24 life. After Defendant killed Morris, he utilized the same plan, making it appear that Morris was
25 still alive by paying his rent and creating the false impression that he had left Galveston.

1 Sixth, the evidence that Defendant killed and dismembered Morris bears directly on the
2 reason why many of the witnesses in this case, who have provided damaging testimony, did not
3 come forward earlier with the inculpatory information they possessed. The defense, through their
4 questioning of numerous witnesses during conditional examinations, including but not limited to
5 Miriam Barnes, Peter Schwartz, and Robin Morse, have attacked those witness' credibility by
6 making the point that they remained silent for many years before revealing to authorities the
7 information they had. The inference from this cross-examination is that these witnesses lack
8 credibility and are to be distrusted. The fact that most, if not all of them, were aware that
9 Defendant had killed and dismembered Morris is compelling evidence why they feared for their
10 personal safety, and the safety of their loved ones, and did not come forward to the police. This
11 is a highly relevant factor in evaluating these witnesses' overall credibility.

12 Defendant strongly argues in his papers that because he was acquitted by the jury in his
13 murder trial in Galveston, that the People are therefore barred under the doctrine of collateral
14 estoppel from presenting this evidence at trial in Los Angeles.³ Notwithstanding the numerous
15 legal problems with Defendant's contention, the most obvious and most fatal flaw in his
16 argument is that the People were not a party to the prior litigation in Texas. For that reason alone,
17 the doctrine of collateral estoppel simply cannot apply.⁴

19 ³ Although it is in no way a necessary prerequisite for admission of the evidence, it is worth noting that the jury in
20 Galveston was never presented with critical evidence that impeaches Defendant's version of self-defense/accident
21 which he presented at trial. The People will show that Defendant's testimony in Galveston, his prior statements
22 about the killing, and the computer animation prepared by and testified to by Defendant at trial (based on his version
23 of what transpired), are absolutely impossible to reconcile with the physical evidence from the crime scene.

24 ⁴ Even if there were privity of parties and the doctrine of collateral estoppel could be applied against the People in
25 this case, it would in no way prohibit the use of the proffered evidence pursuant to Evid Code section 1101(b),
which is governed by a preponderance of the evidence standard and not by the stricter standard of beyond a
reasonable doubt. As Defendant accurately recited in his moving papers, "The general rule is that under the doctrine
of collateral estoppel an acquittal in a criminal case does not necessarily preclude the Government from relitigating
an issue when it is presented in a subsequent action *governed by a lower standard of proof*. . . Therefore, evidence of
a prior act may be introduced as propensity evidence (due to the lower burden) even if the defendant was acquitted
of criminal charges based upon the act." (See DEFENDANT'S MOTION IN *LIMINE* REGARDING PRIOR
ACQUITTAL AND ALL UNDERLYING ACCUSATIONS, pg. 7)

1 It is also important to note that even if the doctrine of collateral estoppel did apply and
2 the Court were to accept everything Defendant has previously stated and testified to regarding
3 the alleged self-defense/accidental nature of the killing, Defendant's undisputed conduct in
4 dismembering and disposing of Morris's body would still be highly probative and admissible in
5 and of itself. Defendant has never disputed that Morris was shot by his gun, that he then
6 dismembered Morris's corpse, and that he then attempted to dispose of Morris's body by
7 dumping it in trash bags in Galveston Bay. Defendant also does not dispute, and in fact, has
8 repeatedly affirmed, that the reason he did not call the police after Morris's killing, the reason he
9 dismembered Morris's corpse, and the reason he tried to permanently get rid of Morris's body
10 was because he thought that no one would believe him due to the suspicion regarding
11 Defendant's alleged involvement in the disappearance of his wife. The People absolutely agree
12 with Defendant's assertions that his disposal of Morris's body was related to Kathie's
13 disappearance; we just have a disagreement with Defendant as to how and why Morris was
14 actually killed. The People believe that Defendant's disposal of Morris's body was not only
15 motivated by Defendant's fear of the reinvestigation into his missing wife, but is compelling
16 evidence that Kathie was disposed of by Defendant in a similar fashion. The People have the
17 right to present the theory and the obligation and responsibility to explain this theory to the jury.

18 Finally, Defendant also asks the Court to exclude the evidence of Morris's killing,
19 dismemberment, and disposal pursuant to Evid. Code 352, stating, "the evidence that the People
20 intend to introduce is of such an incredibly inflammatory nature that it will, in and of itself,
21 create undue prejudice as it is beyond gruesome." (See Defendant's Motion in *Limine* Regarding
22 Prior Acquittal And All Underlying Accusations, pg. 18).⁵ However, this is a completely
23 nonsensical argument because it ignores the reality of what actually transpired at the trial in
24 Galveston. The jury was apparently so "prejudiced" by this "inflammatory" evidence, which

25 ⁵ Defendant does not dispute that he engaged in the alleged "gruesome" and "prejudicial" conduct.

1 Defendant has alleged was “beyond gruesome,” that they found him *not guilty* and sent him
2 home. How it can be argued with a straight face that a jury will not be able to set aside the
3 “inflammatory” nature of the evidence, and will automatically convict Defendant based on
4 “undue prejudice,” when the verdict in Galveston proved just the opposite, defies all logic.

5 For all of the reasons outlined, the People seek an order allowing evidence of Morris
6 Black’s death, dismemberment and disposal to be admitted at trial pursuant to section 1101(b).

7 **II. FACTUAL BACKGROUND**

8 **A. After Escalating Violence And Control In Their Relationship, Defendant Killed** 9 **Kathie Durst On January 31, 1982 And Tried To Make It Appear As If She Was** 10 **Still Alive**

11 Defendant’s relationship with his missing wife Kathie always contained an unequal
12 power dynamic. (See Lewin Decl., Ex. 1 [Interview of Robert Durst, Dec. 12, 2010] p. 27:16.)
13 When they met, Defendant was in his late twenties and Kathie was in her late teens, a difference
14 which Defendant described as “a long time, age-difference-wise.” (*Id.* at pp. 109:14-15; 111:17-
15 25.) Defendant was the wealthy scion of a prominent real-estate mogul whose company owned a
16 substantial amount of property in New York City, while Kathie was the product of a blue-collar,
17 working-class family from Long Island. (*Id.* at pp. 43:17-19; 48:1-5; 105:2-3; 110:22-23; 112:2-
18 13; 154:7-9.) These issues permeated Defendant’s relationships with Kathie’s family as well. As
19 Defendant has explained in discussing how he viewed Kathie’s family, it was “more than
20 meet[ing the average American family.] Bob is forced to spend time with the average American
21 family I just kept feeling like I should show them that I hate – despise these things that they
22 do.” (*Id.* at 48:1-10.)

23 From the beginning of the relationship, Defendant has admitted that he was “very
24 controlling” over Kathie. (Lewin Decl., Ex. 2 [Robert Durst Interview Transcript, Mar. 15, 2015,
25 New Orleans] pp. 53:27 – 54:1; Lewin Decl., Ex. 1 [Interview of Robert Durst, Dec. 12, 2010] p.

28:11-13.) Defendant maintained this unequal dynamic through power and control, which he exerted in every aspect of the relationship. (Lewin Decl., Ex. 1, [Defendant’s Interview, Dec. 12, 2010] p. 27:16.) Defendant controlled Kathie financially. He was the beneficiary of a substantial trust fund and gave Kathie a small budget to live on. (*Id.* at 96:6-9.) Defendant also exerted his control over Kathie in other ways as well. For example, when they dined out, Defendant chose what they both ate. (*Id.* at 28:18-25.) When Kathie became pregnant, Defendant forced her to have an abortion. (*Id.* at pp. 30:7-10; 55:9-13.) As Defendant admitted in describing their relationship, “**I was always, always, always very controlling.**” (Lewin Decl., Ex. 3 [December 10, 2010 DVD Commentary Transcript] p. 30:7-8 [emphasis supplied].)

However, as Kathie matured and became more professionally accomplished, her confidence and level of independence grew. When Defendant refused to have children and forced Kathie to have the abortion, she responded by immersing herself in her studies, ultimately completing a degree in nursing. (Lewin Decl., Ex. 1, [Defendant’s Interview, Dec. 12, 2010] p. 201:2-3.) When it became apparent in nursing school that Kathie was a talented student, she took the huge step of applying to, and eventually attending, medical school. (*Id.* at pp. 170:15-16; 196:22-24; 197:9-199:25.) Kathie’s success resulted in an increasing loss of control for Defendant. (*Id.* at pp. 28:11-14; 163:17-20; 195:6-8; 201:8; 249:19-21; 251:1-3.) He responded to this changing dynamic with threats and emotional abuse, which, over time, escalated into frequent episodes of physical violence.⁶

Amid this cycle of abuse, as previously outlined to the Court, Kathie attempted to escape by aggressively pursuing a divorce along with its accompanying financial settlement. (Lewin Decl., Ex. 1, [Defendant’s Interview, Dec. 12, 2010] p. 28:3-14) Defendant saw this effort by

⁶ In the interest of judicial economy, as the Court on April 18, 2018 granted THE PEOPLE’S MOTION TO ADMIT DEFENDANT’S ACTS OF DOMESTIC VIOLENCE AND EMOTIONAL ABUSE AGAINST KATHIE DURST, we will not restate the content of that motion here. Instead, we request the Court to incorporate the incidents and legal rationale as explained in our previously filed moving papers, and which the Court has admitted into evidence, as a supplement to this motion.

1 Kathie as an attempt to exert her control. (*Id.* at 28:7-9; see also Lewin Decl., Ex. 3 [December
2 10, 2010 DVD Commentary Transcript] pp. 36:6-11.) He did not respond well to his wife's
3 burgeoning independence, and responded even worse to her effort to secure anything more than a
4 meager divorce settlement.

5 Like most domestic abusers, Defendant, although relatively diminutive in size, used
6 physical violence against Kathie and her friends as a means to intimidate and control her. At a
7 1980 Christmas party at Kathie's mother's house, Defendant dragged Kathie out of the house by
8 the hair. (Lewin Decl., Ex. 1 [Interview of Robert Durst, Dec. 12, 2010] pp. 51:3-25; 219:3-15.)
9 This abhorrent act represented only the tip of Defendant's domestic abuse. As he later admitted,
10 "[T]he hair pulling wasn't even the worst." (*Id.* at 219:8-9.) In fact, by 1981, Defendant admitted
11 the relationship was "half arguments, fighting, slapping, pushing, [and] wrestling." (*Id.* at pp.
12 202:25 – 203:1-2.) As an example, in another horrific incident on February 1, 1981, Defendant,
13 while in a jealous rage in Kathie's presence, kicked Peter Schwartz ("Schwartz") in the face,
14 shattering Schwartz's right orbital bone and sending him to the emergency room.⁷ (*Id.* at pp.
15 225:2 – 227:1-24.)

16 Later that year, another shocking incident of domestic violence took place. After an
17 argument with Defendant, Kathie climbed onto the terrace of their high-rise penthouse during a
18 rainstorm, fled to the neighbor's (Kevin Doyle and Anne Anderson-Doyle) adjoining penthouse,
19 and began banging on their bedroom window. Kathie, while crying and in a panicked state,
20 subsequently told the neighbors that Defendant had violently attacked her and that he was armed
21 with a handgun. (Lewin Decl., Ex. 4 [Varian Report, Feb. 10, 1982] p. 2; see also Lewin Decl.,
22 Ex. 1 [Interview of Robert Durst, Dec. 12, 2010] pp. 208:24 – 209:1-25.)

23 On January 6, 1982, about three weeks before she would disappear never to be seen
24 again, Kathie walked into the emergency room at Jacobi Hospital in the Bronx and told the

25 ⁷ Again, additional details of this incident are omitted as the Court is well aware of this incident from previous
litigation and courtroom proceedings.

1 treating physician that she had been struck in the face. (See Lewin Decl., Ex. 1 [Interview of
2 Robert Durst, Dec. 12, 2010] pp. 265:23 – 266:13.)⁸ Less than a month later, on Sunday,
3 January 31, 1982, before Kathie could escape this violent man, he killed her.

4 Despite the problems in the marriage, Kathie and Defendant spent the weekend prior to
5 her disappearance at their lakeside cottage in South Salem, New York. That Sunday, Kathie
6 attended a gathering at her friend Gilberte Najamy’s (“Gilberte”) parents’ home in nearby
7 Newton, Connecticut. (Lewin Decl., Ex. 1 [Interview of Robert Durst, Dec. 12, 2010] p. 278:4-
8 5.) While at the Najamy residence, Kathie spoke with Schwartz over the phone and learned that
9 his litigation against Defendant, related to Defendant’s prior violent assault against him, was
10 being dropped. (Peter Schwartz Conditional Examination, July 24, 2017, pp. 42:6-52:23.) As
11 Schwartz and Kathie spoke, she became increasingly aggravated. (*Ibid.*) Schwartz would later
12 relate that Kathie was upset that his case against Defendant was being settled because that
13 reduced her leverage in her divorce negotiations with Defendant. (See Lewin Decl., Ex. 5 [Nov.
14 7, 2000 Becerra Notes of Schwartz Interview].) As Kathie was leaving the Najamy residence,
15 she stopped and stated to Gilberte, “if anything happens to me, promise me you will check it out.
16 Bob is going to hurt me.”⁹

17 According to Defendant’s later admission, when Kathie arrived home that night, they had
18 a “pushing and shoving” argument. (Lewin Decl., Ex. 1 [Interview of Robert Durst, Dec. 12,
19 2010] p. 279:9-10.) Kathie was never seen nor heard from again. The evidence overwhelmingly
20 demonstrates that Defendant killed Kathie at the house and then disposed of her body.

21 In the days and weeks after Kathie “disappeared,” Defendant’s conduct was more than
22 suspicious. Almost immediately, he began throwing away Kathie’s personal possessions. Karen
23

24 ⁸ As the Court is aware from prior litigation and courtroom testimony, these incidents constitute only a sliver of the
abuse Kathie suffered.

25 ⁹ Because Gilberte is deceased, and the admissibility of her statements are completely dependent upon Defendant’s
tactical trial decisions going forward, this comment is included simply for the Court’s reference in case Defendant
seeks admission of any of Gilberte’s statement pursuant to pre-arrest due process requirements.

1 Minutello (“Minutello”), the building manager at the E. 86th St. apartment where Kathie was
2 primarily living at the time of her disappearance, learned from her superintendent within a few
3 days of Kathie’s disappearance that the building’s trash compactor was all “jammed up.”
4 (Preliminary Hearing Tr., April 16, 2018, at pp. 58:9 – 66:9.) In response, Minutello went into
5 the basement and saw the building’s porters pulling out various items from the machine,
6 including clothes, books, hair dryers, and makeup. (*Id.* at 59:8-26.) Minutello was able to
7 identify these items as belonging to Kathie because her name was printed on one of the
8 notebooks/textbooks. (*Id.* at pp. 59:28 – 60:11.)

9 **B. After Killing His Wife, Defendant Enlisted Susan Berman To Help Cover It Up**

10 To avoid responsibility for killing Kathie, Defendant concocted a scheme to evade
11 prosecution. As part of this plan, he recruited his best friend and close confidante, Susan
12 Berman. Defendant and Susan had known each other since the mid-1960s and were as close as
13 siblings. (Lewin Decl., Ex. 1 [Interview of Robert Durst, Dec. 12, 2010] pp. 21:24-25; 22:1-3;
14 23:1.) Susan’s father, Davie “The Jew” Berman, was a long-time associate of mobsters Bugsy
15 Siegel, Meyer Lansky and Lucky Luciano. After Bugsy Siegel was assassinated in 1947 by the
16 New York mob for embezzling money meant for the building of the Flamingo Hotel in Las
17 Vegas, Berman took over control of the property and ran it until his death ten years later. (Lewin
18 Decl., Ex. 6 [New York Magazine article: “Who Killed the Gangster’s Daughter?”] p. 59; Lewin
19 Decl., Ex. 7 [Obst Interview Transcript, Mar. 20, 2015] p. 12:3-7.) Susan spent the first part of
20 her life in Las Vegas as a mafia princess.

21 Susan, like her mobster father, was known to be exceedingly loyal to her friends, and no
22 friend was closer to Susan than Defendant. (See Lewin Decl., Ex. 1 Interview of Robert Durst,
23 Dec. 12, 2010] pp. 21:24-25; 22:1-3; Lewin Decl., Ex. 7 [Obst Interview Transcript, Mar. 20,
24 2015] p. 13:14-19.) After Defendant killed Kathie on January 31, 1982, he came to Susan asking
25 for help. (Nick Chavin Conditional Examination Transcript, Feb. 16, 2017, AM, p. 80:1-4.) In

1 order to create the false impression that Kathie had returned to their Manhattan penthouse on
2 Sunday night and was still alive the next morning, Susan called Einstein Medical School Asst.
3 Dean Albert Kuperman Monday morning pretending to be Kathie.¹⁰ (Obst Conditional
4 Examination Transcript, Apr. 26, 2017, p. 31:5-7; see also Kuperman Conditional Examination
5 Transcript, Feb. 14, 2017, pp. 67:8 – 68:12.) This call had its intended effect: It not only made it
6 appear as if Kathie was still among the living, but, as importantly, it redirected the investigation
7 away from the jurisdiction where the killing had occurred in South Salem, and away from
8 Defendant, the person who had killed her.

9 When the disappearance and police investigation were reported in the press about a week
10 later, Defendant immediately designated Susan to be his spokesperson to the media. (Lewin
11 Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 108:3-10.) As Defendant's
12 mouthpiece, Susan effectively managed the messaging, insisting that Kathie's disappearance was
13 the result of her "drug use and promiscuity." Not only did Susan effectively push this false
14 narrative to the media, she also attempted to plant the same idea in the head of the lead
15 investigator, NYPD Det. Michael Struk ("Det. Struk"). (Lewin Decl., Ex. 9 [Struk Notes, Feb.
16 24, 1982 (Berman)].) Shortly after Kathie vanished, Susan told Det. Struk that she thought
17 "Kathie had a cocaine habit of about \$1,000 per week" and was also "using Quaaludes." (*Ibid.*)
18 In addition, Susan attempted, while speaking to Det. Struk, to blame Kathie's disappearance on
19 her "promiscuity." (*Ibid.*)

20 With Susan's assistance, Defendant was able to mislead the original investigators into
21 thinking that Kathie had it made it back to Manhattan and called Dean Kuperman the next
22 morning. This strategy resulted in a lack of focus by detectives on the true crime scene in South
23 Salem. It was a plot of misdirection which led quickly to the investigation going "cold" and
24 remaining in a dormant state for nearly twenty years. As a result of these efforts, Defendant was

25 ¹⁰ Not surprisingly, this was utilized in conjunction with the lie Defendant related to investigators that he had spoken to Kathie that Sunday night after she had allegedly made it back to their New York City penthouse.

1 able to delay his arrest and prosecution and, to this day, has never been charged by New York
2 authorities for Kathie's disappearance.

3 **C. New York Authorities Opened A Reinvestigation Into Kathie Durst's**
4 **Disappearance**

5 In November 1999, unbeknownst to Defendant and the public, the New York State Police
6 began looking into Kathie's disappearance. (Lewin Decl., Ex. 10 [Becerra Reinvestigation
7 Report] ¶ 1-2.) Defendant very quickly became the focus of their investigation. (See *ibid.*) In late
8 October of 2000, Defendant, according to his testimony during his Galveston murder trial,
9 allegedly learned for the first time of the ongoing investigation and that it was about to become
10 public.¹¹ (Lewin Decl., Ex. 11 [Deft. Galveston Testimony Tr.] Vol. 1, p.30:1-14.) Now aware of
11 the reinvestigation, Defendant formulated a plan to avoid apprehension and detection. As
12 explained below, Defendant engaged in a series of actions that were the individual
13 manifestations of that common design and plan.

14 **D. Two Days After The Reinvestigation Became Public, Defendant Decided To Go**
15 **Into Hiding To Avoid Apprehension and Detection**

16 On October 31, 2000, Defendant testified that he learned that the New York press was
17 working on a story about Kathie's disappearance and, as a result, became extremely distressed.
18 (Lewin Decl., Ex. 11 [Deft. Galveston Testimony Tr.] Vol. 1, p.30:1-14.) "The discovery made
19 me sick to my stomach." (*Id.* at 30:20.) Defendant was so distressed he would later testify that
20 upon hearing about the reinvestigation, "I went into the bathroom and threw up." (*Id.* at 30:21.)

21 On November 7, 2000, just one week later, Defendant met with criminal defense attorney
22 Joel Cohen from the law firm Stroock & Stroock & Lavan LLP in New York City. (Lewin Decl.,
23 Ex. 11 [Deft. Galveston Testimony Tr.] Vol. 1, p.33:10-12; 34:1-2.) According to Defendant,
24 Mr. Cohen told him that if he were charged in connection with Kathie's disappearance, his bail

25 ¹¹ In 2003, Defendant would be tried for the murder of Morris Black and at trial testified in his own defense.

1 could exceed \$1 million and there might be no bail granted at all. (*Id.* at 35:7-11.) The prospect
2 of being charged and going to jail frightened Defendant. (*Id.* at 35:11.) As he later stated, “the
3 big problem’s ‘Robert Durst’ and that I wanted to **not be** Robert Durst.” (*Id.* at 37:3-4 [emphasis
4 added].)

5 On Saturday, November 11, 2000, The New York Daily News and The New York Times
6 published articles disclosing that authorities were re-opening their investigation into Kathie’s
7 disappearance. (Lewin Decl., Exs. 12 & 13.) The Daily News article stated that investigators
8 were “chasing leads that again focus suspicion on her wealthy husband, real estate heir Robert
9 Durst.” (Lewin Decl., Ex. 12.) The article also detailed the investigative steps that police had
10 taken up to that point: divers had searched a lake whose shoreline bordered Defendant’s former
11 home in South Salem; (*Ibid.*) investigators had removed a piece of the bedroom wall from the
12 South Salem home and mud from the lake; Investigators had contacted prosecutors who had
13 convicted a wealthy plastic surgeon for killing his wife in a case in a similar case in which no
14 body was ever recovered. (*Ibid.*) The New York Times article contained similar information
15 about investigators scouring the Durst’s former South Salem home with dogs, as well as
16 accusations by Kathie’s relatives regarding Defendant’s knowledge and involvement in her
17 disappearance. (Lewin Decl., Ex. 13.) In sum, these media reports made it abundantly clear that
18 Defendant was suspected of killing his missing wife and was the target of the reinvestigation.

19 Defendant has admitted that he read the press stories on November 11, 2000 and that the
20 experience is seared into his memory. During an interview *12 years* later, Defendant even
21 recalled the specific day of the week the story appeared in the paper: “That was, was a Saturday?
22 Yeah, see? Saturday! I hit it right. Saturday was when the doo doo hit the fan. It made the front
23 page of The Daily News.” (Lewin Decl., Ex. 14 [Defendant’s Interview, Apr. 18, 2012] p.
24 40:17-22.) According to Defendant, “there wasn’t even anybody who didn’t know about it. You
25 couldn’t miss it. You couldn’t walk by a newsstand or walk by a drug store. I mean, it was just

1 everywhere.” (Lewin Decl., Ex. 11 [Deft. Galveston Testimony Tr.] Vol. 1, p.37:17-21). “It was
2 my picture on the front page of the newspaper about six or eight inches of newspaper.”¹² (*Id.* at
3 41:8-13.) Rather than Defendant’s initial reaction being relief that investigators might finally
4 discover what happened to his missing wife, Defendant instead became panicked. As he later
5 recalled, when he first heard about the reinvestigation, “I freak[ed].” (Lewin Decl., Ex. 8
6 [Interview of Robert Durst, Dec. 13, 2010] p. 179:14.). “I went bananas.” (*Id.* at 179:18)
7 Defendant was terrified that law enforcement was going to “charge me with something.” (*Id.* at
8 179:21.) He made clear his fear that “people [were] going to find me guilty.” (*Id.* at 179:20-25.)
9 “I’d been guilty for *years* in the newspapers, et cetera, et cetera.” (*Ibid.*) Defendant succinctly
10 summed up his feelings about the reinvestigation when he expressed, “now ‘they’ were *really*
11 going to find me guilty.” (*Ibid.*)

12 **E. Defendant Executed His Plan To Escape Justice And Live As A Fugitive and**
13 **Moved To Galveston, Texas Disguised As A Mute Woman**

14 Two days after Defendant read the articles, he made the decision “to flee and go hide
15 someplace.” (Lewin Decl., Ex. 14 [Interview of Robert Durst, April 18, 2012] p.41:5-8.)
16 Defendant decided that Galveston, Texas, which he had visited many times, “seemed like about
17 as good a place to hide [from the reinvestigation] as there was in the world.” (Lewin Decl., Ex. 8
18 [Interview of Robert Durst, Dec. 13, 2010] p. 180:6-8.) Galveston was “self-contained,” “small,”
19 and “people seemed to leave one another alone.” (Lewin Decl., Ex. 11 [Trial Testimony of
20 Robert Durst, Oct. 22, 2003] p. 51:1-3.) It was just the kind of place to disappear. Defendant
21 collected a few belongings and drove a car he kept in Dallas (where he had an apartment) to
22 Galveston. (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 180.)
23
24

25 ¹²Despite the media’s interest in the case, (see, e.g., Lewin Decl., Ex. 15 [Dec. 4, 2000 People Magazine article: Resuming the Search]), contrary to Defendant’s testimony at his Galveston trial, the story about the reinvestigation was **not** front page news in any of the New York papers.

1 On November 14, 2000, Defendant drove to Galveston with the plan to live as a fugitive.
2 (Lewin Decl., Ex. 11 [Trial Testimony of Robert Durst, Oct. 22, 2003] p. 52:8-9.) Defendant
3 later stated that he “drove to Galveston . . . with the intention of hiding and living in Galveston
4 the rest of my life or whatever. Or until this, [the reinvestigation] went away if nothing
5 happened.” (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 180:14-19.)
6 “[W]hen I went to Galveston right from the very beginning, I was setting myself up to be a
7 fugitive.” (Lewin Decl., Ex. 14 [Interview of Robert Durst, April 18, 2012] p. 46:4-6.) **“I**
8 **intended never [to] use the name ‘Robert Durst’ again”** (Lewin Decl., Ex. 11 [Trial
9 Testimony of Robert Durst, Oct. 22, 2003] p. 49:8-10] [emphasis added].)

10 Once in Galveston, Defendant, in his own words, “started putting [sic] all the details on
11 [sic] the plan.” (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 180:21-22.) He
12 recognized that he had to “hide my face, because if they actually do this, my picture will be
13 everywhere.” (*Id.* at 180-181) “The only disguise I could imagine [was] ‘[L]et’s try a wig.’”
14 (*Ibid.*) Defendant related, “I knew I “[couldn’t] do a beard.” (*Ibid.*) “I [couldn’t] grow long hair
15 right away.” (*Ibid.*) “I came up with the idea of being a woman in a wig.” (*Ibid.*) Once in
16 Galveston, Defendant needed to find a place to live, so he “read the newspaper, and saw that
17 these places had apartments for rent, and they were having open houses.” (*Id.* at 233:2-5.) “I put
18 on my wig, and I got my big, fat shirt, and cargo jeans, and I wrote my ‘I am a mute’ note.” (*Id.*
19 at 233:4-5) “I went to two open houses, and . . . [chose] the better one.” (*Id.* at 233:6-8.) “I
20 showed the guy [the landlord] Klaus Dillman (“Dillman”), my note.” (*Id.* at 233:12-13.) Dillman
21 presented a lease and “I signed it.” (*Id.* at 233:18-20.)

22 In order to conceal his true identity, Defendant knew that he could not use his cell phone,
23 credit cards, or driver’s license “[b]ecause it would be Robert Durst in Galveston.” (Lewin Decl.,
24 Ex. 11 [Trial Testimony of Robert Durst, Oct. 22, 2003] pp.53:20-54:3].) To that end, on
25 November 16, 2000, he drove his car, left it in Baton Rouge, Louisiana, took a Greyhound bus to

Houston, and then another back to Galveston. (*Id.* at 57:1-16.) “I never used [my cell phone] until . . . the middle of September [2001] more or less.” (*Id.* at 96:22-25.)

While hiding in Galveston, Defendant continued his obsession with the pending reinvestigation in New York. “I went online every morning at the Rosenberg Library and would . . . look up New York, Westchester newspaper . . . and put my name into it and see if there was anything from Jeanine Pirro.” [the Westchester County District Attorney who was ultimately in charge of the reinvestigation] (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 250:1-5.) “[T]here was frequently stuff.” (*Id.* at 250:6.)

F. Defendant’s Financial Activity Supported His Plan To Live As A Fugitive

Defendant’s financial transactions are further evidence of his plan to become a fugitive. As he later recalled, “[W]hen I first started running away from Jeanine Pirro, I realized I had four-hundred-thousand more or less dollars.” (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p.263:13-15.) “[I]f I found some cheap place to live, that’ll last me for twenty years.” (*Id.* at 263:15-16.) To that end, beginning on October 23, 2000, and over the ensuing eleven months, Defendant intentionally “structured” at least 48 separate transactions. This was an effort to avoid reporting requirements which are triggered when an individual withdraws \$10,000 or more in cash:

1. October 23, 2000 -- \$9,000 (All 100s [to Robert Durst])	25. April 25, 2001 -- \$9,500
2. October 25, 2000 -- \$9,000	26. May 18, 2001 -- \$9,000
3. October 27, 2000 -- \$9,000 (All 100s)	27. May 31, 2001 -- \$9,500
4. November 1, 2000 -- \$9,000	28. June 6, 2001 -- \$9,000
5. November 2, 2000 -- \$9,000	29. June 7, 2001 -- \$9,000
6. November 3, 2000 -- \$9,000	30. June 11, 2001 -- \$9,000
7. November 10, 2000 -- \$9,000	31. June 12, 2001 -- \$9,000
8. December 20, 2000 -- \$9,500	32. June 13, 2001 -- \$9,500
9. December 29, 2000 -- \$5,000 (Processed on 1/2/01 or 1/3/01)	33. June 14, 2001 -- \$9,000
10. January 26, 2001 -- \$9,000	34. July 16, 2001 -- \$9,500
11. January 30, 2001 -- \$9,500	35. July 17, 2001 -- \$9,500

12. January 31, 2001 -- \$9,500	36. July 26, 2001 -- \$9,500
13. February 13, 2001 -- \$9,000	37. July 28, 2001 -- \$9,500
14. March 12, 2001 -- \$9,500	38. August 2, 2001 -- \$9,500
15. March 28, 2001 -- \$9,500	39. August 8, 2001 -- \$9,500
16. March 29, 2001 -- \$9,500	40. August 9, 2001 -- \$9,500
17. March 31, 2001 -- \$9,500 (Transaction Date 4/2/01)	41. August 13, 2001 -- \$5,000
18. April 3, 2001 -- \$9,500	42. August 14, 2001 -- \$9,500
19. April 5, 2001 -- \$9,500	43. August 15, 2001 -- \$9,500
20. April 6, 2001 -- \$9,500	44. September 20, 2001 -- \$9,500
21. April 12, 2001 -- \$9,000	45. September 21, 2001 -- \$9,500
22. April 19, 2001 -- \$9,500	46. September 24, 2001 -- \$9,500
23. April 23, 2001 -- \$9,500	47. September 25, 2001 -- \$9,500
24. April 24, 2001 -- \$9,500	48. September 28, 2001 ¹³ -- \$9,500

(Lewin Decl., Ex. 16 [Selected Checks].) When Defendant was later asked during his Galveston trial why he cashed so many checks for \$9,500, he carefully explained:

If you cash a check for . . . \$10,000, there's a big form that gets filled in and it takes a long time and it goes to some agency, some place or other. And I always paid a lot of bills with cash and stuff, restaurants and things like that. But when this first happened in November of 2000, when I first ever went bananas and came down here [to Galveston] I knew if I ever had to go into hiding, I would need cash. And so I started withdrawing money from my banks and I just sort of kept doing it like on remote control or something like that.

(Lewin Decl., Ex. 17 [Trial Testimony of Robert Durst, Oct. 23, 2003] p.64:6-18.) Defendant secretly accumulated roughly \$600,000 in cash with the idea of living as a fugitive and avoiding prosecution for his wife's death (*Id.* at 64:21-23.)

In addition to structuring the \$600,000, Defendant took other actions to promote his flight from justice. On November 3, 2000, just a few days after he says he became aware that the reinvestigation was going to hit the media, Defendant suddenly obtained a marriage license to wed his long-time girlfriend, Debrah Charatan ("Charatan"). (Lewin Decl., Ex. 18 [PA Jail Transcript January 7, 2002] p. 41:19-21.) On December 11, 2000, less than two weeks before Susan's murder, Defendant and Charatan were married unceremoniously on the 25th floor of a Manhattan office building by a rabbi out of the phone book they had never met. (Lewin Decl.,

¹³ September 28, 2001 was the date Defendant killed Morris Black.

1 Ex. 19 [Marriage Certificate].) Pursuant to the marriage, Defendant granted Charatan full power
2 of attorney that same day. (Lewin Decl., Ex. 20 [Powers of Attorney].)¹⁴ Defendant needed
3 Charatan to handle his financial responsibilities, to provide assistance while he eluded
4 authorities, and to carry on his affairs if he were ever captured, convicted and incarcerated.
5 Above all, Defendant did not want his fortune reverting back to his family, whom he despised.

6 **G. Defendant Murdered Susan Berman To Prevent Her From Talking To Police**
7 **About What She Knew About The Disappearance And Death Of Kathie Durst**

8 Shortly before Susan was killed, she and Defendant had a conversation about the
9 reinvestigation into Kathie's disappearance. Defendant later related to filmmaker Andrew Jarecki
10 ("Jarecki") that Susan informed him, "The Los Angeles Police contacted me. They want to talk .
11 . . about Kathie Durst's disappearance." (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13,
12 2010] p. 189:20-24.) Defendant added during his interview with Jarecki that Susan then stated to
13 him (regarding her talking to the police), "It's going to be best for both of us if I just talk to
14 them." (*Id.* at 193:6-7.) In hindsight, it is clear that this was the conversation that sealed Susan's
15 fate. Defendant simply could not risk Susan revealing what she knew about his involvement in
16 Kathie's disappearance to the authorities.

17 Compounding Defendant's concerns about Susan's desire and ability to keep his secrets
18 was Susan's desperate financial situation and her increasing requests of him for money. In early
19 November 2000, just as the story of Kathie's reinvestigation became public, Defendant sent
20 Susan a check for \$25,000. (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p.
21 191:12-23.) He later told Jarecki that he sent Susan a second \$25,000 a couple of weeks later.
22 (Lewin Decl., Ex. 2 [Robert Durst Interview Transcript, Mar. 15, 2015, New Orleans] p. 72:10-
23 24; Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 190:12-23.) Defendant,
24

25 ¹⁴ Defendant granted Debrah Charatan power of attorney on October 30, 2000, but in so doing, he also named Anton Weiss as a grantee of the power of attorney. (Lewin Decl., Ex. 20 [Power of Attorneys].) Defendant also granted Alan Rothfield power of attorney on December 11, 2000. (*Ibid.*)

1 who does not have a history of giving large sums of money to his friends, gave Susan \$50,000 in
2 the month leading up to her murder.

3 On December 19, 2000, just five weeks after the reinvestigation into Kathie's
4 disappearance became public, Defendant flew from New York to Eureka, CA, then transferred to
5 a small commuter plane in San Francisco.¹⁵ Once in Eureka, Defendant picked up the keys to his
6 Ford Explorer, which he kept at the local Ford dealership. He then retrieved the vehicle from the
7 long-term parking lot at the Eureka Airport where it was stored. The next morning, Defendant
8 cashed a check for \$9,500 at a bank in Eureka and traveled south on US 101 toward Los
9 Angeles. (Lewin Decl., Ex. 21 [RD Check 528]; see also Lewin Decl., Ex. 22 [Email From Linda
10 Clark].) About an hour south of Eureka, Defendant, who did not want to use his cell phone which
11 would have revealed his whereabouts, made several phone calls from a payphone located in
12 Garberville, CA. These calls were ultimately traced to Defendant, who has admitted making the
13 calls. (Lewin Decl., Ex. 2 [Robert Durst Interview Transcript, Mar. 15, 2015, New Orleans] p.
14 85:21 – 86: 3.)

15 In a damning admission, Defendant would later confess to his close friend Emily Altman
16 that he was in Los Angeles, and staying at a hotel in Beverly Hills close to Susan's home at the
17 time she was murdered. (Emily Altman Conditional Examination, July 26, 2017, p. 326.)

18 Around 10:30 pm on December 22, 2000, Susan returned home from seeing the movie
19 *Best in Show* in Santa Monica with her friend Richard Markey. Sometime that night, or very
20 early the next morning, Defendant arrived at Susan's residence. He then gained entry into the
21 house, almost certainly after having been voluntarily admitted inside by Susan.¹⁶ Using a 9mm
22 handgun which has never been recovered, Defendant then shot Susan one time in the back of the

23 ¹⁵ Eureka/Arleta Airport is about 5 hours north of SF by car and is the closest airport to Trinidad, CA, about twenty-
24 five miles away, where Defendant had previously owned a house.

25 ¹⁶ Defendant obviously did not reveal his true intentions when he entered Susan's home, and was almost certainly
invited in. There were no signs of forced entry into the home, and according to all of Susan's close friends and
family, Susan was very security conscious and would never have opened the door to a stranger.

1 head, execution style.¹⁷ The house was completely untouched. There was no attempt by Susan's
2 killer to ransack the residence. There was no evidence that anything, other than Susan's life, was
3 taken from the home.

4 The killer then mailed an anonymous letter ("Cadaver Note") addressed in block lettering
5 to the "Beverly Hills Police Department." Inside the envelope was a piece of paper with Susan's
6 address and the word "cadaver" written in block letters. The envelope was postmarked December
7 23rd, the day before Susan's body was found inside of her residence. After killing Susan and
8 mailing the Cadaver Note, Defendant drove back up to Northern California and, on the evening
9 of December 23, 2000, bought a one-way ticket to New York City at the counter at San
10 Francisco Intl. Airport. Defendant departed on this red-eye flight at 10:00pm.¹⁸

11 **H. Defendant Rented An Apartment In New Orleans Posing As A Mute Woman In**
12 **Case His True Identity In Galveston Was Ever Discovered**

13 Even though Defendant had been living as a mute woman in Galveston, he felt he needed
14 a back-up plan in case he was indicted for Kathie's death and his true identity was discovered in
15 Galveston. (Lewin Decl., Ex. 11 [Trial Testimony of Robert Durst, Oct. 22, 2003] p. 100:20-
16 101:3.) As Defendant testified during the Galveston trial, "Well, I mean, the whole idea was
17 eventually I would use Bob Durst in Galveston; but if I was here as a man and they call this - - if
18 Janine Pirro was ever able to, what do they say, indict a ham sandwich or whatever it is, I figured
19 I wouldn't be able to live here in Galveston." (*Id.* at pp. 100:23-101:3.) As a result of these
20 concerns, in March of 2001, Defendant contacted Michael Ogden ("Ogden") regarding an
21 apartment Ogden was leasing in New Orleans. (Lewin Decl., Ex. 23 [Trial Testimony of Michael

22 ¹⁷ Los Angeles County Coroner, Mark Fajardo, opined that the cause of death was a single gunshot wound to the
23 back of the head. He testified that the wound was a "contact or near contact wound."

24 ¹⁸ Defendant conceded during his 3-15-15 interview with DDA Lewin that he always booked his flights in advance,
25 never flew red-eyes, and he had no explanation for why he began his return trip to New York from SF and not from
Eureka as he had always done in the past. When pushed by DDA Lewin that it was hard to understand why he had
changed his routine for the 12-23-00 flight to NYC, Defendant responded, "Yeah. Yeah. Yeah, I hear you. I hear
you. I'm just not gonna be able to answer that." (Lewin Decl., Ex. 2 [Robert Durst Interview Transcript, Mar. 15,
2015, New Orleans] pp. 86:7 – 87:10.)

1 Ogden, Oct. 7, 2003] p. 156:7-157:3].) Defendant identified himself as “Jim Cordis” and, similar
2 to his plan with Klaus Dillman in Galveston, stated that he was an assistant to a mute,
3 handicapped woman looking for an apartment in the area. (*Id.* at 156:25-157:3.) On March 19,
4 2001, Defendant met with Ogden, posing as Diane Wynn. (*Id.* at 158:9-13.) Defendant and
5 Ogden executed a lease for the apartment beginning April 1, 2001 through March 30, 2002. (*Id.*
6 at 159:19-24.)

7 **I. Morris Black Knew Defendant’s True Identity And That Defendant Was A Man**
8 **Of Significant Financial Means, And, Like Susan Berman, Morris Black Was**
9 **Pressuring Defendant To Support Him Financially**

10 Defendant met Morris the first night he moved into the Galveston apartment. (Lewin
11 Decl., Ex. 8 [Dec. 13, 2010 Interview] p.234:1-3.) Morris lived across the hall and initially
12 complained to Defendant about the electricity meter. (*Id.* at 235.) The next week, Morris invited
13 himself over to watch television with Defendant. (*Id.* at 236) Other than Defendant, Morris
14 “made no friends with nobody, because he made everybody . . . angry.” (*Id.* at 240.) According
15 to Defendant, he and Morris “became good friends” and spent time going out to eat, shooting,
16 watching television, going out for coffee and attending open houses together. (Lewin Decl., Ex.
17 17 [Trial Testimony of Robert Durst, Oct. 23, 2003] p.6:5-11].) Defendant trusted Morris. (*Id.* at
18 11:18-19.) According to Defendant, after the first few weeks of their relationship, he told Morris
19 that he was not a mute woman. (Lewin Decl., Ex. 8 [Dec. 13, 2010 Interview] p. 242.) Over the
20 ensuing months, Defendant and Morris spoke about the reason Defendant was in Galveston and
21 Defendant confided to Morris that he “wanted to disappear and hide.” (*Ibid.*) According to
22 Defendant, upon learning that he was in hiding, Morris empathized, saying, “Yeah, yeah. I did
23 that a long time ago.” (*Id.* at 243.) In fact, Defendant has admitted that he specifically told
24 Morris, “I just didn’t want to be Robert Durst anymore” and that Morris responded, “Yeah, I
25 went through that.” (*Ibid.*) According to Defendant, he told Morris his true name no later than

1 September 11, 2001. (Lewin Decl., Ex. 24 [Trial Testimony of Robert Durst, Oct. 27, 2003] pp.
2 29:3-6; 29:17].)

3 Defendant has acknowledged that other than Morris, no one in Galveston could connect
4 him, or the name Dorothy Ciner, to his true identity of Robert Durst. “[N]o one knew . . . who I
5 was.” (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 257:6-7.) Defendant
6 testified that whenever he would be out of costume and not pretending to be Dorothy Ciner, he
7 would use a male alias, such as “Jim” (*Id.* at 242:8-13) or “Jim Cordis.” (Lewin Decl., Ex. 24
8 [Trial Testimony of Robert Durst, Oct. 27, 2003] p. 155:20-21].) Defendant has stated, “once I
9 was . . . in Galveston, anything I did I would put a phony name on it.” (Lewin Decl., Ex. 8
10 [Interview of Robert Durst, Dec. 13, 2010] p. 271:3-10.) “Now and then I had a problem with
11 forgetting who I was supposed to be.” (*Id.* at 272:3-4.)

12 Morris was also well aware of Defendant’s vast financial resources. (Lewin Decl., Ex. 17
13 [Trial Testimony of Robert Durst, Oct. 23, 2003] p. 41:21 – 42:8.) He knew Defendant had a lot
14 of money. (Lewin Decl., Ex. 24 [Trial Testimony of Robert Durst, Oct. 27, 2003] p.28:17-29:3.)
15 When Defendant and Morris went to bars, Defendant would pay. (Lewin Decl., Ex. 17 [Trial
16 Testimony of Robert Durst, Oct. 23, 2003] p. 11:9-11.) When they went to restaurants,
17 Defendant would pay. (*Id.* at 11:15-17.) Like Susan, Morris wanted Defendant to help support
18 him financially. At the time that Morris was killed, he was tightening the screws on Defendant,
19 pressuring him to buy a place that the two of them could move into together. (Lewin Decl., Ex. 8
20 [Interview of Robert Durst, Dec. 13, 2010] p. 251:16-25.) Moreover, much like Susan’s requests
21 of Defendant for money in the period leading up to her murder, Morris’s demands that Defendant
22 purchase a home for them to live in together, merely hastened his violent demise.

23 On July 13, 2001, Morris received an eviction notice from Klaus Dillman, informing him
24 that he needed to be out of his apartment by August 14th. (Lewin Decl., Ex. 25 [Image of
25 Eviction Notice].) After the eviction demand, when Morris and Defendant would attend open

1 houses in Galveston, Morris would make it known to Defendant that he wanted to live off of
2 Defendant's wealth. Morris told Defendant, "If you buy this house, there will be plenty of room
3 for me." (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p.251.) Morris also
4 made clear to Defendant that he wanted him to "provide funding or a loan or an interest free
5 loan" to purchase a building for the Jesse Tree charity that he (Morris) was involved with.
6 (Lewin Decl., Ex. 17 [Trial Testimony of Robert Durst, Oct. 23, 2003] p.42:9-18.)

7 **J. As Media Attention On The Reinvestigation Increased, Defendant Made The**
8 **Decision To Get Rid Of Morris Black And To Flee Galveston Before He Could**
9 **Be Arrested And Charged With His Missing Wife's Death**

10 On July 25, 2001, ABC News ran a special titled, "Vanished: The Cold Case of Kathie
11 Durst." (See New York Post "Abort Twist in '82 Vanish," July 25, 2001, available at,
12 <http://nypost.com/2001/07/27/abort-twist-in-82-vanish> ["The program, "Vanished: The Cold
13 Case of Kathie Durst," will be aired at 10 tonight].) Defendant was aware of and watched the
14 show. (Lewin Decl., Ex. 24 [Trial Testimony of Robert Durst, Oct. 27, 2003] p. 159:19-160:2.)
15 As the publicity surrounding the reinvestigation ratcheted up, Defendant's situation became
16 increasingly precarious. Just as it had with Susan, it became clear to Defendant that Morris
17 possessed information that could lead to his arrest and incarceration. Defendant knew that Morris
18 was aware of his true identity and that he was hiding from the New York authorities he believed
19 were about to charge him with Kathie's murder. This was a risk Defendant could not and would
20 not take.

21 On August 30, 2001, Defendant purchased a .22 pistol—the same gun he would use less
22 than a month later to kill Morris. (Lewin Decl., Ex. 24 [Trial Testimony of Robert Durst, Oct. 27,
23 2003] p. 161:13-15.) Defendant also purchased hollow point bullets for the weapon. (*Id.* at 165.)
24 He knew "from being around guns that a hollow point bullet expands faster and, therefore, would
25 do more damage than a slug would." (*Id.* at 165:6-11].)

1 On September 12, 2001, Defendant purchased two money orders for his landlord, Klaus
2 Dillman, totaling \$800. This was to cover Defendant's rent through the end of November.
3 (Lewin Decl., Ex. 24 [Trial Testimony of Robert Durst, Oct. 27, 2003] p. 173:22-175:3.)
4 However, by September 19, 2001, Defendant had already packed up the majority of his
5 apartment in preparation for leaving town. (*Id.* at 171:20-172:9).)

6 On September 22, 2001, Defendant, using an alias, hired Zena Simmons to clean his
7 apartment in advance of his departure from Galveston. (Lewin Decl., Ex. 24 [Trial Testimony of
8 Robert Durst, Oct. 27, 2003] p. 172:16-18.) The next day, he checked into the San Luis, a luxury
9 hotel in Galveston near the apartment. (*Id.* at 173:16-18.)

10 **K. Defendant Shot Morris Black In The Head, Dismembered His Corpse, And, As**
11 **Defendant Did With Kathie, Tried To Make It Appear As If Morris Had**
12 **Voluntarily Disappeared**

13 There are few facts the People and Defendant agree upon regarding what took place on
14 September 28, 2001. Both sides agree that Morris died inside of Defendant's small Galveston
15 apartment. Both sides agree that Morris was shot in the head. Both sides agree that the weapon
16 that fired the shot was Defendant's .22 pistol. Both sides agree that after the killing Defendant
17 dismembered Morris's corpse. Both sides agree that after the dismemberment, Defendant
18 dumped Morris's body parts in trash bags in Galveston Bay. And, both sides agree that the
19 dismemberment and disposal were undertaken by Defendant due to his fear that he was going to
20 be arrested and charged in connection with his missing wife's disappearance. Nearly everything
21 else about the killing, such as whether it was an accident, self-defense or murder, as well as
22 whether Morris was shot in the front or the back of the head, are absolutely in dispute.

23 Defendant has discussed the killing and his conduct afterwards on multiple occasions,
24 including under oath at his Galveston murder trial. Even taking the most charitable view of his
25 prior statements, Defendant has had a difficult time maintaining a consistent story about the

1 circumstances of the killing. In addition, the physical evidence, as analyzed by crime scene
2 reconstructionist Tom Bevel, does not match any of Defendant's versions of how the killing took
3 place.¹⁹ Defendant has repeatedly described a situation where Morris somehow obtained
4 Defendant's .22 pistol and was accidentally shot during a struggle over the gun. Defendant has
5 described what transpired as follows:

6 There's a yellow thing on – on - - a sweater, or whatever, jacket on top of the table. And
7 I'm, you know, primed, 'Morris get out of here, period. I'm leaving. Get out. I don't ever
8 want to see you again.' He takes the gun out from under whatever the yellow thing is on
9 the - - on the table. I grabbed him, and the gun, we fall down in the kitchen. The gun goes
10 off and shoots him in the side of [the] face.

11 (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 254:10-18.)

12 In his prior statement, Defendant has alleged that the killing was both self-defense and
13 accident, and in describing how the shot was fired, has made it sound as if the gun had a mind of
14 its own and simply could not be stopped from shooting Morris in the head. During his murder
15 trial in Galveston, Defendant testified to the following:

16 A I was concerned that Morris was going to shoot the gun, most likely at my face.

17 Q Were you in fear of that?

18 A Well, yes. I mean, I don't know that I
19 thought all these things, but I do know that the gun was aiming at me. He was pushing the
20 gun towards me, and I was trying to pull the gun away.

21 Q So as you held your hand on the part, the front part of the gun and wrestled with
22 him over the gun --

23 A We never really wrestled. I went to pull the gun and the gun didn't move. He
24 moved and the two of us fell back like that.

25 Q As you hit the ground or the floor and as your elbow hit, what happened?

 A The gun went off.

 Q Bam, like that?

¹⁹ In the interest of brevity, the People will not go into detail as to how Defendant's various versions of the mechanics of the shooting are inconsistent with the physical evidence. However, attached as exhibits are the reports of Mr. Bevel, as well as the animation video prepared by Defendant's crime scene reconstructionist, Max Courtney, based on information provided by Defendant. (Lewin Decl., Exs. 26-29.) Mr. Bevel's conclusions make clear that "The best explanation to produce this blood pattern from a gunshot into a person's head that is on the floor, the weapon is fired from above the head and downward." (Lewin Decl., Ex. 26 [Bevel 9-8-16 Report] p. 5.) Obviously, such a scenario is not only inconsistent with Defendant's testimony and prior statements, but is impossible to reconcile with self-defense or accident.

1 A Like that.

2 Q And then what did you see?

3 A I pushed myself up on my left hand and I saw blood on the side of Morris' nose
4 like that.

5 (Lewin Decl., Ex. 17 [Trial Testimony of Robert Durst, Oct. 23, 2003] p. 93:22 – 94:17.)

6 Defendant also testified at the trial about a computer animation he and his expert had
7 prepared and unsuccessfully sought to admit into evidence. (Lewin Decl., Ex. 17 [Trial
8 Testimony of Robert Durst, Oct. 23, 2003] pp. 95-110.) The animation, along with the testimony
9 of Defendant's crime scene reconstructionist, Max Courtney,²⁰ were based on Defendant's
10 description of the shooting:²¹

11 Q Bob, have you seen a computerize animation of what you just described, what you
12 saw happen, what you participated in, have you seen a video animation of those events
13 that you have tried to describe in words?

14 A Yes, sir.

15 Q And does the video animation that you have seen duplicate exactly what happened
16 as you recall it and as you experienced it?

17 A Yes, sir.

18 Q Is it or not inadequate to try to describe in words what happened?

19 A Yes, sir.

20 Q And by this computer animation, does it duplicate, as nearly as is possible with
21 technology as we have it today, exactly what happened?

22 A Yes, sir.

23 Q The apartment as is shown in the video animation, is it accurate? Is it an accurate
24 depiction of the apartment?

25 A Yes, sir.

Q Is the struggle that you and Morris Black had over the gun an accurate depiction
in the video animation?

A Yes, sir.

²⁰ Mr. Courtney also testified about the computer animation during his testimony at the Galveston trial.

²¹ Tom Bevel, one of the foremost crime scene reconstructionists in the country, was originally retained by the prosecution in Galveston and testified at Defendant's murder trial. Unfortunately, Mr. Bevel was never presented with Defendant's trial testimony, nor the testimony of Mr. Courtney, both of which occurred subsequent to Mr. Bevel's testimony at the trial. Mr. Bevel was also never presented with, and therefore never had the opportunity, to examine the computer animation created by the defense with the assistance of their expert and Defendant's statements of how the shooting occurred. For these reasons, Mr. Bevel was unable to analyze whether Defendant's versions of the shooting, as expressed in his testimony, the testimony of Mr. Courtney, and the computer animation were consistent or inconsistent with the physical evidence from the crime scene. As is apparent from Exhibits 26-28, Defendant's versions of what transpired, with respect to the manner in which Morris was killed, are inconsistent with the crime scene analysis completed by Mr. Bevel. This is crucially important because this highly relevant evidence was never considered by the jury in arriving at their acquittal.

1 (Lewin Decl., Ex. 17 [Trial Testimony of Robert Durst, Oct. 23, 2003] pp. 95:14 – 96:13.)

2 Defendant has repeatedly asserted that after the shooting he went into a “panic” and came
3 to the conclusion that, given the suspicion that he had killed his missing wife, he did not believe
4 he could contact the police. As he testified:

5 I can’t go to the police. I can’t go to the police. I can’t go to the police. The police are
6 going to want to investigate it and ask me a zillion questions. And from the outset, I’m
7 going to say, ‘Well my name’s Robert Durst. And I went, I rented this apartment
8 disguised as a woman named Dorothy Ciner.’ You know, I can just picture myself going
9 to the police precinct to report this. ‘My name is Robert Durst. I rented this three-
10 hundred-dollar-a-month apartment disguised as a woman named Dorothy Ciner. My, my
11 neighbor is lying on the kitchen floor with a bullet wound in his face. He’s dead. The
bullet came from my gun. Oh, and this is an accident. Oh, and by the way, I’m a rich guy
from New York, and my first wife disappeared, and I was never charged but there was
lots of speculation that I did it.’²²

12 (Lewin Decl., Ex. 14 [Interview of Robert Durst, April 18, 2012] pp. 255:18 – 256:9.)

13 To make it appear that Morris had simply left town, Defendant tried to get rid of his
14 body. However, because Morris’s corpse was too heavy for Defendant to carry out in one piece,
15 he decided that he needed to “dismember this body.” (Lewin Decl., Ex. 8 [Interview of Robert

16 ²² This is the same defense that Defendant has hinted he will potentially use in the instant murder case as well.
17 Defendant has not yet decided, or at the very least has refused to say, whether he intends to claim that someone else
18 killed Susan Berman, that he then found the body and panicked that the police would believe he was the killer
19 because of his alleged involvement in the disappearance of his missing wife, and that he therefore, sent the “Cadaver
20 Note” to the authorities. This option for a defense is buttressed by Defendant’s jail conversation with Stewart
21 Altman on June 12, 2015 at 1904, where Defendant related that he had not yet decided whether he wanted to admit
22 that he was in Los Angeles at the time of Susan’s murder, something he has consistently denied every time he has
23 been confronted with the question. (See Conditional Examination of Stewart Altman, August 30, 2017, pp. 216:28 –
24 217:5.) In this call, Defendant implied that he had not yet decided on which lie he wanted to rely on, stating, “Yeah,
25 I saw Dick yesterday. And, we went over a whole bunch of stuff. And, they wanted to talk about where I was, when
and how everything in Los Angeles. And, I’ve putting it off and putting it off, uhm, just ‘cause I’m uncertain and
uncomfortable trying to take a position, since I keep remembering things differently, sort of. So, I’ve never
spoken to him, at all, about where I was, et cetera, in Los Angeles.” (*Id.* at Ex. 41 [emphasis added].) Defendant is
also somewhat committed to this line of explanation that he found Susan’s body after someone else murdered her for
a couple of other reasons as well. First, as Emily Altman testified, Defendant told her he was at the Beverly Hilton at
the time of Susan’s murder. Second, Defendant’s handwriting is clearly matched to the “Cadaver Note” that was
sent to the Beverly Hills Police Dept. This likely defense is buttressed by Defendant’s cross-examination of retired
Beverly Hills Police Dept. Asst. Chief Robert Curtis, when Mr. Lewis asked the witness on cross-examination, “You
would agree with me, would you not Chief, that whoever caused this letter (referring to the “Cadaver Note”) to be
sent wanted Susan Berman to be found? (See Conditional Examination of Robert Curtis, October, 17, 2017, p. 12:19
–12:28.)

1 Durst, Dec. 13, 2010] p. 259.) For that reason, Defendant went to Chalmers Hardware Store and
2 bought tools to dismember the corpse, cleaning products to clean the apartment, and garbage
3 bags to dispose of the dismembered body parts. (*Ibid.*) Defendant planned to dump Morris's
4 body parts into the Galveston Bay, thinking they would sink. (*Id.* at 260.) "The idea [was] to
5 throw them someplace **where nobody will ever see them again.**" (*Id.* at 268 [emphasis added].)
6 But they floated. (*Id.* at 261.)²³

7 Defendant's description of how he decided to dismember Morris's corpse is eerily similar
8 to the People's theory of how he disposed of Kathie's body. In a calm and almost humorous
9 tone, made even more chilling by the nonchalant way he described it, Defendant explained to
10 Andrew Jarecki his alleged thought process that led him to the decision to dismember his friend:

11 Well, I decided I would wait until night, and I'd pick it up and carry it out of there. And
12 then I realized, I wasn't picking up that body and carrying it anywhere because it was
13 much - - I mean I wasn't strong enough to do that. I could drag it out, but I just couldn't
14 see - - I mean, I thought about putting it in a sleeping bag, or something, and then
15 dragging the whole thing out, but good God that's ridiculous.

16 (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 259:4-12.)

17 Defendant's other conduct after the killing is equally suspect. Despite allegedly being in
18 shock from this accidental/self-defense killing, Defendant had the wherewithal and the planning
19 skills to take numerous steps to cover up his crime. First, he decided to get a money order from
20 Walmart to pay the October rent. Defendant knew that he "had to make sure that Dillman wasn't
21 coming looking for him" (Lewin Decl., Ex. 24 [Trial Testimony of Robert Durst, Oct. 27, 2003]
22 p. 191:8-11.) He was aware that had Dillman not gotten "the check on Monday, October the 1st,
23 he would come over to the building." (Lewin Decl., Ex. 17 [Trial Testimony of Robert Durst,
24 Oct. 23, 2003] p. 128:22-24.) With the money order secured, Defendant put it in an envelope,

25 ²³ Defendant has admitted that he saw the body parts washing up on the shore, but has denied going back and
collecting and then disposing of Morris's head.

1 stamped, addressed and mailed it. (Lewin Decl., Ex. 24 [Trial Testimony of Robert Durst, Oct.
2 27, 2003] p. 198:4-7.)

3 Defendant rightly believed that Morris was a man who nobody would come looking for.
4 (*Id.* at 199:12-14.) He understood that Morris was a 71-year-old with a bad heart; so, if nobody
5 knew where he was—if Morris “disappeared”—and if someone ever did look for him, it could
6 have easily been assumed that Morris had succumbed to his heart condition. (*Id.* at 199:15-
7 200:1.) Defendant was also aware of the eviction notice that Morris had received from Dillman
8 (*Id.* at 199:3-5.), and he knew that it would be very easy to make it appear that Morris had
9 followed through and simply moved out. (*Id.* at 199:6-11.)

10 **L. Defendant Left Galveston For His Apartment In New Orleans Where He Stayed**

11 **A Short Time Before Returning to Galveston Where He Was Arrested**

12 After dismembering and disposing of Morris’s corpse²⁴ and attempting to clean up the
13 horrific crime scene, Defendant got into his car and drove to his New Orleans hideout. While
14 there, he went to Young’s Dry Cleaners and dropped off a red-stained blanket to be cleaned.²⁵
15 Shortly thereafter, on October 8, 2001, Defendant drove back to Galveston to pick up a pair of
16 eyeglasses that were waiting for him at a local optometrist’s office. However, unbeknownst to
17 Defendant, investigators had found the paperwork for the eyeglasses which Defendant had
18 thrown away in the trashcan behind his Galveston apartment. Consequently, when Defendant
19 went to pick up the glasses from the Galveston optometrist, on October 9, 2001, investigators

20
21 ²⁴ The circumstantial evidence will establish that once Defendant saw the body parts washing up on shore in
22 Galveston Bay, he located Morris’s head, removed it from the garbage bag floating up on shore, wrapped it in a
blanket (the same blanket he would later take to the dry cleaner in New Orleans with the red stain that would not
come out), and disposed of Morris’s head somewhere between Galveston and New Orleans.

23 ²⁵ During the trial in Galveston, Det. Cody Cazalas, one of the lead investigators in the Morris Black murder
24 investigation, testified that when Defendant was arrested in Galveston on October 9, 2001, a receipt was found in
his car from Young’s Dry Cleaners in New Orleans. The receipt was for a blanket Defendant had dropped off to be
25 cleaned the day before that had a red stain on it. (Lewin Decl., Ex. 30 [Transcript of Cody Cazalas Testimony, Oct.
20, 2003] p. 59:7-21.) When the blanket was eventually picked up, Det. Cazalas testified that the cleaners stated, “I
can’t get the stain out. Tell the owner I can’t get the stain out.” (*Id.* at 67:13-23.) Defendant also confirmed
having gone to the cleaners, testifying that he had taken “a couple of blankets and stuff” to a dry cleaner in New
Orleans. (Lewin Decl., Ex. 17, [Trial Testimony of Robert Durst, Oct. 23, 2003], p. 152:19-24.)

1 were contacted and he was arrested. A subsequent search of Defendant's vehicle revealed a 9mm
2 semi-automatic pistol. Although it was later determined not to be the murder weapon, it was the
3 same caliber handgun that had been used to murder Susan Berman nine months earlier.

4 **M. After Posting Bail for the Murder of Morris Black, Defendant Embarked On An**
5 **Interstate Flight From Justice Which Culminated In His Shoplifting Arrest At A**
6 **Grocery Store in Pennsylvania**

7 After Defendant was arrested in Galveston on October 9, 2001 and charged with Morris's
8 murder, he immediately posted \$300,000 bail. Although the authorities were aware of
9 Defendant's true and correct name, they did not understand at that time who he actually was and
10 the extent of his financial resources. Immediately after posting bail, Defendant went "on the
11 lam." (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] p. 282.) As he had done
12 when he first learned of the reinvestigation into Kathie's death a year earlier, Defendant again
13 decided to flee from the authorities. As he did previously, Defendant tried "to disguise [himself]"
14 this time by shaving his head and eyebrows. (*Id.* at 283-284.) As was his pattern, Defendant
15 again used aliases while on the run from authorities. In Mobile, Alabama, he rented a car using
16 Morris Black's name, driver's license, and Medicare card. During his roughly six weeks on the
17 run, Defendant used a collection of aliases to hide his true identity.

18 Defendant was eventually apprehended in Pennsylvania after he was caught shoplifting a
19 sandwich and a couple of other similarly inexpensive items at a grocery store in Bethlehem, PA.
20 In the process of his detention, Defendant twice attempted to get the unarmed female loss
21 prevention officer, who had no idea who Defendant was, to accompany him to his car. Defendant
22 first told the officer that he had the money in his car to pay for the items he had taken. He made
23 this statement despite having more than \$500 cash in his pocket, hundreds of dollars more than
24 the cost of the items he had attempted to steal. (Lewin Decl., Ex. 31 [Millimaci Testimony] at
25 128; Lewin Decl., Ex. 32 [Benner Testimony] at pp. 151-152.) When the loss prevention officer

1 refused Defendant's request, he later made another attempt to get her to take him to his car by
2 telling her that his ID was inside the vehicle. (Lewin Decl., Ex. 31 [Millimaci Testimony] at pp.
3 129-130.) The loss prevention officer became concerned at Defendant's repeated efforts to get to
4 his car, and contacted the local police. (*Ibid.*) When the police officer arrived and made contact,
5 Defendant again told the officer that his ID was in the glovebox of his car, and that if the police
6 officer could escort him there, he would retrieve it for him. (Lewin Decl., Ex. 32 [Benner
7 Testimony] at pp. 148-149.) The officer denied Defendant's request, due to officer safety
8 concerns. (*Id.* at 149.)

9 When police eventually searched Defendant's car they found something in the glove box,
10 but it was **not** Defendant's ID. Rather, it was a fully loaded Taurus .38 Special. (Lewin Decl.,
11 Ex. 33 [Pennsylvania Search Report]; Lewin Decl. Ex. 34 [Corsica Photograph]; Lewin Decl.,
12 Ex. 35 [Glovebox Photograph].) Defendant's ID was inside the car, but it was in a bag in the
13 backseat of the vehicle, not in the glove box as Defendant had repeatedly stated. (Lewin Decl.,
14 Ex. 36 [Bag Photograph]; Lewin Decl., Ex. 37 [Interior Bag Photograph]; Lewin Decl., Ex. 38
15 [Passport Photograph].) Not surprisingly, that bag also contained another loaded firearm, a Smith
16 & Wesson Airlight .38 Special. (Lewin Decl., Ex. 39 [Smith & Wesson Photograph].)
17 Defendant's repeated attempts to go back to his car to "retrieve cash" and his "ID" can only be
18 explained as an effort, at the very least, to arm himself in order to effectuate his escape. Had the
19 loss prevention or police officer escorted Defendant to his vehicle, they would likely have been
20 severely injured or killed.

21 In addition to the loaded firearms, investigators discovered even more chilling evidence
22 inside Defendant's car—a handwritten note containing the address of a critical witness against
23 Defendant in his missing wife's disappearance. In a spiral notebook inside, police discovered a
24 Hilton Garden Inn notepaper from Danbury, Connecticut with writing on it. (Lewin Decl., Ex. 40
25 [Mead Notebook Cover]; Lewin Decl., Ex. 41 [Hilton Garden Inn Stationary].) That writing

1 contained Gilberte Najamy's work address and telephone number. Gilberte was Kathie's close
2 friend, and an individual who had long publicly pursued the theory that Defendant was
3 responsible for Kathie's disappearance. In fact, Gilberte had been the first person to contact law
4 enforcement at the time of Kathie's disappearance. In addition, Gilberte reported to the
5 filmmakers of *The Jinx* that while Defendant was on the lam from the authorities in Galveston,
6 prior to his arrest in Pennsylvania, he had shown up wearing a disguise in her Connecticut
7 neighborhood.²⁶

8 **N. Defendant Waived Extradition, Returned To Galveston For Trial, And Was**
9 **Ultimately Acquitted Of Morris Black's Murder**

10 After a brief incarceration in Pennsylvania, Defendant waived extradition and returned to
11 Galveston where he faced murder charges relating to Morris's death.²⁷ At trial, Defendant
12 claimed a combination of self-defense and accident. His repeated theme in the case was that his
13 dismemberment and disposal of Morris's body were "irrelevant" to the actual killing and should
14 be "disregarded" by the jury. Defendant summed up his defense in Galveston during his
15 interview with Andrew Jarecki.²⁸

16 Q: What was the strategy? . . . What was the basic idea of, of how you were going to get
17 off in Galveston - if you were?

18 A: How I was going to get acquitted. What my story was going to be. What my *case*
19 was going to be. The best *case* was immediately - I mean the other lawyers who came to
20 see me - Mike Kennedy, who is a well-known New York criminal lawyer. He was sure I
21 had to plead temporary insanity. My sister was still there for me. She was standing up
22 for me, and she brought in Mike Ramsey who brought in Dick DeGuerin. Mike Ramsey
was a real pain. He was *sure* I had to plead temporary insanity. 'They're never going to
believe your story. You *have* to be insane. Only insane people dismember corpses
anyway.' But I, I came to meet the other lawyers. Lawyers were calling - lots of
lawyers. Big, big case. Lots of lawyers wanted to take it. And Dick and Mike - Dick

23 ²⁶ Gilberte Najamy, who had prior felony convictions, died of natural causes in 2015, and therefore will not be
24 available to testify as a witness for the People at trial.

25 ²⁷ Two of the attorneys who ultimately represented Defendant in that case were Dick DeGuerin and Chip Lewis.

²⁸ It is interesting that in providing his explanation about his defense, Defendant presented it to Jarecki not in terms
of what actually occurred, but as to what his "story" was to the jury. In explaining how he was able to secure his
acquittal, Defendant basically acknowledged-with a cat who ate the canary attitude-that he sold the jury a bill of
goods that was not a reflection of what had actually transpired.

1 Deguerin and Mike Ramsey knew what, what Mike Kennedy did *not* now - because Mike
2 Kennedy is a New York lawyer, they were Texas lawyers - that self-defense is a very
3 viable plea in the State of Texas. In the State of Texas, you find somebody in your house
4 who is not supposed to be there, there's not much you cannot do to them. Most other
5 states, what you're *obligated* to do is to call the police, do something else. You're
6 obligated to leave. Texas, you're not obligated to leave. You can handle it more or less
7 as you see fit. Obviously you're not supposed to kill them. But you can, but there have
8 been cases where people have seen guys in their garage and, this without a lot of
9 publicity, and *shot* them at a distance with a rifle. And they, they put it in self-defense.
10 And Dick and Mike both knew that self-defense was a very viable plea in the State of
11 Texas and the State of Alaska and couple of other states. but that was *it*. And I should go
12 through it, in detail, and it was explained to me that I was going to have to do the
13 dismemberment. There was no way around it. But at the same time, the dismemberment
14 happened - and both Mike and Dick came up with this independently, because they
15 hadn't come to me as a team. They had come to me independently - that the
16 dismemberment has nothing, *should not* have some, anything to do, the judge *should*
17 separate the dismemberment from the death of Morris Black. Because the
18 dismemberment did not *cause* his death. And that was them listening to my story. The
19 *indictment* says that he was dismembered - he was killed by being dismembered. I said 'I
20 did not kill him by dismembering him. I dismembered him *after* he was dead.' And they
21 were sure that if I was telling the truth - which they had to believe, because the alternative
22 was to not represent me - that the judge should separate to a large extent the
23 dismemberment from the death of Morris Black. Yes, the DA would be able to bring it
24 up. And yes, you would have to talk about it, but the dismemberment did not cause the
25 death. And therefore they, they put in front of the jury about a thousand times 'Was there
anything that Robert Durst could do after finding Morris Black dead to, to prevent his
death or to change the manner in which he died?' And they, they brought up about a
zillion examples. 'Can you unstrike a match?' 'No'. 'Can you unring a bell?' 'No.' If
somebody is dead, is there anything you can do to prevent him from dying?' 'No.' And,
and that was the case. They said, 'That will be the basis of our case, but you're going to
have to testify. You're going to have to testify truthfully. You're going to have to do
real, real, real good. And this will be very, very unpleasant. It's a *very* difficult case.
But Mr. Durst, you're not definitely going to *lose* like they say in the newspaper.'

(Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010] pp. 285:7 – 288:16.) Defendant
testified at trial²⁹ and was ultimately acquitted.

²⁹ Defendant later related that his lawyers went over the oath with him before he testified. "And from Day One, the oath says, 'You promise to tell the truth, the whole truth, and nothing but the truth.' 'Just make sure that the ones at the end - tell the truth, nothing but the truth - that you do *exactly* that. In terms of the whole truth? If you want to leave out something that does not, which makes you look bad if you tell it but does not turn into an untruth, well, try it. Try it. If there's something so terrible that you don't want to say it or you think will be construed the wrong way, then just leave it out.'" (Lewin Decl., Ex. 8 [Interview of Robert Durst, Dec. 13, 2010], p. 289:20 – 290:6.)

1 **O. Defendant And His Relationship With Andrew Jarecki And Mark Smerling**

2 In December 2010, filmmakers Andrew Jarecki and Marc Smerling (“Smerling”), in
3 conjunction with Magnolia Productions, released the feature film, *All Good Things*. The movie
4 was a dramatization of Defendant’s life and the facts of this case. Although the movie did not use
5 Defendant’s real name, it was marketed as the story of Robert Durst and depicted a character
6 based on Defendant killing his first wife, killing his neighbor in Galveston, Texas, and being
7 responsible for the death of his best friend—who was based on Susan Berman. The movie also
8 alleged that Defendant was responsible for the killing of his dog Igor.³⁰

9 Commencing in 2005, Jarecki and Smerling conducted extensive research and interviews
10 in preparation for the movie. During the lead-up to the release of the film, around October or
11 November, 2010, Defendant, who had managed to obtain a copy of the screenplay and liked what
12 he read, contacted Jarecki and eventually previewed the movie. Ultimately, Defendant agreed to
13 participate in a series of on-camera interviews.

14 On December 11, 2010, Defendant was interviewed on camera by Jarecki and Smerling
15 at a studio in Los Angeles. The purpose of the interview was to allow Defendant to watch the
16 film while simultaneously providing commentary, in real time, about the scenes he was viewing.
17 Later that same day, and continuing for the next two days (December 11-13, 2010), and then
18 about 16 months later on April 18, 2012, Defendant was re-interviewed at length by Jarecki and
19 Smerling. Much of that footage was eventually aired as a part of the HBO miniseries, *The Jinx*.

20 On multiple occasions during these interviews, Defendant related that *All Good Things* was
21 an accurate portrayal of his life, adoptively admitting to many of the specific incidents portrayed in
22 the film. The DVD commentary and the subsequent interviews were all voluntary, and were
23 agreed to by Defendant after he had consulted with legal counsel and made the decision to ignore
24

25 ³⁰ As the Court recently heard and granted the PEOPLE’S MOTION TO ADMIT INTO EVIDENCE ADOPTIVE
ADMISSIONS PURSUANT TO EVIDENCE CODE SECTION 1221 based on this movie, the People will not
repeat the arguments and ask the Court to incorporate the moving papers and the Court’s ruling in that litigation.

1 their advice not to proceed with the interviews. Defendant described that watching the movie
2 “clinch[ed]” his decision to sit down with Jarecki for the interviews. (Lewin Decl., Ex. 42
3 [Defendant’s Interview, Dec. 11, 2010] p. 17:14-15.) Defendant added that he felt “the movie
4 was very, very, very close in much of the ways about what, pretty much, happened.” (*Id.* at
5 17:21-23.) Defendant felt strongly that “the interview [with Jarecki] would not be a hatchet job,
6 because [Jarecki] didn’t do a hatchet job in the movie [*All Good Things*].” (*Id.* at 16:21-23.)

7 After the release of *All Good Things*, Jarecki and Smerling continued their research and
8 witness interviews. Ultimately, they turned their footage into the six-part miniseries, *The Jinx*,
9 which was released on HBO and aired on consecutive Sundays beginning on February 8, 2015. The
10 series concluded with the final episode airing on March 15, 2015, the day after Defendant’s arrest.

11 **P. Defendant Prepares To Flee Again During The Airing Of *The Jinx* In Anticipation**
12 **Of The Highly Incriminating Final Episode**

13 The final episode of *The Jinx* had a shocking conclusion. Toward the end of the episode,
14 Defendant was confronted with the “Sareb Envelope” and a copy of the “Cadaver Note.” The show
15 displayed Defendant’s shocked response as he was shown, without advance warning, the two letters
16 side by side together. As the camera zoomed up close, it showed the stark similarities between the
17 handwritings, down to their identical misspelling of “Beverley.” As Defendant examined the
18 writings, he conceded that not only was he unable to tell the difference, he could not say which one
19 he did and did not write. The clear implication was that Defendant had written them both and was
20 the person who had murdered Susan.

21 The episode concluded with Defendant’s recorded comments as he used the bathroom
22 immediately after the completion of the last interview. This was after he had been confronted with
23 the two seemingly identical notes/envelopes. Forgetting that he was still wearing a microphone, and
24 before the door to the bathroom could even close, the episode captured Defendant stating, “There it
25 is, you’re caught” (Lewin Decl., Ex. 14 [Defendant’s Interview, Apr. 18, 2012] p. 73:17.) Soon

1 thereafter, while still in the bathroom, Defendant said, among other things, “killed them all, of
2 course.” (Lewin Decl., Ex. 43 [Defendant’s Interview, Apr. 18, 2012, Supplemental Audio, Partial
3 Transcript].)

4 The episode of *The Jinx* showing the “Sareb Envelope” aired on March 8, 2015, and
5 revealed Sareb Kaufman’s cooperation with the filmmakers in providing the envelope. Clearly
6 aware of what was coming in the Episode 6 finale, Defendant decided to abandon his life in
7 Houston and fled for parts unknown two days later.

8 Investigators would later discover that Defendant had been planning to flee for months. In
9 the brief period between October 14, 2014 and March 10, 2015, Defendant structured hundreds of
10 thousands of dollars in cash and transferred more than a million dollars by wire. (See Lewin Decl.,
11 Ex. 44 [LAPD/RHD Chronological Record Entry, March 10, 2015].)

12 Pursuant to a wiretap and a warrant for Defendant’s arrest that had been secured by RHD
13 investigators for the murder of Susan Berman, Defendant was located and taken into custody on
14 March 14, 2015 at the J.W. Marriott Hotel in New Orleans by FBI agents. Defendant had checked
15 into the hotel under the alias “Everette Ward.” (See Lewin Decl., Ex. 45 [Apr. 1, 2015 FBI 302
16 Report].) When his hotel room was eventually searched, investigators found, among other things, a
17 Texas ID card in the name of Everette Ward, over \$44,000 in cash, an expensive latex mask, and a
18 loaded .38 caliber Smith & Wesson revolver. (*Ibid.*)

19 **Q. Summary of Facts**

20 It has been nearly 37 years since that fateful winter night in South Salem, New York when
21 Defendant killed his wife. That singular event was the catalyst for everything that has happened
22 since. Eighteen years later, Defendant drove down to Los Angeles and shot his best friend Susan
23 Berman one time in the back of the head. This was not a crime Defendant wanted to commit. As he
24 later confessed to his close friend Nick Chavin, “I had to. It was her or me. I had no choice.” (Nick
25 Chavin Conditional Examination Transcript, Feb. 15, 2017, AM, p. 143:7-8.) Defendant correctly

1 realized that Susan held the key to his freedom, and he came to the conclusion that if he did not
2 eliminate her as a witness, he would end up going to prison. He was not wrong in his analysis.
3 Unfortunately for Defendant, he killed Susan many years too late as she had already confided what
4 she knew about Defendant's involvement in Kathie's disappearance, as well as her own
5 participation in the call to Dean Kuperman, to more than half a dozen friends and family members.

6 As of this writing, it has been more than 17 years since Defendant murdered Morris Black,
7 dismembered his corpse, and dumped his body parts in trash bags in Galveston Bay. Although their
8 relationship was different, Defendant killed Morris due to the same fear that caused him to murder
9 Susan. Defendant believed, that like Susan, Morris was the only thing standing between him and a
10 prison cell. And, like Susan, but with apparently even less remorse, Defendant eliminated that
11 problem.

12 For the past 37 years, Defendant has engaged in an ongoing plan to escape justice for the
13 killing of his missing wife. At times, this effort has ebbed, such as in the mid-1980s through the late
14 1990s, when Defendant thought he had accomplished his goal and was in the clear. At other times,
15 he has had to reignite his efforts, such as when the reinvestigation into Kathie's disappearance
16 became public in 2000 and he had to execute Susan and Morris to eliminate the threat. Throughout
17 it all, Defendant has attempted to avoid apprehension, evade detection, and prevent prosecution. The
18 murderous actions he has taken in furtherance of this effort are a demonstration of his commitment
19 and ruthlessness. For nearly all individuals, murder is not a solution to a problem. For Defendant, it
20 is not his first or second option, but in the end, push come to shove, it is an option he has repeatedly
21 demonstrated he is willing to utilize.

22 Defendant's grand plan of avoiding culpability for Kathie's death by murdering those
23 witnesses he believed could send him to prison is highly probative evidence that needs to be
24 presented to the trier of fact. Defendant's killings of Kathie, Susan and Morris are inextricably
25

intertwined. For all of the reasons described, *supra*, the murder of Morris Black should therefore be admitted at trial pursuant to Evidence Code Section 1101(b).

III. DEFENDANT’S KILLING, DISMEMBERMENT, AND DISPOSAL OF MORRIS BLACK IS ADMISSIBLE PURSUANT TO EVID. CODE § 1101(b) AS EVIDENCE OF DEFENDANT’S COMMON DESIGN AND PLAN TO ESCAPE APPREHENSION FOR THE KILLING OF HIS MISSING WIFE

A. Uncharged Acts Are Admissible As Evidence Of A Common Design And Plan³¹

Admission of other bad acts under Evidence Code § 1101(b) is governed by a preponderance of the evidence standard. (*People v. Carpenter* (1997) 15 Cal.4th 312, 381-382 [superseded on other grounds by statute, as stated in *Verdin v. Superior Court* (2008) 43 Cal.4th 1096, 1106-1107]; see also *CALCRIM No. 375* [evidence of uncharged offenses may be considered “only if the People have proved by a preponderance of the evidence that the defendant in fact committed the (uncharged offense[s]/act[s]).”].)

Generally, evidence that a defendant has committed crimes other than those currently charged is not admissible to prove that the defendant is a person of bad character or has a criminal disposition and acted in conformity therewith. (See Evid. Code § 1101(a).) However, “[e]vidence of uncharged crimes is admissible to prove . . . the existence of a common design or plan” (*People v. Foster* (2010) 50 Cal.4th 1301, 1328 [citations omitted]; see also Evid. Code § 1101(b).) “Evidence of a common design or plan . . . is not used to prove the defendant’s intent or identity but rather to prove that the defendant engaged in the conduct alleged to constitute the alleged offense.” (*People v. Ewoldt* (1994) 7 Cal.4th 380, 394 [superseded by statute, on other grounds, as stated in *People v. Britt* (2002) 104 Cal.App.4th 500, 505].)

³¹ The term “uncharged act” is used to refer to conduct that has not been charged in the instant action. The term is still applicable here despite the fact that Defendant was previously charged and acquitted in Galveston of Morris’s murder. “[C]ompetent and otherwise admissible evidence of another crime is not made inadmissible by reason of the defendant’s acquittal of that crime.” (*People v. Griffin* (1967) 66 Cal.2d 459, 464 [evidence of uncharged rape that occurred after the charged event, of which defendant was acquitted, admissible to show intent and lack of accident in murder trial of another victim].)

1 To be admissible as a common design or plan under § 1101(b), evidence of uncharged
2 misconduct must merely be similar enough to support the **rational inference** that they are
3 manifestations of a common design or plan. (*People v. Ewoldt, supra*, 7 Cal.4th at 402.) The plan
4 need not “be unusual or distinctive” (*Id.* at 403.) For example, “evidence that a search of the
5 residence of a person suspected of rape produced a written plan to invite the victim to his
6 residence and, once alone, to force her to engage in sexual intercourse would be highly relevant
7 even if the plan lacked originality.” (*Ibid.*)

8 Most importantly, it is the similarities—not the differences—between incidents that
9 govern the admissibility of other bad acts under § 1101(b). Courts do not “look for
10 characteristics not . . . shared by a particular offense and thereby disqualify that offense from
11 consideration.” (*People v. Kraft* (2000) 23 Cal.4th 978, 1061). Rather, courts analyze similar
12 characteristics. They consider similarities including, but not limited to:

- 13 (1) The victims,
- 14 (2) Their relationships with the defendants,
- 15 (3) The timing of the crimes generally and in relation to each other,
- 16 (4) Causes of death,
- 17 (5) Murder weapons,
- 18 (6) Crime scenes,
- 19 (7) Means of entry,
- 20 (8) Actions after the respective crimes, and
- 21 (9) The nonexistence of witnesses to the respective crimes.

22 (See, e.g., *People v. Rogers* (2013) 57 Cal.4th 296, 327 [discussing similarities of uncharged
23 murders to charged murder including those among categories (1), (2), (3) (6), (8), and (9),
24 above]; *People v. Edwards* (2013) 57 Cal.4th 658, 711-712 [discussing similarities of uncharged
25 murder to charged murder including those between categories (1), (3), (4), (6), and (7), above].)

1 Importantly, the common design or plan can involve the reason a defendant killed his
2 victims, or motive generally. (See, e.g., *People v. Lisenba* (1939) 14 Cal.2d 403 [common design
3 or plan to murder two different wives over three years for financial gain]; *cf. People v. Elliot*
4 (1974) 77 Cal.App.3d 673, 686 [using § 1101(b) to find that improperly consolidated
5 conspiracies to murder would have been admissible at each other's separate trials to show a
6 common design and plan of a professional killing with defendant's financial gain as the motive];
7 *cf. Hub City Solid Waste, Inc. v. City of Compton* (2010) 186 Cal.App.4th 1114, 1133 [common
8 design or plan by city officials to award a contract in exchange for financial contributions].)

9 To be admissible under § 1101(b), the conduct “may [occur] after the charged event, so
10 long as the other requirements for admissibility are met.” (*People v. Leon* (2015) 61 Cal.4th 569,
11 597.)

12 In sum, if one can rationally infer that Defendant's actions were the manifestations of his
13 plan to escape justice for Kathie's death, the evidence is admissible. Where “common features
14 manifest the same general plan,” they “therefore support a finding that defendant acted in
15 accordance with that plan.” (*People v. Foster* (2010) 50 Cal.4th 1301, 1329.)

16 **B. Defendant Formulated A Common Design And Plan To Avoid Apprehension**
17 **And Escape Justice For Kathie Durst's Disappearance—He Then Went Into**
18 **Hiding, Structured Withdrawals, And Murdered Witnesses Susan Berman And**
19 **Morris Black In Furtherance Of That Common Design And Plan**

20 Defendant's common design and plan to avoid apprehension after the reinvestigation into
21 his missing wife's disappearance became public, was made clear, not only by Defendant's
22 actions, but by his description of those actions as his “plan.” Everything Defendant did from the
23 moment he became aware of the reinvestigation, from fleeing to Galveston, to killing Susan, to
24 killing Morris, until his apprehension while stealing the sandwich from the grocery store in
25 Pennsylvania, were a part of this common design and plan to escape apprehension and

1 prosecution for Kathie's death. When Defendant learned that the news of the reinvestigation was
2 about to become public, he panicked and formulated a plan to live out his life as a fugitive. In
3 furtherance of that plan, he fled to Galveston and rented the cheap studio apartment from Klaus
4 Dillman disguised as a mute woman, intending to hide for the rest of his life, or until the
5 reinvestigation went away.

6 This is the rationale Defendant has repeatedly affirmed in: 1) statements to Jarecki and
7 Smerling; 2) during his testimony at his murder trial; and 3) while speaking to DDA Lewin after
8 his arrest in New Orleans. When Defendant secured the back-up apartment in New Orleans,
9 again disguised as a woman, it was pursuant to that same plan. When he traveled to Los Angeles
10 and shot Susan, the key witness against him in the disappearance of his wife (and a person who
11 told him she had *already* been contacted by the police about the reinvestigation), it was pursuant
12 to that same plan. When he married and granted power of attorney to Debrah Charatan so that
13 she could manage his financial affairs, write his checks, and assist him while he lived as a
14 fugitive, it was pursuant to that same plan. When he structured roughly \$600,000 in cash to live
15 on the lam as a fugitive, it was pursuant to that plan. And, when he killed Morris Black because
16 Morris knew who he was, was putting pressure on him to buy a house for them to live in, and
17 was concerned that Morris would reveal his whereabouts to the authorities, it was pursuant to
18 that plan.

19 Defendant killed Morris to silence him as a potential witness and to prevent him from
20 alerting the New York authorities, who Defendant was convinced were about to arrest him for
21 Kathie's disappearance, to his then whereabouts. Morris was the *only* person in Galveston who
22 could connect Defendant to his true identity. Defendant murdered Morris for the same reason he
23 murdered Susan: to avoid being prosecuted for Kathie's death. And, just as Defendant
24
25

1 successfully did with his missing wife, he tried to destroy any evidence that Morris was dead and
2 that he was the one who had killed him.³²

3 **C. The Common Features Of Defendant's Design And Plan Are Evident In The**
4 **Murder Of Susan Berman And The Killing Of Morris Black And Are Also Seen**
5 **With Respect To The Disappearance Of Kathie Durst**

6 The similarities between the circumstances of Susan's murder and Morris's killing are
7 substantial. Moreover, the sequence of events establishes the existence of Defendant's plan, and
8 the facts and circumstances of Defendant's actions "support[] a finding that defendant acted in
9 accordance with that plan." (*People v. Foster* (2010) 50 Cal.4th 1301, 1329.) With regard to
10 Susan's murder and Morris's killing, the common features show they were part of the same
11 general plan. Although the events took place nine months apart, they share a crucial reference
12 point: each event took place after and in direct response to New York authorities having
13 reopened the investigation into Kathie's disappearance, and, under circumstances where
14 Defendant was living as a fugitive and admittedly terrified of what he believed was his imminent
15 arrest. Moreover, each event took place in close proximity to the re-airing of the facts of Kathie's
16 disappearance in the national media: in the *People* Magazine article three weeks before
17 Defendant murdered Susan, and in the ABC special eight weeks before he killed Morris. This
18 was no coincidence. Increased media attention has consistently triggered Defendant's heightened
19 anxiety. Just as the New York newspapers during the reinvestigation set in motion Defendant's
20 initial plan to flee to Galveston, the impending airing of the final and most damning episode of
21 *The Jinx* nearly fifteen years later, compelled Defendant to take off for New Orleans under an
22 assumed name, with a large sum of cash, a mask and a gun.

23 There are also striking commonalities between the victims themselves. Both Susan and
24 Morris, at different times, were Defendant's best friend. Both Susan and Morris were trusted by

25 ³² Because Defendant killed Susan in her home, as opposed to his, and without any witnesses, he had no need to dispose of her body.

1 Defendant with incredibly sensitive and damaging information. To Susan, Defendant confessed
2 that he killed his wife and then had her create a false alibi. To Morris, Defendant disclosed his
3 true identity and that he was hiding in Galveston when no one else in town was aware of who he
4 was or the circumstances that had brought him there. The information that Susan and Morris
5 possessed about Defendant, if known, would have either implicated him in Kathie's
6 disappearance and/or made his apprehension by the authorities substantially more likely.

7 In addition to both Susan and Morris being Defendant's best friend and possessing
8 incriminating information about him, each sought financial assistance from Defendant shortly
9 before they were killed. Susan requested and was given \$50,000 by Defendant in the month
10 before she was murdered. Similarly, Morris was pressuring Defendant to purchase a place for
11 them to live and to provide monetary to support to the Jesse Tree charity immediately before he
12 was killed.

13 The circumstances of Morris's and Susan's actual killings were also strikingly similar.
14 Both were killed with handguns; both were shot one time in the head at close range; both were
15 shot with no witnesses present; and both were killed inside a location each believed was a place
16 of complete safety. Lastly, although Defendant disputes the People's contentions that he
17 murdered both victims, and did so by lying in wait and shooting them execution style in the head
18 from behind, the overwhelming evidence clearly supports this conclusion.

19 Furthermore, Defendant's undisputed conduct following each killing was similar as well.
20 After Susan's and Morris's deaths, Defendant fled the state and lived under an assumed false
21 identity. To avoid detection for Susan's murder, Defendant fled Los Angeles and lived in
22 Galveston as Dorothy Ciner. After killing and dismembering Morris and dumping his body parts
23 in Galveston Bay, Defendant fled to New Orleans, Louisiana, where he had secured an apartment
24
25

1 using the false identity of Diane Wynn. After his arrest, Defendant then fled and jumped bail
2 using the assumed identity of Morris Black.³³

3 In total, everything Defendant did from the moment he learned of the reinvestigation until
4 he was captured in Pennsylvania was part of his common design and plan to avoid being arrested
5 and prosecuted for the disappearance and death of his missing wife. Even Defendant himself
6 accurately described this conduct as his “plan” to avoid apprehension. Defendant’s original
7 flight to Galveston, his living as a mute woman there, his murder of Susan Berman, his back-up
8 apartment in New Orleans, his killing of Morris Black, his dismembering of Morris’s corpse, and
9 his disposal of Morris’s body parts, were all individual manifestations of Defendant’s grand plan
10 to escape responsibility for the killing of his wife. (*People v. Foster* (2010) 50 Cal.4th 1301,
11 1328.) Accordingly, the conduct is highly probative and absolutely admissible pursuant to §
12 1101(b) as common design and plan evidence.

13 **IV. DEFENDANT’S KILLING, DISMEMBERMENT, AND DISPOSAL OF MORRIS**
14 **BLACK IS ADMISSIBLE TO PROVE BOTH THE CHARGED MURDER OF**
15 **SUSAN BERMAN AND THE SPECIAL CIRCUMSTANCE THAT SHE WAS**
16 **MURDERED BECAUSE SHE WAS A WITNESS TO KATHIE DURST’S**
17 **DISAPPEARANCE AND DEATH**

18 **A. Uncharged Acts Are Admissible As Evidence Of Intent And Are Directly**
19 **Related To The Witness Killing Special Circumstances Allegation**

20 It is well settled that “[e]vidence of uncharged crimes is admissible to prove . . . the intent
21 with which the perpetrator acted in the commission of the charged crimes.” (*People v. Foster*
22 (2010) 50 Cal.4th 1301, 1328 [citations omitted].) “Evidence of uncharged crimes is admissible
23 to prove . . . intent only if the charged and uncharged crimes are sufficiently similar to support a
24 rational inference of . . . intent.” (*People v. Foster* (2010) 50 Cal.4th 1301, 1328.) In fact, “[t]he

25 ³³ For a comprehensive chart illustrating these similarities, please see attached Appendix A, Factual Similarity Chart.

1 least degree of similarity (between the uncharged act and the charged offense) is required in
2 order to prove intent.”³⁴ (*Ibid.*) “In order to be admissible to prove intent, the uncharged conduct
3 must be sufficiently similar to support the inference that the defendant **probably** harbor[ed] the
4 same intent in each instance.” (*Ibid.* [emphasis added].)

5 The timing of the conduct in relation to the charged offense is not a determining factor.
6 Conduct occurring after the charged conduct is admissible pursuant to § 1101(b), so long as the
7 other requirements for admissibility are met. (*People v. Leon* (2015) 61 Cal.4th 569, 597.) Just as
8 with common design or plan, admission of other bad acts to prove intent under § 1101(b) is
9 governed by a preponderance of the evidence standard. (*People v. Carpenter, supra*, 15 Cal.4th
10 at 381-382; see also *CALCRIM No. 375* [evidence of uncharged offenses may be considered
11 “only if the People have proved by a preponderance of the evidence that the defendant in fact
12 committed the (uncharged offense[s]/act[s])”].)

13 As importantly, as part of the witness-killing special circumstance allegation filed in this
14 action, the People must prove Defendant “**intended** that Susan Berman be killed to prevent her
15 from testifying in a criminal proceeding.”³⁵ (*CALCRIM 725*; see also Penal Code § 190.2(a)(10)
16 [emphasis added].) Evidence of uncharged crimes are particularly probative to prove the intent
17 and motive required in special-circumstance murder prosecutions, so long as they are sufficiently
18 similar. (See, e.g., *People v. Edwards* (2013) 57 Cal.4th 658, 712-713 [evidence of uncharged
19 murder, which took place seven years after charged murder, admissible to prove intent required

20 ³⁴ Similarity is required only when dealing with identity, common scheme or plan, and intent, or their equivalents.
21 Other rationales for admitting uncharged acts require no degree of similarity. (See, e.g., *People v. Neely* (1993) 6
22 Cal.4th 877, 896-897 [no similarity analysis engaged in to show flight and consciousness of guilt; evidence of
23 defendant’s theft of clothing from firefighters’ vehicles and illegal entry into a vacant residence over three-day
24 period following murder, robbery, and burglary admissible as evidence of flight and consciousness of guilt]; see
25 also *People v. Cage* (2015) 62 Cal.4th 256, 274 [“**Where other crimes or bad conduct evidence is admitted to
show motive . . . the other crimes or conduct evidence may be dissimilar to the charged offenses provided
there is a direct relationship or nexus between it and the current alleged crimes.**”][emphasis added] [citations
omitted].)

³⁵ It is important to note that no pending criminal proceeding is required: “[I]f an accused believes himself to be
exposed to criminal prosecution and intentionally kills another to prevent that person from testifying in an
anticipated or pending criminal proceeding, the special circumstance may be found true whether or not an actual
criminal proceeding was pending or about to be initiated.” (*People v. Weidert* (1985) 39 Cal.3d 836, 853-854.)

1 for burglary murder and torture murder]; *People v. Jones* (2011) 51 Cal.4th 346, 371-372
2 [evidence of uncharged 1985 armed robbery admissible to show intent to steal for 1993 burglary
3 murder and robbery murder]; *People v. Foster* (2010) 50 Cal.4th 1301 [evidence of two
4 uncharged robberies admissible to show intent and common design and plan in charged burglary
5 murder and robbery murder].) Even when the uncharged crime and charged crime are “not
6 particularly similar,” where they “contain] one crucial point of similarity—the intent . . .” it is
7 sufficient for admissibility under § 1101(b). (*People v. Jones, supra*, 51 Cal.4th at 371 [despite
8 being “not particularly similar,” evidence of uncharged armed robbery of three male employees
9 of a furniture store who were leaving work was properly admissible to show intent to steal in
10 charged home-invasion robbery murder of two elderly victims who were stabbed and hog-tied.]

11 **Where two crimes committed by the same defendant share the same intent to**
12 **prevent witnesses from testifying against that defendant, evidence of each crime is properly**
13 **admissible at the separate trial of the other.** (See *People v. Jenkins* (2000) 22 Cal.4th 900,
14 947-948.) In *Jenkins*, the California Supreme Court interpreted § 1101(b) to find that the joinder
15 of three charges was proper because evidence of the charge relating to one incident would have
16 been cross-admissible in the separate trial of the incident encompassing the others. (*Id.* at 948.)
17 The first charge involved evidence that a defendant attempted to hire a hit man to kill a witness
18 prior to that witness’s anticipated testimony against defendant in an ongoing robbery trial. (*Ibid.*)
19 The second and third charges involved evidence that defendant murdered and conspired to
20 murder a detective to prevent that detective from testifying at the same trial. (*Ibid.*)
21 Notwithstanding the difference between the crimes, the Court found that the evidence was cross-
22 admissible, i.e., that “[e]vidence [of the first crime] would have been admissible at a separate
23 trial charging defendant with [the second and third crimes].” (*Ibid.*) “Evidence in each case
24 supported the inference that defendant acted for the same motive and with the same intent as in
25 the other case—to kill witnesses in order to prevent them from testifying against defendant . . .”

(*Ibid.* [citing *People v. Arias* (1996) 13 Cal.4th 92, 127-128 [evidence defendant kidnapped and robbed one victim in order to obtain the means of avoiding arrest for a prior murder was cross-admissible; evidence regarding the murder supplied evidence of motive for the robbery kidnapping, which in turn indicated consciousness of guilt for committing the murder]; *People v. Cummings* (1993) 4 Cal.4th 1233, 1284 [holding evidence regarding robberies was cross-admissible to show motive for murder, because the motive (avoiding arrest) was circumstantial evidence of premeditation and deliberation, both of which were elements of the murder charge]; *People v. Price* (1991) 1 Cal.4th 324, 388 [holding evidence that one of the victims was killed on the orders of a prison gang to which the defendant belonged, and that the other victim was killed in an attempt to acquire firearms to carry out gang activities, was cross-admissible to show motive]; *People v. Daly* (1992) 8 Cal.App.4th 47, 56 [holding evidence of robberies was relevant to show motive and intent with respect to attempted murder, because the evidence showed the attempted murder was committed to avoid the defendant's return to prison for robberies he had committed, and evidence of attempted murders was cross-admissible to establish consciousness of guilt as to the robberies].)

1. Defendant Killed and Dismembered Morris Black with the Same Intent He Had When He Killed Susan Berman: To Avoid Detection and Apprehension for Kathie Durst's Disappearance

The similarities between Susan Berman's murder and Morris Black's death are described in detail in section III, C, *supra*, and need not be rehashed here. It is worth noting, however, the particularly salient similarities. Both Susan and Morris were Defendant's friends, both were financially unstable, and both had sought Defendant's financial assistance shortly before their deaths. Defendant killed each victim while living as a fugitive from authorities in New York who were reinvestigating his wife's disappearance, shortly after national media attention arose about the case. Each victim also possessed information that, if known to law enforcement, would have

1 likely led to Defendant's capture and arrest. Defendant's paramount concern in each killing was
2 always to avoid apprehension for the disappearance and death of his missing wife.

3 Just as the victims shared important features demonstrating Defendant's intent when he
4 killed them, so too did the crime scenes themselves. Defendant used a handgun to kill each
5 victim, and shot both in the head at close range. Defendant never forced entry into either
6 residence. Rather, he used his friendship with the victims to gain exclusive and private access
7 and then laid in wait strategically concealing his murderous intent. Additionally, Defendant fled
8 the jurisdiction after each incident living under an assumed identity.

9 These similarities overwhelmingly demonstrate that Defendant "probably harbor[ed] the
10 same intent in each instance." (*People v. Foster* (2010) 50 Cal.4th 1301, 1328.) In fact, the
11 similarities in this case far exceed the similarities of those in *People v. Jones, supra*, 51 Cal.4th
12 346, which upheld the admission of an uncharged armed-robbery which took place nine years
13 before the charged home-invasion robbery murder. The *Jones* Court found that the evidence had
14 been properly admitted to show intent, despite "not [being] particularly similar." The uncharged
15 armed robbery in *Jones* took place in midday, involved the use of a firearm, and targeted three
16 male employees of a furniture store who were leaving work. The charged home-invasion robbery
17 murder took place in the early morning hours, targeted elderly victims who were stabbed and
18 hog-tied, and involved no firearm. Notwithstanding these marked differences, the "one crucial
19 point of similarity" that the two incidents shared was "the intent to steal from victims whom
20 defendant selected." (*Id.* at 371.) Here, Susan's and Morris's murders also share "one crucial
21 point of similarity:" Both murders were committed with the intent to eliminate the threat of
22 witnesses who Defendant was concerned were going to send him to prison.

23 Likewise, in *People v. Lindberg* (2008) 45 Cal.4th 1, the California Supreme Court found
24 the shared intent of two uncharged robberies to be paramount despite dissimilarities between
25 them and the charged robbery-murder. The victim of the charged murder was found on a high

1 school tennis court wearing rollerblades, with a slashed neck and car keys next to his body. The
2 defendant had later admitted he had asked the victim if he had a car. (*Id.* at 8-10.) The first
3 uncharged incident used to show intent involved the robbery of a laborer in a field who was
4 beaten with a stick (no knife used) when the victim refused to hand over his money. (*Id.* at 13.)
5 The second uncharged incident involved a home-invasion robbery of an elderly woman who
6 refused to comply and had a knife held to her throat as a result (her neck was not slashed). (*Id.* at
7 13-14.) In each of the uncharged instances, the defendant completed the robbery. (*Id.* at 13-14.)
8 The fact that each involved a vulnerable victim (alone, elderly, or outnumbered), unknown to the
9 defendant, who did not fight back, and whom the defendant assaulted while accompanied by a
10 companion was enough for the Court to uphold the admission of each uncharged incident. (*Id.* at
11 24.) The Court made this determination even though there were no other points of similarity.

12 In the instant case, Susan’s murder and Morris’s killing share many more points of
13 similarity than the uncharged incidents in either *Jones* or *Lindberg*. But even were they “not
14 particularly similar,” Morris’s killing would still be admissible pursuant to § 1101(b) because of
15 the shared intent with Susan’s murder of the killing of a witness to avoid apprehension. (*People*
16 *v. Jones, supra*, 51 Cal.4th at 371.)

17 **B. Killing, Dismembering And Disposing Of Morris’s Body Is Admissible To Prove**
18 **Defendant’s Knowledge Of A Possible Criminal Prosecution**

19 1. The Witness-Killing Special Circumstance Allegation Requires Proof of
20 Defendant’s Belief that He Was Exposed to Criminal Prosecution

21 The witness-killing special circumstance allegation pursuant to § 190.2(a)(10) requires
22 proof that Defendant intended that Susan be killed to prevent her from testifying in a criminal
23 proceeding. (*CALCRIM* 725.) Although there was no pending criminal proceeding when
24 Defendant murdered Susan, none is required. Rather, the special circumstance “is applicable if
25 defendant *believes* the victim will be a witness in a criminal prosecution, whether or not such a

1 proceeding is pending or about to be initiated.” (*People v. Jenkins* (2000) 22 Cal.4th 900, 1018
2 [emphasis in original] [citation omitted].) “Thus, if an accused believes himself to be exposed to
3 a criminal prosecution and intentionally kills another to prevent that person from testifying in an
4 anticipated . . . criminal proceeding, the special circumstance may be found true whether or not
5 an actual criminal proceeding was pending.” (*People v. Weidert* (1985) 39 Cal.3d 836, 853.)
6 Accordingly, to prove the witness-killing special circumstance allegation, the People will prove
7 Defendant’s subjective belief or knowledge that he was “exposed to a criminal prosecution.”
8 (*Ibid.*)

9 Evidence Code § 1101 also does not bar admission of specific instances of conduct when
10 relevant to prove some fact (such as . . . knowledge) . . .” (Evid. Code § 1101(b).) The three-
11 part analysis used in *Lindberg* (see section IV, A, 1, *supra*) is appropriate here. That is, “[t]he
12 admissibility of other crimes evidence depends on (1) the materiality of the facts sought to be
13 proved, (2) the tendency of the uncharged crimes to prove those facts, and (3) the existence of
14 any rule or policy requiring exclusion of the evidence.” (*People v. Lindberg* (2008) 45 Cal.4th 1,
15 22 [citations omitted].) “By pleading not guilty, [Defendant] places all the elements of the
16 murder as well as the . . . special-circumstances allegation[] in dispute at trial.” (*Id.* at 23.)³⁶

17 2. That Defendant Killed and Dismembered Morris Is Admissible to Prove He
18 Believed He Was Exposed to a Criminal Prosecution

19 Evidence of Defendant’s subjective belief or knowledge that he was exposed to criminal
20 prosecution is directly relevant to an element of the witness killing special circumstance
21

22
23 ³⁶ Because this evidence is direct proof of Defendant’s knowledge and subjective belief of his exposure to
24 prosecution, which is required under the witness killing special circumstance allegation, no similarity analysis is
25 required under *People v. Ewoldt* (1994) 7 Cal.4th 380. (See *People v. Hendrix* (2013) 214 Cal.App.4th 216, 241
[“Whether similarity is required to prove knowledge . . . depends on the specific knowledge at issue . . .”]
[holding that when knowledge and mistake of fact are closely intertwined, such as knowledge of a victim’s
identity as a police officer, a similarity analysis would be required]; see also *id.* at 242, fn. 9 [“Nor do we hold that
to establish knowledge under § 1101, subdivision (b), the nature of the prior offense must be the same for which
the defendant is charged.”].)

1 allegation, i.e., whether he believed himself to be exposed to a criminal prosecution. (*People v.*
2 *Weidert* (1985) 39 Cal.3d 836, 853.)

3 The uncharged acts involving Morris strongly suggest Defendant believed he was
4 exposed to criminal prosecution. Defendant's conduct from the time the reinvestigation went
5 public to the time he killed, dismembered, and disposed of Morris's body is circumstantial
6 evidence that Defendant believed he was exposed to criminal prosecution. When Defendant
7 killed the only person in Galveston who knew his true identity and that he had been hiding under
8 a false identity, he made clear that he did so in anticipation of being charged in his missing
9 wife's disappearance. In addition, Defendant's effort to destroy all evidence that Morris was
10 even dead by dismembering his corpse and dumping his body parts in Galveston Bay is further
11 evidence of Defendant's fear of exposure to criminal prosecution. Dismembering a corpse is an
12 extreme measure to take, the most reasonable inference of which is that Defendant believed
13 criminal prosecution was imminent. As explained in § VII, *infra*, there is no rule or policy
14 directing exclusion of such evidence. As such, § 1101 is no bar to admitting evidence that
15 Defendant killed and dismembered Morris.

16 **V. DEFENDANT'S KILLING, DISMEMBERMENT AND DISPOSAL OF MORRIS**
17 **BLACK, ALONG WITH HIS FLIGHT, IS ADMISSIBLE EVIDENCE TO PROVE**
18 **THAT DEFENDANT ALSO KILLED HIS MISSING WIFE**

19 **A. Uncharged Acts Are Admissible Under § 1101(b) To Prove Consciousness Of**
20 **Guilt Without A Similarity Analysis**

21 When determining whether an uncharged act should be admitted under § 1101(b) for a
22 reason other than identity, common design or plan, or intent, courts engage in a three-part
23 analysis. "The admissibility of other crimes evidence depends on (1) the materiality of the facts
24 sought to be proved, (2) the tendency of the uncharged crimes to prove those facts, and (3) the
25

1 existence of any rule or policy requiring exclusion of the evidence.”³⁷ (*People v. Lindberg*
2 (2008) 45 Cal.4th 1, 22 [citations omitted].) “By pleading not guilty, [Defendant] places all the
3 elements of the murder as well as the . . . special-circumstances allegation[] in dispute at trial.”
4 (*Id.* at 23.)

5 To prove the alleged witness-killing special circumstance allegation, the People must
6 prove that Susan was “a witness to a crime.” (Penal Code § 190.2(a)(10).) To prove Susan was a
7 witness to a crime, the People must therefore prove that a crime took place. In this case, the
8 People have to prove that Defendant killed Kathie and that Susan was a witness to that crime. In
9 doing so, the People have the duty and responsibility to present all available, relevant evidence.

10 Evidence of a person’s consciousness of guilt has a strong tendency in reason to show
11 that such person committed the alleged crime. (See, e.g., *People v. Wilson* (1992) 3 Cal.4th 926,
12 940 [evidence of solicitation of murder of a prosecution witness admissible under § 1101(b) as it
13 “was highly probative of defendant’s consciousness of guilt, which in turn was probative of his
14 identity as the perpetrator of the offense.”].)

15 Moreover, courts do not engage in a similarity analysis to determine the admissibility of
16 uncharged acts to show consciousness of guilt. (See, e.g., *People v. Neely* (1993) 6 Cal.4th 877,
17 896-897 [no similarity analysis]; see also *People v. Perry* (1972) 7 Cal.3d 756, 780-781 [no
18 similarity analysis]; *cf. People v. Cage* (2015) 62 Cal.4th 256, 274 [“Where other crimes or bad
19 conduct evidence is admitted to show motive, ‘an intermediate fact which may be probative of
20 such ultimate issues as intent [citation], identity [citation], or commission of the criminal act
21 itself’ [citation], the other crimes or conduct may be dissimilar to the charged offenses provided
22

23 ³⁷ When dealing with identity, common design or plan, or intent, courts engage in the similarity analysis under the
24 rubric established in *Ewoldt*. At times, courts will preface the similarity analysis with this three-part relevance/352
25 analysis. (See, e.g., *People v. Lindberg* (2008) 45 Cal.4th 1, 22.) Essentially, the *Ewoldt* framework substitutes in
for the second prong, i.e., the tendency of the uncharged crimes to prove the fact sought to be proved. An analysis
under Evidence Code § 352 speaks to the other prongs, i.e., whether there is a policy requiring exclusion and also
necessarily analyzes the materiality of the facts sought to be proved.

1 there is a direct relationship or nexus between it and the current alleged crimes [citation].”]
2 [citations omitted].)

3 **B. A Defendant’s Flight After Being Accused Of A Crime Is Admissible As**
4 **Consciousness of Guilt**

5 If a defendant flees after being accused of committing a crime, that conduct may show
6 consciousness of guilt. (*CALCRIM* 372.) The accusation prompting flight need not be formal—a
7 person who flees after being named as a suspect in the media demonstrates consciousness of
8 guilt. (See, e.g., *People v. Tahl* (1967) 65 Cal.2d 719, 739-740 [when radio broadcast announced
9 a double murder “and proceeded to name defendant as the suspect . . . defendant demonstrated
10 his consciousness of guilt by at first denying his involvement and then running out of the house
11 and departing in a vehicle which apparently had been stolen.”].)

12 Evidence of crimes committed subsequent to the charged crime “indicating [the
13 defendant] is ‘in flight’ and avoiding apprehension[] is highly probative of his participation in
14 the [charged crime] and of his consciousness of guilt, [citations], and thus [is] admissible under
15 *Evidence Code* § 1101, subdivision (b), for these purposes.” (*People v. Neely* (1993) 6 Cal.4th
16 877, 896-897 [holding evidence of defendant’s theft of clothing from firefighters’ vehicles and
17 illegal entry into a vacant residence over three-day period following murder, robbery, and
18 burglary admissible as evidence of flight and consciousness of guilt]; see also *People v. Perry*
19 (1972) 7 Cal.3d 756, 780-781 [holding evidence of defendant trying to get a gun and a salable
20 amount of narcotics from his car—while police were searching for him ten months after his
21 involvement in a murder—admissible under § 1101(b) to show flight and consciousness of
22 guilt].)

23 Courts have reached the same conclusion—that the commission of subsequent crimes can
24 be evidence of consciousness of guilt for an earlier crime—using the same § 1101(b) analysis
25 when deciding whether to sever multiple charges. (See, e.g., *People v. Arias* (1996) 13 Cal.4th

92, 127-128 [finding evidence a defendant kidnapped and robbed one victim in order to obtain the means of avoiding arrest for a prior murder would be admissible under § 1101(b) in separate murder trial as an indication of consciousness of guilt for committing the murder]; *People v. Daly* (1992) 8 Cal.App.4th 47, 56 [finding evidence of attempted murders would be admissible under § 1101(b) in separate robbery trial because attempted murders were committed to avoid the defendant's return to prison for robberies he had committed and showed consciousness of guilt for the robberies].)

Courts do not “create inflexible rules about the required proximity between the crime and flight.” (*People v. Mason* (1991) 52 Cal.3d 909, 941 [finding a high-speed chase from deputies admissible as relevant to show consciousness of guilt of a murder that took place a month earlier]; see also *People v. Perry* (1972) 7 Cal.3d 756, 780-781 [finding evidence of flight taking place *ten months* after the murder admissible to show consciousness of guilt].) Neither do courts create inflexible rules about the required territorial proximity between the crime and flight. (See, e.g., *People v. Loker* (2008) 44 Cal.4th 691, 706-707 [finding a high-speed car chase from police in Arizona after Arizona robbery admissible to show that defendant fled to escape capture for earlier murder in California].) Rather, “the facts of each case determine whether it is reasonable to infer that flight shows consciousness of guilt.” (*People v. Mason* (1991) 52 Cal.3d 909, 941.)

C. Defendant's Structuring Of Money Along With His Killing, Dismembering And Disposing Of Morris Black's Body Is Evidence of His Consciousness Of Guilt For Killing His Missing Wife

Defendant, analogous to the defendant in *Tahl*, originally took flight immediately after being accused in the media of being responsible for the disappearance of his missing wife. Defendant did so to avoid being arrested and prosecuted for her death. The uncontroverted evidence will establish that Morris was the only person in Galveston who knew Defendant's true identity and that Defendant was hiding in Galveston in preparation for what he believed were

1 impending charges from the New York authorities. By the time Defendant fled to Galveston, his
2 story and the resulting “cloud of suspicion” that he was responsible for his wife’s disappearance
3 had garnered nation-wide media coverage. The story continued even after Defendant’s arrival in
4 Galveston, culminating with the ABC special on Kathie’s disappearance which aired just two
5 months before Morris’s death, and only a month before Defendant purchased the gun that would
6 ultimately be used to kill Morris. Also occurring at this time were Morris’s efforts to leverage
7 Defendant for financial support, which were happening within weeks, if not days, of Morris’s
8 death. By late September of 2001, Morris was the last remaining roadblock in Defendant’s plan
9 to remain safely hidden from the New York authorities, and Defendant resolved this loose end by
10 killing Morris on September 28, 2001.

11 Lest there be any doubt that Defendant was still in flight when he killed Morris, one need
12 only take note of the fact that Defendant continued his structured withdrawals up until, and
13 including, the day of Morris’s killing. Defendant withdrew \$47,500 in five separate transactions
14 in the nine days from September 20 – September 28. By his own admission, at the time he was
15 living as a fugitive from New York authorities, and part of his plan for living as a fugitive,
16 Defendant was structuring these large cash withdrawals. Defendant killed Morris so that he could
17 remain a fugitive and avoid apprehension by the detectives handling the reinvestigation. That
18 was his motive. As such, the evidence is admissible to establish Defendant’s consciousness of
19 guilt.

20 **D. That Defendant Killed, Dismembered, And Disposed Of Morris Black Is**
21 **Admissible To Prove That He Utilized A Common Design And Plan To Make**
22 **His Victims Disappear**

23 1. **Uncharged Acts Are Admissible as Evidence of a Common Design and Plan**

24 As explained in Section III, A., *supra*, “[e]vidence of a common design or plan . . . is not
25 used to prove the defendant’s intent or identity but rather to prove that the defendant engaged in

1 the conduct alleged to constitute the alleged offense.” (*People v. Ewoldt* (1994) 7 Cal.4th 380,
2 394 [superseded by statute, on other grounds, as stated in *People v. Britt* (2002) 104 Cal.App.4th
3 500, 505].) To be admissible under § 1101(b), evidence of uncharged misconduct must merely
4 be similar enough to support the rational inference that they are the manifestations of a common
5 design or plan. (*People v. Ewoldt, supra*, 7 Cal.4th at 402.) Put another way, uncharged and
6 charged misconduct must demonstrate “such a concurrence of common features that the various
7 acts are naturally to be explained as caused by a general plan of which they are the individual
8 manifestations.” (*People v. Foster* (2010) 50 Cal.4th 1301, 1328 [citations omitted].) The plan
9 need not “be unusual or distinctive” (*People v. Ewoldt, supra*, 7 Cal.4th at 403.)

10 2. Defendant Killed Kathie Durst and Made It Appear as Though She Vanished; He
11 Killed Morris Black and Tried, But Failed, to Do the Same Thing

12 Like Susan’s murder, Kathie’s death and Defendant’s admitted killing of Morris share
13 many common features as well. After Defendant killed Kathie, he successfully disposed of her
14 body. He then concocted a false story about how she returned to New York City. As Defendant’s
15 spokesperson, Susan pushed the story that Kathie left her life, either because of drugs, or love
16 affairs, or both. Without Kathie’s body or physical evidence of the crime, Defendant was never
17 prosecuted in New York for what he had done.

18 After Defendant killed Morris, he paid Morris’s rent so that the landlord would have no
19 reason to come looking for Morris. Defendant dismembered Morris’s body to dispose of it more
20 easily, and, knowing that Morris received an eviction letter, disposed of the body to “show that
21 he [Morris] moved out . . . make it appear that he moved out” (Lewin Decl., Ex. 24 [Trial
22 Testimony of Robert Durst, Oct. 27, 2003], p. 199:6-11.) But for the fact that Defendant did not
23 understand that garbage bags don’t sink, Morris, like Kathie, would probably never have been
24 found.

1 Defendant's plan in each killing was to vanish his victim and make it appear as though
2 they had disappeared voluntarily. These circumstances support the rational inference that they
3 are the manifestations of a common design or plan. (*People v. Ewoldt, supra*, 7 Cal.4th at 402.)

4 **E. Defendant's Dismemberment Of Morris's Corpse, Disposal Of His Body Parts,**
5 **And Subsequent Flight Are Admissible Independent Of The Circumstances Of**
6 **The Actual Killing: They Demonstrate Consciousness Of Guilt And Are**
7 **Circumstantial Evidence That Defendant Got Rid Of His Missing Wife's Body**
8 **In A Similar Manner**

9 Independent of the circumstances of the actual killing, Defendant's conduct in
10 dismembering Morris's corpse, disposing of his body parts in Galveston Bay, and fleeing the
11 state afterward is highly probative evidence that he disposed of Kathie's body in a similar
12 manner years earlier.

13 Even, assuming arguendo, that Defendant killed Morris Black "accidentally" or "in self-
14 defense" as he has repeatedly claimed, his admitted actions in dismembering and disposing of
15 the body afterward are relevant in of themselves. It is the People's position that Defendant's
16 post-killing activities involving Morris are circumstantial evidence that he disposed of Kathie's
17 body in the same or similar manner. This is highly probative evidence because the People must
18 prove that Defendant killed Kathie as the predicate to the alleged witness-killing special
19 circumstance involving Susan.

20 The People have an even stronger argument in that, unlike the actual killing where
21 Defendant disputes that he murdered Morris, with the post-killing activity involving the
22 dismemberment of the corpse, the disposal of the body, and his subsequent interstate flight,
23 Defendant has admitted to all of the conduct. There is no argument about what he did or did not
24 do. The only issues are why he did it and whether it inculcates him in Kathie's disappearance
25 and, by extension, Susan's murder.

1 **VI. THE FACT THAT DEFENDANT WAS ACQUITTED OF MORRIS BLACK’S**
2 **MURDER IS IRRELEVANT WITH RESPECT TO THE ADMISSIBILITY OF**
3 **THE UNDERLYING CONDUCT PURSUANT TO EVID CODE § 1101(b)**

4 In Texas, “All persons are presumed to be innocent and no person may be convicted of an
5 offense unless each element of the offense is proved beyond a reasonable doubt.” (Tex. Penal
6 Code § 2.01.) Admission of other bad acts under Evidence Code § 1101(b) is governed by a
7 significantly lesser standard—preponderance of the evidence. (*People v. Carpenter* (1997) 15
8 Cal.4th 312, 381-382 [superseded on other grounds by statute, as stated in *Verdin v. Superior*
9 *Court* (2008) 43 Cal.4th 1096, 1106-1107]; see also *CALCRIM No. 375* [evidence of uncharged
10 offenses may be considered “only if the People have proved by a preponderance of the evidence
11 that the defendant in fact committed the (uncharged offense[s]/act[s]).”].)

12 For conduct to be admitted under § 1101(b), it “need not have been prosecuted as a
13 crime, nor is a conviction required.” (*People v. Leon* (2015) 61 Cal.4th 569, 597.) “[C]ompetent
14 and otherwise admissible evidence of another crime is not made inadmissible by reason of the
15 defendant’s acquittal of that crime.” (*People v. Griffin* (1967) 66 Cal.2d 459, 464 [evidence of
16 uncharged rape that occurred after the charged event, of which defendant was acquitted,
17 admissible to show intent and lack of accident in murder trial of another victim].)

18 Evidence of uncharged offenses dismissed for failure to prove a mere “strong suspicion
19 of the defendant’s guilt” may be properly admitted under § 1101(b). (*People v. Leon* (2015) 61
20 Cal.4th 569, 594-597 [upholding the admission under § 1101(b) of evidence of two uncharged
21 robberies that were dismissed *at preliminary hearing*³⁸].) The jury considering the uncharged
22 offense “is a new fact finder.” (*Id.* at 597.) It “must disregard” the evidence if it does not find it
23 has been proven by a preponderance of the evidence. (*Ibid.*)

24
25 ³⁸ The burden of proof at a preliminary hearing is “strong suspicion.” (Penal Code §§ 872, 995; see also *People v. Upton* (1968) 257 Cal.App.2d 677, 685.)

1 That fact that the Galveston jury decided that the murder charges against Defendant had
2 not been proven *beyond a reasonable doubt* has no relevance with respect to the admissibility of
3 that evidence in the instant case when offered pursuant to § 1101(b).³⁹ As *Leon* held, the jury in
4 the instant case “is a new fact finder,” and for that reason, they are to make their own
5 determination of the evidence. In addition, and notwithstanding the legal requirement that the
6 instant jury make an independent assessment of the evidence, given the extent of inculpatory
7 evidence outlined *supra* that was never presented, and therefore, never considered by the
8 Galveston jury, it is difficult to find legitimacy in Defendant’s argument. Not only was the jury
9 in Galveston required to meet a substantially higher burden than is required under § 1101(b), but
10 they did not have access to highly incriminating evidence that will be presented here—evidence
11 which impeaches Defendant’s entire version of events.

12 For all of the reason outlined, Defendant’s acquittal is not only legally irrelevant to the
13 admission of the proffered evidence pursuant to § 1101(b), it is inconsistent with the pursuit of
14 justice, which can only be realized when all relevant evidence is evaluated by the finder of fact.

15 **VII. THE PROFFERED § 1101(b) EVIDENCE IS PART OF A COMMOND DESIGN**
16 **AND PLAN THAT IS INEXTRICABLY INTERTWINED WITH THE CHARGED**
17 **OFFENSE AND THE SPECIAL CIRCUMSTANCES THAT HAVE BEEN**
18 **ALLEGED**

19 Defendant’s killing of Kathie Durst, the disposal of her body, the murder of his best friend
20 Susan Berman, and the dismemberment and disposal of Morris Black are inextricably intertwined.
21 Together, they represent a common design and plan to escape culpability for the death of
22 Defendant’s missing wife. For that reason, it is both logically and logistically problematic to
23 attempt to separate and/or sanitize the evidence relating to these crimes. Moreover, Defendant’s
24

25 ³⁹ Defendant is entitled, if he so chooses, to inform the jury that he was tried and acquitted of that offense. (*People v. Griffin* (1967) 66 Cal.2d 459.)

own actions have rendered much of the evidence regarding Morris inseparable from the rest of the case.

It was Defendant who sought out Jarecki and, after talking to multiple lawyers, decided against their advice to sit for interviews and discuss each of the crimes. It was Defendant who agreed to offer commentary on a movie, *All Good Things*, which depicted him as being responsible for the deaths of characters based on Kathie, Susan, and Morris, along with the killing of his dog. Finally, it was Defendant who agreed to be recorded by Jarecki and Smerling over four days in 2010 and 2012, in the interviews which formed the basis for *The Jinx*.” It was Defendant who went into the bathroom after he had been confronted with damning evidence while wearing a microphone, and mumbled. “killed them all, of course.” It was Defendant, during his testimony in the Galveston murder trial, who reiterated his fear of the reinvestigation into his wife’s disappearance, his flight from the jurisdiction, his intent to live as a fugitive, his structuring of hundreds of thousands of dollars, his disguise as Dorothy Ciner and Diane Wynn, and the provably false statements about the circumstances of Morris’s death. These actions and admissions are not only highly probative of Defendant’s culpability in Morris’s killing, they also inculcate him in the disappearance and death of his missing wife and the murder of his best friend. This evidence, tightly woven throughout each interview, is not severable, nor should it be.

VIII. THE PROFFERED § 1101(b) EVIDENCE IS RELEVANT TO THE CREDIBILITY OF NUMEROUS WITNESSES WHO REMAINED SILENT ABOUT THE INCRIMINATING INFORMATION THEY POSSESSED

Numerous witnesses have explained during the course of their testimony that they either did, or did not, come forward with damning information against Defendant as a result of what he had done in Galveston. Lynda Obst indicated that Defendant’s actions in Galveston factored into her reluctance to come forward. (Obst Conditional Examination, Apr. 26, 2016, p.52.) Miriam Barnes said that what Defendant did in Galveston affected her reluctance for many years to talk

1 to the police because Defendant “[would] kill anybody who – who will talk against him.”
2 (Barnes Conditional Examination, Apr. 25, 2016, p. 41.) Nick Chavin, Defendant’s best friend,
3 started to question whether Defendant could, in fact, be responsible for Kathie’s and Susan’s
4 respective deaths after he learned about Defendant’s actions in Galveston. (Nick Chavin
5 Conditional Examination, Feb. 16, 2017, AM, pp. 113-114.) Defendant’s actions with Morris
6 affected how Chavin viewed what Susan had originally told him about Defendant being
7 responsible for Kathie’s death. (*Id.* at 114.) When Lorraine Newman heard about what Defendant
8 did in Galveston, it affected her greatly because she had previously believed that Defendant was
9 uninvolved in Susan’s murder. (Lewin Decl., Ex. 46 [Newman Interview Transcript, Sept. 4,
10 2015] p. 36.) Dr. Peter Halperin testified that he contacted the Westchester District Attorney’s
11 Office in 2003 with incriminating information against Defendant, because of what he learned the
12 Defendant had done in Galveston. (Preliminary Hearing Transcript, Oct. 15, 2018, p. 49.)

13 In sum, witness after witness has expressed fear of Defendant and has described that
14 Defendant’s actions in Galveston formed the basis for keeping, or sharing damning evidence
15 against Defendant with authorities. The People have the right, and the obligation, to explain
16 these issues to the jury. More importantly, because a trial in the end is a search for the truth, and
17 because the jury evaluates each witness in reaching its decision, they are entitled to have access
18 to such information. The jury should not be forced to judge the credibility of these witnesses
19 while blindfolded. As such, the evidence is admissible under § 1101(b).

20 **IX. EVIDENCE THAT DEFENDANT KILLED MORRIS BLACK, DISMEMBERED**
21 **HIS CORPSE AND DISPOSED OF HIS BODY TO AVOID DETECTION IS NOT**
22 **UNDULY PREJUDICIAL PURSUANT TO EVID. CODE § 352**

23 Evid. Code § 352 provides: “The court in its discretion may exclude evidence if its
24 probative value is substantially outweighed by the probability that its admission will (a)
25 necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of

1 confusing the issues, or of misleading the jury.” (Evid. Code § 352 [emphasis supplied].) This is
2 a three-step analysis. First, the Court must determine the probative value of the evidence.
3 Second, it must determine what, if any, *undue* prejudice that evidence may create. Lastly, the
4 Court must then balance the two against each other. Thus, the mere existence of undue prejudice
5 itself is not determinative—the undue prejudice must still substantially outweigh the probative
6 value before a court may exclude it under § 352.

7 **A. The Proffered Evidence Is Highly Probative And Necessary To Prove The**
8 **Witness-Killing Special Circumstance Allegation**

9 As described *supra*, the probative value of the litany of uncharged acts that constituted
10 Defendant’s year-long flight from New York authorities, and specifically, the acts of killing,
11 dismembering and disposing of Morris’s body, is extremely high and directly relevant to
12 numerous contested issues in this prosecution.⁴⁰ As an example, such conduct is relevant, among
13 other reasons, to demonstrate Defendant’s intent in killing Susan, as well as to show his
14 consciousness of guilt for having killed his missing wife. Both are necessary elements in proving
15 the alleged witness-killing special circumstance allegation.⁴¹

16 In addition, the dismemberment and disposal of Morris’s body, separate and apart from
17 the circumstances of the killing itself, are also highly probative as they both demonstrate
18 Defendant’s consciousness of guilt with respect to Kathie’s disappearance, and are also powerful
19 circumstantial evidence that he disposed of Kathie’s body in a similar fashion.

20 Defendant’s proffered conduct reveals a common design or plan to escape justice,
21 supporting a finding “that defendant acted in accordance with that plan.” (*People v. Foster*

22 ⁴⁰ The People will not restate all of the reasons why this evidence is highly probative, but instead ask the Court to
incorporate what has been previously outlined in the motion.

23 ⁴¹ It is also important to note that the People’s do not seek to admit the § 1101(b) evidence to proffer gruesome
24 photographs and unfairly prejudice the jury. Rather, the People legitimately seek to introduce this evidence to
25 provide the jury with the requisite evidence to meet our burden of proof for both the charged offense and the alleged
special circumstances. It should also be noted that the dismemberment and disposal of Morris’s body, and the photos
that depict them, are “gruesome” because of Defendant’s own actions, conduct that he has not and does not dispute.

(2010) 50 Cal.4th 1301, 1329.) Such actions also demonstrate Defendant’s subjective belief and knowledge that he was exposed to a criminal prosecution, an element of the alleged witness-killing special circumstance. The extreme probative value of these uncharged acts cannot reasonably be disputed.

B. The Proffered Evidence Is Not “Prejudicial” Within the Meaning of § 352

1. Prejudice Generally

“The ‘prejudice’ which § 352 seeks to avoid is that which ‘uniquely tends to evoke an emotional bias against the defendant as an individual *and which has very little effect on the issues.*’” (*People v. Cage* (2015) 62 Cal.4th 256, 275 [citations omitted] [emphasis in original]; see also *People v. Gionis* (1995) 9 Cal.4th 1196, 1214 [“The “prejudice” referred to in Evidence Code § 352 applies to evidence which uniquely tends to evoke an emotional bias against the defendant as an individual *and which has very little effect on the issues.*”] [citations omitted] [emphasis in original]).)

“Evidence is not ‘unduly prejudicial’ under the Evidence Code merely because it strongly implicates a defendant and casts him or her in a bad light” (*People v. Robinson* (2005) 37 Cal.4th 592, 632.) In applying § 352, “‘prejudicial’ is not synonymous with ‘damaging.’ [Citation.]” (*People v. Bolin* (1998) 18 Cal.4th 297, 320.) “[A]ll evidence which tends to prove guilt is prejudicial or damaging to the defendant’s case.” (*People v. Cage* (2015) 62 Cal.4th 256, 275 [citations omitted].)

Courts routinely admit uncharged murders as 1101(b) evidence in murder cases after engaging in a § 352 analysis. (See, e.g., *People v. Edwards* (2013) 57 Cal.4th 658, 713-715 [upholding the admission of uncharged murder that involved “greater brutality to the victim’s genital area,” where charged murder also involved an agonizing death, citing substantial probative value to show common design or plan, intent, and identity]; *People v. Rogers* (2013) 47 Cal.4th 296, 331 [upholding the admission of two murders from two different states, citing

substantial probative value to show intent of California murder]; *People v. Carter* (2005) 36 Cal.4th 1114 [upholding admission of two uncharged murders in trial for murder of three other victims]; *People v. Kipp* (1993) 18 Cal.4th 349, 369-372 [upholding admission of uncharged rape-murder in trial for murder and attempted rape].)

Defendant asserts that the circumstances of the dismemberment and disposal of Morris's body, and specifically, the photographs depicting that evidence, are "unduly gruesome and inflammatory." Defendant states:

The People desire to introduce evidence that includes a shooting, a dismemberment and images of the dismembered body parts (which had been submerged in salt water for a number of days). Gruesome does not begin to adequately describe the crime scene details and photos from the Galveston acquittal. Under California law, photographs must not be admitted where they are unduly gruesome or inflammatory, or of such a nature as to overcome the jury's rationality, as they are here. *People v. Taylor* (2010) 48 Cal.4th 574, 650, 108 Cal.Rptr.3d 87, 229 P.3d 12.; *People v. Jackson*, 58 Cal.4th 724, 757, 319 P.3d 925, 952 (2014). Further, when the People intend, as in this case, to admit such evidence in their case in chief, a trial court has much more narrow discretion to admit photographic evidence of the crime because of the unacceptable risk of an improper guilt finding based on visceral reactions by the jury. *People v. Jackson* (2014) 168 Cal.Rptr.3d 635, 58 Cal.4th 724, 319 P.3d 925, rehearing denied, motion for relief from judgment denied 135 S.Ct. 677. It strains credulity to believe a jury would overcome the visceral repulsion produced by this evidence.

(See Defendant's Motion in *Limine* Regarding Prior Acquittal And All Underlying Accusations, pg. 18-19). Defendant's contention regarding the prejudice he will face if the proffered conduct and resulting photographs are presented to the jury ignores not only the extreme probative value of the evidence, **but even more importantly, the complete absence of any prejudice he allegedly would suffer given that the same "inflammatory" evidence and photographs were admitted in the Galveston trial and he was acquitted.**

2. The Photographs Showing Defendant's Dismemberment and Disposal of Morris Black's Body Convey Relevant, Admissible Information that is not Unduly Prejudicial

In *People v. Heard* (2003) 31 Cal.4th 946, the Supreme Court reiterated that the admission of crime scene photographs lies within the broad discretion of the trial court when a

1 claim is made that they are unduly gruesome or inflammatory. In *Heard*, gruesome crime scene
2 photographs were deemed probative because they illustrated and corroborated the testimony of
3 various prosecution witnesses regarding the circumstances of the crime. The Court observed,
4 “the photographs portray the results of defendant's violent conduct; that they are graphic and
5 unpleasant to consider does not render the introduction of those images unduly prejudicial.” (*Id.*
6 at 977; see also *People v. Riel* (2000) 44 Cal.4th 174, 211 [photographs of murdered child were
7 not of such a nature as to overcome jury’s rationality; “[t]he fact that the exhibits involved blood
8 was due to the crime, not the court’s rulings.”].)

9 **Importantly, the risk of undue prejudice from photographs is minimal when it is**
10 **undisputed that the defendant committed the acts depicted in the photographs.** As stated by
11 the *Heard* Court, “E]ven if the photographs engendered a disturbing response among the jurors,
12 we believe the risk defendant would be prejudiced by that response was minimal, because the
13 jury knew defendant had committed the acts described by the witnesses who had appeared before
14 them.” (*Id.* at 978.) This is true even where a defendant admits to the crime because victim
15 photographs are admissible to corroborate and illustrate testimony of other witnesses and support
16 theories of how the crime took place. (*People v. Pollock* (2004) 32 Cal.4th 1153; see also *People*
17 *v. Weaver* (2001) 26 Cal.4th 876, 93; see also *People v. Jackson* (1996) 13 Cal.4th 1164 [photos
18 of victim that showed large mass of victim’s brain matter expelled as a result of shotgun blast].)
19 And, photographs are not unduly prejudicial as being cumulative because they corroborate facts
20 that are independently established by testimony—even somewhat cumulative photographic
21 evidence is admissible if relevant. (*Heard, supra*, at 978.)

22 Here, the photographs depicting Morris’s dismemberment and disposal are highly
23 relevant because they illustrate the extreme measures Defendant undertook to hide Morris’s body
24 and make it appear as if Morris had left Galveston of his own free will. As importantly, the
25 evidence is probative as it circumstantially demonstrates Defendant’s culpability in the

1 disappearance of his missing wife, and suggests that she was disposed of in an analogous
2 fashion. In addition, the fact that Defendant has freely admitted that the motivation for his
3 dismemberment of Morris's corpse was to escape apprehension for his alleged role in Kathie's
4 death is also highly relevant. There is no dispute that Defendant dismembered Morris's body. It
5 is the People's position that the photographs of that conduct are clear evidence that Defendant
6 preplanned and premeditated Morris's death. Such evidence, in turn, is consistent with and
7 supports the People's theory of Defendant's common design and plan with respect to covering up
8 his involvement in Kathie's death.

9 In addition, the photographs also corroborate the coroner's testimony as to the effort and
10 expertise involved in the dismemberment, and corroborate statements Defendant himself has
11 made to Jarecki and law enforcement regarding his actions. Even more importantly, the
12 photographs strongly impeach Defendant's version of how Morris was killed. Defendant testified
13 in Galveston that he drank "a fifth" of Jack Daniels before dismembering Morris's body. (Lewin
14 Decl., Ex. 17 [Trial Testimony of Robert Durst, Oct. 23, 2003] p. 134:7-18.)⁴² Given how drunk
15 Defendant would have been had he consumed that amount of alcohol, the photographs of the
16 careful dismemberment (coupled with the coroner's testimony) disprove Defendant's testimony
17 and suggest that, to the contrary, Defendant's efficient dismemberment of Morris's corpse was
18 wholly inconsistent with someone under the influence of such a massive amount of alcohol.
19 Lastly, and as discussed *supra* in Section VII, the photographs provide evidentiary support as to
20 why numerous witnesses elected not to come forward with the inculpatory information they
21 possessed.

22 Defendant's dismemberment of Morris is uncontroverted. He has admitted as such on
23 numerous occasions, both under oath in Galveston and on tape to Jarecki, Smerling, and DDA
24 Lewin. To claim that he will somehow be "prejudiced" by conduct he voluntarily undertook and

25 ⁴² "A fifth" commonly refers to one-fifth of a U.S. gallon, or slightly more than 25 ounces of liquid. This would equal sixteen to twenty-five shots of alcohol, depending on the size of the shot.

1 has repeatedly admitted is disingenuous. Analogous to *Heard*, the photographs merely “portray
2 the results of defendant’s violent conduct,” and any prejudice is minimized by the fact that
3 Defendant has admitted the dismemberment.

4 Finally, and most importantly, the fact that Defendant was acquitted in Galveston after
5 the jury viewed dozens of “gruesome” photographs depicting the same dismemberment
6 completely eviscerates any argument Defendant proffers that a jury will be “overcome by
7 visceral repulsion” and unable to rationally decide the case.

8 A main issue in this trial will be the motive for Susan’s death, which the People have
9 alleged is a common design and plan emanating from Defendant’s killing of his missing wife.
10 The facts surrounding Morris’s killing, dismemberment, and disposal shed light not only on the
11 contested circumstances of his death, but also on the circumstances surrounding what the People
12 will demonstrate was the death at Defendant’s hand of Kathie Durst more than thirty-six years
13 ago.

14 **C. The Probative Value Of The Evidence Is Not Substantially Outweighed By Its**
15 **Prejudice**

16 Evidence is substantially more prejudicial than probative [citation] if, broadly stated, it
17 poses an intolerable ‘risk to the fairness of the proceedings or the reliability of the outcome
18 [citation].’” (*People v. Riggs* (2008) 44 Cal.4th 248, 290.) In the instant case, the proffered §
19 1101(b) evidence is so highly probative that it would be nearly impossible for it to be
20 “substantially outweighed” by any prejudice. That being said, however, the danger of any *undue*
21 prejudice is minimal, as it cannot be said that the act of dismembering Morris’s dead body *after*
22 killing him is nearly as inflammatory as brutally executing his best friend, a woman who was
23 substantially more sympathetic and likable than Morris.⁴³ This point is buttressed by the fact that

24
25 ⁴³ Conversely, had Morris been killed by the act of dismemberment, it would have certainly been more
inflammatory than what Defendant is charged with having done to Susan. However, as the dismemberment

1 the criminal penalty for special circumstance murder is death, or life without parole, while the
2 penalty for mutilating a corpse is a simple misdemeanor.⁴⁴

3 As previously outlined, the dismemberment is directly and substantially probative in
4 establishing that Defendant destroyed evidence to avoid apprehension, a factor which is
5 indicative of his consciousness of guilt. It is also further proof of his plan to escape justice, his
6 intent to kill Susan as a witness, and his consciousness of guilt inculcating him in his missing
7 wife's disappearance. For those reasons, it cannot be credibly argued that the act of
8 dismemberment "*has very little effect on the issues,*" the requirement to exclude such evidence
9 pursuant to § 352. (*People v. Cage* (2015) 62 Cal.4th 256, 275 [citations omitted] [emphasis in
10 original].)

11 By his own admission, Defendant frantically worried that—if discovered for killing
12 Morris—authorities would connect him to Kathie's disappearance. Defendant has discussed this
13 concern on numerous occasions as the reason why he didn't go to the police:

14 I can't go to the police. I can't go to the police. I can't go to the police. The police are
15 going to want to investigate it and ask me a zillion questions. And from the outset, I'm
16 going to say, 'Well my name's Robert Durst. And I went, I rented this apartment
17 disguised as a woman named Dorothy Ciner.' You know, I can just picture myself going
18 to the police precinct to report this. 'My name is Robert Durst. I rented this three-
19 hundred-dollar-a-month apartment disguised as a woman named Dorothy Ciner. My, my
20 neighbor is lying on the kitchen floor with a bullet wound in his face. He's dead. The
21 bullet came from my gun. Oh, and this is an accident. Oh, and by the way, I'm a rich guy
22 from New York, and my first wife disappeared, and I was never charged but there was
23 lots of speculation that I did it.

20 Moreover, one cannot credibly argue that the killing and dismemberment of Morris will
21 unduly prejudice the jury, as history has already proven that jurors are capable of dispassionately
22

23 happened after Morris was already dead, it does not evoke the type of emotional response that is a requirement in
24 this scenario for exclusion under § 352.

24 ⁴⁴ Compare Health & Saf. Code § 7050.5 ["Every person who knowingly mutilates . . . any human remains . . .
25 without authority of law is guilty of a misdemeanor . . ."] with Penal Code §§ 187, 190.2(a)(10) [penalty for a
defendant found guilty of murder in the first degree with special circumstance allegation is death or life
imprisonment without the possibility of parole].)

1 evaluating this evidence—Defendant was acquitted of Morris’s murder in Galveston, even
2 though that jury did, in fact, learn all of the details and view dozens of photographs depicting the
3 dismemberment and disposal. The jury was apparently so “prejudiced” by this “inflammatory”
4 evidence that they found him *not guilty*. How, therefore can it be argued with a straight face that
5 a jury will not be able to set aside the “inflammatory” nature of the evidence, and will
6 automatically convict Defendant based on “undue prejudice?” The verdict in Galveston proved
7 just the opposite.

8 In sum, the killing and dismemberment of Morris Black and the disposal of his body parts
9 is highly probative evidence of Defendant’s plan and intent to cover up, not only Morris’s
10 murder, but also to eliminate the connection of that crime to the disappearance and death of his
11 missing wife and the murder of his best friend. Defendant’s actions are clear and compelling
12 evidence of his subjective belief of the possible criminal prosecution for those other offenses.
13 Accordingly, § 352 is no bar to the admission of that evidence.

14 **X. CONCLUSION**

15 It has been nearly 37 years since that fateful winter night in South Salem, New York when
16 Defendant killed his wife. That singular event was the catalyst for everything that has happened
17 since. Eighteen years later, Defendant drove down to Los Angeles and shot his best friend Susan
18 Berman one time in the back of the head. Defendant correctly understood that Susan held the key to
19 his freedom, and he concluded that if he did not eliminate her as a witness, he would end up going
20 to prison. He was not mistaken in his analysis. However, Defendant killed Susan many years too
21 late because, as the evidence has demonstrated, over the years Susan had already confided what she
22 knew and did to more than half a dozen friends and family members. As of this writing, it has been
23 more than 17 years since Defendant murdered Morris Black, dismembered his corpse, and dumped
24 his body parts in trash bags in Galveston Bay. Although the relationship was different, Defendant
25 killed Morris for the same reason he killed Susan. Defendant believed, just as with Susan, that

1 Morris was the only thing standing between him and a prison cell. He had to eliminate the problem.
2 For the last 37 years, Defendant has engaged in an ongoing plan to escape justice. At times, this
3 effort has ebbed, such as in the mid-1980s through the late 1990s, when Defendant thought he had
4 accomplished his goal and was in the clear. At other times, Defendant has had to reignite his efforts,
5 such as when the reinvestigation into Kathie's disappearance became public in 2000, and he had to
6 take steps to eliminate Susan and Morris. Throughout it all, Defendant has attempted to avoid
7 apprehension, evade detection and prevent prosecution. The murderous actions he has taken in
8 furtherance of this effort are a demonstration of his commitment and ruthlessness.

9 Defendant's grand plan of avoiding culpability for Kathie's death by murdering those he
10 believed could send him back to prison is highly probative evidence that needs to be presented to
11 the trier of fact. The probative value of the proffered evidence is overwhelming and the danger of
12 undue prejudice is minimal. Not only is the probative value of the evidence not *substantially*
13 outweighed by its prejudice, it's not outweighed at all. For all of the reasons described *supra*, the
14 proffered § 1101(b) evidence should be admitted at trial.

15
16 DATED: December 27, 2018

Respectfully submitted,

17 JACKIE LACEY
18 District Attorney

19 By: 
20 JOHN LEWIN
21 Deputy District Attorney
22
23
24
25

APPENDIX A
FACTUAL SIMILARITY CHART

	Susan Berman Murder	Morris Black Killing
Relationship to Defendant	Good Friend	Good Friend
Financial Situation	Destitute	Destitute
Knowledge of Defendant's Wealth	Knew Defendant Was Wealthy	Knew Defendant Was Wealthy
Outreach to Defendant	Sought/Demanded Financial Assistance from Defendant	Sought/Demanded Financial Assistance from Defendant
Timing of Death: Reinvestigation	Killed While Defendant Lived as a Fugitive During Reinvestigation of Kathie's Disappearance	Killed While Defendant Lived as a Fugitive During Reinvestigation of Kathie's Disappearance
Timing of Death: Seeking Defendant's Help	Killed Shortly After Seeking/Demanding Financial Assistance from Defendant	Killed Shortly After Seeking/Demanding Financial Assistance from Defendant
Timing of Death: National Media Attention	<i>People</i> Magazine Article, "Resuming the Search," Dec. 4, 2000 (Three Weeks Before Susan's Death)	ABC News "Vanished: The Cold Case of Kathie Durst" July 25, 2001 (Eight Weeks Before Morris's Death)
Victim's Knowledge of Incriminating Information	Witness to Defendant Killing Kathie	Witness to Defendant hiding from Investigators

		reinvestigating Kathie's Disappearance
Result of Police Learning	Defendant's Arrest and Capture	Defendant's Arrest and Capture
What Victim Knew		
Crime Scene	Private Residence with Limited Access and Complete Privacy	Private Residence with Limited Access and Complete Privacy
Witnesses to Crime	No Witnesses Present	No Witnesses Present
Evidence of Theft/Robbery As Motive	No Evidence of Theft/Robbery As Motive	No Evidence of Theft/Robbery As Motive
Signs of Forced Entry	No Signs of Forced Entry	No Signs of Forced Entry
How Defendant Gained Access to Victim	Used Friendship to Conceal Purpose and Gain Trust of Helpless Victim	Used Friendship to Conceal Purpose and Gain Trust of Helpless Victim
Weapon Used	Handgun	Handgun
Type of Handgun	Semi-automatic	Semi-automatic
Cause of Death	Gunshot	Gunshot
Where Victim Was Shot	Shot in the Head	Shot in the Head
What Happens to Weapon	Not Located at Scene; Never Found	Not Located at Scene; Discarded in Trash
Defendant's Flight After Killing Victim	Fled from State	Fled from State
Defendant's Identity After Killing Victim	Assumed False Identities	Assumed False Identities

JACKIE LACEY
District Attorney
JOHN LEWIN (State Bar No. 154338)
HABIB A. BALIAN (State Bar No. 179344)
Deputy District Attorneys
211 West Temple Street, Suite 1130 A
Los Angeles, CA 90012
(213) 257-2242

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

ROBERT DURST,)

Defendant.)

CASE NO.: SA089983

**DECLARATION OF JOHN LEWIN IN
SUPPORT OF PEOPLE'S OPPOSITION
TO DEFENDANT'S MOTION TO
EXCLUDE EVIDENCE OF MORRIS
BLACK'S HOMICIDE,
DISMEMBERMENT OF HIS CORPSE,
AND DISPOSAL OF HIS BODY PARTS**

DEPT: 81

DATE: January 14, 2019

TIME: 10:00 A.M.

DECLARATION OF JOHN LEWIN

I, JOHN LEWIN, am a Deputy District Attorney assigned this matter and I declare, under penalty of perjury, that the following is true and correct of my personal knowledge, information and belief:

1. I am a Deputy District Attorney assigned to handle the above captioned case;
2. Attached hereto as Exhibit 1 is a true and correct copy of selected portions of a transcript of a December 12, 2010 interview between Defendant Robert Durst (“Defendant”) and Andrew Jarecki.
3. Attached hereto as Exhibit 2 is a true and correct copy of selected portions of a transcript of a March 15, 2015 interview I conducted with Defendant in the presence of investigators from the Los Angeles Police Department’s Robbery Homicide Division.
4. Attached hereto as Exhibit 3 is a true and correct copy of selected portions of a transcript of Defendant’s December 10, 2010 DVD Commentary of *All Good Things*.
5. Attached hereto as Exhibit 4 is a true and correct copy of a February 10, 1982 police report authored by New York Police Department Detective James T. Varian.
6. Attached hereto as Exhibit 5 is a true and correct copy of New York State Police Investigator Joseph Becerra’s notes from his November 7, 2000 interview of Peter Schwartz, redacted to remove personal identifying information.
7. Attached hereto as Exhibit 6 is a true and correct copy of a March 12, 2001 article in New York Magazine entitled Who Killed The Gangster’s Daughter?
8. Attached hereto as Exhibit 7 is a true and correct copy of selected portions of a transcript of an interview of Lynda Obst by Los Angeles County Deputy District Attorneys John Lewin and Habib Balian and Los Angeles County District Attorney Investigator Jeff Savarese on March 20, 2015.

- 1 9. Attached hereto as Exhibit 8 is a true and correct copy of selected portions of a transcript
2 of a December 13, 2010 interview between Defendant Robert Durst (“Defendant”) and
3 Andrew Jarecki.
- 4 10. Attached hereto as Exhibit 9 is a true and correct copy of selected portions of New York
5 Police Department Detective Michael Struk’s notebook.
- 6 11. Attached hereto as Exhibit 10 is a true and correct copy of page 1 of the New York State
7 Police’s continuation sheet regarding case number 02-003, dated November 22, 1999,
8 redacted to remove personal identifying information. There appear to be typographical
9 errors regarding two of the dates entered in paragraph 2 in which February 1, 1982 is
10 incorrectly reflected as 02/01/99.
- 11 12. Attached hereto as Exhibit 11 is a true and correct copy of selected pages of the certified
12 transcript in The State of Texas v. Robert Durst, cause no. 01CR1900, dated October 22,
13 2003.
- 14 13. Attached hereto as Exhibit 12 is a true and correct copy of a November 11, 2001 New
15 York Daily News article entitled, “Trail Heats Up In Missing Wife Mystery.”
- 16 14. Attached hereto as Exhibit 13 is a true and correct copy of a November 11, 2001 New
17 York Times article entitled, “Disappearance Under Scrutiny.”
- 18 15. Attached hereto as Exhibit 14 is a true and correct copy of selected pages of a transcript
19 of an April 18, 2012 interview between Defendant and Andrew Jarecki.
- 20 16. Attached hereto as Exhibit 15 is a true and correct copy of a December 4, 2000 People
21 Magazine article entitled, “Resuming the Search.”
- 22 17. Attached hereto as Exhibit 16 is a true and correct copy of the front and back sides of
23 several dozen checks bearing Defendant’s signatures from Defendant’s accounts,
24 redacted to remove personal identifying information.
25

1 18. Attached hereto as Exhibit 17 is a true and correct copy of selected pages of the certified
2 transcript in The State of Texas v. Robert Durst, cause no. 01CR1900, dated October 23,
3 2003.

4 19. Attached hereto as Exhibit 18 is a true and correct copy of a selected portion of a
5 transcript of one of Defendant's recorded Pennsylvania jail calls, dated January 7, 2002.

6 20. Attached hereto as Exhibit 19 is a true and correct copy of Defendant and Debrah
7 Charatan's marriage license, redacted to remove any personal identifying information.

8 21. Attached hereto as Exhibit 20 is a true and correct copy of two of Defendant's power of
9 attorneys, redacted to remove any personal identifying information.

10 22. Attached hereto as Exhibit 21 is a true and correct copy of the front and back sides of
11 check number 528 from Defendant's Bank of America account, dated December 20,
12 2000, to cash, totaling \$9,500. It has been redacted to remove personal identifying
13 information.

14 23. Attached hereto as Exhibit 22 is a true and correct copy of an email chain including a
15 June 18, 2015 email from Bank of America Vice President, Global Financial Crimes
16 Compliance Fraud.

17 24. Attached hereto as Exhibit 23 is a true and correct copy of selected pages of the transcript
18 in The State of Texas v. Robert Durst, cause no. 01CR1900, dated October 7, 2003.

19 25. Attached hereto as Exhibit 24 is a true and correct copy of selected pages of the certified
20 transcript in The State of Texas v. Robert Durst, cause no. 01CR1900, dated October 27,
21 2003.

22 26. Attached hereto as Exhibit 25 is a true and correct copy of Morris Black's eviction notice.

23 27. Attached hereto as Exhibit 26 is a true and correct copy of a report by Tom Bevel dated
24 September 8, 2016.
25

- 1 28. Attached hereto as Exhibit 27 is a true and correct copy of a report by Tom Bevel dated
2 October 26, 2016.
- 3 29. Attached hereto as Exhibit 28 is a true and correct copy of a report by Tom Bevel dated
4 January 8, 2002.
- 5 30. Attached hereto as Exhibit 29 is a true and correct copy of the defense animation
6 produced in connection with The State of Texas v. Robert Durst, cause no. 01CR1900,
7 depicting Defendant's version of events with regard to killing Morris Black.
- 8 31. Attached hereto as Exhibit 30 is a true and correct copy of selected pages of the transcript
9 in The State of Texas v. Robert Durst, cause no. 01CR1900, dated October 30, 2003.
- 10 32. Attached hereto as Exhibit 31 is a true and correct copy of cited selections of a transcript
11 of Kathryn Frances Millimaci's testimony in Galveston, Texas, cause number 01CR1900,
12 dated October 15, 2003.
- 13 33. Attached hereto as Exhibit 32 is a true and correct copy of cited selections of a transcript
14 of Officer Dean Benner's testimony in Galveston, Texas, cause number 01CR1900, dated
15 October 15, 2003
- 16 34. Attached hereto as Exhibit 33 is a true and correct copy of a report detailing the search of
17 Defendant's car on December 5, 2001.
- 18 35. Attached hereto as Exhibit 34 is a true and correct copy of a photograph of Defendant's
19 car that was the subject of the search described in Exhibit 5.
- 20 36. Attached hereto as Exhibit 35 is a true and correct copy of a photograph of the loaded
21 Taurus brand .38 Special seized from Defendant Robert Durst's car on December 5,
22 2001.
- 23 37. Attached hereto as Exhibit 36 is a true and correct copy of a photograph of the bag seized
24 from Defendant Robert Durst's car on December 5, 2001, containing the loaded Smith &
25 Wesson Airlight .38 Special.

- 1 38. Attached hereto as Exhibit 37 is a true and correct copy of a photograph of the interior of
2 the bag shown in Exhibit 36.
- 3 39. Attached hereto as Exhibit 38 is a true and correct copy of a photograph the passport
4 seized from within the bag shown in Exhibits 36 and 37.
- 5 40. Attached hereto as Exhibit 39 is a true and correct copy of a photograph of the loaded
6 Smith & Wesson Airlight .38 Special seized from within the bag shown in Exhibits 8 and
7 9.
- 8 41. Attached hereto as Exhibit 40 is a true and correct copy of a photograph of a Mead Brand
9 Five Star spiral notebook, seized from Defendant Robert Durst's car on December 5,
10 2001.
- 11 42. Attached hereto as Exhibit 41 is a true and correct copy of a photograph of a piece of
12 Hilton Garden Inn stationary, which was within the notebook described in Exhibit 11,
13 and which was seized from Defendant Robert Durst's car on December 5, 2001. The
14 address that appears on that paper, as well as the phone number, belonged to Gilberte
15 Najamy.
- 16 43. Attached hereto as Exhibit 42 is a true and correct copy of selected portions of a
17 transcript of a December 11, 2010 interview between Defendant and Andrew Jarecki.
- 18 44. Attached hereto as Exhibit 43 is a true and correct copy of a transcript of the "Bathroom
19 Audio" which took place after an April 18, 2012 interview between Defendant and
20 Andrew Jarecki. Prior to going into the bathroom at the completion of the interview,
21 Defendant had admitted during the interview to having addressed an envelope to Susan,
22 written in almost identical block lettering containing the same misspelling of "Beverley"
23 Hills as the Cadaver Note. At that time, he also stated, after being asked if he could tell
24 which one he did not author, that he could not differentiate between the two.
- 25

1 45. Attached hereto as Exhibit 44 is a true and correct redacted copy of LAPD/RHD's
2 Chronological Record Entry in this case, dated March 10, 2015.

3 46. Attached hereto as Exhibit 45 is a true and correct copy of a Federal Bureau of
4 Investigation "302" report, draft date of March 18, 2015, issued by Special Agents
5 William "Chuck" Williams, Christopher Bauer, and Saunders Paul Craine.

6
7 Executed this 27th day of December, 2018 at Los Angeles, California.

8
9
10 
11 _____
12 JOHN LEWIN, Declarant
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EXHIBIT 1

LOS ANGELES COUNTY DISTRICT ATTORNEY

PEOPLE OF THE STATE OF)	Case No. SA089983
CALIFORNIA,)	
Plaintiff,)	
)	
vs.)	
)	
ROBERT DURST:)	
)	
Defendant.)	
<hr/>)

INTERVIEW OF: ROBERT DURST: (12-12-10)

BY: ANDREW JARECKI (MOVIE DIRECTOR) AND UNIDENTIFIED
MALE SPEAKERS AND FEMALE SPEAKER

AUDIO FILE NO.: DECEMBER 10, 2010 DAY TWO

TRANSCRIBED BY: APRIL MARIE CARLOS

JOB NO.: PS-13

1 ROBERT DURST: Is it Susan Berman? (0:21:20.7)
2 ANDREW JARECKI: Yeah. Tell me about that.
3 ROBERT DURST: So -- so that was the first year I
4 was there. I invited friends of mine out from back
5 here. Stewart -- excuse me, Stewart Altman and
6 his brother. And the -- the place where everybody
7 would go -- we were staying at the Beta house, right
8 near UCLA, and they had a program where they rented out
9 rooms to anybody over the summer.
10 And the place that people would go was to Dykstra
11 dormitory. Where the -- were the first dormitory that
12 UCLA built up on the hill, across from the campus.
13 And -- and that had a great pool. And they also had
14 great buffet lunches that you paid \$.20 for, or
15 whatever. But so -- so -- so Dykstra has this big
16 pool. Everybody goes to the big pool in the afternoon.
17 And if you're a boy, you're trying to meet a girl. And
18 if you're a girl, you're trying to meet a boy.
19 And I saw this girl who looked very, very pretty,
20 wearing a white outfit and a white cap and black hair.
21 And I went over and started talking to her. And we
22 went swimming. And that was Susan Berman. And we
23 stayed friends until she died in 2000. (0:22:41.7)
24 ANDREW JARECKI: Yeah. And, uh, when you were at,
25 uh, UCLA, she became your best friend or --

1

2 ROBERT DURST: Yeah. I spent all my time with
3 her. She dated my friend from New York a little bit,
4 but not very long.

5 ANDREW JARECKI: And was it a platonic
6 relationship?

7 ROBERT DURST: Strictly platonic. We would have
8 sleepover days, but it was strictly platonic. She came
9 a couple of nights and stayed in our room in the Beta
10 house. Now, this is a big room in the Beta house, but
11 there, uh, Stewart Altman, his brother, me, and Susan.

12 ANDREW JARECKI: And was she ever, do you think,
13 interested in you as a boyfriend? Or for her, it was
14 also platonic?

15 ROBERT DURST: I don't think she was ever
16 interested in me as a boyfriend. But we would spend a
17 lot of time together. We could talk. We had the thing
18 in -- in --in common. Both of her parents died when
19 she was young, and I had one parent die when I was
20 young. Uh, she -- she was raised by -- by various, uh,
21 sleep-away school -- high school, prep schools.
22 Private -- private high schools, and she was raised by
23 them. I was raised by governesses. Neither of us got
24 a chance to meet our parents hardly at all. (0:24:04.0)

25 ANDREW JARECKI: Um, and her background?

1 **ROBERT DURST: Rich, Las Vegas, mobster father;**
2 very, very weak mother. A somewhat sick mother. Uh,
3 Father dies in the hospital. Mother dies in the
4 hospital. She never really finds out, um, what -- what
5 -- what the mother died of. Always on medication;
6 which was my mother, too.

7 ANDREW JARECKI: And how did her father die?

8 ROBERT DURST: Well, they say it was a mob hit.
9 He died -- he died in the hospital on an itty-bitty
10 operation that, you know, wasn't supposed to kill
11 anybody, but it killed him.

12 ANDREW JARECKI: Um, so just to go back for a
13 minute to your early, uh, days. We talked about you
14 having gone and seen some psychiatrists when you were a
15 kid, and that later, you were able to find out a little
16 bit more about what they'd said. And, um, uh, so
17 there's a letter, which I know you've seen before, I'm
18 going to ask you about. This is this, uh, letter from
19 one of the psychiatrists. I don't know if it's easy
20 for you to read. Made it a little bigger. And usual -
21 -

22 ROBERT DURST: I can read it. Well, let me read
23 it. (Untranslatable Sound; Laughter 0:25:39.2).

24 ANDREW JARECKI: Oh, yeah, yeah, yeah.

25 ROBERT DURST: I'm used to --

1 in The New York Times, to Charles Bagley, when he was
2 asking about Kathie in the film -- um, that you took
3 some responsibility for --

4 ROBERT DURST: Oh --

5 ANDREW JARECKI: -- for Kathie's situation --

6 ROBERT DURST: -- yes, yes. If I'd been
7 different, we would have lived a -- I think, a happy
8 life. If she'd met some normal-type guy from Long
9 Island, she -- she would have had a bunch of kids, like
10 her -- her siblings, and she would have lived a -- I
11 hate to say "normal," but I don't know how else to put
12 it. A -- a -- a -- an average, or something like that,
13 life. It was just finding me, and then the whole
14 scenario. It -- it just kept getting blown up and
15 getting worse and worse and worse and worse.

16 And I was the dominant one in the relationship.

17 And I knew she was going semi bananas. And she hated
18 this thing where she had brought the -- the lawyers in.
19 And she kept saying, "Why don't we just forget about
20 all the lawyers?" And I said, "You can't just go this
21 far and, uh, drop the whole thing. I don't want you
22 doing this again, again, again. I want to work out an
23 agreement where you're not going to do this again."
24 And they had something called a post-marital agreement.

25 ANDREW JARECKI: So that was the idea, was to --

1 was to create a -- some kind of an agreement where you
2 would stay

3 ROBERT DURST: Yes, I --

4 ANDREW JARECKI: -- together or -- (0:31:54.1)

5 ROBERT DURST: -- wasn't gonna just drop the
6 lawyers and -- and -- and forget the whole thing
7 because Kathie had done it, enthusiastically. And she
8 was taking control of the marriage by threatening to
9 divorce me. And I figure, you know, if I -- if we just
10 drop the lawyers, maybe, I'll be here in six months
11 again with the same thing because I hadn't changed. I
12 was still the same controlling person. I wasn't about
13 to have her telling me what to do. And she had gotten
14 there to a large extent.

15 ANDREW JARECKI: When you say you were controlling
16 in your relationship with her, give me an example of
17 what.

18 ROBERT DURST: Oh, I would choose a restaurant, and
19 we got to the restaurant, uh -- I -- I -- I would look
20 at the menu, and say, "Well, I'm thinking of this or
21 that. What are you thinking of?" And then, "Well, why
22 don't you get the soup -- get -- get, you know, the
23 such and such, and I'll get the other, and then we can
24 trade a little bit?" And, you know, she went along
25 with that for a while, and then she just got tired of

1 you what time it is. And we're going to stay for two
2 hours. And we're going to leave. And unless you agree
3 to that, I'm not going to go. I don't mean two hours
4 and 20 minutes. Two hours, I'm out of there." What
5 was the question? (Untranslatable Sound; Laughter
6 0:34:20.3). (10:30:40:00)

7 ANDREW JARECKI: Well, we were just talking about
8 the dynamic between you and Kathie, and -- and I was
9 asking about this issue of control that you--

10 ROBERT DURST: I insisted she get an abortion.
11 Um, I guess, when we were in an agreement on things, we
12 -- we -- we wanted to, to live in Westchester. Dog
13 liked it. Uh, it was similar to Vermont. Did not want
14 to move to the city. And at some point, I just got
15 sick of the commuting. "This is ridiculous. You
16 commute 40 minutes. I commute almost two hours.
17 Different directions. We should move someplace
18 central. That -- that meant she was going to have to
19 switch colleges.

20 So at some point, I said, "Listen, why don't we
21 just try living in the city. Apply to colleges in the
22 city, and you -- you get in, maybe we'll like it." And
23 she applied to both Columbia and NYU's nursing program;
24 got in -- involved in both of them. Started going
25 to -- I don't -- NYU. And it -- it was she -- she

1 lady who wanted to talk about all the stuff that I did
2 not want to talk about. Just -- um, not a
3 sophisticated person. I'm not saying she's a stupid
4 person. But she -- she really, uh -- oh, and she would
5 ask questions, like -- like -- like, "What's the most
6 important thing to you, Bob?" Um, "Bob, the only
7 important thing in life is to enjoy it. You should
8 enjoy it all the time. There's nothing else there."
9 Getting into these questions like that. That's the
10 last thing I was going to discuss with her, or with
11 anybody, really.

12 ANDREW JARECKI: So she -- so she wanted to engage
13 you, though?

14 ROBERT DURST: Oh, yes. (0:51:06.4) (10:47:24:20)

15 ANDREW JARECKI: Say -- if you can do it, like, a
16 full sent -- Kathie's mother.

17 ROBERT DURST: Oh, Kathie's mother was very
18 interested in Bob Durst; this rich, well-known, famous
19 real estate developer's family. And Bob Durst liking
20 me. And Bob Durst conversing with me. I remember, uh,
21 maybe the second or third time when -- when Kathie
22 brought me there, not long after we'd met, uh, she --
23 she tells me that it's -- "You can call me "Mom" if you
24 feel like that. Everybody -- this is before we were
25 married -- "Everybody calls me 'Mom'. And what do you

1 so these -- these experiences with her family,
2 um, were kind of, like, Bob meets the average American
3 family.

4 ROBERT DURST: Well, more than meets. Bob is
5 forced to spend time with the average American family.

6 Bob is supposed to be polite and cooperate and pleasant
7 and engage in the same conversations that they are.
8 And I just couldn't do that. I just kept feeling like
9 I should show them that I hate -- despise these things
10 that they do. (0:57:20.8) (10:53:38:14)

11

12 ANDREW JARECKI: And, um --

13 ROBERT DURST: Ridicule these things that they do.

14 ANDREW JARECKI: Do you remember ridiculing in --
15 in front of them?

16 ROBERT DURST: Well, talking about my penis in
17 front of Kathie's mother, that -- that -- that is
18 extreme as I can imagine.

19 ANDREW JARECKI: Yeah. Um, and it --

20 ROBERT DURST: And ridiculing the things that they
21 were doing. I mean, I could page through, "There's
22 nothing in here to read," I would say.

23 ANDREW JARECKI: You know, one thing that really
24 has always struck me about Jim is that as -- as upset
25 as he's been about his sister's disappearance and all

1 of ended up something sort of like that. Um --
2 (1:01:02.9) (10:57:20:11)
3 ANDREW JARECKI: Were you surprised -- um -- uh,
4 we talked a little bit about this, um -- uh, the party,
5 when -- when Kathie got pulled out by her hair, and all
6 that stuff. You know, he looks back on that, and he'll
7 say, "Well, that -- that was the moment I should have --
8 --" you know, that was -- I mean, how -- what did --
9 ROBERT DURST: I'm a little bit surprised he
10 didn't. But, yes. Yes.
11 ANDREW JARECKI: Tell me in a full sentence.
12 ROBERT DURST: Well, Kathie and I had -- before
13 we'd gone to his family, had -- I had insisted that we
14 pick a period of time after which she'll leave. I
15 think it was two hours. Maybe it was three hours. And
16 now, the two hours or three hours is gone, and Kathie
17 wants to stay a little while longer, ten minutes, 15
18 minutes. Uh, I went outside, and I said, "All right.
19 You stay. I'm going to take Igor out and go for a
20 walk." We'd always bring Igor to their house. "And --
21 and go for a walk. I'll be in the car. You got ten
22 minutes, or 15 minutes." Whatever it was. The time
23 went up, and I went back inside and grabbed her and
24 pulled her out.
25 ANDREW JARECKI: And when you went back inside,

1 remember the -- the -- the feeling of walking
2 into the house, of going to get her? Does that -- it -
3 -

4 ROBERT DURST: Yes, total anger. We're not doing
5 this. It was me being the dominant one, and we agreed
6 on two hours. It's going to be two hours, not gonna be
7 two and a half hours, or two hours and 20 minutes.
8 It's time to go. You agreed to go. Let's go.

9 The same thing with having a child; you agreed
10 that we weren't gonna have children. You got yourself
11 pregnant. You want to get an abortion, you can get an
12 abortion. You want to have the child? You're going to
13 get divorced. (1:06:28.0) (11:02:44:03)

14 ANDREW JARECKI: Um, do you remember the feeling
15 of how the other people in the room reacted when you
16 pulled her out?

17 ROBERT DURST: Oh, I left. I didn't rack -- I
18 don't remember them reacting at all. Remember, I'm
19 grabbing Kathie. And we're going out the -- the storm
20 door and the regular door, or visa versa (sic), and
21 we're going out and we're leaving. Period. We're
22 outside, I shut the door.

23 ANDREW JARECKI: You don't remember the -- there
24 being any reaction?

25 ROBERT DURST: No. Not while I was there. I

1 documents and you go and give them to the lady and she
2 -- she gives you whatever it is to get the food stamps.

3 ANDREW JARECKI: You know, I think of other
4 aspects of this -- the -- the cheapness, that I've
5 heard about. Did you, um --

6 ROBERT DURST: I would give Kathie a small budget.
7 "This is what you got for the week," or month, or
8 whatever it is. "If you want to spend more, don't talk
9 to me about it."

10 ANDREW JARECKI: But did she have any other source
11 of income?

12 ROBERT DURST: No.

13 ANDREW JARECKI: So whatever you gave her was --
14 that was the limit?

15 ROBERT DURST: That was it. Like -- like -- like,
16 "We're getting an abortion, we're getting an abortion."
17 This is how much money you've got to spend this -- this
18 week or month, period."

19 ANDREW JARECKI: And did she buy food out of that
20 money, or --

21 ROBERT DURST: Oh, she -- that was it. That was
22 what I gave her. She did with it what she wanted to do
23 with it.

24 ANDREW JARECKI: Um, what about, uh -- uh --
25 someone said that you -- that you used to call the

1 was -- it was -- it was -- he wasn't putting up with
2 it. He -- he -- he was getting me to go to New York
3 and be ROBERT DURST: of the Durst Organization.

4 ANDREW JARECKI: Um --

5 ROBERT DURST: And he brought it up sev -- I mean,
6 every -- every, uh, October, or November, we -- we --
7 we -- we would go up to the cemetery where my mother
8 was. He would take his family there. We would stop to
9 see his little brother David, who lived in Chappaqua on
10 the way. And one time when I was there, uh, with just
11 him -- I don't know where the others were -- wandering
12 around someplace. He -- he -- he said, "You know, one
13 day I'm going to be over here." Pointing next to my
14 mother. "Please don't make me end --" something,
15 like, "Please don't make me end up here with you having
16 never gone into the business. Please let me, when I
17 come here, know that -- that -- that the business is
18 being taken care of by you."

19 ANDREW JARECKI: So it had something to do with
20 his legacy, or his ability to be immortal?

21 ROBERT DURST: Yes. Yes.

22 ANDREW JARECKI: Tell me -- tell me about that.

23 ROBERT DURST: Well he -- he -- he wanted it to
24 continue in the family the same way it did with him.
25 Now -- now, he had an older brother, but his older

1 were grantors; Seymour, Roy, David and Alma Durst. And
2 they named three trustees. So what they were allowed
3 to do was name one independent trustee, and he was one
4 of the lawyers at Strook, Strook, and Lavan. Jerry
5 Manning. And they could each be trustees for one
6 another. So Seymour's trust, the trustees for
7 Seymour's children were Roy and David. The trustees
8 for Roy's children were David and Seymour, and that was
9 what they had set it up as. (2:09:32.9)

10 ANDREW JARECKI: Uh-huh. Um, so let's talk about
11 what -- what you were doing when you met, uh -- when
12 you Kathie. Were you living in Vermont? Were you
13 living in the city? How did you do that?

14 ROBERT DURST: When I met Kathie, I was still
15 living -- it was still 1970. I'd come home from UCLA,
16 staying in Katonah, trying to decide what I was going
17 to do, came up with the health food store idea. Um, I
18 was living in Katonah, in Westchester. Uh, and I told
19 her the idea, and -- I guess, we drove up there. And I
20 showed her where I -- I -- I was looking to lease the
21 store. And she loved Middlebury. Thought it was just
22 beautiful.

23 Um, she loved the idea. I -- and -- and, I guess,
24 at some point around then, I said, "You know, I want
25 you -- I'd -- I'd like you to live with me." You know,

1 "I'd like you to move to Middlebury, Vermont." Which
2 would mean she'd stop being whatever she was -- she had
3 a job, a dental hygienist. I -- I -- in -- I guess
4 she'd had gone to Adelphi for a year, or so, and
5 dropped out. But it meant that she was gonna, you
6 know, change her life and come see me.

7 And Jimmy came up and visited me twice. And I was
8 nice to him way back then. I wasn't treating him
9 badly, like I gradually started doing.

10 ANDREW JARECKI: Um, where did you first meet her?
11 (2:11:07.6)

12 ROBERT DURST: I first met Kathie at a party that
13 my friend Stewart Altman took her to.

14 ANDREW JARECKI: And then how did it come to pass
15 that she ended up living in a Durst building?

16 ROBERT DURST: Well, she was already -- Stewart
17 must have known -- knew somebody else in -- in the
18 family. I don't remember who. And Stewart met Kathie
19 and her friend, whatever her friend's name was, and
20 they had both just gotten doc -- jobs as -- as dental
21 hygienists and, uh, needed a place to stay. And
22 Stewart said, "Well, I know this guy. And his family
23 owns a whole bunch of buildings." And Stewart called
24 somebody. Actually, it wasn't one of the Dursts. It
25 was one of the people who worked there Stewart had met.

1 Uh, he called them up and said, "I have a -- two
2 nice chick ladies, and they're looking for an
3 apartment." Uh, Kathie was given a phone number to
4 call. And her -- her roommate was. And they called
5 whoever was leasing the tenements. And Kathie rented
6 an apartment.

7 ANDREW JARECKI: And when you first met her, I
8 guess, at the party, what -- what was your first, uh,
9 reaction to her?

10 ROBERT DURST: Pretty. (2:12:26.9) (12:18:07:01)

11 ANDREW JARECKI: Was she your type? Had you had a
12 type? Did you have a --

13 ROBERT DURST: No, I'd never had a type. We -- we
14 spoke for a good while. Nice conversationalist. Um,
15 planned on going out, you know, in several days, and
16 did that.

17 ANDREW JARECKI: The, um -- so you were a -- you
18 were older than she was at that time?

19 ROBERT DURST: Nine years.

20 ANDREW JARECKI: And, um, was there any stigma
21 attached to that at the time, or was that fairly
22 common?

23 ROBERT DURST: Nine years is a long time.

24 ANDREW JARECKI: Age difference wise?

25 ROBERT DURST: Yes.

1 ANDREW JARECKI: Yeah.

2 ROBERT DURST: Nine years is a long time. I had

3 oodles of education, and she had zilch. Girl from a

4 small town without, you know, no -- no big deal. I --

5 but, I mean, for me, I -- I guess you would say I was

6 marrying beneath me, or something like that. Or she

7 was marrying up or "well" or something like that. But

8 I never got there. I mean, money didn't mean anything

9 to me. It didn't make any difference to me where she

10 was from. (2:13:38.6) (12:19:21:02)

11 ANDREW JARECKI: Did you like the idea that she

12 was from a more modest background? Did you think that

13 might be a good --

14 ROBERT DURST: No. No.

15 ANDREW JARECKI: Didn't matter?

16 ROBERT DURST: I -- I don't remember thinking

17 about it.

18 ANDREW JARECKI: Uh huh. Um, this -- I just want

19 to show you this picture that I -- I think this is sort

20 of a -- this is the -- "E" (Phonetic) -- picture that I

21 always imagined being a --

22 ROBERT DURST: Yeah --

23 ANDREW JARECKI: -- picture of you --

24 ROBERT DURST: -- this is when I was young and

25 happy and a hippie. And this is probably not long

1 ANDREW JARECKI: Um, why do you think Douglas has
2 been so adamant about, uh, not wanting the business to
3 be perceived as related to the porno business in Times
4 Square? (3:04:43.4)

5 ROBERT DURST: Well, Douglas wants to be nice and
6 shiny and perfect. He does all this stuff for the
7 government. I mean, Seymour and Douglas were probably
8 two of the most successful real estate developers New
9 York has ever seen. Uh, but -- but Seymour's feeling
10 was, "I don't want nothing to do with the government.
11 I'm gonna build buildings as a right. I'm not going to
12 seek variances. I'm not going to get involved with any
13 of these programs where you and the government are
14 doing something."

15 He prided himself on never making political
16 contributions, never putting himself in the position
17 where he was "kowtowing," as he would say to the
18 politicians. And Douglas is going the other way. He
19 prides himself on being able to pull the right strings
20 and push the right buttons. And for that kind of
21 thing, he wants the reputation to have always been
22 perfect. And that's not the way it was. (3:05:41.1)

23 And my father knew that that's not the way it was,
24 and my father was always very out there, um,
25 acknowledging what was going on, and what our

1 ANDREW JARECKI: -- are you doing this?

2 ROBERT DURST: "What are you doing? What are you

3 doing? Come back in here." She -- she didn't have a

4 lot to say about it. It was ridiculous. I had no idea

5 how to handle it, what it was all about.

6 ANDREW JARECKI: Did she --

7 ROBERT DURST: You know what --

8 ANDREW JARECKI: -- ever say -- did she ever say:

9 Bob, don't you see, if only this then --

10 ROBERT DURST: No. She never took it like that.

11 I mean, she thought that would really chase me away. I

12 knew she was doing these stupid things to -- to make a

13 point, and -- and -- and this was gonna be a problem.

14 ANDREW JARECKI: I wonder if what -- whether she

15 just went out in the hall as a way to just stir the

16 pot, that you were in control of her.

17 ROBERT DURST: Yes, yes, yes, yes. And this was

18 her showing me that I'm not totally in control of her,

19 and that she can do what she wants to do, something

20 like that. Maybe it won't be so bad if you let me have

21 a baby, and I'll stop doing -- I don't know. She never

22 said that, but that certainly is possible.

23 ANDREW JARECKI: Um, after it was clear that you

24 weren't going to, um, want to have a baby of your own,

25 there was some discussion about adopting a baby.

1 was sort of working fine. And -- and -- and, I mean --
2 except that Douglas and Susanna were there, so that
3 wasn't gonna to work. And also, I just felt the
4 commute was ridiculous.

5 ANDREW JARECKI: Uh-huh. Um, so in the fall of
6 '75, she starts nursing school. That's when she went
7 to -- to West Conn. And I think that was -- if I'm not
8 mistaken, she was basically finishing college. She had
9 had a little bit of college, and she was going back to
10 get her --

11 ROBERT DURST: She got -- she was able to keep
12 some of the credits from -- I can't remember if it was
13 Adelphi or Hofstra. One, or the other, she was able to
14 keep some of the credits for. But in -- in her, I
15 guess, summer, or after her second year, she decided to
16 go to medical school, and she had to take a whole bunch
17 of additional classes in order to -- to qualify to
18 apply for medical school.

19 ANDREW JARECKI: And that same year you had -- is
20 when you got that lake cottage? (3:25:45.7)

21 ROBERT DURST: Yes.

22 ANDREW JARECKI: And you rented it first, and then
23 you bought it later?

24 ROBERT DURST: No, we bought it. We bought it.
25 We moved out of where Douglas and Susanna were, and we

1 make it work. Or, yes, I brought in the lawyers, but
2 now let's get rid of the lawyers. That was a mistake.
3 Or, maybe we don't need the lawyers. So she was trying
4 to be heard in some way. Or, as you said, trying to
5 get -- trying to get some level of control.

6 ROBERT DURST: Yes. The latter. I like the
7 marriage, but I don't like you making all the
8 decisions. I'm here, too. (3:53:04.3) (15:28:31:21)

9 ANDREW JARECKI: When you first got together with
10 her, and she was 19 and you were 28, or something like
11 that --

12 ROBERT DURST: Oh, there was no question about it.
13 She was just leaving everything to me.

14 ANDREW JARECKI: And was that very appealing to
15 you because you didn't have to deal with the issues of
16 control?

17 ROBERT DURST: Yeah. She was very pretty, I loved
18 being with her, and I was making all the decisions.
19 "Calling all the shots," as she would say.

20 ANDREW JARECKI: Do you always want that
21 situation? Or sometimes --

22 ROBERT DURST: No. And -- and -- and she started,
23 you know, having her friends say, "You know, you're --
24 you're both married. It shouldn't just be Bob deciding
25 where you're going to go to dinner." I remember we

1 were going to dinner with -- with -- with Wendy and her
2 husband. And, um, I had said, "Well, let's go to --"
3 whatever -- "And I'll tell Wendy and Dougie."

4 And she had said, "Well, listen. I don't know if
5 I want to go to 'such and such.'" And I said, "Why
6 not?" And that was -- and then that was the con --
7 "Why don't you want to go to --" "Well, you know."
8 She -- it took her a while to get to the point of,
9 "Bob, I'd like to sometimes choose the restaurant."

10 ANDREW JARECKI: Well, it sounds like she was
11 getting -- naturally, getting more independence.
12 Because once she knew she wasn't going to have a baby
13 with you, it sounds like she was starting to "feel her
14 oats" a little bit, to feel like she had to get out
15 there and to make some decisions for herself.

16 ROBERT DURST: It took a while. But yes, yes.
17 When -- when -- when she wasn't having a baby
18 with me, but she was married to me, and she started
19 confronting, well: I want to be with Bob, but I also
20 want to have a baby. It took her a while to get to the
21 point of -- I -- what -- what -- what replaced the
22 baby, to a large extent, was when she decided she
23 wanted to go to medical school. And this became an
24 all-consuming thing. (3:54:50.9) (15:30:17:07)

25 ANDREW JARECKI: Well, we're just getting up to

1 that -- to that point. So that happened in -- in
2 September of '78, that she started to go to medical
3 school. And you had said at one point that you found
4 out that she had gotten into medical school. Um, we
5 talked about it in the commentary, but we haven't
6 talked about it in the interview. Um, tell me about
7 when you first heard that she was applying to medical
8 school. And --

9 ROBERT DURST: Well, she said she wants to go to
10 medical school. And she -- she -- she'd -- was going
11 to go see her counselor about what you do. And,
12 seemingly, what you do is, you apply. She wants to go
13 to medical school, and she'd gone through the
14 requirements. What you need, what courses you needed
15 to take, in addition to the nursing courses, to apply
16 to medical school.

17 And she was taking additional courses. I think
18 she stayed an additional semester, or whatever it was,
19 taking the -- the courses that she needed. And she was
20 going to have to take the med -- MCATs, and she was
21 spending oodles of time on these additional courses,
22 which were seemingly much more difficult than the
23 nursing courses. And studying for the MCATs is a great
24 big deal. (3:56:04.0) (15:31:31:10)

25 Those things really did take up a big, big, big

1 chunk of her life. And she applied to 15 medical
2 schools. And with medical school, the way it was then
3 is, if they're going to accept you, they interview you.
4 If you get interviewed, you might be accepted to
5 medical school. If you don't get interviewed, forget
6 it. It's over. That was like a, you know, having,
7 being rejected. They didn't reject you, they just
8 didn't give you an interview.

9 Out of the 15 medical schools, she was interviewed
10 by Albert Einstein. I remember how excited she was.
11 She'd got the letter that I -- she should call and
12 arrange an interview. And she said, "Well, that means
13 they might take me." And, you know, I -- I knew, at
14 that -- at that point, that my father had --
15 had -- I mean, I knew my grandfather was a founder of
16 Albert Einstein, but at that point, my father had said,
17 "I spoke to Jack Weiler." And, uh, he -- he spoke to
18 somebody. He didn't say, "She's in." But she spoke to
19 Jack Weiler, and Jack Weiler was a "whatever" there.
20 And, um -- this is good.

21 Uh, Jack Weiler's gonna call whoever. And then
22 when she got the interview and -- and Albert Einstein
23 was far better than any of the other -- I mean, it's
24 one of the best in the world, I went through my mind,
25 you know, I'll bet that's what this is about. They

1 interviewed her, and she said it went real well. And,
2 um, she was expecting to get a letter. It's a skinny
3 letter if you're rejected and a thick letter if you're
4 accepted.

5 And up in South Salem, they don't -- they didn't
6 deliver the mail on Saturday. But for some reason, I
7 guess, that maybe they all knew. Uh, the -- the
8 acceptance letters go out on whatever date, and we
9 didn't get any letter that week. And then we called,
10 you know, up there, a small town, we called the post
11 office, and she said, "Do -- do I have any, you know
12 mail?" (3:58:07.8) (15:33:33:20)

13 And they said, well -- they told her yes. And
14 they made a special delivery for us. We'd given the
15 mail -- the -- the mailman a -- you know, a big
16 Christmas present, or whatever it was, and they brought
17 over Kathie's letter from Albert Einstein. It was in a
18 big, thick envelope. And she opened up the envelope.
19 And she must have missed the first couple of pages,
20 which would say she was accepted. And she got to the
21 pages where it says, "You need to send 'such and such'
22 money, and you need to fill in the 'what' and you --
23 you have 'such a such' a time to accept this or -- or
24 it's going to go away."

25 And we were flying. We were flying. (3:58:48.7)

1 career. I wanted her to have a career.

2 When she decided she wanted to go to nursing
3 school way back, I thought that was great. (3:59:57.0)

4 ANDREW JARECKI: Uh-huh. Um, so she enrolled in
5 Einstein in September of '78. And did that change her
6 level of self-confidence, who she was?

7 ROBERT DURST: (Inaudible Whispering 4:00:12.1).
8 At first, getting in made her much more self-confident.
9 But I remember when we went -- I went to see the
10 counselor at Albert Einstein with her and, uh, he -- he
11 showed us the list of people who'd been accepted last
12 year. And the schools they'd been to. And, I mean,
13 there was no state college on the list; nowhere,
14 anyhow. Um, all --almost all of them were either Ivy
15 League, or comparable schools, or else foreign schools
16 with top names, the Sorbonne, London School of
17 Economics, American University in Beirut, it just went
18 on and on.

19 The best colleges in the world. And the guy said,
20 "Mrs. Durst, you're going to have a tough time with
21 this. You should take practice -- referral courses --"
22 whatever they call it -- "This summer to bring yourself
23 up to where some of the others are." And -- and the
24 guy told her, "A bunch of our students have advanced
25 degrees." And one of the guys we became most friendly

1 with had a PhD in pharmacology, which takes in all the
2 different science -- sciences like that. They'd all
3 had advanced degrees. (4:01:24.4)

4 When she got to school the first time, she really
5 could tell that they were all ahead of her. And she
6 was struggling with the course material. And I said,
7 "Is anybody else that you know of having difficulty
8 with it?" She says, "No, the others have all had it in
9 college. This is -- this is all new to me, but they've
10 all seen it before." She said they all sat there in
11 the lecture courses and read The New York Times.

12 ANDREW JARECKI: Um, now, in, uh, April of 1979,
13 which is, uh, you know, a little more than half a year
14 after she started at, uh -- at medical school, uh, she
15 said the two of you went to a party, and that you were
16 both drunk and you came home and that was the first
17 time that she remembers, uh, that you had hit her. You
18 had an argument. And that -- that you slapped her, or
19 something like that. Do you remember that?

20 ROBERT DURST: No. I don't remember the first
21 time I had slapped her or hit her. (4:02:23.1)
22 (15:37:49:09)

23 ANDREW JARECKI: Do you remember other times that
24 -- that, uh --

25 ROBERT DURST: Oh, yeah. By -- by -- by 1981, our

1 life was half arguments, fighting, slapping, pushing,
2 wrestling.

3 ANDREW JARECKI: And, um, do you remember any
4 specific time --

5 ROBERT DURST: And, I mean, whatever year it was
6 when I, you know, yanked her by her hair and arm and
7 yanked her out of the house. I think that was '80. I
8 could be wrong on that, though. But around that time,
9 um, when -- when, uh, I thought that she was -- I mean,
10 we'd go to a party, and as usual, I would get sick of
11 it after 45 minutes, or an hour, and I'd want to go.
12 And, initially, she would always go with me. And then
13 now and then, she started saying, "Well, no, I'm having
14 a good time. I want to stay."

15 I said -- and -- and my thing was, "We are
16 leaving." Her thing, when -- when it got to be --
17 well -- well, she wants to stay. I tell her, "All
18 right. You can stay, but I'm leaving."

19 ANDREW JARECKI: And was she upset that you
20 wouldn't stay with her?

21 ROBERT DURST: Yes. Yes. She said, "Well, when
22 you want to leave, I leave. Now, here it is that, um,
23 I want to stay. I want you to stay with me." I said,
24 "Well, you can stay, but I'm not gonna stay." We had
25 that a lot.

1 ROBERT DURST: You got it. And he was very, very
2 good looking, too. And, um -- what else can I tell
3 you? We -- I -- I never got to know them very well.

4 ANDREW JARECKI: Yeah. And, I guess, it -- I
5 think she, when she went in there, I guess, she'd had a
6 -- some kind of a bruise that she --

7 ROBERT DURST: Yeah, yeah. She's climbing out the
8 window onto the terrace.

9 ANDREW JARECKI: And do you think she climbed out
10 onto the window -- onto to the terrace as a way to sort
11 of grandstand? Or she did it as a way --

12 ROBERT DURST: Yes --

13 ANDREW JARECKI: -- because she was really scared
14 --

15 ROBERT DURST: -- she could walk out the door,
16 wants to get onto the terrace.

17 ANDREW JARECKI: Was she that -- was she dramatic
18 like that? Was she somebody who would sort of make a -
19 -

20 ROBERT DURST: Yes, yes, yes. Not when I met her,
21 but after time, things would become very dramatic and a
22 big fuss. Everything was a big fuss.

23 (4:08:13.1) (15:43:37:22)

24 ANDREW JARECKI: And do you remember that, you
25 were describing the other day, as wrestling and

1 shoving, that sort of precipitated her going out onto
2 the terrace or --

3 ROBERT DURST: We were having an argument. I
4 don't remember wrestling and shoving. I think, she ran
5 out onto the -- jumped out. Well, and she got
6 out the window onto the terrace.

7 ANDREW JARECKI: So she went through the window,
8 or she went -- no, I don't mean --

9 ROBERT DURST: No, she went --

10 ANDREW JARECKI: -- through the glass. I mean,
11 she went through the window opening or through the door
12 opening?

13 ROBERT DURST: Yeah, she opened the window and
14 went out on the terrace. It was pouring. The window
15 was shut. And the window, you know, it wasn't real
16 high, but you -- you had to, this level, or
17 something like that, climb over to get out.

18 ANDREW JARECKI: Do you think she was scared? Do
19 you think she did that --

20 ROBERT DURST: No, I --

21 ANDREW JARECKI: -- because she was afraid?

22 ROBERT DURST: -- don't think she was scared. I
23 mean, almost -- the -- the -- we -- we had barely had
24 a pushing-shoving-argument type at all, and all of a
25 sudden, she's climbing out the window. (4:09:09.3)

1 The Croydon Hotel.

2 ROBERT DURST: That's it. That's it.

3 ANDREW JARECKI: Yeap. Um, so then right around

4 that time was Christmas at, uh -- at Ann McCormack's,

5 uh, which we talked about. Um, and that was in New

6 Hyde Park. When there was the hair pulling incident

7 that --

8 ROBERT DURST: Yes. Yes. And the hair pulling

9 wasn't even the worst. There were numerous -- I don't

10 -- not numerous, but a whole bunch of other times I

11 would grab her and say, "We're leaving."

12 ANDREW JARECKI: And were they, uh -- I mean, the

13 hair pulling was obviously dramatic because it was hair

14 and there were people there and people saw it and maybe

15 it was more public. I don't know. Tell me about, uh,

16 you know, if you remember another incident or two.

17 ROBERT DURST: Nothing as dramatic and exciting

18 like that, but it would be me saying, "The time is up."

19 Going and getting her coat and her purse and saying,

20 "Come on. We're leaving." And pulling and shoving,

21 whatever; leaving.

22 ANDREW JARECKI: And did she, ultimately, succumb

23 when you did that? I mean, when you exerted a certain

24 amount of pressure, did --

25 ROBERT DURST: Yes, when I --

1 ANDREW JARECKI: -- if I'm --
2 ANDREW JARECKI: -- like Peter. I met Peter
3 Schwartz before. I didn't like Peter Schwartz.
4 (4:27:12.1) (16:02:37:37)
5 ANDREW JARECKI: Yeah. And that Kathy Traystman
6 said, "You know, in fairness to Bob, he was not
7 unprovoked." That you were -- that you were not
8 unprovoked.
9 ROBERT DURST: Yeah, yeah. "It's 2:00 in the
10 morning. I'd like you people to, you know, move on, or
11 whatever it is, and get out of my apartment." Kathie
12 was not supportive of me. But at the same time, you
13 know, Kathie said, "Well, I don't care if they stay."
14 Or whatever she said. And I said, "I care, and he's
15 getting out of our apartment."
16 ANDREW JARECKI: And so you were -- now, there was
17 no -- you didn't walk in and kick him in the face or
18 something like that?
19 ROBERT DURST: I walked in and they were there and
20 I tried to get Kathie. I said, "I'd like them to
21 leave."
22 ANDREW JARECKI: Um, and so when you say he hit
23 his head or --
24 ROBERT DURST: And there'd just been a drug bust
25 downstairs. Uh, I was spooked with having coke in that

1 apartment.

2 ANDREW JARECKI: Uh-huh. And, um -- uh, so then

3 you -- let's say you were trying to get Peter Schwartz

4 out of the apartment --

5 ROBERT DURST: Yeah. "Go home. It's 2:00 in the

6 morning. Leave."

7 ANDREW JARECKI: And so you were helping him get

8 out, pushing, whatever. The two of you ended up on the

9 floor. Um, and you felt like he had hit is face or

10 something on the --

11 ROBERT DURST: That's what I think happened. He

12 could have done it some other way. I certainly did not

13 walk in and kick him in the face, like he reported.

14 But they went to the police. Kathie and Peter Schwartz

15 and Peter Schwartz' wife and -- and -- and their

16 friends all went to the police.

17 ANDREW JARECKI: And Kathie went with them?

18 (4:28:42.1)

19 ROBERT DURST: Yes. And then -- and then Peter

20 went to the hospital -- oh, I don't know if they went

21 to the hospital. I heard about it in the morning. I

22 was told all about it.

23 ANDREW JARECKI: Did you think that was weird,

24 that Kathie went to the hospital with them? Or she was

25 helping him, he was in some distress?

1 ROBERT DURST: What was upsetting was that she
2 went to the police with him.

3 ANDREW JARECKI: Right. Sorry, to the police with
4 him. Yeah. And, um --

5 ROBERT DURST: I assumed she went to the hospital,
6 too.

7 ANDREW JARECKI: And did you see what, uh -- what
8 happened to him? I guess he had a -- a -- um --

9 ROBERT DURST: His face blew up big.

10 ANDREW JARECKI: And I think he had a -- um --
11 what I had heard was that he'd broken his orbital bone
12 that -- uh --

13 ROBERT DURST: Whatever it was --

14 ANDREW JARECKI: -- around the eye.

15 ROBERT DURST: -- what it was, was the swelling
16 was enormous by the -- anyway with enormous swelling.
17 And, um, went to the police, charged me with something
18 or other. I'm still not exactly sure what. Um, they
19 went to the police. They went to the hospital. I
20 don't know which they did first. The hospital gave him
21 some pills to take and sent him home. I wished he'd
22 gone home. (4:30:00.2) (16:05:24:02)

23 ANDREW JARECKI: Um, and then by -- by five months
24 later, um, I guess, he was pressing charges and --

25 ROBERT DURST: Yes. He was trying to get money.

1 who had -- had lawyers. This woman who had lawyers
2 leaning on her husband for a year and a half, and she's
3 never filed for a divorce. I think he -- he felt Bob
4 Slaughter was my lawyer, and he was a well-known,
5 successful guy. He felt they're not going to give her
6 that much. (4:53:20.0)

7 ANDREW JARECKI: And the, um -- um, the lawyers
8 that had been leaning on you for that period of time,
9 had they been people that were paid by you?

10 ROBERT DURST: Her lawyers.

11 ANDREW JARECKI: Yeah.

12 ROBERT DURST: I was paying her lawyers. I paid
13 them for the whole time.

14 ANDREW JARECKI: And how'd you feel about that?

15 ROBERT DURST: Oh, that was part of it. You know,
16 soon as I -- I -- I got the -- the certified
17 check, I said, "What's this about?" And then I got
18 letters from her lawyer. I said to you (sic), "Are you
19 seeing somebody? What is this about?" And she said
20 she wants her independence. She doesn't me to be
21 controlling her all the time. I -- "Do you want a
22 divorce?" "Oh, no. I don't want a divorce. I want
23 our marriage to be right and good and wholesome and
24 wonderful." And that's what she kept telling her
25 lawyer.

1 mean, before I knew that she had any of these issues
2 about being independent and about -- I mean, she -- I
3 knew that she didn't want me to be so controlling, but
4 I -- I found out she hired a lawyer. That was when I
5 found out about it. There was never a -- of her saying
6 to me, I want this much a month, which would -- and
7 that would have been reasonable and logical and -- I
8 want you to give me more money every month.

9 ANDREW JARECKI: Um --

10 ROBERT DURST: I mean, we had a joint bank
11 account. She wrote checks for whatever it was she
12 wanted to do, up until the confrontation.

13 ANDREW JARECKI: I mean, it -- it's sort of an
14 unusual situation to have a -- um, a lawyer, you know,
15 monitoring your marriage during your marriage. If
16 somebody wants to get a divorce, they say, I want to
17 get a divorce, and then there's some rules about how
18 that happens. But for her to have the lawyers in there
19 for a year and a half, you know, getting paid and
20 having an interest in staying involved --

21 ROBERT DURST: And they weren't doing that much;
22 neither hers nor mine were doing hardly anything, so
23 they weren't getting paid that much, I don't believe.
24 Um --

25 ANDREW JARECKI: What did she -- I mean, what was

1 wedding in Denver. And I don't know what happened, but
2 when we got back to New York, she was back to the --
3 the -- the Kathie that I didn't like. The coke and
4 everything was a big argument, and everything was a big
5 fuss. And that was the last two weeks of January.

6 (5:09:49.0) (17:01:09:20)

7 ANDREW JARECKI: Um, so then -- right, the
8 beginning of -- of January. So before this would have
9 happened is when she, uh, shows up at Jacoby Hospital
10 and she, uh --

11 ROBERT DURST: I thought that was towards the end
12 of January.

13 ANDREW JARECKI: Uh, I thought it was on January
14 2nd, but I can check.

15 ROBERT DURST: Oh.

16 ANDREW JARECKI: Um --

17 ROBERT DURST: She didn't do nothing on January
18 2nd. She slept all day. She got back from the -- oh,
19 no. New Year's Eve is the 31st. I don't know what she
20 did on the 2nd. But I did think that that incident was
21 later in the month. But what -- let's say it was
22 January 2nd.

23 And she goes to Jacoby Hospital, and she says,
24 "Look, he hit me in the face." And the -- the --
25 they -- they did not prescribe any medication. They

1 didn't do anything. I never met anybody who said they
2 saw something, or other, on her face. (5:10:36.7)
3 ANDREW JARECKI: Well, I guess, the -- the Jacoby
4 Hospital report said that there was some history of
5 blunt trauma. That she didn't have a particular cut,
6 or something like that, but that it was clear that the
7 area that she was complaining about was something where
8 there had been contusion there, and it was something
9 that, uh, she had had some blunt trauma to her face.
10 And she had said that that was from an altercation with
11 you.
12 ROBERT DURST: On January -- I just don't -- don't
13 see -- anyway, she did go to Jacoby Hospital. She said
14 whatever she said. It was either January 2nd, like
15 you're saying, or later in the month. It did happen.
16 But there were other people she saw that day who were
17 questioned by the police. None of them saw anything.
18 ANDREW JARECKI: But in -- do -- in your
19 recollection, was there anything that --
20 ROBERT DURST: No.
21 ANDREW JARECKI: -- somebody at Jacoby Hospital --
22 ROBERT DURST: No.
23 ANDREW JARECKI: -- would have seen or could have
24 seen?
25 ROBERT DURST: I never saw any marks on her face.

1 night that you saw her, um, I think, uh -- do you want
2 to just take me through what you remember happening
3 that night? (5:22:07.5)

4 ROBERT DURST: She gets back from Gilberte's,
5 maybe 7:00, or whatever, angry at me; loaded. Uh,
6 walks around the house, doing stuff and announcing that
7 she wants to go to the city. I said, "You can go to
8 the city if you want, but you -- you know, you can't
9 drive. And I'm not going to go to the city." And we
10 had --

11 ANDREW JARECKI: She couldn't drive because of her
12 condition? Or she was...

13 ROBERT DURST: Can drive any time. You know, her
14 condition didn't bother me at all, but we only had one
15 car. We just had the Mercedes up there. So she was --
16 I wasn't going to go back, uh, Sunday night. So the
17 car and me and the dog were staying in South Salem.
18 You can't take the dog to the kennel Sunday night
19 anyway, until Monday, when I would take the dog to the
20 kennel and go into the city.

21 So if she wants to go to the city, she can take
22 the train. And she says, "No, I'm taking the car."
23 And I went and got the keys out of the car and told her
24 that she's not taking the car because I'm not giving
25 her the keys. And I wasn't not -- not giving her the

1 keys because she was loaded. I mean, she'd driven back
2 from Gilberte's house just as loaded, no problem.
3 But this was her thing. If she wants to go to the
4 city, I'll take her to the train station. Wants to go
5 to the city, she can call a cab. But she's not taking
6 the car. That was an argument. (5:23:28.8)

7 ANDREW JARECKI: Was that argument just a verbal
8 argument?

9 ROBERT DURST: No, that was a pushing, shoving
10 argument.

11 ANDREW JARECKI: And, um, so at some point during
12 the -- the course of that night, she -- you guys split
13 some wine, and there were some hamburgers and something
14 --

15 ROBERT DURST: Oh, wait, wait, wait, wait, wait,
16 wait. I had eaten.

17 ANDREW JARECKI: Uh-huh.

18 ROBERT DURST: Um, I assumed she had eaten at --
19 at Gilberte's. But we didn't eat. Maybe, we had some
20 snacks, or something, crackers and cheese. I -- I just
21 don't remember. We didn't make dinner. (5:24:03.3)

22 ANDREW JARECKI: I think in your, uh -- I -- I
23 think you said to -- to Detective Struk, when you saw
24 him -- uh, you said that Kathie came home from her
25 party around 7:30. You had hamburgers. And you split

EXHIBIT 2

1 RECORDED INTERVIEW OF ROBERT DURST CONDUCTED BY DDA
2 JOHN LEWIN AND LAPD/RHD HOMICIDE DETECTIVES MIKE
3 WHELAN AND LUIS ROMERO AND TAKEN AT NEW ORLEANS
4 PARISH JAIL.

5 CASE NO.: SA089983
6 CASE NAME: P v. Robert Durst
7 CHARGE: PC187(a)
8 RECORDING DATE: March 15, 2015
9 RECORDING TIME: Unknown
10 RECORDING NO.: Bob Durst 3-15-15 (2 hrs 47min).MP3
11 DEPUTY D.A.: John Lewin
12 D.A. UNIT: Major Crimes Division

13 LEGEND:

14 D – DDA John Lewin
15 W – Det. Mike Whelan
16 L – Det. Luis Romero
17 R – Robert Durst
18 U -- Unidentified Voice
19 *** Unintelligible

20
21
22 TRANSCRIPT PROVIDED BY

23 Los Angeles County District Attorney's Office

24
25 August 2015

26
27
28 sam

1 and we'll – we'll kind of share." Do you remember this?

2 R Yeah.

3 D And you said, at the end, Kathie would be like "You get what
4 you want. I'll get what I want. And leave my food alone."

5 R (No audible response.)

6 D Yeah?

7 R That was very descriptive of the relationship. In the
8 beginning, we shared everything. Then, towards the end, we stopped
9 sharing anything.

10 D Well, I mean, you had – you had talked about you kind of –
11 you'll refer to yourself as kind of the dominant one. And –

12 R I was the dominant person in the marriage.

13 D And – and part of it was that she was really young when you
14 met her. You know, I think you married when – when 19 --

15 R Well, I had the money. I was nine years older.

16 D Right.

17 R I had the education. I was calling the shots as Kathie would
18 say.

19 D Was it – was it ho- -- so, as she got older, more confident,
20 and a little bit – do you feel like she kind of – I mean, this is a – I'm gonna
21 throw it – I think she kind of got tired of some of the bull-shit. I mean, you
22 know, she got tired of –

23 R Absolutely.

24 D And – and you have said, you know, one of the things, again,
25 that – that nobody admits, Bob, except for you – they just don't.

26 R Mmnh-mmnh.

27 D You have a quote where you say "I was very, very, very, very
28 controlling."

1 R All that was true.

2 D And – and Kathie got tired of it. Uhm, and then, you had –
3 you know, you were having affairs. Right?

4 R And she was having affairs.

5 D And she was. And she was. Uhm, I think that one of your
6 affairs was different than the others. Do you know who I – do you know
7 which one I think was different?

8 R Well, Prudence Farrow is – is what everybody – person
9 everybody looks towards.

10 D Well, is – is that accurate? Or no?

11 R No, no. I was closer to – to Prudence than I was to anybody
12 else that I slept with. I mean, Prudence and I spent time together. My
13 other affairs were one, two nights.

14 D Right.

15 R And then, the end. And Kathie knew and hated the fact that I
16 was seeing Prudence Farrow.

17 D Yeah. You know – you know what's ironic, Bob – and, to me,
18 is that despite the issues, I – do you – I think Kathie loved you, even at
19 the end. I mean, she wanted a divorce. But, I think – you know, you had
20 a lot of money. Do you think that's what Kathie was after?

21 R No. But, Kathie felt like somebody – I don't know whom – I
22 would guess Gilberte told Kathie that, if she can prove that – that I had
23 been beating her up, she would get a bigger settlement.

24 D Right.

25 R So – so, Kathie started doing these things to start fights. And
26 she would walk around rubbing this. And then, go tell her friend "Look
27 what he did to me," and stuff like that.

28 D Well, what – you know –

1 R I don't think so, either.

2 D She – she – she – she never would have. She never would
3 have told anybody anything.

4 R She never would have brought up anything like that. And,
5 yes, she was always telling me about her mother – money problems.
6 But, she never “squeezed” me for money.

7 D Well –

8 R “If you don't give me enough money to do such and such, I'm
9 gonna do such and such.” I never heard anything like that from Susan.

10 D No. And – and I'll tell you why I don't think you did. Susan
11 was very smart. You agree? Right?

12 R And she knew I would give her money.

13 D You – you – but – but, you know what had happened, Bob?
14 You know, throughout the summer before she -- you know, she died, the
15 last time you sent her money, before November – in November, you said
16 you sent her \$50,000. Correct?

17 R Two checks for 25,000 --

18 D Yeah, for 25,000.

19 R -- apiece.

20 D And that was in November? Right?

21 R I -- I, honestly, don't remember exactly when it was. But, it
22 was two checks separated by about three, four weeks.

23 D Okay.

24 R Each for \$25,000.

25 D And – and you know that we have – you know, we can – we
26 have the, uh – the envelope that you were shown by Marc and Andrew.
27 That's one of the checks? Right?

28 R Right.

1 Okay. What does that mean?

2 U That's the time?

3 D What's that?

4 U The time to go. Thirty-five.

5 D Uh, I have – how long do I have?

6 U Thirty-five minutes.

7 D I have 35 minutes?

8 U That's what I'm telling you.

9 D Okay.

10 So, with Susan, when you end up – you know, we know that

11 you flew out here to see her.

12 R Flew out here?

13 D Flew out to Los Angeles. Uhm, to -- I'm sorry, to San

14 Francisco on December 19th. Right?

15 R (No audible response.)

16 D We have the – you made the call from the plane.

17 R ***.

18 D Right. You picked – you – you went to San Fr- -- you went to,

19 uh, Eureka. You went to the Ford dealership. Right?

20 R (No audible response.)

21 D You picked up the car. And then, the next day – I don't know

22 if you know this. You know, you made phone calls –

23 R I'm going –

24 D -- from Garberville. So, where were you going? Why were

25 you down there?

26 R I'm trying to remember what exactly I was doing in

27 Garberville. And I've tried to remember. And I really don't know.

28 D You weren't going to San Francisco, though, right? Because

1 you had just come from San Francisco the day before. So, that doesn't
2 make sense.

3 R Mmnh, no, I wasn't going to San Francisco.

4 D So, uh, I think, Bob, that -- that you drove down to Los
5 Angeles. That you drove down there. And, uhm, --

6 R And killed Susan and drove back?

7 D I do. And -- and -- and so, the other thing is, you know, you
8 don't take red-eye flights very often. Did you know that?

9 R Mmnh, very infrequently.

10 D You would agree, right? Almost never do you take a red-eye
11 flight. Agreed?

12 R Yes. Yes.

13 D So, I was trying to figure out, -- and, usually, you don't buy
14 your tickets right at the counter. Would you agree?

15 R Usually, I make reservations.

16 D Right. Right. Right.

17 R And -- and, uhm, --

18 D So -- so, what made you -- so, here's what's weird. You, also,
19 had a pattern -- which you've explained. You fly from Eureka -- uh, from
20 San Francisco to Eureka. New York to San Francisco. San Francisco to
21 Eureka. Eureka back to San Francisco and back to New York.

22 So, on December, uhm, -- on December 23rd, you end up
23 buying that ticket at 10:00 at night at the counter in San Francisco. You
24 didn't fly from Eureka. So, why was it that you bought straight from San
25 Francisco?

26 R (No audible response.)

27 D Why didn't you go back to Eureka? What were you doing
28 that made you get down to San Francisco? And why? It just doesn't

1 make sense.

2 R (No audible response.)

3 D I was just trying to understand it. ***.

4 R Yeah. Yeah. Yeah, I hear you. I hear you. I'm just not
5 gonna be able to answer that –

6 D Oh, okay.

7 R -- 'cause I just don't know.

8 D Okay. That's – listen, that's fair. Uhm, but – but, you agree
9 that it's hard to explain?

10 R It's unusual.

11 D Yeah, okay. Like I said, that's fair. So, -- so, -- and I couldn't
12 even figure out why you were flying out. You – at that time, you already
13 sold your house. So, what made you take a four-day trip? What were
14 you doing out there? Do – do you remember?

15 R I think I was wrapping up my affairs. I had sold the house.

16 D Right.

17 R I still had an office.

18 D Right.

19 R I still had a car. And I think I went out there to, uhm, take my
20 stuff out of the office. It was rented. And to sell the car.

21 D Now, uhm, did you end up – the – what did you end up doing
22 with the car?

23 R I sold it.

24 D Uh, do you remember where?

25 R (No audible response.)

26 D Did you – you – did – you sold it in – in Eureka. Right? In,
27 uh, whatchamacallit, in, uhm – in – what's that – what's the, uh – in
28 Trinidad. I think you got it. Uh, you sold the car in Trinidad. Right?

EXHIBIT 3

LOS ANGELES COUNTY DISTRICT ATTORNEY

PEOPLE OF THE STATE OF)	Case No. SA089983
CALIFORNIA,)	
Plaintiff,)	
)	
vs.)	
)	
ROBERT DURST,)	
)	
Defendant.)	
_____)	

INTERVIEW OF: ROBERT DURST

BY: ANDREW JARECKI
(MOVIE DIRECTOR)

AUDIO FILE NO.: UNEDITED ALL GOOD THINGS COMMENTARY

TRANSCRIBED BY: APRIL MARIE CARLOS

JOB NO.: PS-08

1 MR. JARECKI: Uh-huh. Was there a moment when you
2 felt, um, that her effort to kind of get out there and
3 go to medical school and do those things went from
4 being a dis -- you know, a good activity for her,
5 career for her, and it started to be a distraction from
6 her relationship with you? (0:52:03.5)

7 MR. DURST: Well, I was always, always, always
8 very controlling. Um, in terms of the stuff that's out
9 there, that I tried to get her out of medical school,
10 and that I wouldn't pay her tuition. I wouldn't pay
11 her tuition because she'd hired lawyers. My lawyer had
12 insist that I don't pay for anything I -- haven't paid
13 for, being the past, and she had gone and done one of
14 those federal programs where you -- they pay for it,
15 and you take a loan. The lawyer said, "Don't pay for
16 the medical school." And that was when she -- she
17 first disappeared, and I didn't know where she was. I
18 knew that she was doing bad in school, gotten a whole
19 bunch of "incompletes," and I was under the impression
20 that she wasn't sure she was going to graduate. This
21 is close. After a number of years, before I would go
22 to her family's house for a function, I would insist
23 that, uh, we agree on how long we're going to stay; two
24 hours, three hours, four hours. We would always do a
25 negotiation, and when the time was up, I was ready to

1 you know, that -- that she was going to be able to make
2 a, you know, an argument that -- that somehow she had
3 something on you, and that was gonna really motivate
4 you? I never -- I never got the feeling that was a --
5 a -- that there was a successful strategy there.

6 MR. DURST: Uh, no, I mean there was no successful
7 strategy, but by then, I mean, she never filed for
8 divorce. She didn't want a divorce. She wanted, uh,
9 to have a child, or children, and she wanted me to not
10 always be the dominant one, not make all the decisions
11 in the marriage. But by towards the end of it, of
12 having had the lawyers and the fights for more than a
13 year, we'd both started having affairs. I had met
14 somebody I liked a lot, and they liked me a lot, I
15 thought. And I was beginning to think that, uh, I
16 should be the one who should file for divorce. Now, my
17 lawyer told me that filing for divorce when your wife
18 is in the last six months of medical school is going to
19 look terrible. It's the wrong thing to do, you don't
20 do that to people. You should wait until she gets out
21 of medical school, and then you'll do whatever it is
22 you think you should do. (1:02:00.5)

23 MR. JARECKI: We heard this story from -- from a
24 number of people, that she, that in her -- you know,
25 when things started to get a little frayed, that she

EXHIBIT 4

Crime

Pc

Complaint No.

Date of This Report _____

Report
2-10-82

Date of Orig. Report

Date Assigned

Case No.

Unit Reporting

Follow-Up No

Page of

Pages

DBMTF

Complainant's Name - Last, First, M.I.

Victim's Name - If Different

DURST, K

DETAILS:

MISSING PERSON

AN ALIEN DURET

37 Riverside Dr

INTERVIEW

Kevin & Ann Doyle

37 Riverside Dr

They live in apartment 16B penthouse across the hall from the Durst's.

They both know the Durst's and have had them in their apartment on two occasions. 'Mrs Durst had been in the apartment numerous times to speak with both Ann and Kevin Doyle.

see attach uf 50

CASE ACTIVE

Reporting Officer's Rank - Signature - Command

Det fanns 71 barn

DBMT

Name Printed _____

Varian

Tax Registry No.

849235

Supervisor's Signature _____

11/21/11

C.D.'s Initials

S.E. Schmitt

DISTRIBUTION: 1. CRIMINAL RECORDS SECTION

2. UNIT REFERRED TO

INTERVIEW OF ANN & KEVIN DOYLE

37 Riverside Drive apt #16B

phone # 2437058

On 2-10-82 the undersigned accompanied by Det Donald O' Sullivan DBMTF did respond to the above location and did interview Mr & Mrs Doyle.

They stated that they know the Durst's for about 1 year. Mrs Durst would visit with either Ann or Kevin who ever was home at the time. She would just want to sit and have some one to talk too.

~~They~~ Ann stated that sometime during the later part of Sept or the beginning of Oct. Kathern did leave her apartment via the bedroom window in her P.J.'s and walked around the outside balcony to Ann's bedroom window and was crying.

Ann let her in and Kathern stated that Bob had beat her and that he wants to kill her. She further stated that he had a gun and was afraid of being shot.

Kathern stated that Bob wanted her to sign a ~~disclaimer~~ disclaimer clause so that she would ~~not~~ relinquish any monies or properties. She was afraid to sit in any room which had a window thus she spent 2 hours sitting in the bathroom.

During this time Kevin Doyle came home and both he and his wife did calm her down. Kevin did go to the Durst's apartment and he talked to Bob. Bob stated that he was not mad and that she should come home. He did not admit to hitting her.

Det James T Varian
Det James T Varian #2976
DBMTF

EXHIBIT 5

CHARACTER OF CASE		MISSING PERSON KATHLEEN DURST		CASE #
LEAD RECEIVED BY	DATE	SOURCE		
LEAD ASSIGNED TO	DATE	LEAD ASSIGNED BY		
D INSTRUCTIONS				

Interview PETER SCHWARTZ [REDACTED] of [REDACTED] Subj. was
 Assaulted by ROBERT DURST (H) [REDACTED]
 (W) [REDACTED]

LEAD RESULTS
 - AT A PARTY IN MANHATTAN AT KATHY & BOB'S. KNEW THE DURST'S THRU GILBERTA. NOTHING TO DO W/ KATHY ROMANTICALLY (86TH ST APT) WHEN PARTY WAS ENDING SOME PEOPLE WENT TO NIGHTCLUB XENON WHICH WAS IN A DURST OWNED BUILDING. MR SCHWARTZ ALONG W/ HIS GIRLFRIEND SUSAN & KATHY WENT BACK TO THE APARTMENT. HALF HOUR LATER BOB CAME UP AND WAS UPSET THAT KATHY DIDNT COME DOWN TO THE NIGHT CLUB. BOB WAS VERY AGITATED. MR SCHWARTZ IS SITTING ON THE FLOOR WHEN BOB COMES RUNNING UP TO HIM AND KICKS SCHWARTZ IN THE EYE. SCHWARTZ TACKLES DURST AND RESTRAINS HIM FINALLY LETTING HIM UP. DURST WALKS AWAY AND THEN SUDDENLY TURNS AROUND AND CHARGES SCHWARTZ AGAIN. KATHY CALLED THE POLICE BUT DURST LEFT THE APARTMENT. KATHY TOOK PETER TO NEW YORK HOSPITAL. SCHWARTZ SUFFERED A FRACTURED LOWER ORBITO (EYE). SCHWARTZ FILED CRIMINAL CHARGES BUT DURST GOT ACCELERATED REHABILITATION. SCHWARTZ STATED THAT THE COURT NEVER NOTIFIED HIM OF THE STATUS OF DURST'S CASE. SCHWARTZ SUED DURST CIVILLY. ACCORDING TO SCHWARTZ, HE FELT HIS LAWYER WAS IN W/ DURST LAWYER BECAUSE PAPERS WERE NEVER FILED PROPERLY, AND CASE WENT BAD. SCHWARTZ SETTLED FOR \$6000⁰⁰ IN SETTLEMENT.

- ACCORDING TO SCHWARTZ, HE WAS TOLD BY KATHY THAT SHE HAD TO SIGN JOINT TAX RETURNS FRAUDULENTLY. DURST WANTED TO AVOID PAYING TAXES.
- KATHY WANTED A DIVORCE AND WANTED TO GET SOMETHING OUT OF IT. KATHY WAS PRESSURING BOB FOR A BETTER SETTLEMENT OR SHE WAS GOING TO CALL THEIRS
- AT ANOTHER PARTY AT GILBERTA NAJAM'S, BOB PUSHED OPEN A DOOR IN AN EFFORT TO STRIKE SCHWARTZ

SIGNATURE OF ASSIGNED MEMBER	DATE
[Signature]	11/07/00

FURTHER ACTION REQUESTED	IF "YES", EXPLAIN
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

LEAD SHEET #	TITLE	LEAD SHEET #	TITLE

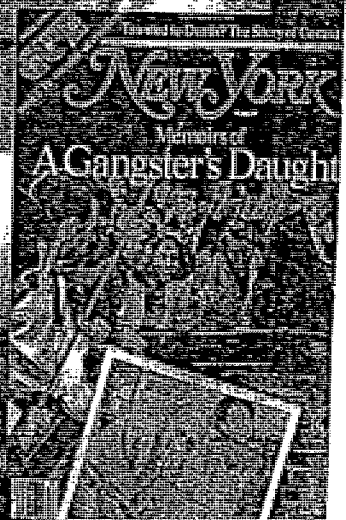
IVED BY

List all persons interviewed, include date, DOB, address, employment, telephone # (home & business).
 List all places checked, (e.g. taverns, gas stations, businesses, etc.)

EXHIBIT 6

NEW YORK MAGAZINE
MONDAY, MARCH 12, 2001

WHO KILLED



By John L. ...
[Illegible text]

THE GANGSTER'S DAUGHTER

Writer Susan Berman, whose devoted circle of intimates included real-estate scion Bobby Durst, didn't discover her roots as a Mafia princess until a freewheeling stint at *New York* in the seventies. Her father died of natural causes, but she was murdered, gangland-style, in L.A. just before Christmas—leaving questions worthy of one of her own mysteries. **By Lisa DePaulo**



ON DECEMBER 19TH, FIVE DAYS BEFORE POLICE FOUND HER BODY, SUSAN Berman was talking on the phone with actress Kim Lankford, one of her closest friends. Some of what she said is so disturbing, in retrospect, that Lankford is tormented by the fact that she didn't ask more questions. But conversations with Susan were almost always filled with breathless drama. If she was up, you knew it. If she was down, you knew it. Either way, you knew the details. That was Susan. • That night, Lankford was packing for a cruise; for the first time in years, the two wouldn't be spending part of the holidays together. Kim felt guilty about that. But Susan assured her they'd have plenty of time to

celebrate when she returned, and besides, she might have big news by then.

"I have information that's going to blow the top off things," Susan told her.

"What do you mean?" Kim asked. "What information?"

"Well, I don't have it myself," said Susan. "But I know how to get it."

"Well, be careful, for God's sake," said Kim.

Susan promised they would talk more after the holidays. It wasn't unusual for her to be "about to get information"; she was a journalist. And she was working on three big projects—two book ideas and a television pilot. Two had to do with Las Vegas, where Susan had spent her childhood as a mobster's daughter, a subject that haunted all of her work, as well as her life. So Kim assumed it was something about that. When she hung up, Kim thought to herself, *Who cares who killed Bugsy Siegel?*

At another point in the conversation, Susan said she'd just talked to a psychic. This, too, wasn't unusual. Psychics were among the few things Susan had faith in. She had regular phone consultations for over fifteen years with her psychic in New York, but it seemed she had seen a new one recently in L.A. "She told me I was going to die a violent death and that there'd be a gun involved," Susan said.

Oh, Susan, Kim remembers thinking.

LESS THAN A WEEK LATER, AT 1 P.M. on Christmas Eve, the Los Angeles police were called to Susan's run-down home on Benedict Canyon Road by neighbors who'd grown alarmed that one of her three wire-haired fox terriers—so precious to her, such a nuisance to others—was running wild and barking hysterically. Susan would never have left Lulu unattended for

she kept the same sleek style, always with bangs—dried in a puddle of her own blood. "You couldn't help but see it, it was all that was left," says her friend Julie Smith, a successful mystery writer. "But no one talked about it, no one wanted to go near it. It was too awful to contemplate."

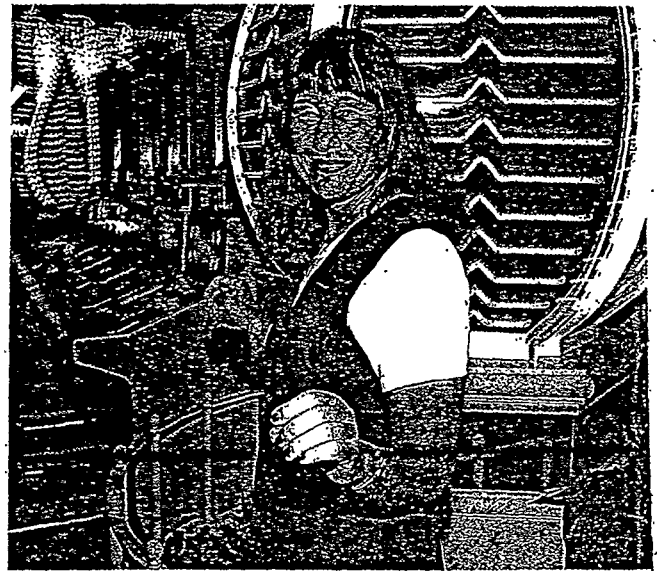
It's been over two months now, and the mystery of who killed Susan Berman has only gotten creepier and more complex—the kind of story Susan herself would have been obsessed with. When news of the killing hit the papers in early January, it shocked the literary communities on both coasts. From her impressive career at *New York* in the late seventies and early eighties to her subsequent years in Hollywood, Susan made a vivid impression wherever she went. Few, particularly in creative circles, could resist the mob daughter turned journalist with a repertoire of fantastic, almost unbelievable life stories. She also had a catalogue of bizarre fears and phobias, impossible for anyone close to her to ignore: She couldn't cross bridges or drive on certain streets, she couldn't eat in a restaurant without interrogating the waiters or summoning the chef (panicked that she would die from one of her countless aller-

gies), and she couldn't go above the third floor in a building unless accompanied by "a big strong man" and assured that the windows were "hermetically sealed" (her biggest phobia was that she would hurl herself out a window). "She had her flaws," deadpans Rich Markey, a comedy producer in L.A. who was the last friend to see her alive. "But her friends adored her. Everyone adored her—in spite of them, not because of them."

And given what she'd been through in her 55 years, they also understood them. Susan had survived the Las Vegas mob

Susan—complicated, tormented, irresistibly entertaining.

"The way she dealt with her past was to make it theater," says *New York Times* reporter Dinitia Smith, a colleague from her *New York* days. As the years went by, that got harder and harder. "How can I go on?" she would ask her friends. Or, her best-known half-threat: "I'm going to get into the bathtub with my hair dryer now." Those who really knew her well didn't worry (too much) that she'd ever take her own life. "Oh, no," says Kim Lankford. "That was not an option. She would never want to miss how it would all play out."



WAS SHE KILLED because she'd been harboring some secret about Bobby? Was he sending her cash out of kindness—or to buy her silence?

so long. The cops found the front door unlocked and the back door ajar, and followed the bloody pawprints of the dogs to the back bedroom. Dressed in sweats and a T-shirt, Susan was lying on the cold, hardwood floor, with a single bullet in the back of her head. She'd been dead for at least a day.

When friends made their pilgrimage to 1527 Benedict Canyon Road, numb with the news, they'd all remember the same grisly detail: Still on the guest-room floor, framed by the pawprints, was a clump of Susan's lustrous, long black hair—her friends used to tease her that

WHEN THE NEWS HIT, HER HISTORY AS A gangster's daughter dominated the headlines. Could she have been killed for some mob secret she was about to reveal? A dubious theory, since most of the characters from Susan's father's Las Vegas days were long dead, and when she *had* written about them, it was with a mix of love and fascinated adoration. "If I were a gangster," says Markey, "I'd have encouraged her to write *more*."

The case took a more macabre twist when Westchester County District Attor-

ney Jeanine Pirro announced that Berman had been on her shortlist of witnesses to interview in yet another eerie case, a coast away from Susan's struggles. Nineteen years ago, Kathie Durst, the estranged wife of real-estate heir Bobby Durst—whose family's Durst Organization owns more than \$650 million worth of Manhattan real estate—had vanished in New York without a trace. For nearly two decades—as the pretty medical student's friends spoke out about an abusive marriage and battles over money—investigators had their sights on the now-reclusive Bobby, who happened to have been extremely close to Susan Berman, going back to their days at UCLA in the late sixties. Susan referred to Durst, who declined *New York's* request for an interview, as her brother; the dedications in her books invariably began with his name. "It was always 'Bobby this, Bobby that, wonderful Bobby,'" a friend recalls. Yet when Susan tried to reach him last summer to borrow money, she was irked to find he'd changed his phone number. So she wrote to him in care of the Durst Organization. The letter reached its target: In the months before her death, she had cashed two \$25,000 checks from Bobby. In fact, Susan borrowed a lot of money from a lot of people over the years and always tried to pay it back. In this case, however, she was touched, one friend says, that Bobby had told her the \$50,000 was a gift.

This past November, as a result of a lead in a separate case, the long-dormant Durst case was reopened by Pirro's office—to a flurry of national headlines. Meanwhile, New York investigators, acting on several tips that Berman might have some critical information, sought to find her. They got there too late.

Suddenly, the "Durst connection"—*Was she killed because she'd been harboring some secret about Bobby? Was he sending her cash out of kindness, or to buy her silence?*—piqued the interest of the national media. By early February in Los Angeles, you couldn't visit Susan's Benedict Canyon home without encountering a photographer in the bushes.

SUSAN'S DAILY ROUTINE included marathon phone conversations with people she was close to—and that was a fairly large group. "If you were a friend, you were a close friend," as one put it. She insisted you

be well-versed in the characters and plots of her colorful and troubled journey, especially that of her beloved father, Davie Berman, the Las Vegas mobster who was Bugsy Siegel's partner and who died at 53 of a heart attack when she was 12. She would write that she never appreciated the irony that he was maybe the only gangster of that era to die a nat-

ural death. More ironic was that she would be the one to die, 43 years later, with a bullet in her head: If it wasn't a mob hit, it sure looked like one. Her father was the "love of her life." His FBI WANTED poster was hung prominently in her living room (the phrase on it, ALIAS: DAVE THE JEW, amused her to no end), and most of her friends knew the story of his funeral, when little Susie tried to throw herself into the casket. Then came Uncle Chickie, the debonair gambler who raised her after her father's death and who, like Susan, died broke. And of course, there was Mister Margulies—that was his real name—her only husband, who died of a heroin overdose.

And they knew all about her glamorous mother, Gladys, the onetime tap-dancer who lived in perpetual fear that her family would be killed and who had been institutionalized for depression much of her short life. When she died, at age 39—Susan was 13—the death certificate said "suicide by overdose." But Susan, an only child, always believed her mother was killed by the mob for the sizable fortune Davie Berman left her. Nearly twenty years ago, when she wrote her acclaimed memoir, *Easy Street*, for which she diligently researched her father's past, she'd also tried to solve the mystery of her mother's death. Now she'd been talking about investigating that mystery again. Could *that* have been the big news she was about to get her hands on?

In Susan's last days, there'd be a great many other phone conversations with the friends who'd become her family. Some troubling, some hilarious, all intriguing. Though Susan seemed to share everything, "she also kept a lot to herself," says record mogul Danny Goldberg, a close friend who'd known her since the seventies. "Susan was somewhat mysterious to some of her closest friends. And she had compartmentalized lots of relationships."

Different people got different pieces of Susan's ongoing puzzle. To some she seemed more upbeat than she'd been in years. Yes, she'd been reduced to recycling chapters from *Easy Street* in *Las Vegas Life* magazine. Still, she was convinced that, any day now, one of her book proposals or screenplays would be bought—and was relieved that she'd just gotten that chunk of money from her friend Bobby Durst to pay off her crippling debts. "Susan always was optimistic," says another old friend, Stephen M. Silverman. "There was *always* a Major Project around the corner."

Berman also seemed to be finally resolving a war with her elderly landlady, Delia "Dee" Baskin Schiffer. She complained that Baskin Schiffer would show



Domesticity: Berman, clockwise from top right, as a bridesmaid; at home in L.A. with Lulu and Romeo; at the Flamingo for *Lady Las Vegas*; the Benedict Canyon house.

ney Jeanine Pirro announced that Berman had been on her shortlist of witnesses to interview in yet another eerie case, a coast away from Susan's struggles. Nineteen years ago, Kathie Durst, the estranged wife of real-estate heir Bobby Durst—whose family's Durst Organization owns more than \$650 million worth of Manhattan real estate—had vanished

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up at the house unannounced to argue about overdue rent, the dogs, repairs; the standoff had escalated to a three-year eviction battle. Susan repeatedly told friends she was afraid of Dee and feared she would harm her dogs, Lulu, Romeo, and Golda. She said she knew Dee owned a gun. In the days before she died, however, Susan used her Bobby Durst money to settle up with Dee, even paying her rent through March, and a lawyer had worked out an agreement for Susan to leave the property by June. She told several friends she was relieved it was all finally over.

But there were also indications that, below the surface, all was not well. "She called me in October and left this long message on my voice mail," says Silverman, an editor at People.com, "and it was so disturbing—I'm on Prozac but it's not working"—and she desperately needed me to find her an agent. Oh, it was dramatic. I thought, this is a person in trouble. And Susan really was going through terrible times. Of course, by the time she called me back, everything was fine in the world."

She had fretted endlessly about various ongoing dramas, from her health to her dogs to her obsession with her longtime manager, Nyle Brenner, with whom she had a fraught relationship. "We would analyze Nyle for hours and hours," says one friend, who had her last "Nyle session" with Susan on December 21. Brenner, who friends say is the person who spoke to Susan most frequently and

SUSAN WAS 32—AND ALREADY A successful journalist—before she began to believe her father really was a gangster. She'd begun her career in the seventies at the San Francisco *Examiner*, creating quite a splash with a magazine cover story headlined, "Why I Can't Get Laid in San Francisco". Despite her obvious intelligence (not to mention her career as a reporter), she'd managed to hold onto her innocent memories of Davie Berman—the man who took over Bugsy Siegel's "operations" at the Vegas casinos in 1947 when Siegel was gunned down gangland-style (and Susan was 2).

That changed after one too many *New York* colleagues asked if she was related to the notorious gangster. In 1977, she became obsessed with finding out everything—traveling back to Vegas and her father's hometown of Ashley, North Dakota, using the Freedom of Information Act to get crateloads of FBI files about her daddy. It was all there: the bank robberies, the kidnappings, the killings, and those unknown years before she was born, when he'd spent seven years at Sing Sing.

Easy Street was published to raves in 1981 and bought by Universal Studios for \$350,000 (the movie was never made, a long-standing source of disappointment to Susan). During that time, she wrote for *New York*—though never in the office, of course; it was too high up—penning clever and sassy articles on everyone from Bess Myerson to herself (she wrote

would put on this *Madam Butterfly* Cio-Cio-San bathrobe and walk out on the sidewalk, come into my building, and go right into my bathtub. Whenever she wanted! I could be screwing my brains out, Susan would just barge in."

Susan had inherited some of Davie's



HER FATHER'S FBI WANTED poster was hung prominently in her living room (the phrase on it, *Alias: Dave the Jew*, amused her no end).

spent the most time with her, declined to be interviewed—except to say, "Yes, yes, I know, everyone adored her, she was remarkable and incredibly talented. But she was not an easy person to get along with, okay?" Reached a second time, Brenner hissed, "I've got other clients to take care of, I don't have time for this... I was tapped out by Susan every day while she was alive, and it's the same thing in her death. I just can't take it anymore."

There are scars within me that will probably never heal; I have uncontrollable anxiety attacks that occur without warning, I am never secure and live with a dread that apocalyptic events could happen at any moment. . . . Death and love seem linked forever in my fantasies, and the Kaddish will ring always in my ears.
—From *Easy Street*

at length about her phobias, which didn't kick in until she was 27 but flourished in Manhattan).

"She was certainly the most brilliant person I ever knew," says a friend from that time, *Über*-publicist Liz Rosenberg, part of Susan's posse. The group included *Saturday Night Live* star Laraine Newman, Danny Goldberg, *New York* writer Julie Baumgold, and, to be sure, Bobby Durst, who was working for the family business and enjoying the life of a real-estate scion at the time.

Spellbindingly funny and capable of dishing with the pros, Susan became a darling of the New York literati, hosting dinner parties at her Beekman Place apartment and entertaining friends at Elaine's, where she usually picked up the tab. Her first apartment, a tiny studio, had only a shower, recalls Stephen Silverman, who lived next door. "So Susan

fortune, in the form of a trust fund, and friends say she spent it like it would never end, dressing in \$400 St. Laurent blouses bought three at a clip from Saks and boots that she liked to buy in sets of two.

The only snag was the *Easy Street* book tour. "An absolute nightmare that required all this elaborate planning," remembers one colleague from that time. Her publisher had to jump through hoops to find hotel rooms below the third floor and circuitous routes to avoid tunnels and bridges. Once, she wrote in *New York*, she was mugged at knifepoint by a gang that tried to force her into a car heading for Brooklyn, where she was certain she would be raped. She managed to escape: *No fucking way* was she driving over the Brooklyn Bridge.

Susan was, as Silverman puts it, "a lot of work." She was famous for fallings-out with people that could last for years. "If

you pissed her off," says her adopted son, Sareb Kaufman, "she was like, 'Fine, you're out of the Rolodex. You obviously have an issue.'" But she also took no small pleasure in directing the lives of everyone in her circle. Bede Roberts, who'd known her since her Berkeley days, remembers telling Susan she fancied a man on campus who'd jilted her. "You really want this guy, you're sure?" Susan asked. 'OK, I'll get him for you. But you've got to do *everything* I say, nothing more, nothing less.' Susan plotted the course of his breakdown with exquisite precision." And he married her.

DESPITE ALL SHE LEARNED ABOUT HER FATHER, Susan continued to worship the memory of Davie Berman. In New York, she carried his mug shot in her wallet and would "whip it out, the way the rest of us showed baby pictures," Dinitia Smith remembers. To Susan, her father would always remain the doting, charismatic figure who rushed home from the casino every night to read her a bedtime story



Keys to the future: Berman, age 5, at the Flamingo; mother Gladys, opposite, in 1939.

(and then returned to count the house take), who filled an entire room with toys and gave her a house account at age 7 so she could order shrimp cocktails from room service, who commissioned an oil painting of her in pigtails to hang in the lobby of the Flamingo, who taught her to play his favorite song, "The Sunny Side of the Street," on the piano, and who held Passover seders in the casino showroom. Through the years of her childhood, Davie

Berman, not Elvis (though she *did* know Elvis), was the King of Vegas, and Susie was his princess.

With his wife in the mental hospital, he'd pick Susan up from school and help with her math homework in the counting room, using casino chips. He taught her how to play gin at age 4, so she'd have something to do with the bodyguards who lived in their house (she grew up thinking they were friends and uncles, and took great pride in beating them). It wasn't until she researched *Easy Street* that she realized who those gin buddies were. Or why the windows in their custom-built house were so high off the ground (to keep from being shot at from the street). And why they never had house keys (mobsters didn't keep them, to protect their families in case they were killed; the bodyguards took care of the door). And why she would be whisked away in the middle of the night to the Beverly Wilshire Hotel in Los Angeles. She thought these trips were family vacations and loved the ice-cream sundaes from room service, when in truth it was to protect her when there was mob unrest.

A month before her father died, he threw her a lavish 12th-birthday party at the Riviera. Liberace sang "Happy Birthday" to her. In order to produce friends for the party, Davie invited the daughters of other Las Vegas hotel owners, few of whom Susan knew.

Within hours of Davie Berman's funeral in 1957, the mob had cleaned out her house and given away all her toys. She was shipped off to Idaho, with a single trunkload of clothes and mementos, to live with Uncle Chickie. Later, she was sent away to various boarding schools, her education broken up by regular visits with Chickie in jail. He would ask her to wear Chanel No. 5, she wrote, so he could "smell the real world."

IN 1981, A LONG EXCERPT FROM *EASY Street* appeared as a cover story in *New York*. Within two years, Susan left New York City; high on the film sale and flush with cash, she had decided to move to Los Angeles and become a screenwriter. She bought a black convertible and headed off to the city that had been a refuge when she was growing up. Two months later, while standing in the Writers Guild script-registration line, she met Mister Margulies. He was 25 and broke. She was 38 and Susan Berman. "I know you," he said. As she later wrote, he recognized her from the pictures on the back of her books. Mister's father had them all because he worked for Davie Berman in Vegas. "He loved your dad," Mister told her.

In no time, he'd moved into her Benedict Canyon home—the same one she would return to years later and die in. In those days, it was a lovely, cheerful place; Dee Baskin Schiffer kept it up then, according to Susan's friends. "And there was love in the house," says Kim. "They were crazy about each other." In June 1984, in a lavish wedding at the Hotel Bel-Air complete with ice swans (like the ones Davie the Jew insisted on having at the Flamingo), she married her Mister. Bobby Durst gave her away. Film producer Robert Evans toasted the couple. Susan footed the bill.

Soon after, she bought a beautiful home in Brentwood. The marriage lasted little more than six or seven months. "She called me crying and said, 'It's over,'" says Julie Smith. "I said, 'What, Susan?' She said, 'He's been doing drugs again and he's been abusing me.'" Susan knew when she married him that Mister had done heroin in the past, but she believed it was over. Susan was naïve to the point of being puritanical about drugs, say her friends. Despite the pain in her life, she never self-medicated. "I don't think she ever smoked a joint in her life," says Lankford. "The only alcohol she ever drank was a glass of wine at Passover." This too came from her father, who told her that drugs and alcohol "were for suckers" and not something Jews did.

They had already divorced when Mister overdosed, at age 27. At the time, she believed they were reconciling, and his death led her to a nervous breakdown. "Did he meet the doom meant for me?" she later wrote. Her psychic, Barbara Stabiner, met her shortly after, when a mutual friend called her in New York because Susan was on an L.A. rooftop, threatening to jump. Stabiner talked her off the roof by reading her tarot cards and seeing great things in store.

In 1987, she met the man who friends say was the last real boyfriend in her life. Paul Kaufman was a financial adviser with Hollywood aspirations and two young children. They all moved into Susan's Brentwood home (up the street from Nicole Brown Simpson's townhouse). And for a while, he made her happy. What made her happier were his children. Mella and Sareb, now 24 and 26, consider Susan Berman their mother. "She held my hand through everything difficult in life," says Sareb, who works in the recording business. "She was the only person who was always on my side and never judged me."

Her relationship with Paul ended in 1992—around the time Susan went broke. The bank (continued on page 107)

took her house and she had to declare bankruptcy. Friends say the couple came undone by a project they tried to do together—a Broadway musical based on the Dreyfus affair. To finance it, they used Susan's assets. The musical never got off the ground. The relationship failed. Susan had another breakdown.

But Mella and Sareb would continue to be her children. "Being a mother to these kids was one of the proudest and most satisfying things in her life," says Rich Markey. In 1992, a friend gave Susan, now penniless, use of a condo on Sunset Boulevard. While Sareb stayed with his father, Susan and Mella lived there for five years for free, and Susan started writing mysteries to pay her expenses and Mella's private-school tuition. She and Mella also co-wrote an unpublished book manuscript, titled *Never a Mother, Never a Daughter*. Susan always wanted children of her own; at one point, she talked with her friends about asking Bobby Durst to father a child with her.

The biggest thing to come out of that period was Susan's return to Las Vegas: A book and an A&E special called *Lady Las Vegas* brought her new acclaim and fresh cash (and showed, perhaps, a lack of caution, since she'd once told Julie Smith that, after *Easy Street*, she'd been warned, *Don't ever mess with us again*). Finally back on her feet, she called Dee Schiffer and asked if she could move back to the house on Benedict Canyon Road.

By then she had also acquired a manager, Nyle Brenner, whom she'd met walking her dogs on Sunset. It would prove to be a strange and intense relationship. Susan was the only writer Brenner represented; the rest were primarily struggling actors. It was lost on no one that Nyle was a ringer for Mister Margulies. Friends say Susan would call him constantly to help deal with her now-raging phobias. He ferried her around to do her shopping and to her doctors' appointments (Susan always had a litany of medical worries) and to the vet (the dogs did, too). When he'd get fed up, she'd tell him, "Fine, leave." At which point, according to her friends, Brenner would grovel and beg her to keep him. He later told one of Susan's girlfriends that "she was like an addiction." So was he.

Though Susan's friends believe Nyle lacks any particular interest in women, she was determined "to get him in bed, she was so in love with this guy." Her obsession led to several painful and humiliating experiences, but she couldn't let it go.

By the end of Susan's life, many of her friends believed the relationship had gotten even more volatile. Markey, who gave

Susan an old couch a few weeks before she died (she could never afford furniture), recalls that when she asked Nyle to fetch it, "I could see on his face, the last thing in the world he wanted to do was to haul a couch down a staircase for Susan. But he did it." Others say that in her last few days, she was upset about an incident that had happened recently. Susan had surgery on her eyes for glaucoma, which to her "was like open-heart surgery," says a friend. Nyle was in charge of taking her for the procedure and "making sure that she didn't fall on the way home." Of course, she did fall.

ON DECEMBER 22ND, SUSAN'S last night alive, she went to dinner and a movie with Rich Markey. Using their Writers Guild passes, they went to see *Best in Show*, the dog-show comedy, and Susan laughed uproariously through it. Over dinner, after Susan did her usual grilling of the waiter, they talked about her book deal, her TV deal, Sareb and Mella. Susan was particularly excited about a sequel she was planning to *Easy Street*, called *Rich Girl Broke*. Markey was on his way to Vegas for a family reunion and Susan was delighted that he would see where she grew up. On the way home, she had a fit in the parking garage because someone in the elevator pressed 5. It was a normal Susan evening.

The police believe that she was killed the next morning, Saturday the 23rd. When they arrived on Sunday, her mail hadn't been brought in yet, though Susan (and the dogs) never missed the mailman. Word first got out when Susan's cousin Deni Marcus called and a homicide detective answered the phone.

The person who would have been notified first was Sareb, who lived nearby and talked to her daily. But he was traveling in Amsterdam; it seemed as if everyone was away. When Susan didn't call him on Christmas Eve—a night they always spent together—and didn't return his calls, he feared something horrible had happened. "Even if she was laid up in the hospital," Sareb said, "she would have called me." In the last year, she and Mella had become estranged. It bothered Susan terribly, and she worried endlessly about Mella. At the same time, she had rewritten her will and cut her out. Not that there was much left, besides mementos and the rights to her work—though they may well have grown in value since her death. She left the rights to at least one of her works to Nyle Brenner.

It wasn't until the following night that word began to spread to Susan's close circle. She was ex- (continued on page 114)

pected for Christmas dinner at a friend's mother's house. Susie Harmon, her chum since boarding school at Chadwick (where schoolmates included Jann Wenner and Liza Minnelli), lived in Arizona, but Susan joined her every Christmas night at her mother's in Los Angeles. This year, she was bringing Nyle Brenner with her.

When she didn't answer her phone all day, her friends panicked. Nyle drove to the house. By this point, the police had already removed the body; they had also locked the house up. Later, Nyle would tell friends that when no one answered the door, he crawled in through a back window.

Nyle apparently gave different accounts of what happened next to different people. He told some that he knew something was wrong when he saw "black dirt" all over the house (fingerprinting dust left by the police). He told others he looked through the house and "nothing was amiss" (did he miss the hair and blood?). "What struck me as odd," says one friend, "was that he told me that he walked out the front door, went to the neighbors, and said, 'Is anything wrong next door?' They said they were sorry to tell him that the woman next door had died. Nyle told me, 'Well, of course my heart broke. But I realized she was clumsy, she could have fallen down. And I got back in the car and drove to Susie's.'"

Most of Susan's friends got word of her death from Nyle, who left urgent messages on their machines. When they called him back, he told them what had happened, that Susan was dead and had been murdered "execution-style." When Sareb got the news, he flew back from Amsterdam. Nyle met him at the airport and spent the ride home telling him how difficult his mother was.

Things got stranger at the memorial service Sareb arranged for Susan in early February. He held it at the Writers Guild and banned members of the press who weren't friends of Susan's because he wanted Bobby Durst to be able to attend without being harassed by the media. (Durst didn't show.)

Sareb asked nine people to speak about Susan, and the stories they told were beautiful, funny, and touching. But this was a group filled with writers—mystery writers, screenwriters, journalists—and so, before and after the service, as cocktails were served, they couldn't help but ask the one question on all their minds: "Who did this?"

This was the night that several people had what they later described as unsettling conversations with Nyle Brenner. "At least I won't have someone calling me

three times a day," he said to one attendee. "She sucked me dry," he told another. But there has also been much discussion among her friends about what Susan really knew about Bobby and Kathie Durst. One told *New York* that many years ago, Susan revealed that "she'd provided Bobby's alibi"—while insisting it did not mean she thought he was guilty.

THE COPS HAVE THE HARD DRIVE to her precious computer, and sources say it is rich with clues. Her Rolodex—reputed to contain over 1,000 numbers—is also being pored over by investigators. *New York* has learned that the police have also obtained Nyle Brenner's files. No gun has been found. But a bullet casing found at the scene—and reported to have been from a small-caliber gun—gives investigators a shred of hope. It is widely theorized that whoever killed her was someone Susan knew—or a professional hired by someone Susan knew—whom she trusted enough to let into her home, or who knew enough about her to get into her home. Susan, with all her fears and neuroses, would *never* have let a stranger in.

The LAPD is keeping a tight lid on details about the case. And friends say privately they fear it may never be solved. Or worse: "that it will," as one puts it, "and it will be one of us." Bobby Durst is included in that category. And for that reason alone, many of her friends—though fully aware of "the coincidence," as they refer to Jeanine Pirro's plan to interview Susan—just don't buy the Durst theory. Susan lived by a mob-like code of loyalty. She would never, no matter how desperate, rat out a friend, even if she *did* know something incriminating. ("If she could compartmentalize Davie the Jew," one friend noted, "she could compartmentalize Bobby Durst.") The answer to the question "Who shot Susan Berman?" may well prove to be, "None of the above." As Liz Rosenberg puts it, "She could have pissed off a total stranger."

ON JANUARY 2, SUSAN WAS LAID TO REST IN a huge mausoleum at the Home of Peace cemetery in Los Angeles. She was dressed in a long black velvet dress with white trim that had belonged to Sareb and Mella's grandmother and was placed in a vault next to her parents and Uncle Chickie. "Fortunately, it is on the second level," says Kim Lankford. "And there's nobody on the other side to annoy her." Together, some of her friends sang "The Sunny Side of the Street," and had her favorite photos placed in her casket. "We put all her favorite people in there," says Kim. "Couldn't fit everybody in." ■

EXHIBIT 7

1 RECORDED INTERVIEW OF LYNDA OBST CONDUCTED BY DEPUTY
2 DISTRICT ATTORNEYS JOHN LEWIN AND HABIB BALIAN AND LADA
3 INVESTIGATOR JEFF SAVARESE AND TAKEN AT RESIDENCE IN
4 LOS ANGELES.

5 CASE NO.: SA089983
6 CASE NAME: P v. Robert Durst
7 CHARGE: PC187(a)
8 RECORDING DATE: March 20, 2015
9 RECORDING TIME: Unknown
10 RECORDING NO.: Lynda Obst 3-20-15 (1hr46min).MP3
11 DEPUTY D.A.: John Lewin
12 D.A. UNIT: Major Crimes Division

13
14 LEGEND:

15 D – DDA John Lewin
16 B – DDA Habib Balian
17 S – LADA SI Jeff Savarese
18 O – Lynda Obst
19 U -- Unidentified Voice
20 *** Unintelligible

21
22 TRANSCRIPT PROVIDED BY

23 Los Angeles County District Attorney's Office

24
25 August 2015

26
27
28 sam

1 O She didn't know what the mob really was.

2 B She –

3 O She didn't know that all her uncles were, you know, killers.

4 And that she didn't know that her father was Bugsy Siegel's, you know,
5 take-down man.

6 B Right-hand man. And a member of Murder, Incorporated?

7 O And a member of Murder, Incorporated.

8 B So, it would be fair to say, from – based on what you knew,
9 and your experiences with her, up to that point in her life, she had no
10 contact with any of those –

11 O Well, when I met her –

12 B -- those kinds of activities?

13 O -- she had just found out.

14 B Yeah. Okay.

15 O Which was a really interesting moment to know her. And I
16 later came to see incredibly critical in her romancing Robert Durst. But,
17 we'll get to that.

18 B Okay.

19 O So, uhm, -- so, it was a, you know, big splash.

20 B She – she – she sold approximately a half million dollars,
21 right; if I remember?

22 O Yes. We sold it for half a million dollars.

23 B And that's – what year approximately is this?

24 O Okay. I'll tell you exactly what year it was. 1981.

25 B That's a lot of money back then.

26 O It was – it was –

27 B Even today that's a lot of money.

28 O Yeah. And it was a big purchase.

1 B Yeah.

2 O And she had – it was all blown up. And she was on TV. And
3 she went on “The Today Show.” And she did a big book tour. And
4 Bobby Durst was going to – gave us our book party.

5 B Okay.

6 D So, is that when – so –

7 O And I met Bobby Durst.

8 D So, you met Bobby through Susan?

9 O I met Bobby through Susan, yes.

10 D At this book party?

11 O A little before.

12 D Okay.

13 O She kept trying to tell me about him and get me to meet him.

14 D So – so, if you can, so, starting with – let’s go the earlier

15 times you heard, what was the relationship between Susan and Bob

16 Durst? And what would she say about him?

17 O She thought he was the beginning and the end of the earth.

18 She thought he was the Beast. He was her best friend. He was rich. He

19 was powerful. He was fabulous. He was the greatest guy. And I just

20 didn’t pay any attention. And this is critical to what later occurred and

21 why I didn’t remember what she was saying to me.

22 D Okay.

23 O She kept trying to blow him up to me. And he just didn’t

24 catch my attention, because he was a rich Jewish boy in real estate.

25 And I grew up in Westchester with rich Jewish boys in real estate.

26 D Right.

27 O They were a dime a dozen to me.

28 D Just – just to be fair, I’m a Jewish boy. But, not rich or – or in

EXHIBIT 8

LOS ANGELES COUNTY DISTRICT ATTORNEY

PEOPLE OF THE STATE OF)	Case No. SA089983
CALIFORNIA,)	
Plaintiff,)	
)	
vs.)	
)	
ROBERT DURST,)	
)	
Defendant.)	
<hr/>)

INTERVIEW OF: ROBERT DURST (12-13-10)

BY: ANDREW JARECKI (MOVIE DIRECTOR) AND UNIDENTIFIED
MALE SPEAKERS AND FEMALE SPEAKER

AUDIO FILE NO.: DECEMBER 13, 2010 DAY THREE

TRANSCRIBED BY: APRIL MARIE CARLOS

JOB NO.: PS-14

1 ROBERT DURST: I -- I don't remember talking to
2 her the last couple of weeks before Kathie disappeared.

3 ANDREW JARECKI: And after Kathie disappeared, do
4 you remember talking to her? (2:03:01.3)

5 ROBERT DURST: Well, right away, I -- I -- when
6 I -- when I saw the media was in -- in the thing, and
7 they were calling, and I -- I -- either told the media
8 to call Susan, or I told Susan, "I got a call from this
9 reporter and this reporter and could you call them back
10 and you just handle it."

11 ANDREW JARECKI: Um, so all these people who --
12 who had, let's say, genuine relationships with -- with
13 Kathie, uh, from Jim, to her mother, to her -- to
14 Kathie Traystman, who I think, uh, you know, is more
15 rational.

16 ROBERT DURST: Where is Kathie Traystman? Is she
17 still a nurse in the city somewhere?

18 ANDREW JARECKI: She's in Long Island now. She
19 lives in, uh -- in one of the Hamptons.

20 ROBERT DURST: Oh, good for her.

21 ANDREW JARECKI: Yeah. I think she's doing good.
22 She was living in Battery Park City for a while, that's
23 where I met her. And then, eventually, she ended up
24 in the Hamptons. Um, so of -- so all these people who
25 loved Kathie; Jim, and Kathie Traystman and, um -- uh,

1 with something. And he was asking me endless questions
2 about some, you know, the stuff that happened 20 years
3 ago, and all the rumors, back and forth, and this and
4 that. Oh, and Susie Berman was dead around then.

5 ANDREW JARECKI: Uh-huh.

6 ROBERT DURST: This was now, you know, at the end
7 of the year and, uh, Susie Berman was dead. And this
8 was (Untranslatable Sound 3:24:20.7). Obviously, I had
9 killed Susie to keep her quiet. I mean, you -- the
10 story just went right to where it -- it ended up.

11 ANDREW JARECKI: So, uh, you hear about this
12 investigation, you read the article, you're back in the
13 New York area around that time --

14 ROBERT DURST: And I freak. (3:24:44.1)

15 (15:06:50:04)

16 ANDREW JARECKI: And what does that mean?

17 ROBERT DURST: We'll -- well, now, I can also say
18 I went bananas. That's the same thing. Um, I was
19 sure -- based on what Joe Cohen was telling me -- that
20 they were gonna charge me with something, and the whole
21 idea of being charged with something, um, having people
22 invest -- and not so much investigate, but -- but that
23 people are gonna find me guilty. I mean, I'd -- I'd
24 been guilty for years in the newspapers, et cetera, et
25 cetera. Now, they're really gonna find me guilty. And

1 if they don't find me guilty, I'm gonna be in jail
2 when, you know, I -- on -- on -- oh, whatever it --
3 whatever -- before the trial, et cetera, et cetera, et
4 cetera.
5 So -- so what I did was, I decided I gotta go into
6 hiding. And I had an apartment in Dallas. I'd been to
7 Galveston, Texas, a bunch of times and it seemed like
8 about as good a place to hide as one in the world. So
9 I -- I took the computer and some other things out of
10 the apartment in the city and out of the house in
11 Ridgely and I went, um, I flew it to -- to Dallas --
12 (Untranslatable Sound 3:26:08.4). Excuse me.
13 Got the car, drove to -- I mean, the car was in
14 garage in the building I had in Dallas -- drove to
15 Galveston, which is, uh, four -- four and a half hours,
16 or so, with the intention of hiding and living in
17 Galveston the rest of my life, or whatever, or -- or
18 until this -- this went away if nothing happened or
19 if -- if -- whatever.
20 ANDREW JARECKI: Uh-huh.
21 ROBERT DURST: And then I'd started putting all
22 the details on the plan. And the details were
23 well-known by now. I've gotta hide my face because if
24 they actually do this, my picture will be every place.
25 Um, the only disguise I can imagine is the -- let's try

1 a wig. I know I can't do a beard. That's not gonna
2 disguise me very well.
3 I can't grow a long hair right away. Um, I came
4 up with the idea of being a woman in a wig. Went to
5 Dallas, went to the apartment, went to a wig store,
6 tried on a wig, and I said, "Gosh, this looks pretty,
7 pretty, pretty good." With the hair here, and the hair
8 here. Um, a good shave. I -- I'm gonna be looking
9 sort of like a woman, or if not just like a woman,
10 close enough.

11 ANDREW JARECKI: Did, uh -- you know, there's been
12 some speculation over time, there was a whole article
13 about it that, actually, you're gay, and that you're a
14 cross-dresser --

15 ROBERT DURST: That I'm transvestite.

16 ANDREW JARECKI: That you're a transvestite. Tell
17 me about, uh -- any -- was there any, uh, element in
18 your life? Any interest that you had in any of this
19 kind of stuff that would result in you wanting to dress
20 as a woman, or was it the pragmatic choice? (3:27:54.7)

21 ROBERT DURST: It was strictly a pragmatic choice,
22 and to dress as a woman was -- was the wig. I mean, I
23 wear a -- wore a big, fat shirt and big, fat cargo
24 pants and sneakers. And that's the way people in their
25 50s, women, men, whatever, dress like in -- in rural --

1 she had been contacted by the police?

2 ROBERT DURST: Yes.

3 ANDREW JARECKI: What did she say, if you

4 remember?

5 ROBERT DURST: She said, "The Los Angeles Police

6 contacted me. They want to talk to me about Susie

7 Berman. I think I and you were going best off if I

8 just talk to them." (3:36:48.5) (15:18:56:00)

9 ANDREW JARECKI: She said, "They want to talk to

10 me about Susie Berman"?

11 ROBERT DURST: I'm sorry. Susie Berman said, "The

12 police have contacted -- the Los Angeles Police have

13 contacted me. They want to talk to me about your -- or

14 Kathie Durst's disappearance."

15 ANDREW JARECKI: Uh-huh.

16 ROBERT DURST: And this was probably before the PR

17 guy told me that the newspapers are doing these

18 articles.

19 ANDREW JARECKI: Uh-huh. Um, and she was, in any

20 event, uh, I think also contacted by Bagli at one

21 point. Did you know that?

22 ROBERT DURST: Wouldn't be surprised. T mean the

23 media will follow anything. You know, thing, like,

24 the -- with the police.

25 ANDREW JARECKI: Uh-huh.

1 ROBERT DURST: They're gonna follow.

2 ANDREW JARECKI: Um, I understood that Nick Chavin
3 was the one that suggested to the, uh, to Bagli that he
4 called Susan Berman because you and Susan Berman were
5 very close friends. (3:37:35.3)

6 ROBERT DURST: Oh, that was not nice of him. But,
7 anyway, I don't, you know, it happen, it happened. I
8 never heard that.

9 ANDREW JARECKI: Um, and, uh, had Susan,
10 particularly, been leaning on you for money more
11 recently or --

12 ROBERT DURST: No. No. It was not more recent.
13 She wanted \$25,000, and then the car broke.

14 ANDREW JARECKI: Right. Um, and then, so in
15 November of 2000, did you send her this \$25,000?

16 ROBERT DURST: Yeah. I send her what I'd been
17 sending her frequent -- or periodically, the \$25,000,
18 and I sent her another one when the car broke. I mean,
19 right -- right within a couple of weeks.

20 ANDREW JARECKI: So, basically, you send her 50,
21 all together?

22 ROBERT DURST: Yes. I sent her two -- right,
23 \$25,000 checks. (3:38:20.7) (15:20:26:10)

24 ANDREW JARECKI: Right. Um, and then around
25 November, uh, 12th, you called Susan Berman, and after

1 that she said that she, uh, believed that you were
2 gonna come and visit her? Do you remember this?

3 ROBERT DURST: No. (3:38:39.0)

4 ANDREW JARECKI: Did you ever say to Susan that
5 you were thinking about coming to visit her?

6 ROBERT DURST: No -- well, not that -- that year.

7 ANDREW JARECKI: Um -- so you're giving her some
8 money. You're saying, basically, you're giving her the
9 same amount of money or same increment of money that
10 you'd been giving her in the past. Um, and, uh, this
11 time, you're -- you giving her \$50,000. Half of it --

12 ROBERT DURST: Oh, I give her 25, and then I gave
13 her another 25.

14 ANDREW JARECKI: Right. You gave her 25, and then
15 her car breaks down, and you give her another 25. Um,
16 and then, I guess, in November, there was a -- um -- a
17 mag -- an article in People Magazine; November,
18 December, there was an article in People Magazine about
19 the case --

20 ROBERT DURST: Yeah, well -- yeah, the article in
21 People came out after the Jeanine Pirro and the -- the
22 -- the -- and the newspaper talking about the police
23 investigation. The -- the People -- I know -- I
24 thought it came out towards the end of December, but I
25 could have that wrong. (3:39:38.9) (15:21:44:18)

1 their jurisdiction. They would get the local people
2 involved.

3 ANDREW JARECKI: Um, and did you have any feeling
4 about what she was doing in talking to the police? Did
5 you feel like she was --

6 ROBERT DURST: She said, "Bobby, it's gonna be
7 best for both of us if I -- I just talk to them." And
8 all right. What am I gonna say; no? Talk to them.

9 ANDREW JARECKI: Was -- was there anything that
10 Susan knew about you, your history, Kathie, no Kathie,
11 whatever it was; was there anything that Susan knew, as
12 your, sort of, confidant, that you would have been
13 uncomfortable with her telling the police?

14 ROBERT DURST: No. We had lots of private things,
15 but none of that had anything to do with Kathie. I
16 mean, when Kathie was, you know, going bananas, we
17 would talk about Kathie all the time. I couldn't
18 imagine her talking to the police about that, uh, just
19 sitting here right now. "But the police want to talk
20 to me. I'm just gonna talk to them. Is that alright?"
21 And like -- like, that was the conversation. "Do
22 whatever you want."

23 ANDREW JARECKI: Uh-huh. Um, and then, um --
24 something happens to Susan then. Um --

25 ROBERT DURST: She --

1 ANDREW JARECKI: Tell me about that.

2 ROBERT DURST: I read the newspaper and -- and I
3 saw that these places had apartments for rent, and they
4 were having open houses. So I put on my wig, and I got
5 my big fat shirt and -- and cargo jeans, and I wrote my
6 "I am mute" note, and I went to -- I guess, I just went
7 to two open houses and -- and -- and this one was the
8 better one; better apartment.

9 This -- and this wasn't much. (Untranslatable
10 Sound; Laughter 4:25:53.4). The first one was more of
11 a -- really of a rooming house, there were just rooms.
12 Um -- I -- yes. And I -- I went here, and I went and
13 showed the -- the guy, Klaus Dillman, my -- my note.

14 And he -- right? I'm a woman. As far as he was
15 concerned, I mean, I never saw the -- the -- the look
16 in his face that would make me think, well, he doesn't
17 believe me, or anything like that. I went, he showed
18 me the apartment. I gave him a "thumbs up." Uh, he
19 got out a lease, \$300 a month. I mean, it was a year
20 lease. I signed it, gave him more than -- I gave him,
21 like, \$900, or \$1,200, so I wouldn't have to pay the
22 rent every month.

23 ANDREW JARECKI: And at what point --

24 ROBERT DURST: And I was so proud of myself. You
25 got a place to hide, and it was easy.

1 ANDREW JARECKI: Yeah. And, um, at what point did
2 you meet Morris Black? (4:26:53.7) (16:22:13:07)

3 ROBERT DURST: First night I was there.

4 ANDREW JARECKI: Tell me about meeting Morris.

5 ROBERT DURST: Open the door, go out into the
6 hall, I was gonna go out for walk on the seawall and
7 then go have a drink or get something to eat or
8 something like that. There was no furniture in the
9 apartment. So that first night, I -- I -- I slept on
10 the floor, carpeted floor. But I slept on the floor,
11 and it wasn't until the next days -- uh -- uh, I don't
12 want to give you the days. I'll get them wrong. Um,
13 but the next day, I -- I -- I went to the local
14 furniture store, which was Star Furniture, and I bought
15 furniture and arranged for them to deliver it. And I
16 think I had the -- yes. I had the wig on, so I was
17 writing notes. Oh, it's pretty easy, that, that, that
18 and that, and give them cash, and they were gonna
19 deliver it the day after that. Or the -- I might have
20 gone there on -- on -- I might have gone there on a
21 Friday and bought the furniture on a Saturday and it
22 wasn't gonna be delivered till Monday.

23 ANDREW JARECKI: Uh-huh.

24 ROBERT DURST: And I did the same thing with the
25 linen and the rest of it. There was a Wal-Mart there,

1 and I went to the Wal-Mart, by taxi. I bought a
2 television and -- and -- and the rest of the stuff that
3 you would need in a little itty-bitty apartment to live
4 there. (4:28:09.2) (16:23:29:20)

5 ANDREW JARECKI: And when did you run into Morris?

6 ROBERT DURST: That first night. On the way out
7 of the building, Morris is there, not that different
8 from your movie. "Turn the light off. It's on my meter.
9 You hear me?" Or whatever he said, and I -- I -- I
10 wrote a note or gave him a note. And he's -- and this
11 kind of blows people away, I'm mute. And, you know,
12 people think "disabled." Um, anyway that -- that was
13 that.

14 ANDREW JARECKI: When you first saw him, did
15 you --

16 ROBERT DURST: I think he believed I was a woman
17 for a while, for a good while.

18 ANDREW JARECKI: And --

19 ROBERT DURST: I guess he believed I was a woman,
20 until he saw me not a -- not as a woman. Or, I mean,
21 when he -- when he saw me not as a woman, then he
22 definitely didn't believe me that -- that I was a
23 woman.

24 ANDREW JARECKI: And, um, at -- at one point --
25 at -- at what point did the relationship go from just

1 seeing someone in the hall, to actually having a
2 conversation? (4:29:05.9) (16:24:26:20)

3 ROBERT DURST: Oh, right away be -- because, uh --
4 whatever the first Friday that I slept there was -- I
5 just don't remember how soon it was. It must have been
6 the next Friday after I went there because I -- he
7 heard the television.

8 I didn't have the television till the -- you
9 know, I don't know, sometime in the middle of the week,
10 something like that. He heard the television, and he
11 knocked on the door and he said, "I like to watch Louis
12 Rukeyser, um, Wall Street Week. Can I come in and
13 watch it with you?"

14 And that was what was on, and he has some -- has a
15 very distinctive voice, and they play very specific
16 music. And I looked at him, and I thought, well, you
17 know, why not.

18 ANDREW JARECKI: And so he came in and watched the
19 show in your apartment?

20 ROBERT DURST: He came in and watched the show and
21 he -- and there -- there -- there was chairs by the --
22 the table where I was sitting and there was the bed and
23 he sat on the bed.

24 And I said, "No, no, no. Take a chair. Sit over
25 there." And I was having, uh, probably, a Jack

1 speculation that he used to run a -- a -- a, um -- a --
2 a store in New York City, a watch repair. He had a
3 place in a Durst building. Did any of that --

4 ROBERT DURST: None of that is true. (4:33:01.1)
5 (16:28:22:16)

6 ANDREW JARECKI: Um, and -- and he was also -- um,
7 how would you describe him in terms of people's
8 perception of him?

9 ROBERT DURST: Cantankerous.

10 ANDREW JARECKI: Maybe a full sentence on that.
11 Morris?

12 ROBERT DURST: I would describe Morris Black as
13 being a cantankerous in the extreme.

14 ANDREW JARECKI: Give me an example of that?

15 ROBERT DURST: Morris Black had opinions about
16 anything and he would express them to anybody and he
17 wanted you to get into a conversation with him and if
18 you didn't want to talk to him about whatever it was,
19 he -- he -- he would argue with you.

20 ANDREW JARECKI: So he had trouble making friends?

21 ROBERT DURST: That -- that -- that's probably the
22 biggest understatement I've heard in long time. Morris
23 Black made no friends with nobody because he made
24 everybody -- he tried, but he made everybody angry.

25 ANDREW JARECKI: And in -- in a way, you had

1 ROBERT DURST: Well, I stopped wearing the woman's
2 wig. So, now, I'm coming and going from this old
3 house. Our doors were both open onto the same wall. If
4 I wanted to go out of the building, I would go out the
5 door, and -- and then his door would be across. So
6 I -- I -- he started seeing me.

7 ANDREW JARECKI: When you first --

8 ROBERT DURST: And he didn't say anything. He
9 didn't say: Oh, you're a guy. Uh, when I started not
10 wearing the wig, and I started, you know, being -- I
11 always referred to myself as "Jim" out there, but I
12 started being Jim, or whatever I told people my name
13 was, I would talk. (4:35:38.3) (16:30:56:10)

14 ANDREW JARECKI: Did -- was there ever a moment
15 when he said, Hey, for the last couple of weeks you've
16 been writing me notes and wearing a wig. Now, you're
17 not writing notes --

18 ROBERT DURST: When -- when --

19 ANDREW JARECKI: -- you can speak --

20 ROBERT DURST: -- we became friendlier, as time
21 went on in the following months, he asked about, "How
22 come you -- you know, we're here. Where -- why --
23 why'd you rent the apartment as 'Dorothy Ciner?'"
24 And -- and like that. And I told him, I wanted to
25 disappear and hide. I think I'm -- I'm hiding. I

1 don't find anybody recognizing me.

2 ANDREW JARECKI: And did he judge in anyway? Did
3 he say, oh, it's a weird thing to do? Or -- (4:36:12.0)

4 ROBERT DURST: No, it was just the opposite. He
5 said, "Yeah, yeah. I did that a long time ago."
6 Didn't say he changed his name or he dressed like a
7 woman or -- but, yeah, when I said, "I just didn't want
8 to be Robert Durst anymore," he said, "Yeah, I went
9 through that."

10 ANDREW JARECKI: Yeah. Yeah. Um, there was a
11 story about, uh, at -- at some point you went to visit,
12 uh, Ted Hanley, at the Jesse Tree, maybe at -- with
13 Morris --

14 ROBERT DURST: With Morris.

15 ANDREW JARECKI: With Morris.

16 ROBERT DURST: With Morris, with tape over our
17 glasses.

18 ANDREW JARECKI: Now what -- tell me about that.
19 That's an amazing story.

20 ROBERT DURST: Morris asked me to do that.

21 ANDREW JARECKI: What did he ask you to do, and
22 what did you do?

23 ROBERT DURST: He -- he -- he said, "Listen,
24 there -- there's this --"

25 ANDREW JARECKI: Morris. Morris said --

1 month. I -- I -- I went online every morning at the
2 Rosenberg Library and would -- would -- would look up
3 the New York -- Westchester newspaper, or whatever they
4 call the thing now, um, and put my name into it and see
5 if there was anything from Jeanine Pirro.

6 And there was frequently stuff, but it never went
7 anywhere. And, now, I was very curious. Well, first, I
8 was -- was -- was -- was dying to go back to a regular
9 life; and, second, uh, the -- the -- the -- the
10 articles were becoming more infrequent and they were
11 becoming more identical and nothing ever happened and I
12 was dying to get back to my real life. (4:45:01.8)

13 And I wanted to see what the lawyer Joel Cohen had
14 to say about it now. Uh, he -- he -- he's got my
15 passport, meanwhile. And I was expecting him to say,
16 Oh, she's obviously not doing something. It's taking
17 too much time. And I was gonna say, good, give me my
18 passport. And that was gonna be the end of that. I
19 mean, I wasn't gonna keep investing. If something
20 happened it was gonna happen, but I wasn't gonna
21 prepare for it.

22 ANDREW JARECKI: Um, at some point, uh -- the
23 relationship with Morris went south. (4:45:38.3)

24 ROBERT DURST: Just towards the end of the time,
25 when I decided I was leaving Galveston.

1 ANDREW JARECKI: Tell me about that.

2 ROBERT DURST: Well, it was after 9/11. So
3 that's, you know, September 11th. At 9/11, he sort of
4 freaked. Uh, he was sure that they were blowing us all
5 up. And who was blowing us all up? Well, our
6 government was blowing us all up, or whatever it was.
7 But that -- that the country was gonna become totally
8 controlled. It was gonna become a dictatorship.
9 (4:46:08.0)

10 And he couldn't stop watching the thing on
11 television, and I -- I -- I mean, I -- I'd first told
12 him to turn the television down because I'm going to
13 sleep. And I told him, "You can't watch it here
14 anyway. You're gonna have to go watch it someplace in
15 the middle of the night."

16 Um -- and he did that. And then he got a letter
17 from the landlord that said, "Get out." And they have
18 open houses all the time in Galveston. It's something
19 people do. Uh, houses turn over very infrequently, and
20 we had been going to open houses for a while. And he
21 had sort of made it known, "Well if you buy this house,
22 there'll be plenty of room for me." This is true,
23 there would have been plenty of room for him, except
24 that he -- personality takes up all of everything, and
25 I didn't want him living with me.

1 summerhouse here, but I'm leaving." (4:49:33.1)

2 I get back to the apartment building, and he's --
3 oh, well, I mean, obviously, it was him. He was in the
4 apartment. I could hear the TV from outside. Opened up
5 the door, ready to start yell -- oh, and also, since
6 I'd taken the key away, he must have made an extra key.
7 Um, and then that went through my mind right away.
8 He's in the apartment. He made an extra key. Walk
9 into the apartment, he's sitting at the table.

10 Uh, there -- there -- there's a yellow thing on --
11 on -- a sweater, or whatever, jacket on top of the
12 table. And I'm, you know, primed, "Morris get out of
13 here, period. I'm leaving. Get out. I don't ever want
14 to see you again." He takes the gun out from under
15 whatever the yellow thing is on the -- on the table. I
16 grabbed him, and the gun, and we fall down in the
17 kitchen. The gun goes off and shoots him in the side
18 of face. (4:50:32.1)

19 ANDREW JARECKI: Where did he get shot?

20 ROBERT DURST: Right here, left side of his nose.

21 ANDREW JARECKI: And where did the bullet
22 penetrate, from as much as you can remember?

23 ROBERT DURST: From his front someplace.

24 ANDREW JARECKI: But it went in -- into his head?

25 ROBERT DURST: It went into his head, on the left

1 side of his nose. There was blood right there, there,
2 there.

3 ANDREW JARECKI: And, uh, oh -- how did you feel
4 when that happened?

5 ROBERT DURST: I -- shocked, amazed, overwhelmed,
6 astonished. My elbow hurt. Scared.

7 ANDREW JARECKI: And, so suddenly, he -- that was
8 it, he was dead?

9 ROBERT DURST: Yes, he was dead. (4:51:09.3)

10 ANDREW JARECKI: And then, now, you're in your
11 apartment, Galveston, Texas --

12 ROBERT DURST: Yeah, he's dead --

13 ANDREW JARECKI: -- and you have this --

14 ROBERT DURST: -- I -- I -- I sat down on the bed
15 for hours, trying to figure out what I'm gonna do.

16 ANDREW JARECKI: And then what through -- what
17 went through your mind?

18 ROBERT DURST: I can't go to the police. I can't
19 go to the police. I can't go to the police. The
20 police are gonna want to investigate it and ask me a
21 zillion questions. And from -- from -- from the -- the
22 outset, I'm gonna say, "Well, my name's Robert Durst,
23 and I wanted (sic) -- I rented this apartment disguised
24 as a woman named Dorothy Ciner." I mean, I can just
25 picture myself going to the police precinct to report

1 this. My name is Robert Durst. Um, I rented this \$300
2 a month apartment disguised as a woman named Dorothy
3 Ciner. Um, my -- my neighbor is lying on the kitchen
4 floor with a bullet wound in his face. He's dead. Uh,
5 the bullet came from my gun. Oh, and this is an
6 accident. Oh, and by the way, I'm a rich guy from New
7 York and my first wife disappeared and, um, I was never
8 charged, but there was lots of speculation that I did
9 it. And they're gonna arrest me. What else could they
10 possibly do? (4:52:29.3)

11 ANDREW JARECKI: What about Susan Berman? There
12 was that too.

13 ROBERT DURST: I -- I don't know if I thought
14 about that then. It was Kathie that was out there, out
15 there, out there. Even Jeanine Pirro, "Yes, Susan
16 Berman was a tail end little thing." It was always,
17 "Oh, and his good, best friend Susan Berman, uh, --
18 who -- who was the, um, speaker when -- when his wife
19 disappeared, was -- was murdered." But the story was a
20 Kathie story.

21 ANDREW JARECKI: Um, so after you, uh -- uh, the
22 gun went off, you had this sit down, you thought a lot
23 about it, and you decide you need to get rid of...

24 ROBERT DURST: I decided I couldn't report this to
25 the police. I --

1 ANDREW JARECKI: So what was --

2 ROBERT DURST: -- needed another alternative. And

3 the immediate obvious alternative was just leave. Just

4 leave. (4:53:26.6)

5 ANDREW JARECKI: Well, nobody knew who you were.

6 ROBERT DURST: No one knew whom I were -- who I

7 was. It's --

8 ANDREW JARECKI: But you didn't leave.

9 ROBERT DURST: Oh, I just -- I'd been living --

10 here off and on for the last year. My fingerprints

11 must be everywhere. That turned out to be a wrong

12 assumption, but, uh, my fingerprints are gonna be

13 everywhere. They're gonna find out who I am. I was

14 fingerprinted several times in New York. Well, if you

15 get a liquor license, which I did, you have to be

16 fingerprinted. When, um, Kathie disappeared, I agreed

17 to be fingerprinted.

18 ANDREW JARECKI: So you were fingerprinted, and

19 now you knew that there was at least -- some decent

20 chance --

21 ROBERT DURST: There's zillion fingerprints in

22 here. Everything's been touched by me.

23 ANDREW JARECKI: Right.

24 ROBERT DURST: I thought about trying to clean it.

25 But I -- how do you clean off fingerprints which you

1 (4:55:30.2)

2 ANDREW JARECKI: So what did you decide to do to
3 get rid of the body?

4 ROBERT DURST: Well, I decided I would wait until
5 night, and I'd pick it up and carry it out of there.
6 And then I realized, I wasn't picking up that body and
7 carrying it anywhere because it much -- I mean, I
8 wasn't strong enough to do that. I could drag it out,
9 but I just couldn't see -- I mean, I thought about
10 putting it in a sleeping bag, or something, and then
11 dragging the whole thing out, but good God that's
12 ridiculous. (4:55:54.6)

13 ANDREW JARECKI: So you decided instead...

14 ROBERT DURST: I decided to -- it wasn't till the
15 next day when I -- when -- I can't just drag it out.
16 Um, I -- I'm gonna have to dismember this body.

17 ANDREW JARECKI: So what did you do to prepare for
18 that?

19 ROBERT DURST: Oh, I -- in -- preparing to go back
20 to the apartment at all, I'd gotten stoned and very
21 drunk. Um, and I went back, and -- and I realized I
22 couldn't lift it. I couldn't drag it out. I was gonna
23 have to dis -- dismember it. And then I went to
24 Chalmers Hardware Store. And now -- and -- now, Morris
25 had tools.

1 He had saws and ax -- and axes. He had a giant
2 axe. Uh, I don't think he had a, uh -- I don't think he
3 had a bow saw. Anyway, I went and bought a bow saw,
4 and I got a bunch of garbage bags, and the stuff like
5 that and went back to -- to -- to the house and, uh --
6 I'm sure I got more stoned and more drunk, and I
7 dismembered the corpse; primarily with the axe, but
8 some with the bow saw, and I think another saw that
9 Morris Black had.

10 Took the body parts and took any -- everything
11 else there that was bloody, that -- whatever it was
12 that I ended up cleaning up the place with. Put him in
13 the garbage bags and that -- that -- that night, I put
14 the garbage bags in my SUV and drove to find someplace
15 to dump the garbage bags. It immediately became obvious
16 to me I'd dump them in the water because they'll sink.
17 Nobody would have seen them. The garbage bags are
18 heavy, and that's what I did. (4:57:47.8)

19 ANDREW JARECKI: So you drove to Galveston Bay?

20 ROBERT DURST: Yeah. I drove around for a while
21 because I had to get to someplace on the bay where I
22 could put the car near a -- a -- a, um, pier, or
23 whatever you want to call it. I couldn't take it that
24 way. I couldn't go to the beach and leave the -- the
25 car at the seawall and walk down the beach with my

1 garbage bags. And besides that, the -- you know, it was
2 a typical beach -- particular, um, golf beach where it
3 went very gradually. It didn't get deep, deep until you
4 were way out. (4:58:32.1) (16:53:50:08)

5 ANDREW JARECKI: Uh-huh.

6 ROBERT DURST: So I had to find a place along the
7 bay, and I drove around for a while until I found one.

8 ANDREW JARECKI: And had you done any work to try
9 to figure out whether the tide was coming in, the tide
10 was going out?

11 ROBERT DURST: I wouldn't know how to begin.

12 ANDREW JARECKI: So you, basically, just decided
13 you were gonna drop him off --

14 ROBERT DURST: I figured it was deep; gonna drop
15 it, it's gonna sink. Who cares where the tide is going?
16 It's underwater, nobody's gonna see it.

17 ANDREW JARECKI: Right. But the bags didn't sink?

18 ROBERT DURST: No.

19 ANDREW JARECKI: What happened?

20 ROBERT DURST: They floated.

21 ANDREW JARECKI: Because of the air that was in
22 the bags?

23 ROBERT DURST: Well, seemingly, body parts flow --
24 float. Also, when -- when I first -- you know, when
25 people were first asking me, just because they're heavy

1 apartment, period. (5:00:15.4)

2 ANDREW JARECKI: And did you ever have a moment of
3 reflection in this period of time where you thought,
4 how is this possible that I've gone from penthouse
5 apartment on 37 Riverside Drive, and somehow through a
6 series of different moments and events and
7 circumstances, now, I'm in Galveston, Texas. I've got
8 a -- a, uh -- I've got my -- my -- my wife is gone. My
9 best friend is gone, and I'm in Galveston, Texas, with
10 a dead guy on my floor. And my biggest problem right
11 now is trying to figure out what to do with the body?

12 ROBERT DURST: Well, I don't know if I put all
13 that together quite like that. When I first started
14 running away from Jeanine Pirro and realized I had
15 400,000, more or less, dollars, and if I find some
16 cheap place to live, that'll last me for 20 years, but
17 I can't do any of the things I used to do. I can't get
18 a driver's license. Can't get a telephone, um, on and
19 on and on like that. I mean, I -- I focused on, good
20 God, Robert. How did you do this? How did you do
21 this, Bob? Look what you've done to yourself. But
22 with Morris Black, it wasn't until I looked back on it,
23 and I saw each of these things getting worse and worse
24 and worse and worse. (5:01:31.4) (16:56:48:00)

25 ANDREW JARECKI: So there was some discussion

1 lived. I mean, they -- the -- the police weren't
2 supposed to get the body parts. What difference did it
3 make what was in the bags? (5:05:25.6) (17:00:42:15)

4 ANDREW JARECKI: I never thought of that.
5 Interesting.

6 ROBERT DURST: Well, I mean, maybe, I never
7 thought the other. Gosh, if they -- if the police
8 actually find these garbage bags, and the body parts
9 are in it, this is gonna take them right back to my
10 apartment. I -- I never went like that. They're not
11 gonna find the garbage -- I mean, if -- if the whole
12 concept -- if I'm gonna throw the garbage bag someplace
13 where they are gonna be found, I'm throwing it in the
14 wrong place. The idea is to throw them someplace where
15 nobody will ever see them again.

16 ANDREW JARECKI: So the police do find their way
17 back to the, uh, rooming house. They talk to Klaus
18 Dillman and, uh --

19 ROBERT DURST: The police go into the -- the trash
20 cans in -- in back of the house, and the stuff that
21 went into the -- that was supposed to go into the
22 garbage brags (sic) that were -- that -- that I threw
23 in the water to sink, that I accidentally put in the
24 wrong garbage bag, and it went into the ashcan in the
25 back, like -- like -- like -- like -- like -- like, my

1 alias that you used. And, I guess, you used a lot of
2 aliases overtime --

3 ROBERT DURST: But with Dorothy Ciner, I -- you
4 know, I signed the -- the -- the lease "Dorothy Ciner."
5 I -- uh, well, I guess I didn't use -- really use
6 Dorothy Ciner for any other time. I can't remember
7 identifying myself. Other than when I rented the
8 apartment and signed the lease, I was Dorothy Ciner.
9 But once I was, you know, in -- in -- in Galveston,
10 anything I did, I would put a phony name on it.

11 ANDREW JARECKI: Well, I know that there were a
12 whole bunch of them. There's Robert Jezowski?

13 ROBERT DURST: Yeah, I saw that all over. I don't
14 know who he is. When -- when -- when I was -- um --

15 ANDREW JARECKI: It says you --

16 ROBERT DURST: -- I guess I --

17 ANDREW JARECKI: -- used his social security
18 number --

19 ROBERT DURST: -- when I was first arrested in --
20 in Galveston, I'd gone back to Galveston from
21 New Orleans and I had gone to a motel and I had checked
22 in and I would just scribble it. And if they asked to
23 see an ID, I would say, "Oh, it's out in the car. Can
24 I bring my suitcases up, and I'll show it to you in --
25 in a little bit." (5:09:50.6)

1 And they'd always say "yes." Most of the time,
2 they didn't even to ask to see an ID, and I would
3 scribble something or other. Now, and then, I had a
4 problem with forgetting who I was supposed to be. Um,
5 and when I went back from New Orleans to Galveston, and
6 I was subsequently arrested the -- the same -- the --
7 the next morning, when I was subsequently arrested the
8 next morning, I had signed something that could be
9 construed as James Turss, T-u-r-s-s.

10 And it turned out that James Turss was the
11 president of the law school in -- in the University of
12 Texas, Austin, or something, or other. And he said he
13 had no other idea I was using his ID. He never heard
14 of me before, and I never heard of him before. I just
15 made up his name. And there was a --

16 ANDREW JARECKI: Well, they -- I'm just gonna read
17 them to you just -- just -- just -- just because it --
18 it might spark something --

19 ROBERT DURST: It'll be interesting. Go on.

20 ANDREW JARECKI: Robert Jezowski.

21 ROBERT DURST: Never heard of him.

22 ANDREW JARECKI: Uh, James Fleishman.

23 ROBERT DURST: Never heard of that.

24 ANDREW JARECKI: Uh, that was a second social
25 security number. Um -- uh, you used his social

1 ANDREW JARECKI: Twenty minutes now, and then
2 seven days later.

3 STEVEN RABINOWITZ: If we need it.

4 ANDREW JARECKI: All right. Um --

5 ROBERT DURST: You -- you -- (5:16:44.9)

6 ANDREW JARECKI: Um, so, uh -- um, let's talk
7 about the, uh -- uh, let's talk about the trial because
8 I think that's the critical missing piece. Um -- uh,
9 you are in, um -- uh -- you get arrested in Galveston.
10 Um, we've discussed that you go on the lam. You're --
11 you're -- you're traveling around the country. You end
12 up in Bath, Pennsylvania, you are in a Wegmans
13 supermarket. Am I right?

14 ROBERT DURST: Right.

15 ANDREW JARECKI: Um, and, um -- uh -- just
16 quickly, what -- tell -- tell me about that -- the
17 getting arrested at Wegmans; a short version.

18

19 ROBERT DURST: A short version -- excuse me. I
20 went into the Wegmans to do grocery shopping, get the
21 newspaper. Um, I was leaving, uh, Bethlehem,
22 Pennsylvania, on that day. I sort of figured I had
23 done Bethlehem, Pennsylvania. I was ready to leave,
24 and I decided I would go to Elberon, New Jersey, Long
25 Branch, where we had a -- a summer home, and that's

1 where I was gonna go.

2 Um, so I check out of a motel. I go to Wegmans
3 on the way to go -- driving to New Jersey. Um, I don't
4 know what gave me the idea that I should shoplift --
5 to -- to see if I could get away with it, or whatever
6 it was, but I decided rather than to pay, I was just
7 gonna take it. I -- it was a long line, but that's not
8 the reason to shoplift. Uh, so I did that, and I
9 had -- when I'd first gotten there, I realized I'd cut
10 myself when I was shaving, I needed a Band-Aid.

11 And I went over to a box of Band-Aid and took out
12 a Band-Aid and put it on my face and then I went and
13 did my grocery shopping. I had coffee. And as I was
14 leaving, the -- the two security people were out front,
15 um, and they have to talk to me, "We're sorry. You'll
16 have to come with us." Blah, blah, blah. Idiotically,
17 I went with them, um, and -- and I was arrested.
18 They --

19 ANDREW JARECKI: Now, why were you --

20 ROBERT DURST: -- they call --

21 ANDREW JARECKI: -- why -- yeah.

22 ROBERT DURST: -- they called the police and --

23 ANDREW JARECKI: Why were you bald?

24 ROBERT DURST: I was on the lam, I was -- I wasn't
25 wearing a wig. I was trying to disguise myself, and

1 that worked real good.

2 ANDREW JARECKI: So you had...

3 ROBERT DURST: Shaved my head. (5:19:10.5)

4 (17:14:27:07)

5 ANDREW JARECKI: And in the course of shaving your

6 head, you also shaved and cut yourself? Or -- or it

7 was two different shavings?

8 ROBERT DURST: Oh, two different shavings. I

9 shaved my head before I left Galveston.

10 ANDREW JARECKI: Did you shave your eyebrows?

11 ROBERT DURST: Everything.

12 ANDREW JARECKI: Why?

13 ROBERT DURST: It looks more a -- less like me.

14 You -- you look -- you look like a -- you look weird

15 with your eyebrows shaved, in addition to your head.

16 ANDREW JARECKI: And that was intentional?

17 (5:19:33.6) (17:14:51:13)

18 ROBERT DURST: Yeah. How do you accidentally

19 shave your eyebrows?

20 ANDREW JARECKI: Um --

21 ROBERT DURST: This was with an electric -- you

22 know, one -- one of these.

23 ANDREW JARECKI: Uh-huh. Um, and, uh -- so now,

24 you go back. You're in Galveston. Let's say, just,

25 the trial starts. You know that you're on trial now in

1 Galveston. Um, who's on your legal team?

2 ROBERT DURST: Dick DeGuerin, Mike Ramsay, Chip
3 Lewis. Initially, when I'm in Pennsylvania, I retain
4 Dick DeGuerin, uh, Mike Ramsay. Mike wants his -- his
5 associate Chip involved and -- and we do that.

6 (5:20:12.8) (17:15:29:19)

7 ANDREW JARECKI: Um, and, um -- what was the
8 strategy? What was the -- what was the basic idea
9 of -- of how you were gonna get off in Galveston, if --
10 if you -- if you were?

11 ROBERT DURST: How I was gonna get acquitted.
12 What my story was gonna be. What my case was gonna be.
13 The best case was immediately -- I mean, the other
14 lawyers who came to see me, Mike Kennedy, who's a well-
15 known New York criminal lawyer, he was sure I had to
16 plead temporary insanity. My sister was still there
17 for me. She was standing up for me, and, um, she
18 brought in Mike Ramsey, who brought in Dick DeGuerin.

19 Mike Ramsey was a real pain. He was sure I had to
20 plead temporary insanity, uh, "They're -- they're never
21 gonna believe your story. You have to be insane. Only
22 insane people dismember corpses, anyway." But, uh --
23 I -- I -- I came to meet the other lawyers. The
24 lawyers were calling lots of lawyers; big, big case.
25 Lots of lawyers wanted to take it. Um -- and Dick and

1 Mike knew -- Dick DeGuerin and Mike Ramsey knew what --
2 what Mike Kennedy did not know -- because Mike
3 Kennedy's a New York lawyer, they were Texas lawyers --
4 that self-defense is a very viable plea in the state of
5 Texas.

6 Uh, in -- in the state of Texas, you find somebody
7 in your house who's not supposed to be there,
8 there's -- there's not much who cannot do to them.
9 Most other states, what you're obligated to do is, to
10 call the police, do something else. You're obligated
11 to leave. Texas, you're not obligated to leave. You
12 can handle it, more or less, as you see fit.

13 (5:22:03.4) (17:17:19:23)

14 Obviously, you're not supposed to kill them. But
15 you can -- but there had been cases where people have
16 seen guys in their garage and -- well, this one got a
17 lot of publicity -- and shot them from a distance with
18 a rifle, and the -- they -- they put it in
19 self-defense. And Dick and Mike both knew that
20 self-defense was a very viable plea in the state of
21 Texas and the state of Alaska and a couple of other
22 states, but that was it.

23 ANDREW JARECKI: Uh-huh.

24 ROBERT DURST: Um, and I should go through it, in
25 detail, and it was explained to me that I was gonna

1 have to do the dismemberment; there was no way around
2 it. But at the same time, the dismemberment happened
3 and -- and both Mike and Dick came up with this
4 independently, because they -- they hadn't come to me
5 as a team, they had come to me independently -- that
6 the dismemberment has nothing -- should not have
7 some -- anything to do. The judge should separate the
8 dismemberment from the death of Morris Black because
9 the dismemberment did not cause his death.

10 ANDREW JARECKI: Uh-huh.

11 ROBERT DURST: And that was them listening to my
12 story. The indictment says that he was dismembered.
13 He was killed by being dismembered. And I said, "I did
14 not kill him by dismembering him. I dismembered him
15 after he was dead." And they were sure, that if I was
16 telling the truth, which they had to believe, because
17 the alternative was to not represent me, uh, that
18 the -- the judge should separate, to a large extent,
19 the dismemberment from the death of Morris Black.

20 Yes, the DA would be able to bring it up, and,
21 yes, you would have to talk about it, but the -- the --
22 the dismemberment did not cause to death and;
23 therefore, they -- they put in front of the jury about
24 a thousand times, "Was there anything that Robert Durst
25 could do after finding Morris Black dead to -- to -- to

1 prevent his death, or to change the manner in which he
2 died?" And they came -- they brought about a zillion
3 examples. Can you un-strike a match? No. Can you
4 un-ring a bell? No. If somebody's dead, is there
5 anything you can do to prevent them from dying? No.

6 ANDREW JARECKI: Right. (5:24:26.8) (17:19:42:22)

7 ROBERT DURST: And -- and -- and that was the
8 case. They said, "That will be the basis of our case,
9 but you're gonna have to testify."

10 ANDREW JARECKI: Uh-huh.

11 ROBERT DURST: "You're gonna have to testify
12 truthfully. You're gonna have to do real, real, real
13 good. Uh, this will be very, very unpleasant. It's a
14 very difficult case. But, Mr. Durst, you're --
15 you're -- you're not definitely gonna lose like they
16 say in the newspaper."

17 ANDREW JARECKI: Right. And you told me, uh --
18 uh, when we were on the telephone, that you thought
19 that DeGuerin, um, might not want me to talk to you
20 because he wouldn't want, um, to see you in an
21 interview say that you had lied to the jury in
22 Galveston.

23 ROBERT DURST: Well, they didn't know what I was
24 gonna say. So, I mean, they've always felt that, you
25 know, they -- they -- they got this homerun now. Now,

1 I get out there, and I say something that implies that
2 I made it all up, or that I told the lawyers, and that
3 we all got together and made it all up, or whatever,
4 that's a disaster.

5 So they just wanted to stay away. And -- and they
6 said it about a zillion times, "You can't help
7 yourself. Right now, you're a free man, 100 percent.
8 You say something inadvertently, and you'll find
9 yourself charged in New York or in -- charged in -- in,
10 uh, Los Angeles." (5:25:39.7) (17:20:56:10)

11 ANDREW JARECKI: Uh-huh.

12 ROBERT DURST: "And a -- the -- the -- an
13 interview is a big risk for you. Why do you want to do
14 an interview?" And I told them what I've told you.

15 ANDREW JARECKI: Uh, at the time, you did --
16 you -- you, certainly, have said to me that you did lie
17 to the jury in Galveston, in some way. That your
18 lawyer encouraged you to. And I think that's --

19 ROBERT DURST: Well, I don't -- he didn't
20 encourage me to. Uh, we -- we went over the oath. And
21 from day one, the -- the oath says, "You, uh, promise
22 to tell the truth, the whole truth, and nothing but the
23 truth. Just make sure that the ones at the end tell the
24 truth, nothing but the truth. That you do exactly
25 that. In terms of the whole truth, if you want to

1 leave out something that does not -- uh, which -- which
2 makes you look bad, if you tell it, but does not turn
3 into an untruth, well, try it, try it. If there's
4 something so terrible that you don't want to say it, or
5 you think it could be construed the wrong way, then
6 just leave it out." And from day one, I was very sure
7 that both the Galveston Police -- I mean, it was
8 obvious because the things they were saying, which were
9 clearly lies. (5:26:56.8) (17:22:14:00)

10 ANDREW JARECKI: That the -- that -- that who was
11 saying?

12 ROBERT DURST: That the Galveston Police
13 Department or Galveston -- well, Galveston Police
14 Department, because they were telling the-- the -- the
15 DA -- well, when they first went to the -- to the --
16 to -- to -- to the house, they had the newspaper. They
17 went to the address there. Uh, they -- they -- they
18 contacted the DA, and he said, "Wait a minute. I'll be
19 able to get you a search warrant. You can contact the
20 landlord and see if he'll -- he'll let you in, but you
21 can't just go in there." Um--

22 ANDREW JARECKI: So give me an example of
23 something that -- that you left out of that testimony,
24 uh, that was too horrible or was too irrelevant or --

25 ROBERT DURST: Oh, I didn't try to go over every

EXHIBIT 9

Style No. 2518-L

MONO (WFG) GRAM
STENOGRAPHIC
NOTE BOOK

Book No. _____
From _____
To _____
24 Hr # 598-0071

Mild Struck
20 DET Sgt.

12 31th B-H
Principal (white)

Case # 337
61# 1524
Home
948 2368
Fred Galt
2304
860-6441

Notre Dame
Hotel

755-6973

371-6857
Shelby

not drunk. Had a sandwich, together. Both leave for Train Station @ 8.50 PM. Drive to Corona Station - Harlem Division. Appears that she is on Train. He then returns back to house. House normal. Observed neighbor Bill Meyers 914 763-5600 & have a drink. Stay 45 minutes & then go for walk. Called Kathy from Pay Phone 1/2 way to Gracey St. about 11 or 11:15. She seemed fine. She stated she was watching T.V. She stated that she had conversation w/ fellow student. She told him that she was working Tues & Wed/night (3)

2/23/82 Call to Susan Berman.
leave message.

2/24/82 Call from (return) Insp Prezioso
"Public Information"

2/24/82 Call from Susan Berman
(3-Books) (935-8964)
Live Berman Ph
Thinks something ^{to} do w/ Drugs.
Friends say about \$1,000. per week.
Repeated story about the apartment
via Bill McGuire.
"Speak to McGuire" (Probably Daily use)

Some ~~from~~ friends say she used Quaaludes.
became very passive.
Uses Coke

Since 2 or 3 years of marriage
both dated other people.
Kathy did go to Denver, used excuse
to see lawl Finck in Calif.

Bob's - Prudence Farrow.
Girl/Friends - Judy Selkowitz
= Eve Grunfeld ^{Oliver}

2/28/82 Dept Hypnotist 374-6868

2/26/82 Call to Jim Stafford
Tel Security 395-0523
Rm # 2443
Bldg 1095 42 & 6th
Bob Perrott

EXHIBIT 10

NEW YORK STATE POLICE CONTINUATION SHEET

TROOP K SP SOMERS**PAGE 1**

COMPLAINANT - LAST, FIRST, MIDDLE

CASE NUMBER

NYSP**02-003**

1. 11/22/99 TIMOTHY MARTIN dob [REDACTED] of Steep Hill Road Weston Ct. Contacted Inv JOSEPH C BECERRA (Writer) relative to information pertaining to a missing person case from 1982. Writer arrested TIMOTHY MARTIN subsequent to his extradition from the State of Connecticut on 02/04/99 following an extensive investigation into several acts of public lewdness which occurred in the Northern Westchester towns of Bedford, Pound Ridge, Lewisboro, and North Salem. TIMOTHY MARTIN stated that he was to be sentenced subsequent to his guilty plea on these charges and wanted to give this writer information which he felt might be useful. Mr MARTIN stated that a women identified as S-1 KATHLEEN DURST who resided in the South Salem section of the Town of Lewisboro in Westchester County, N.Y. was reported missing by her husband identified as T-1 ROBERT DURST. Mr MARTIN stated that he had information that S-1 KATHLEEN DURST was murdered by her husband T-1 ROBERT DURST at their South Salem home and that she was buried nearby. Mr MARTIN would not give any more specifics but stated that the case was very big in the Newspapers and Press when she disappeared in 1982 because T-1 ROBERT DURST came from a very wealthy family in New York City. Writer agreed to speak with Mr MARTIN the following day relative to this information.
2. Same date, writer conferred with S/INV HENRY H LUTTMAN - SP Somers B.C.I. Relative to this information. S/Inv LUTTMAN stated that he was familiar with the case and that he was a trooper at SP Somers when this incident occurred. S/Inv LUTTMAN was able to locate the missing person file on KATHLEEN DURST and provided writer with same. Writer read the reports contained within the file and learned the following: KATHLEEN DURST was 29 years of age when she was reported missing by her husband ROBERT DURST. The two were married but were going through marital difficulties which resulted in both parties retaining attorneys. The couple's primary residence was at 37 Riverside Drive in New York City but they also had a Country or Weekend home in South Salem. Mr DURST, who comes from a prominent real estate family in New York City reported his wife missing to New York City Police at the 20th Precinct in Manhattan. He stated to the police that he and his wife got into an argument at their South Salem home on 01/31/82 and that he put his wife on a train in Katonah, N.Y. which was to take her back to New York City. Mr DURST, however, waited until 02/05/82 to report his wife missing. A close friend of KATHLEEN DURST identified as GILBERTA NAJAMY dob 04/11/52 of Newtown Ct. reported her friend missing to the State Police at Somers when S-1 DURST failed to make a dinner appointment they had scheduled on 02/01/99 in New York City. Ms NAJAMY stated to the investigating trooper (Tpr JAMES HARNEY Ref BE#1359,1374,1375 of 02/05/82) that KATHLEEN and ROBERT DURST were going through a divorce and that ROBERT DURST had physically abused his wife on several occasions, one of which lead to the hospitalization of KATHLEEN DURST in New York City. According to police reports, KATHLEEN DURST confided in family, friends, and her attorney; DALE RAGUS, that her husband ROBERT DURST was abusive and wanted to kill her. On or around 02/01/99, a door man at the 37 Riverside Drive address stated that he may have seen KATHLEEN DURST. The focus of the investigation at that point was in New York City.

EXHIBIT 11

REPORTER'S RECORD

VOLUME 1 OF 4 VOLUMES

CAUSE NO. 01CR1900

THE STATE OF TEXAS) (IN THE DISTRICT COURT OF
VS.) (GALVESTON COUNTY, TEXAS
ROBERT DURST) (212TH JUDICIAL DISTRICT

TRIAL TESTIMONY OF ROBERT DURST

A P P E A R A N C E S:

FOR THE STATE:

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BE IT REMEMBERED that upon this 22nd day of
October, 2003, the following proceeding occurred
before the Honorable Susan Criss, Judge of the 212th
District Court of Galveston County, Texas:

1 ROBERT DURST

2 was called as a witness to testify on his own behalf
3 and having first been duly sworn, assumed the
4 witness stand and upon examination, testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. DeGUERIN:

8 Q Not that it's necessary after a month and
9 a half, but for the record tell the ladies and
10 gentlemen of the Jury your name.

11 A Robert Durst.

12 Q There's a microphone in front of you, a
13 little flat thing, if you will pull that close to
14 you so you can be heard. Mr. Durst, when were you
15 born?

16 A April 12th, 1943.

17 Q And where were you born?

18 A New York City.

19 THE COURT: Would you keep your voice
20 up, please, sir.

21 Q (By Mr. DeGuerin) New York City?

22 A Yes.

23 Q Who was your father?

24 A Semour Durst.

25 Q And your mother?

1 Q All right. Something happened on October
2 the 31st, the year 2000, that again turned your
3 world upside down?

4 A On October 31st I was in New York City in
5 my apartment in downtown New York, and I called my
6 voice mail when I got up in the early afternoon and
7 there was a message from my sister, really the only
8 family member, so to speak, that I had sort of
9 stayed in touch with. And the message was that
10 Mortimer Matz who headed the public relations agency
11 that worked for the Durst organization had been
12 receiving calls from New York City tabloids that
13 they were going to do a new story about the
14 disappearance of Kathy Durst.

15 Q Kathy had disappeared 18 years earlier; is
16 that right?

17 A About right, yes, sir.

18 Q When you got this message from your
19 sister, how did you feel?

20 A Just made me sick to my stomach. And I
21 went into the bathroom and threw up and went back to
22 sleep.

23 Q What next happened about that?

24 A I called her that evening.

25 Q What did you learn from that call?

1 A That the people, my brother and some of
2 the others who ran the Durst organization, were very
3 upset. It was going to be very negative publicity
4 focusing in on me, that the Durst organization was
5 in the middle of a very politically sensitive
6 project and this was going to be a problem for them.

7 Q What did you want to do?

8 A I wanted to get on the last flight that
9 night that leaves around 9:30 or a quarter to 10:00
10 to San Francisco.

11 Q You wanted to run away?

12 A Yes.

13 Q Did they have any kind of request of you,
14 that is, your sister, your brother, and the P. R.
15 guy for the Durst organization, Mortimer Matz, did
16 they have any requests of you?

17 A They wanted me to meet with them and a
18 lawyer at the large law firm that the family used.

19 Q Is this a lawyer that you chose?

20 A No. I had never heard of or met Joel
21 Cohen before.

22 Q So did the Durst organization choose this
23 lawyer for you?

24 A They wanted me to go and meet with him.

25 Q Now, you wanted to run away. When they

1 a butcher in New York and made her own way from the
2 time she was 14 and had become very successful in a
3 commercial real estate business as a brokerage firm
4 for the sale of small investment properties in the
5 New York area, very, very committed to New York and
6 took life and everything very seriously.

7 Q So you asked her to marry you. What did
8 she say?

9 A Yes.

10 Q Did you go to the meeting on November the
11 7th?

12 A Yes.

13 Q Who was at the meeting?

14 A My brother, my sister and her husband Doug
15 Kreiger. My sister's name is Wendy Kreiger.
16 Mortimer Matz --

17 Q Let me stop you there. Mortimer Matz,
18 tell us who he is.

19 A He owns a company with his name on it.
20 That's one of bigger public relations firms in
21 Manhattan and he has worked for, with our family
22 for -- before I got there anyway.

23 Q So he is the P. R. guy for the Durst
24 organization?

25 A Yes, sir.

1 Q Who else was at this meeting?

2 A Joel Cohen, the lawyer; and I think he had
3 an associate with him, but I am not sure.

4 Q Now, did you meet all together before you
5 met with Mr. Cohen?

6 A Yes, we met together.

7 Q And did you meet with Mr. Cohen?

8 A Yes. After we met together, I met with
9 him separate, yes.

10 Q What did you learn from that meeting?

11 A The meeting altogether or the meeting just
12 Joel Cohen and I?

13 Q Both of them.

14 A Well, the public relations person,
15 Mortimer Matts, had been receiving numerous phone
16 calls from various media sources; and he had lots of
17 things he wanted me to talk about, things that had
18 happened 18, 17, 16, 15 years ago that I really did
19 not want to talk about. He said it was going to be
20 a large story and opposed to a missing person story
21 like when it was when Kathy disappeared in 1982, at
22 this time it was going to be focusing in on the
23 husband, me, story.

24 Q And what was the focus to be now?

25 A Me.

1 Q What did you learn from the meeting with
2 Mr. Cohen as opposed to a meeting with your family
3 members and Mortimer Matz?

4 A Well, he had spoken to his contacts and
5 the various police departments, I guess; and he was
6 very, very, very serious. He told me about some
7 other cases and told me that if I was charged, it's
8 possible that they would not let me pay bail. He
9 told me to get a large amount of -- be prepared to
10 put up a substantial amount of bail, over a million
11 dollars. I mean, it was very frightening to me. I
12 thought the whole thing was ugly. I was going to
13 this meeting and we had a problem with the
14 newspapers and now all of a sudden -- and I was
15 expecting to leave that night. All of a sudden we
16 got this big problem. The problem is I might go to
17 jail.

18 Q Now, that's the lawyer telling you that.
19 Did he ask you for anything?

20 A Yes. He said that it would be best if I
21 gave him my passport so that if he was contacted by
22 the authorities, he could say, "I have his passport;
23 he is over here," wherever I am, et cetera.

24 Q Now, when Mr. Cohen asked you for your
25 passport, how did that make you feel?

1 A I thought about it right away.

2 Q So what did you want to do?

3 A It seemed to me the big problem's "Robert
4 Durst" and that I wanted to not be Robert Durst.

5 Q Now, had the story broken in the press yet
6 when you had this meeting with Mr. Cohen and your
7 family members and the P. R. guy for the Durst
8 organization?

9 A No.

10 Q In the next few days did the story break?

11 A Yeah. The newspapers carried the story on
12 Saturday, November the 11th.

13 Q November the 11th?

14 A Yes.

15 Q Give us a description of how the stories
16 were.

17 A Oh, it was on the front page. There
18 wasn't even anybody who didn't know about it. You
19 couldn't miss it. You couldn't walk by a newsstand
20 or walk by a drug store. I mean, it was just
21 everywhere.

22 Q Explain a little bit about the newsstands
23 in New York, and a jury -- some of these folks may
24 not understand what you mean in New York.

25 A New York is a lot more crowded than it is

1 morning.

2 MR. SISTRUNK: We have made a
3 decision. We are not going to object if they want
4 to split.

5 THE COURT: All right. Then that
6 deals with it. Thank you.

7 (In the Jury's presence:)

8 Q (By Mr. DeGuerin) Bob, if you will for
9 the Jury, paint us a word picture of what these
10 tabloids were like when the story broke in New York
11 on November the 11th, 2000.

12 A It was my picture on the front page of the
13 newspaper about six or eight inches of newspaper. I
14 don't remember what the captions were, but the hubby
15 something or other negative about me. "Hubby didn't
16 care," things like that.

17 Q You were in New York. Where did you live
18 in New York or what was your home in New York like
19 then?

20 A Well, the day before the news story broke,
21 it was Friday afternoon the 10th of November.

22 Q Let me stop you for a second. My question
23 really was where did you live? Did you live in an
24 apartment house or what?

25 A I had an apartment in lower Manhattan,

1 A I decided I was going -- I was going to go
2 to Galveston and hide.

3 Q When did you leave?

4 A On November the 13th.

5 Q Just two days later you were already gone?

6 A Well, first I got -- first I made my
7 trust -- I prepared my will and prepared powers of
8 attorney for my wife Debrah Charaton and my
9 accountant Anton Wise.

10 Q I want to show you Defendant's Exhibits
11 58, 59 and 60.

12 MR. BENNETT: No objection, Your
13 Honor.

14 THE COURT: Then they are admitted.

15 Q (By Mr. DeGuerin) First let's identify
16 them. First let's identify them, Bob. 58 is what?

17 A It's a letter I wrote to Alan Rothfeld,
18 the person who does my trust and estate work.

19 Q When did you write that letter to him?

20 A On November the 12th or 13th.

21 Q Okay.

22 A I believe it was on the 13th, on Monday.

23 Q Here is Defendant's Exhibit 59, and what
24 is that?

25 A That's a letter that I wrote to Anton

1 loved you. How could this be happening now? I love
2 you, Bob." What did you mean by that?

3 A I think I was telling her the same thing,
4 that she wasn't going to see me again.

5 Q Why were you doing this, Bob?

6 A I think I must have been out of my mind.

7 Q What did you intend to do?

8 A I intended to go to Galveston and hide
9 myself and never use the name "Robert Durst" again
10 and never see those people again.

11 MR. DeGUERIN: It would be good time
12 for a break.

13 THE COURT: We will go ahead and take
14 a 15-minute break.

15 (A recess was taken.)

16 THE COURT: Mr. Durst, you are going
17 to need to keep your voice up. The jurors are
18 having a little trouble hearing you.

19 THE WITNESS: I am sorry.

20 THE COURT: You may proceed.

21 MR. DeGUERIN: If the Court please,
22 for the record we have Defendant's Exhibit 50. It's
23 prepared a Xerox copy of the tides for today. And
24 if I might publish those tides for today, October
25 22nd, it was a low tide at 7:41 a.m. in Galveston

1 A I had been to Galveston a number of times
2 in the early Nineties and very self contained and
3 small and people seemed to leave one another alone.

4 I liked the fact that it was right on the bay and
5 downtown. I could easily get around on a bicycle or
6 walking. I realized I wouldn't be able to keep my
7 car because they would identify me.

8 Q Disguising yourself as a woman, how did
9 you decide to do that?

10 A I had worn a beard, a mustache like that a
11 number of times in my life; and it did not really
12 change my appearance. I just -- I don't know how I
13 decided to do that.

14 Q In Dallas you say you loaded your car.
15 You bought a wig. Where did you buy a wig?

16 A I looked in the yellow pages. There were
17 three or four or five wig stores, and there was one
18 that was not that far away on Weston Avenue. I went
19 to that store, and I bought a wig.

20 Q What kind of wig?

21 A I was in the place, and I bought it. I
22 thought it was pretty much light brown; but as soon
23 as I got outside and looked at it in the rear view
24 mirror, it was much more blond than brown.

25 Q And you say you had a car in Dallas?

1 A Yes. Well, I had had a big apartment
2 there since 1997, I guess. And I had a Honda
3 S. U. V. at the apartment building in Dallas.

4 Q And how was that Honda S. U. V.
5 registered?

6 A To me.

7 Q So did you drive to Galveston?

8 A Yes. I drove to Galveston the 14th,
9 November the 14th, Tuesday; and I stayed in a motel
10 that's just on this side of the causeway on the
11 right-hand side. I went to Wal-Mart and I bought
12 what I call cargo pants, big, big floppy pants with
13 a bunch of pockets and a woman's white blouse and a
14 woman's handbag and some kind of a uniset kind of
15 jacket a woman would wear.

16 Q Did you buy a dress?

17 A No.

18 Q Did you buy high heels?

19 A No.

20 Q What kind of shoes were you going to wear
21 with this disguise?

22 A Shoes, either running shoes or loafers.

23 Q So how did you come to choose an apartment
24 that happened to be across the hall from Morris
25 Black?

1 A I got the "Galveston Daily News" on
2 Wednesday the 15th and I started calling real estate
3 ads. I didn't want to call one of services because
4 I knew they would ask for credit -- I mean
5 background stuff. And I didn't want anything to
6 demonstrate to them that I was a woman or anyone
7 other than Robert Durst wears. And the first time a
8 person answered the phone other than a service or a
9 machine was Klaus Dillmann.

10 Q Now, did you have with you credit cards
11 that you could use as Robert Durst?

12 A Yeah.

13 Q Did you have a Texas Driver's license?

14 A Yes.

15 Q Your car was registered to Bob Durst and I
16 presume you had insurance and all that for it?

17 A Yes.

18 Q Did you have a cell phone?

19 A Yes.

20 Q What was your plan about using any of
21 those phones, credit, driver's license, cell phone,
22 a car in Galveston?

23 A I knew I would not be able to use those
24 things. I couldn't use my checks or any of my
25 banking type arrangements.

1 Q Why not?

2 A Because it would be Robert Durst in
3 Galveston.

4 Q Did anybody that you knew know that you
5 had any kind of ties -- well, did you have any ties
6 to Galveston?

7 A Not when I got here, no.

8 Q Did anybody know that would -- anybody
9 connect you, Bob Durst, with Galveston, Texas, if
10 they started looking for you?

11 A No.

12 Q Then tell us briefly about your encounter
13 with Klaus Dillmann. What did you say on the phone?

14 A I told Klaus Dillmann that my
15 sister-in-law -- and I used a name from somebody I
16 knew in the past and that if I made up a woman's
17 name, forget it.

18 Q Let me stop you right there. How did you
19 include the name Dorothy Ciner?

20 A I don't know. I start thinking of women I
21 had known, and it was -- sort of was there.

22 Q Did you know Dorothy Ciner after high
23 school?

24 A No.

25 Q How did you feel about Dorothy all these

1 away from here. So the next day, Thursday, the
2 16th, I drove it to Baton Rouge and found out where
3 a Greyhound station was. And I left it a mile or so
4 from the Greyhound Station and took out everything
5 that had anything to do with me and left the keys in
6 it, walked to the Greyhound station.

7 Q So you just left your car in Baton rouge?

8 A It was some very lucky person about to
9 have this great car.

10 Q Did you ever expect to see the car again?

11 A No.

12 Q Did it matter?

13 A I didn't want to see the car again.

14 Q So what did you do then?

15 A I took the Greyhound to Houston and the
16 bus from Houston to Galveston.

17 Q When you got back to Galveston, what did
18 you do?

19 A By the time I got back, it was late at
20 night. So I didn't do anything. I went to sleep.

21 Q Where?

22 A In the apartment.

23 Q Now, did you have any utilities in the
24 apartment?

25 A Well, the utilities, the electric and gas,

1 linoleum in the kitchen and the bathroom. It was
2 all ratty and should have been replaced. So he
3 immediately told me how he had got drop cloths at
4 this hardware store a couple of blocks away and he
5 had, quote/unquote, "installed" them in his kitchen
6 and bathroom.

7 Q Did he show them to you?

8 A Yes. He took me next door to his
9 apartment. And my apartment didn't have much
10 furniture in it, but his apartment had -- it was
11 sparce as compared to mine, even.

12 Q Did he have a television?

13 A He had nothing electric except a
14 microwave, and he kept that unplugged. So there was
15 no television, no radio, no clock, nothing in the
16 apartment other than the microwave; and he would
17 unplug that when he wasn't using it.

18 Q Did he have a telephone?

19 A No.

20 Q Did you have a telephone?

21 A No.

22 Q What were you doing with your cell phone
23 while you were in Galveston?

24 A I never used it until -- until the middle
25 of September, more or less.

1 the end of April right through September except for
2 two brief trips away from Galveston.

3 Q Well, let's talk about New Orleans for a
4 second. At some point you went to New Orleans and
5 rented an apartment from Michael Ogden dressed in a
6 wig claiming to be Diane Wynn. How did that come
7 about?

8 A Well, I decided that I needed this. I
9 thought of it as a place of refuge to go to, and New
10 Orleans was a place I had considered going when I
11 initially chose Galveston back in November. And
12 since I was going to pick the car up in Baton Rouge,
13 I figured I would just drive the car to New
14 Orleans. So at the end of -- I guess actually in
15 early March I drove to Dallas and gave back the
16 rented car and flew the Baton Rouge, picked up my
17 car at the Honda, and drove to New Orleans.

18 Q Okay. So you pick up your car in Baton
19 Rouge. You drive to New Orleans. What did you do
20 there?

21 A Well, I at the time I had always used
22 American Express Travel Services, so I had them make
23 the plane reservation, you know, to do whatever
24 their favorite hotel was, which at that time was the
25 Royal Orleans. And I drove there and checked into

1 the hotel where I made a reservation at. And I
2 pretty much did exactly the same thing I had done
3 when I first came to Galveston.

4 Q Did you have the wig with you?

5 A No. I had thrown out the wig and the
6 woman's clothing here in Galveston when I decided I
7 wasn't going to wear it anymore. I had to buy all
8 that stuff again, which I did.

9 Q And where did you buy the wig this time?

10 A In downtown New Orleans, a lot easier
11 there than in Dallas.

12 Q Why do you say that?

13 A Well, there are lots of wig stores, you
14 know, in New Orleans.

15 Q Did you buy any wigs, clothes in New
16 Orleans?

17 A Pretty much the same thing, a woman's
18 blouse and a cargo-type pants and something to wear
19 over the blouse.

20 Q Why did you need this refuge in
21 New Orleans if you were going to live in Galveston
22 not as Bob Durst but as a man?

23 A Well, I mean, the whole idea was
24 eventually I would use Bob Durst in Galveston; but
25 if I was here as a man and they call this -- if

1 Janine Pirro was ever able to, what do they say,
2 indict a ham sandwich or whatever it is, I figured I
3 wouldn't be able to live here in Galveston.

4 Q So you rented the apartment in
5 New Orleans?

6 A Yeah.

7 Q Do you think that -- of course, you heard
8 Mr. Ogdon say you didn't fool him; but did you think
9 at the time that you fooled him into thinking you
10 were a mute woman?

11 A No. When I look back on it, I think I had
12 the wig on backwards. And I don't think I looked
13 like anything.

14 Q Why do you think that? Tell us.

15 A I put the wig on in the bathroom and I was
16 going down in the elevator of the hotel. I was by
17 myself, and it just looked ridiculous. So I turned
18 it around. And now I am convinced that the way it
19 looked ridiculous was the way it was supposed to
20 look. And when I turned it around, it was on
21 backwards.

22 Q So you show up for your meeting with
23 Michael Ogden to rent the apartment, and you got a
24 wig on backwards. What happens?

25 A He couldn't care less. He was happy to

EXHIBIT 12

DAILY NEWS
— online edition —

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From: News and Views | Crime File |
Saturday, November 11, 2000

Trail Heats Up In Missing Wife Mystery Cops shake the dust off '82 case

By JOHN MARZULLI and BARBARA ROSS
Daily News Staff Writers

By a stone cottage in northern Westchester, the pieces of an 18-year-old mystery — the celebrated disappearance of Kathy Durst — are slowly being put together.



The Daily News front page, Feb. 9, 1982

After more than a decade of inactivity, state police investigators have reopened the Durst case, chasing leads that again focus suspicion on her wealthy husband, real estate heir Robert Durst, law enforcement sources told the Daily News.

In recent months, state police have sent divers into Lake Truesdale, whose shoreline borders the Dursts' former country getaway home in South Salem.

Cindy Rodgers, who lives in South Salem, said she saw divers use a metal detector in a meticulous grid search, spending hours searching the lake bottom. She said she saw the divers remove clear plastic bags containing mud.

Forensic investigators also have removed a piece of a bedroom wall of the Dursts' cottage, which Robert Durst, 57, sold in 1990.

Durst, whose father, the late Seymour Durst, was the patriarch of the Durst Organization, told The News recently that he was not aware of renewed police



FOR
BIG A

he was not aware of renewed police interest in his wife's disappearance.

"I know nothing about it, but I would not have any comment," said Durst, who has maintained his innocence publicly and in sworn affidavits.

Detectives also are gathering circumstantial evidence — reinterviewing scores of people who knew the couple during their stormy, nine-year marriage, and who heard different versions of events from Durst on what happened the night of Jan. 31, 1982.

A cold, wet snow was falling in South Salem the night Kathy Durst disappeared.



She was a beautiful, blond woman, a 29-year-old medical student about to graduate from the Albert Einstein College of Medicine.

Her husband told police he last saw his wife at the Metro-North railroad station in Katonah. She was to board a train to Manhattan, where they had a penthouse on Riverside Drive.

Kathleen Durst

Durst said his wife was "in a tear" that afternoon about something after returning from lunch with one of her friends.

He said she abruptly decided to return to the city, and he drove her to the Metro-North station to catch the 9:15 p.m. train.

Durst later told cops he spoke to his wife from a pay phone at 11:30 p.m. to make sure she got home safely.

Police investigators said they questioned whether Durst made the phone call because, as one source said, "it was a miserable night — raining cold, gloppy snow, and the nearest pay phone was 3 miles across the lake."

Investigators now believe that Kathy Durst may have never left South Salem, and that police may have been thrown off track by concentrating their efforts in the city. As a



Hughes NEWS

**Seymour Durst,
father of Robert
Durst and
patriarch of the
Durst
Organization**



Turnbull NEWS

Robert Durst in

result, investigators never made a thorough 1991 search of the lakefront cottage, police said.

"Whatever happened, happened [in South Salem]," said one investigator.

The hurdles in building a successful murder case in the Durst disappearance are significant: There is no body, scant physical evidence and 18 years of faded recollections.

Police also confirmed that Durst has refused to talk to them without his criminal attorney present.

To help clear those hurdles, Joseph Becerra, a state police investigator in Somers, recently contacted prosecutors in another high-profile missing persons case — the 1985 disappearance of Gail Katz Bierenbaum, the wife of plastic surgeon Robert Bierenbaum.

The doctor was recently convicted of killing his wife, even though her body, like Kathy Durst's, was never recovered.

Becerra said the state police, which is working with the NYPD, "started looking at [the Durst case] again last November after we got some information from a totally unrelated investigation."

Becerra said the Durst probe is "still a missing persons case."

But since the investigation resumed, some interesting details have emerged.



Simmons NEWS

Cottage in South Salem, Westchester, formerly owned by Robert and Kathleen Durst

Carmen and David Garceau bought the 1,200-square-foot stone cottage in South Salem from Robert Durst in 1990.

"It was in terrible shape," Carmen Garceau said this week. She said the living room had three holes in the wooden floors that were covered with plywood and carpeting.

Her husband said that in a downstairs room that opens onto the lakefront, there was a stained trap door dangling down to an earthen, rocky crawl space.

They also thought it odd that during his last three months in the cottage, Durst slept on a cot in the downstairs room with

the cottage, Durst slept on a cot in the downstairs room with the trap door.

Lakefront neighbor William Mayer, a cookie distributor, and his wife also have been questioned.

They told police in 1982 that a week before she disappeared, Kathy Durst told them at dinner, "If anything happens to me, suspect foul play and Bob."

"No matter what he does, whether he did it or not, everyone thinks he did, and that stays with him for the rest of his life," Mayer told The News last week. "Maybe he's been looking over his shoulder for the last 18 years."

Police said they always considered Durst a suspect because the couple's stormy nine-year marriage allegedly was marred by violence.



Kathleen Durst was nearing completion of medical school when she disappeared at age 29.

Some of Kathy Durst's family's suspicions were aired at a 1983 Surrogate Court proceeding involving her assets. According to court documents:

- Her sister, Mary Hughes, said she believed that Robert Durst was "responsible for" or "knowledgeable about" the disappearance because of conflicting stories he told about what he did the night his wife vanished. For example, he told cops she was wearing certain jewelry that Hughes later found among her sister's possessions.
- Three people — Kathy Durst's divorce lawyer, a friend and Hughes' boss — filed affidavits saying she had told them that she had been physically assaulted by her husband and feared for her life.
- The lawyer for her family, Roger Boyle, pointed out that Robert Durst reported his wife missing to police Feb. 4, 1982 — after her boss called to ask where she had been for four days, and before he checked with his in-laws to see if she was with them.
- Boyle filed documents to show that before he even called police, Durst arranged on Feb. 4 to sublet an E. 86th St. apartment that Kathy Durst had used as a safe haven in the last few years of her marriage.
- Several people — including some of her friends and workers at the E. 86th St. building — filed affidavits saying Durst discarded his wife's possessions within

days of reporting her missing.

Durst's attorney, retired Judge Millard Midonick, had accused his client's in-laws of conducting "a witch hunt."

He said Durst — whose family real estate fortune reportedly was worth \$650 million in 1997 — sublet his wife's E. 86th St. apartment to save \$900 a month rent.

"There's no murder involved here," Midonick declared in court.

Durst himself filed an affidavit, stating: "I have no responsibility in any manner direct or indirect for Kathy's disappearance" and, "I have not disposed of any of Kathy's belongings."

He added: "I never threatened her life or threatened her in any way or assaulted Kathy or caused her any physical harm or abuse."

He said that when she disappeared, his wife was "considering a formal separation or a postnuptial agreement." He accused her of fabricating stories of physical abuse to get "a more advantageous negotiating position."

Kathy Durst's family said in Surrogate Court in February 1983 that police had told them their investigation was stymied by his refusal to cooperate.

Court records also show that Robert Durst refused to take a lie-detector test requested by cops.

Reached last week, Kathy Durst's brother, James McCormack, said, "This has been very hard for us. It's been 18 years. We've had no closure."

Their mother, Ann Catherine McCormack, added a note of caution.

"Be careful of the Dursts," she said. "They're very powerful people."

With Scott Browne

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EXHIBIT 13

My Turn 11/11/00
SATURDAY, NOVEMBER 11, 2000

Disappearance Under Scrutiny After 18 Years

Leads Reported in Case Of Realty Scion's Wife

By KEVIN FLYNN
and CHARLES V. BAGLI

Eighteen years after the trail grew cold, police investigators have begun to track new leads in the baffling disappearance of Kathleen A. Durst, the wife of a scion of one of New York's wealthiest real estate families.

the winter of 1982, after spending a weekend at the country home in Westchester County she shared with her husband, Robert, whose family owns 10 of New York's most prominent skyscrapers.

During the police manhunt that followed, detectives found three people who said they believed they had either seen Mrs. Durst, or spoken to her by phone, after she returned to Manhattan from Westchester. But her whereabouts remained a mystery as the months stretched into years and investigators working the case either retired or were reassigned.

Now state police investigators working with New York City police officers say they are pursuing new information that may provide fresh insight into what happened to Mrs. Durst, who was a medical student when she vanished, just four months short of earn-



Kathleen Durst

In the past few months, investigators have reinterviewed dozens of people associated with the case, including friends and neighbors of the couple, and a retired detective, Michael Struk, who handled the original inquiry. Last spring, they used dogs to scour the Dursts' former Westchester retreat, a stone cottage in South Salem overlooking Lake Truesdale, according to people with direct knowledge of the investigation. At the same time, they said, state police divers were called in to explore a section of the lake.

anything, they have found or where they think the investigation is heading. But Joseph C. Becerra, a state police investigator in Westchester and a member of the team taking a new look at the case, said the information they were pursuing arose from an unrelated investigation in the county back in the fall of 1999.

Mrs. Durst's disappearance was front-page news in 1982, her beauty and status making her story a particularly compelling missing persons case. A former dental hygienist, she had earned her nursing degree from Western Connecticut State College and enrolled in the Albert Einstein College of Medicine in the Bronx, where she was a fourth-year student.

She had met Robert Durst, to whom she

Continued on Page D6

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18 Years After Vanishing, Trail Grows Warmer, Police Say

Continued From Page B1

was later married for nine years, when she lived in one of the buildings owned by the Durst Organization, the real estate empire founded by his grandfather in 1927. Under the direction of Robert's father, Seymour, the company began building skyscrapers, and today its holdings include seven million square feet of office space and 20 residential buildings with more than 200 apartments.

Robert, 57, the eldest of Seymour Durst's three sons, spent 20 years working for the firm, but left in 1994 when it became clear that his younger brother, Douglas, would succeed his father as the head of the company, according to family members.

Robert Durst, who has homes in northern California and Manhattan reconciled with his family about a year ago and now invests in his own real estate ventures. He could not be reached for comment.

In addition to their country home Robert and Kathleen Durst owned two apartments in New York, including a penthouse on Riverside Drive at 76th Street. The couple, who had no children, were fans of New York's night life, often visiting clubs like Studio 54 and Xenon, friends said. But they also endured their share of marital problems, and Mrs. Durst had talked to a lawyer before her disappearance, friends and relatives said.

When she vanished, investigators said they could not be sure whether Mrs. Durst had become the victim of violence or had chosen to flee a failing marriage. But her friends said Mrs. Durst would not have run away.

"I maintain that Kathy would not have left prior to graduation," said Gilberta Najamy, a close friend. "She was determined to finish medi-

cal school and planned to open a children's clinic."

Mr. Durst, who put up a reward for information about his wife's disappearance and hired a private investigator to help find her, has never been identified by the police as a suspect

But Mrs. Durst's relatives have long said they believe Mr. Durst knew more about the circumstances of his wife's disappearance than he said. They formally made the allegation in a 1983 court proceeding in which Mrs. Durst's mother asked a Surrogate Court judge to appoint her

Information in a new case provides leads in an old one.

the temporary administrator of her daughter's estate.

described the allegation as unfounded. Yesterday, in response to inquiries, Mr. Durst's brother, Douglas, issued a statement denying that his brother played any part in Mrs. Durst's disappearance.

"Robert Durst continues to maintain his innocence," the statement said.

Mrs. Durst's brother, James McCormack, would not describe his family's feelings toward Mr. Durst. But he said the family was looking forward to anything that might resolve the case.

"We are hopeful that after 18 years this thing can be brought to a resolution," he said. "It's been very painful and much of the pain has

been suppressed, but it does not go away."

Mr. McCormack said that investigators had called him several months ago to alert him that there were potential new leads in the case, but he would not comment further.

According to accounts given at the time, Mrs. Durst had attended a dinner party at the home of Ms. Najamy, a friend from college, in Newtown, Conn., on Sunday, Jan. 31, 1982, leaving in the evening to drive her maroon Mercedes home to the Durst weekend retreat in South Salem.

Mr. Durst told the police that after arriving in South Salem, his wife decided to travel home to Manhattan because she had classes the next day. He drove her to the Katonah train station, where she boarded the 9:17 p.m. train to New York, according to his account.

Mr. Durst told the police that he never saw her again, but that he had called their Riverside Drive apartment later that night and spoke to her as she watched television. He did not report her missing until five days later, he said, because she often stayed with friends for days at a time.

As part of their investigation, detectives interviewed an elevator operator who thought he had seen Mrs. Durst in the building late on Sunday night and had later ushered a well-dressed man to her penthouse apartment, investigative sources said. The police later circulated a composite sketch of the man, who has never been found. A second building worker told the police he saw a woman that he thought was Mrs. Durst outside the building on West 76th Street the next morning, Monday, Feb. 1, but he said he saw her only from behind.

A dean at the medical school received a call that morning from a

woman he believed to be Mrs. Durst, who told him she felt too ill to attend classes that day, the dean later told the police.

The people with knowledge of the newly invigorated investigation said that investigators were re-examining each of these accounts to determine whether the woman seen spoken to was really Mrs. Durst.

The investigators have also interviewed several of the Dursts' former neighbors in South Salem, where memories of Mrs. Durst as a handsome medical student still linger.

"It's not the kind of thing you forget," said Ruth C. Mayor, who lived next door to the Dursts. "She was gorgeous, smart and very sweet. Everybody loved her on the block."

Lottery Numbers

Nov. 10, 2000

New York Numbers — 889

New York Win 4 — 8225

New York Pick 10 — 5, 7, 8, 10, 13, 17, 21, 26, 30, 44, 52, 55, 59, 61, 62, 71, 73, 74, 76, 77

New Jersey Pick 3 — 260

New Jersey Pick 4 — 4994

New Jersey Cash 5 — 1, 6, 7, 16, 19

Connecticut Mid-Day 3 — 356

Connecticut Mid-Day 4 — 0544

Nov. 9, 2000

New York Take 5 — 1, 4, 5, 13, 23

Connecticut Daily — 364

Connecticut Play 4 — 7217

Connecticut Cash 5 — 8, 14, 20, 22, 32

EXHIBIT 14

LOS ANGELES COUNTY DISTRICT ATTORNEY

PEOPLE OF THE STATE OF)	Case No. SA089983
CALIFORNIA,)	
Plaintiff,)	
)	
vs.)	
)	
ROBERT DURST,)	
)	
Defendant.)	
<hr/>)

INTERVIEW OF: ROBERT DURST

BY: ANDREW JARECKI (MOVIE DIRECTOR). ALSO PRESENT,
MARC SMERLING, AND SEVERAL UNIDENTIFIED MALE SPEAKERS
AND FEMALE SPEAKER

DATE: APRIL 18, 2012

AUDIO FILE NO.: 0417_134753 (COMBINED), 0417_141603
AND 0417_141628 (COMBINED), AND 0417_142102.

TRANSCRIBED BY: APRIL MARIE CARLOS

JOB NO.: PS-11

1 whole time I was looking at Bush. And I knew it --
2 what does this have to do with me? I don't...

3 ANDREW JARECKI: Now, do you remember seeing this
4 when the Pirro investigation was announced?

5 ROBERT DURST: Yes. Yes. Yes. That was that one
6 -- was this a Saturday? Yeah. See.

7 ANDREW JARECKI: Yeah.

8 ROBERT DURST: Saturday. I hit it right.
9 Saturday was when the doo-doo hit the fan. It made the
10 front page of The Daily News. And that didn't bother
11 me that much because it was little. And, yes, she's
12 reopening it, or -- or some -- I mean when this first
13 happened, I didn't know how Jeanine Pirro was. I
14 hadn't even ever heard of the lady. She's a DA from
15 Westchester County. Who cares? DA from Westchester
16 County. (0:12:01.4)

17 Um, but -- but that Saturday, The Daily News, The
18 Post, and The New York Times, on the front part of
19 the -- in the second section, the Metro Section, and
20 down in the bottom -- on the right-hand side, they used
21 to have little blurbs of things on the inside; two or
22 three of them. And it was in The Times there. And --
23 and that blew me away. I remember I went to the
24 Starbucks, in Connecticut, near where I was living.
25 Um, and I'd been -- Mortie Matz (Phonetic 0:12:40.1)

1 had been talking to my sister and Dougie Kreeger, and
2 they insisted I meet with this lawyer and Struk. That
3 was the last time I saw Douglas. Is this 2000? Yes --

4 ANDREW JARECKI: Yeah.

5 ROBERT DURST: -- 2000. Saturday, whatever it is,
6 of 2000, is when all of this happened. Saturday,
7 November 11th, of 2000. And by Monday, I had decided
8 to flee and go hide someplace. (0:13:04.0)

9 ANDREW JARECKI: Yeah.

10 ROBERT DURST: Amazing thought process that I'm
11 talking there. (Untranslatable Sound; Laughter
12 0:13:10.7) My mind must have been -- I don't know.
13 But between Saturday and Monday, I spent 80 zillion
14 hours on the phone with Douglas -- the Struk criminal
15 lawyer, who's not really a criminal lawyer, and Wendy
16 and Dougie Kreeger, and Mortie Matz. And it was just
17 (Untranslatable Sound 0:13:32.6). And, you know, I
18 just wasn't gonna do it.

19 ANDREW JARECKI: Yeah. Um, now, this I always
20 think is an interesting image. This was in September
21 of 2001. So you were in --

22 ROBERT DURST: Well, this is 2000 and one.

23 ANDREW JARECKI: So I think this is in Galveston;
24 right? Zack, this is a Galveston picture, right?

25 ZACK POITRAS: Yes.

1 life, she's got power of attorney." Durst, "It was a
2 marriage of convenience. I had to have Debrah to write
3 my checks. I was setting myself up to be a fugitive."
4 Which is what I was doing, when I went to Galveston
5 right from the very beginning, I was setting myself up
6 to be a fugitive. (0:18:48.5)

7 This was the -- the telephone tapes that, um,
8 Jeanine Pirro gave to Andrea Peyser. Jeanine Pirro
9 always denied giving them to Andrea Peyser, but the --
10 the -- the only way to get the -- the recordings and
11 the telephone conversations in the jail was to subpoena
12 them. So the DA in Galveston subpoenaed them.
13 DeGuerin subpoenaed them. And Jeanine Pirro subpoenaed
14 them. Now, the DA wasn't going to go to The Post.
15 DeGuerin wasn't going to go to The Post. That leaved
16 (sic) Jeanine Pirro denying she knows anything about
17 it.

18 ANDREW JARECKI: Right.

19 ROBERT DURST: I mean, really, the -- the -- they
20 had two DA's, two different states, trying to convict
21 me. And Jeanine Pirro, I think, probably hurt, um,
22 their case -- the -- the -- the Galveston DA's
23 case by all this stuff she kept doing. (0:19:52.3)

24 ANDREW JARECKI: Yeap. And then she got in trouble
25 for it and made it more --

1 ROBERT DURST: Oh, someone's in the bathroom.
2 ANDREW JARECKI: Oh, it's --
3 MALE SPEAKER: Oh, okay.
4 ANDREW JARECKI: It should be behind you.
5 ROBERT DURST: Well, maybe, this is the bathroom.
6 (0:46:28.9)
7 MALE SPEAKER: No, I don't think anybody's in the
8 bathroom.
9 MALE SPEAKERS: Yeah, that's it --
10 ROBERT DURST: You're right. This is the
11 bathroom.
12 MALE SPEAKER: Yeah.
13 MARC SMERLING: Nikita.
14 NIKITA BURDEIN: Yes.
15 MARC SMERLING: You don't have that -- that
16 recording from Pennsylvania --
17 ROBERT DURST: There it is. You're caught.
18 MARC SMERLING: (Inaudible in background) tapes
19 here do you?
20 NIKITA BURDEIN: No.
21 MALE SPEAKER: Did we record --
22 MALE SPEAKER: That's good. That's good.
23 ANDREW JARECKI: Huh? (0:46:42.1)
24 MALE SPEAKER: Just a couple --
25 ANDREW JARECKI: No.

EXHIBIT 15

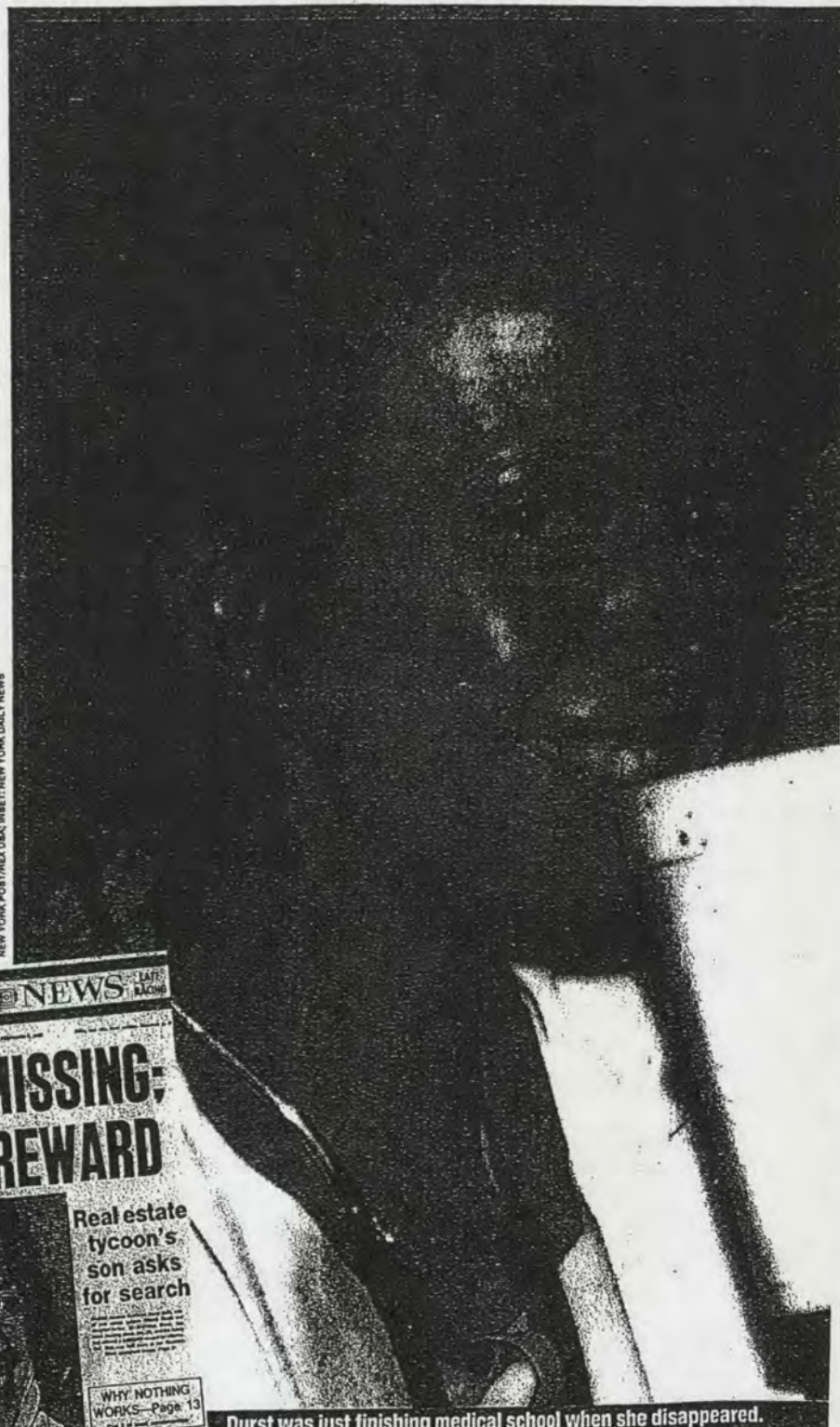
Resuming the Search

Police reopen the case of Kathie Durst, who vanished 18 years ago

The chill of that winter day 18 years ago stays with Gilberte Najamy even today. It was Jan. 31, 1982, and Najamy was having a party at home in Newtown, Conn., for a few guests, including her close friend Kathie Durst. Everyone was having a good time until Kathie, then 29 and a fourth-year medical student, started getting calls from her estranged husband, Robert, then 38, scion of one of New York City's wealthiest real estate families. At around 7:15 that evening Robert Durst apparently called from the lakeside home in South Salem, N.Y., that the couple still shared as a weekend retreat. "They were fighting on the phone," recalls Najamy. "Kathie hung up and said, 'I have to leave. Bobby wants me home. He's really upset.'"

And so Kathie said her goodbyes. Before departing, though, she had one last word with Najamy. "She said, 'If something happens to me, you will check it out,'" says Najamy. "I'm afraid of what Bobby will do.'" Kathie then got into her red Mercedes and headed out into the snowy night for the 45-mile drive to South Salem—never to be seen by her friend again.

At the time, the disappearance of Kathie Durst was headline news in the New York newspapers. The saga of the beautiful young woman who had vanished without a trace seemed irresistible. But when there was no break in the case, public inter-



Durst was just finishing medical school when she disappeared.

● mystery

est began to wane. For those who knew her, though, Kathie's disappearance remained a painful memory. "We all went through a great period of depression," says her brother Jim McCormack, 55, of Sparta, N.J. "My mom would sit in Kathie's old room and cry." Now, nearly two decades later, police have reopened the case.

There had always been suspicious aspects to Kathie Durst's disappearance. For starters, Robert didn't get around to reporting his wife missing to New York City police until five days after the fact. He told authorities then that Kathie had arrived at their South Salem home, where she drank a bottle of wine and they quarreled, and that he had dropped her off at the local train station to get the 9:17 back to Manhattan. He said he had spoken to his wife again later that night, after she reached her apartment in the city. (During the couple's separation, he had been living at another apartment.) As for

the delay in reporting her missing, he explained that it wasn't unusual for the two of them to go several days without speaking.

But when detectives began digging, they found no conclusive evidence that Kathie had ever made it to Manhattan. The day after her

supposed return, an employee at her apartment building reported seeing a woman from behind that he took to be Kathie. And a dean at Albert Einstein College of Medicine in The Bronx, where Kathie was a student, described getting an unusual call that same morning from a woman

In 1975 Kathie and Robert spent Christmas at her mother's in New Hyde Park, N.Y.

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Nearly every weekend the couple headed for their country home in South Salem, N.Y.

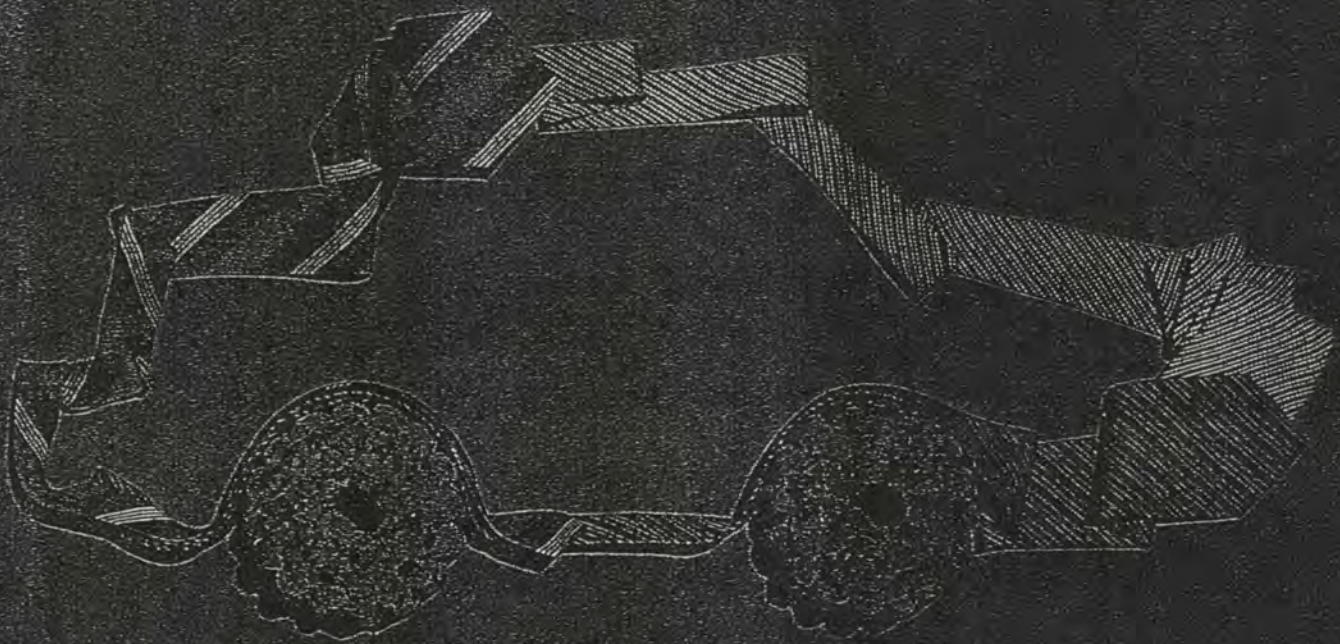
who identified herself as Kathie, said she was sick and told him she would not be at class. But none of Kathie's friends heard a word from her.

At no time during the initial investigation was Robert considered a serious suspect. New York police interviewed him in South Salem but

never searched the home. Robert, who put up a reward for information about Kathie, seemed inclined to speculate that his wife had simply decamped from their marriage. "Kathie was doing badly in medical school"—which, friends say, was not the case—"and she was doing

badly in our life. She was unhappy," he told the *New York Post* shortly after the disappearance. "I think Kathie's alive." Absent any hard evidence to the contrary, police were prepared to agree. "At that time, when there was a missing person without the obvious presence of foul play, you can't run a full-blown investigation," says retired New York City detective Michael Struck, one of the investigators on the case. "People take off on their spouses every day."

But Kathie's family and friends fault the police for not taking a closer look at all the circumstances of her life and for not searching the South Salem home. Kathie, who was from a middle-class family, had met Robert in 1970, when she was working as a dental hygienist and renting an apartment in a building owned by the Dürsts. At that time Robert was working for his father, Seymour, head of the Dürst Organization, one of the top real estate developers in



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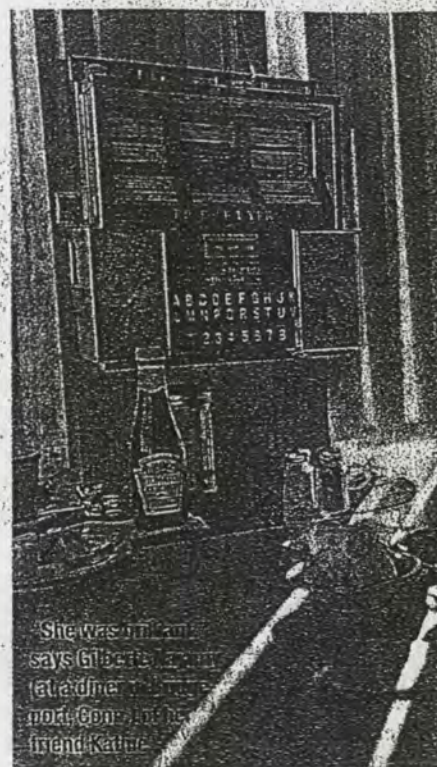
● mystery

the city. (The company is now estimated to be worth more than \$600 million.) The couple married in 1972 and seemed first to have an untroubled marriage. Robert was laid-back, though sometimes aloof, and didn't like flaunting his wealth; she was vivacious. "I liked Bobby," says Najamy. "And Kathie was in love with him." According to Kathie's friends, however, Robert soon told his wife that he didn't want children. To compensate, she threw herself into a new career, enrolling at Western Connecticut State College and then, in 1978, at Albert Einstein medical college.

But by 1980 their marriage was unraveling. They separated and Robert reportedly began seeing Prudence Farrow, Mia's sister and a film producer. In March 1981 Kathie vacationed with Najamy in Puerto Rico, where Kathie broke the news that she intended to seek a divorce. In preparation for a financial settlement, she began pressing her

husband for details about the holdings of the Durst Organization but made little headway. Kathie told friends that she had even gone searching among her husband's papers for helpful documents.

In any event, there was trouble. On Jan. 6, 1982, three weeks before her disappearance, Kathie was admitted to Jacobi Hospital in The Bronx with bruises on her face and head—injuries she said were caused by her husband during an argument. (Robert Durst did not respond to interview requests for this article, but in one previous sworn affidavit denied that he had ever threatened or assaulted his wife "or caused her any physical harm or abuse.") Her friends pleaded with her just to walk away from the marriage, but she refused, though she repeatedly told them she was convinced that her husband might try to kill her. "She was terrified for her life," says Dr. Marion Wattlington, who became friends with Kathie in



She was ill, says Gilbert...
staidne...
not, Con...
friend Kathie

Go out to dinner. Get big savings on a new GM car or truck.



college and now practices medicine in Bermuda. "But she said, 'I've been with him a while and I want a settlement in the divorce.'"

After Kathie's disappearance her family had little contact with the Dursts. Her brother Jim McCormack recalls having a very brief meeting with Seymour Durst to discuss the case. "He was very evasive," says McCormack. "It was strange." Roughly five years ago Robert left the family business, after his brother Douglas took over the company. He now reportedly invests in real estate and has homes in Manhattan and northern California.

The case of his vanished wife lay fallow until late last year, when Joseph Becerra, an investigator with the New York state police, dug up the file while checking on a tip. Intrigued, he began to reexamine the evidence. State police have now searched the South Salem home six times—though Robert sold it eight years after Kathie went missing—

and have dragged nearby Lake Truesdale. This month investigators spent nearly five hours examining the crawlspace under the home, though it is unclear what, if anything, they may have discovered. But Kathie's brother says police have told him they have new leads in the case, and for the first time he and Kathie's family and friends sense that a break may be at hand. "I'm hopeful and very prayerful for a resolution," says McCormack.

As for Robert Durst, when the news broke that the investigation into Kathie's disappearance was being reopened, he told a reporter for the *New York Daily News* only, "I know nothing about it, but I would not have any comment." Later, Douglas Durst, 56, issued a statement repeating his brother's denial of any knowledge about the case. "Robert Durst," he declared, "continues to maintain his innocence."

- Bill Hewitt
- Matt Birkbeck in South Salem





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ROBERT DURST *(X) Texas* [REDACTED] 4-12-01 1773
 [REDACTED] 4/12/01 DATE 1-108/210
 PAY TO THE ORDER OF *Cash* \$ 9000 *X*
nine Thousand DOLLARS 
 HSBC 
 HSBC Bank USA New York, NY 10007
 FOR [REDACTED] *Robert Durst* MP
 [REDACTED] 1773 ⑈0000900000⑈

 The following security features (and others not listed) exceed industry standards:
 Security Features
 Document appearance if altered:
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CASH CHECK

984 05 9860

04/12/2001

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 HSBC BANK USA
 144 BONY 04/12/01

PAY ANY BANK

⑈000000⑈


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0012 16463

Robert Durst

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ROBERT DURST
 [REDACTED] 1768
 06/06/01 DATE 1-108/210
 PAY TO THE ORDER OF Cash \$ 9000
Michael DOLLARS
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 HSBC Bank USA New York, NY 10007
 FOR [REDACTED] 1768
 [REDACTED] 0000900000

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 [REDACTED] \$10000
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 [REDACTED] 1774
 5/31/01 DATE 1-108/210


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ninetyfive hundred DOLLARS

HSBC 
 HSBC Bank USA New York, NY 10007

FOR [REDACTED] 1774 0000950000

[Signature]

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1774 0000950000

HSBC BANK USA
 140 BROADWAY
 5007262734

5/31/01

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 06/11/2001
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 140 BROADWAY
 NEW YORK, NY 10005
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 Exp 4-12-05
 4/19
 1779
 1-108/210
 DATE
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 ninety five hundred *00* DOLLARS
 HSBC 
 HSBC Bank USA New York, NY 10007
 FOR [REDACTED]
 1779
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 Security Features Details on Back

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Chemical Sensitivity

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 0009 66130

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ROBERT A DURST
 [REDACTED]
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 719
 11-35/1210
 124
 Date 5/15/01
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ninety five hundred Dollars
 Bank of America
 Eureka Main Branch #0124
 334 F Street
 Eureka, CA 95501 (800) 237-8052
 For [REDACTED]
 0719 [REDACTED]
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Bank of America
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 334 F Street
 Eureka, CA 95501 (800) 237-8052

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 For 111 047 8-14-01#045 \$9,500.00 MP
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 111000066
 The bank at this destination
 is not authorized to cash checks
 drawn on other banks.
 You must deposit this check in
 your account directly with the bank
 where it is drawn or the bank of deposit
 where it is cashed.
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Pay to the Order of Cash \$ 9500
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Eureka Main Branch #0124
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 en. **Summary:** *summary*
 eo. **Analysis:** *analysis*
 ep. **Synthesis:** *synthesis*
 eq. **Evaluation:** *evaluation*
 er. **Recommendation:** *recommendation*
 es. **Conclusion:** *conclusion*
 et. **Summary:** *summary*
 eu. **Analysis:** *analysis*
 ev. **Synthesis:** *synthesis*
 ew. **Evaluation:** *evaluation*
 ex. **Recommendation:** *recommendation*
 ey. **Conclusion:** *conclusion*
 ez. **Summary:** *summary*
 fa. **Analysis:** *analysis*
 fb. **Synthesis:** *synthesis*
 fc. **Evaluation:** *evaluation*
 fd. **Recommendation:** *recommendation*
 fe. **Conclusion:** *conclusion*
 ff. **Summary:** *summary*
 fg. **Analysis:** *analysis*
 fh. **Synthesis:** *synthesis*
 fi. **Evaluation:** *evaluation*
 fj. **Recommendation:** *recommendation*
 fk. **Conclusion:** *conclusion*
 fl. **Summary:** *summary*
 fm. **Analysis:** *analysis*
 fn. **Synthesis:** *synthesis*
 fo. **Evaluation:** *evaluation*
 fp. **Recommendation:** *recommendation*
 fq. **Conclusion:** *conclusion*
 fr. **Summary:** *summary*
 fs. **Analysis:** *analysis*
 ft. **Synthesis:** *synthesis*
 fu. **Evaluation:** *evaluation*
 fv. **Recommendation:** *recommendation*
 fw. **Conclusion:** *conclusion*
 fx. **Summary:** *summary*
 fy. **Analysis:** *analysis*
 fz. **Synthesis:** *synthesis*
 ga. **Evaluation:** *evaluation*
 gb. **Recommendation:** *recommendation*
 gc. **Conclusion:** *conclusion*
 gd. **Summary:** *summary*
 ge. **Analysis:** *analysis*
 gf. **Synthesis:** *synthesis*
 gg. **Evaluation:** *evaluation*
 gh. **Recommendation:** *recommendation*
 gi. **Conclusion:** *conclusion*
 gj. **Summary:** *summary*
 gk. **Analysis:** *analysis*
 gl. **Synthesis:** *synthesis*
 gm. **Evaluation:** *evaluation*
 gn. **Recommendation:** *recommendation*
 go.

OFFICIAL PRESIDENT OF THE REVOLUTION

significantly remains below as well as exceeds the guidelines.

Results of document alteration

as well as when interpreted

'et al' in the title

0000 0007#
28-04-12-05
BANK OF AMERICA NA DAL
111000025 53019 P19
06/12/01

TXDR

[illegible]

0273213216

LADA 126900

ROBERT A DURST

Master Relationship Account

522

DATE 1/31/01

11-35/1210
124

PAY TO THE
ORDER OF

Cash

\$ 9500

ninety five hundred

DOLLARS

Security features
included
Details on back

Bank of America

Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED
Customer Since
1996

FOR

124406400#

011 047 1-31-01H012

\$9,500.00

MP

0522

0000950000

Printed on Recycled Paper CA Blue Salary

Security features listed below, as well as those
Results of document alteration:
Small type in signature line appears
as dotted line when photocopied
Absence of "Original Document"
watermark on back of check

BANK OF AMERICA
111000025 14523 OF P19
01/31/01

3153 02503

Robert A. Durst

CONFIDENTIAL

RD0000008426

ROBERT A DURST

Master
Relationship Account

525

DATE

3/12/0

11-35/1210
124

PAY TO THE
ORDER OF

Cash

\$9500+

Bank of America

Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED
Customer Since
1996

FOR

014 047 3-12-01#159

\$9500.0000

MP

⑆

0525

0000950000

Printed on Recycled Paper CA Item Safety

Security features
included
Details on back

03/13/01
11000025
E3997 9F P19
03/12/01

Security features included on back of check

Results of document alteration:
• Small type in signature line appears as under; line when photocopied
• Absence of "Original Document" reference on back of check

BANK OF AMERICA, NA DAL
11000025 E3997 9F P19
03/12/01
0720012173

MAR 12 01

4/12/05
11000025

Handwritten signature and initials

CONFIDENTIAL

RD0000008431

592

DATE _____

3 1/2 g/o

11-35/1210
124

PAY TO THE
ORDER OF_

Security features included:
 - ☐ Watermark
 - ☐ Hologram
 - ☐ Microprint
 - ☐ Color
 - ☐ UV
 - ☐ IR

 Security features included
Details on back

Bank of America

Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED
Customer Since
1996

FOR

005 047 3-29-01#050

\$7,500.00

MF

0592

0000950000

...many features listed below, as well as most
...and, of course, P&A guidelines.

...features of document attention:

- Small type in signature line appears as dotted line when photocopied
- Absence of "Original Document" markings on back of check

...Cachet's "Real"

BANK OF AMERICA NA DL
10000025 6791 RF P1P
03/29/01

Li 12/05

10/10/10

CONFIDENTIAL

RD0000008432

LADA 126903

ROBERT A DURST

Master Relationship Account

587

DATE 3/28/01

11-35/1210
124

PAY TO THE
ORDER OF

Bank of America

Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED
Customer Since
1996

FOR

0587 0000950000

Printed on Recycled Paper CA Blue Safety

Security features
included
Details on back

10
Results of document alteration:
no matter how many photocopied
- absence of "original document"
- change on back of check

BANK OF AMERICA NA DAL
111000025 E7145 9 F19
03/28/01
007 763 358 32801#078
\$9500.0000

4/12/01
N/A
\$9500.0000

Bank of America NA
Eureka, CA 95501

Robert A. Durst

CONFIDENTIAL

RD0000008433

is/rl
ROBERT A DURST
[Redacted]

TC

Master Relationship Account
DATE 12/29/00

535
11-35/1210
124

Printed on Recycled Paper, CA Blue Safety

PAY TO THE ORDER OF Cash \$ 5000
Five thousand DOLLARS

Bank of America
Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED
Customer Since
1996

Robert Durst

FOR _____ MP
⑆ [Redacted] ⑆ 0535 ⑆ [Redacted] ⑆ ⑆ 0000500000 ⑆

10
Security features listed below as well as those on the back of the check.
Results of document attention:
- Small type in signature line appears as dotted line when photographed
- Absence of "Original Document" reference on back of check
- No other unusual

CASH CHECK
R/T# 540950125
ACCOUNT
BANK OF AMERICA
61/02/2001 17:44
000124406400
00009416 11 00009

Iss. by IX Type Dis. Date 12/29/00
ID # [Redacted]
H/PH [Redacted]
2ND ID/TYPF [Redacted]
Expos
Lead

Robert Durst

CONFIDENTIAL

LADA 126906

DU

OKWD
FBI

NO CAUT TX DM

ROBERT A DURST

Master
Relationship Account

588

11-35/1210
124

Printed on Recycled Paper CA Blue Safety

PAY TO THE
ORDER OF

Cash

W4 4/05

DATE 1/30/01

\$ 9500+

Bank of America

Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED
Customer Since
1996

DOLLARS

Security features
included
Details on back.

FNR

FOR

0700.0074

[Signature]

MP

0588

0000950000

Security features listed below, as well as those in the listed Federal Reserve guidelines:
- Features of document alteration:
- Small type in signature line appears as dotted line when photocopied
- Absence of "Original Document" watermark on back of check

BANK OF AMERICA NA DAL
111000025 E4285 9F 019
01/30/01

283-7631442 130018054

\$9500.00CC

[Signature]

CONFIDENTIAL

RD0000008437

ROBERT A DURST

Master
Relationship Account

528

DATE 12/20/00

11-35/1210
124

PAY TO THE
ORDER OF

Cash
ninety five hundred

Tran 00088

12/20/2000 12:47

Entity NCN AC 0000124 TLR 00000

Security features
included
Details on back.

Bank of America

Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED Account
Customer Sign # 540930135
1996

Cash Check
KTT

\$9,500.00

FOR

0528 0000950000

Printed on Recycled Paper, CA Blue Safety

The security features listed below, as well as those not listed, are used for A guidelines.

Security Features:

- Microprint Signature Line
- Results of document alteration: or, filled line when photocopied
- Security Thread
- Presence of "Original Document" watermark on back of check

121000035842
1555 BARNET ST, CA. 4001
12/20/00 0000124400 CASH

01331066

CONFIDENTIAL

RD0000008438

ROBERT A DURST

Master
Relationship Account

516

DATE 10/1/02

11-35/1210
124

Printed on Recycled Paper CA Blue Shiny

PAY TO THE
ORDER OF

Cash
methuane

\$ 9000

Bank of America
Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED ACCOUNT
Customer Since 1996 # 740720135

Trans 00004 10/27/2000 09:15
Entity NCN 00/0006031 TO RA08082

FOR all \$100's

Cash Check \$9,000.00
N:KPC ***** 1/1/02

⑆ :0516⑆ :0000900000⑆

FEDERAL RESERVE BANK REGULATION C
The security features listed below, as well as those
not listed, exceed FSA guidelines.
Security Features: Results of document alteration:
MicroPrint Signature Line • Small type in signature line appears
as dotted line when photocopied
• Absence of "Original Document"
variance on back of check
Security Screen

#12100035845
1455 MARKET ST, CA 94003
10/27/00 0000605002 CA59
01201653

Do not destroy this card
as it contains information that
may be used to identify the card.

CONFIDENTIAL

RD0000008441

ROBERT A DURST

Master
Relationship Account

519

DATE 10/1/00

11-35/1210
124

PAY TO THE
ORDER OF

Rler Jun
Ninthman

Tran 00024 10/23/2000 10:05

Entity RGN CC 0000124 T1 00002

Account

Customer ID# 540930135

1996 Cash Check \$9,000.00

N RT Rler Jun

Bank of America

Eureka Main Branch #0124

334 F Street

Eureka, CA 95501

(800) 237-8052

FOR

9000 all \$1.00

1:05 19

0000900000

Security Features:
MicroPrint Signature Line
Security Screen

Results of document alteration:
Small type in signature line appears
as dotted line when photocopied
Absence of "Original Document"
markings on back of check

The security features listed below, as well as those
not listed, exceed FSA guidelines.

#12100035848
1455 MARKET ST, CA 94003
10/23/00 0000124002 CA59

10494620

FOR FURTHER INFORMATION, CONTACT
FBI (415) 556-6000 OR (800) 556-6000

10/27/00
Rler Jun

CONFIDENTIAL

RD0000008443

LADA 126910

784

Master Relationship Account

Robert A Durst

Date 9/20/01

11-35/1210 124

pay to the order of Cash \$9500

ninety five hundred Dollars

Bank of America

Eureka Main Branch #0124

334 F Street

Eureka, CA 95501 (800) 237-8052

VALUED Customer Since 1996

For all \$100 R. Durst

0000950000

GUARDIAN® SAFETY BLUE WBL

VOID: The back of this document has been printed with a patented security process in order to deter check fraud. If you do not clearly see the words "VOID" printed on the back of this document, or the word VOID appears to be faint or the message does not read, U.S. Patent No. 5,510,199

BANK OF AMERICA

09/20/01

0000950000

ENDORSE HERE

VOID

506 03076

09/20/01

0000950000

CONFIDENTIAL

9/25/01

ROBERT A DURST
[REDACTED]

Master Relationship Account

Date 9/25/01 1286 1286 1286

Pay to the Order of Carl \$ 9500

ninety five hundred Dollars

Bank of America
Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

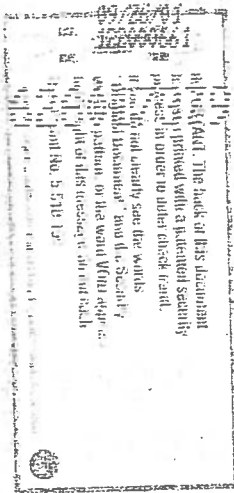
VALUED Since 1996

For Rler Durst

⑆ [REDACTED] ⑆ 0786 ⑆ [REDACTED] ⑆ 0000950000 ⑆

© 2000 American Bank Note Company

GUARDIAN SAFETY BLUE WEB



BANK OF AMERICA NA HU
111000025 09/25/01
5335 1670 4000

9/25/01
9500
Carl


CONFIDENTIAL

[illegible]

LADA 126916

ROBERT DURST *TEXAS* *5104-128/9/01* 1275
 DATE 1-108/210

PAY TO THE ORDER OF *Cash* \$ *9500*
ninety five hundred DOLLARS

HSBC 
 HSBC Bank USA New York, NY 10017-1161

FOR *Robert Durst* *MP*
 1275 0000950000

THE FOLLOWING SECURITY FEATURES (AND OTHERS) ARE NOT LISTED EXCEPT INDUSTRY STANDARDS:

Security Features

Security Strips

Microprint Signature Line

Chemical Sensitivity

Patchlock Icon

Document appearance if altered:

- * Absence or modification of "Original Document" screen on back of check
- * Absence of tiny words or dotted line
- * Absence of signature line
- * Absence of security strip
- * Absence of patchlock icon

© Patchlock design is a certification mark of Check Payment Services Association


CASH CHECK 619 05 2464
 08/09/2001 14:27:48
 PAY-BANK 000000


AM-9-01-1

Robert Durst
9/10/01
1275
0000950000

CONFIDENTIAL


ROBERT DURST *Texas* [REDACTED] 1276
 NEW YORK, NY 10005 *Ex 04-12-05 8/8/01* DATE 1-108/210

PAY TO THE ORDER OF *Carl* \$ *9500*
ninety five hundred DOLLARS  Security Features Details on Back

HSBC 
 HSBC Bank USA New York, NY 10017-1161

FOR *Robert Durst* *OLV*
 [REDACTED] 1276 0000950000

FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

 The following security features (and others not listed) exceed industry standards:

Security Features	Document appearance if altered:
Security Screen	* Absence or modification of "Original Document" screen on back of check
Microprint Signature Line	* Absence of tiny words or dotted line appear in signature line
Chemical Sensitivity	* Colored stains or spots appear with ultraviolet light
Padlock Icon	* Absence of padlock icon


® Padlock design is a certification mark of Check Payment Systems Association

ENDORSE HERE: *[Signature]*

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE
 FOR ELECTRONIC USAGE (ONLY)

AT ANY BANK
 08/08/2001 15:05:43
 \$9500.00
 619 08 2265
 0210010884
 HSBC BANK USA
 140 BROW 08/08/01
 0000000000

CONFIDENTIAL

ROBERT DURST
 [REDACTED] 8/2 1250
 DATE 1-108/200
 PAY TO THE ORDER OF *cash* \$ 9500
ninety five hundred DOLLARS
 HSBC 
 HSBC Bank USA New York NY 10017-1161
 FOR 77018014
 [REDACTED] 1250 "0000950000"
 Robert Durst


FEDERAL RESERVE BOARD OF GOVERNORS REG. CC
 The following security features (and others not listed) exceed industry standards:
 Security Features
 Security Screen
 Microprint Signature Line
 Color Sensitivity
 Pattern Icon
 Document appearance if altered:
 • Absence or modification of "Original Document" screen on back of check
 • Absence of tiny words or dotted line
 • Colored stains or spots appear with chemical stress or spots appear with chemical stress or spots appear with chemical stress
 • Absence of pattern icon
 Pattern icon is a certification mark of Check Payment Systems Association

0136 47000
 15-2
 14:30:06
 \$9500.00
 619 05 1657
 021001088
 HSBC BANK USA
 145 BROADWAY
 08/02/01
 400552555
 CASH CHECK
 08/02/2001
 PAY ANY BANK
 STAMP BELOW THIS LINE
 OFFICIAL USE ONLY
 0136 47000
 15-2
 14:30:06
 \$9500.00
 619 05 1657
 021001088
 HSBC BANK USA
 145 BROADWAY
 08/02/01
 400552555

CONFIDENTIAL

ROBERT DURST TEXAS [REDACTED] EX 4-12-05 1300
 [REDACTED] 7/28 DATE 1-108/210

PAY TO THE ORDER OF Cash \$ 9500
ninety five hundred DOLLARS

HSBC 
 HSBC Bank USA New York, NY 10017-1161

FOR [REDACTED] Robert Durst MP
 1300 0000950000

FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

The following security features (and others not listed) exceed industry standards:

Security Features	Document appearance if altered:
Security Screen	* Absence or modification of "Original Document" screen on back of check
Microprint Signature Line	* Absence of tiny words or dotted line
Chemical Sensitivity	* Absence of signature or words
Padlock Icon	* Absence of padlock icon

*Practice design is a certification mark of Check Payment Systems Association

021001088
 HSBC BANK USA
 100 BROADWAY 47/30/01
 0200950000

U979 07/28/2001 11:02:29
 NEXT DAY BUSINESS
 \$9500.00
 926 02 0258
 CASH
 75270
 U979
 14

ENDORSE HERE:

CONFIDENTIAL

TX DL# [REDACTED]
 ROBERT DURST
 [REDACTED]
 04-12-05 7/26
 DATE 1794
 1-108/210
 PAY TO THE ORDER OF *Carl*
ninetyfive hundred
 \$ *9500*
 DOLLARS
 HSBC
 HSBC Bank USA New York, NY 10007
 FOR [REDACTED]
 [REDACTED]
 1794
 0000950000
 Security Features Details on Back

*FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

D The following security features (and others not listed) exceed industry standards:

Security Features

- Document appearance if altered:
- * Absence or modification of "Original Document" screen on back of check
- * Absence of tiny words or dotted line appear in signature line
- * Colored stains or spots appear with chemical altered padlock icon
- * Absence of padlock icon

Padlock icon
 Padlock design is a certification mark of Check Payment Systems Association

CASH CHECK
 619 12 5100
 07/26/2001
 PAY ANY BANK

69500.00
 07/26/01
 USA

0004 65664

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE
 FOR FINANCIAL INSTITUTION USAGE ONLY

X
 [Signature]
 ORSE HERE:

CONFIDENTIAL

RD0000009284

'000090000'

1890

LADA 126926

ROBERT DURST


1305

11/2/00 DATE


1-108/210

PAY TO THE ORDER OF *Cash* \$ *9000*

methowan DOLLARS

HSBC 

HSBC Bank USA New York, NY 10007

FOR 

Robert Durst MP

1305 0000900000

© HARLAND

FEDERAL RESERVE BOARD OF GOVERNORS REG. LC

The following security features (and others not listed) exceed industry standards:

Security Features

Security Screen

Microprint Signature Line

Chemical Sensitivity

Padlock Icon

Document appearance if altered:

- * Absence or modification of "Original" document screen on back of check
- * Absence of signature line
- * Colored stains or spots appear with chemical alteration
- * Absence of padlock icon

©patent design is a certification mark of Check Payment Systems Association

CASH CHECK 717 09 2830

11/02/2000 11/25/99

PAY ANY BANK

100 - 2 00

ENDORSE HERE:

X

Robert Durst

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE FOR FINANCIAL INSTITUTION USAGE ONLY.

CONFIDENTIAL

RD0000009291

ROBERT DURST

1308

DATE 12/3/00

PAY TO THE ORDER OF *Carl*

\$ 9000

DOLLARS

HSBC

HSBC Bank USA New York, NY 10007

FOR

1308

0000900000

© HARLAND

FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

The following security features (and others not listed) exceed industry standards:

Security Features

Security Screen

Microprint Signature Line

Chemical Sensitivity

Padlock Icon

Document appearance if altered:

* Absence or modification of "Original Document" screen on back of check

* Absence of tiny words or dotted line appear in signature line

* Colored stains or spots appear with chemical alteration

* Absence of padlock icon

* Padlock design is a certification mark of Check Payment Systems Association

ENDORSE HERE:

X. *[Signature]*

067 17046

DO NOT SIGN / WRITE / STAMP BELOW THIS LINE FOR FINANCIAL INSTITUTION USAGE ONLY

CASH CHECK

11/03/2000

\$9000.00

12:00

717 06 3636

00210010000

HSBC BANK USA

146 BROW

11/03/00

CONFIDENTIAL

RD0000009304

[Signature] **ROBERT A DURST** *cm* **Master Relationship Account** 790
 Date 9/28/01 11-35/1210 124

Pay to the Order of Cash \$ 9500
ninety five hundred Dollars

Bank of America
 Eureka Main Branch #0124
 334 F Street
 Eureka, CA 95501 (800) 237-8052

Customer Since 1996

For [Signature]

0.790 0000950000

GUARDIAN SAFETY BLU WBL

ENCLOSURE HERE

[Signature]

Bank of America

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 RESERVED FOR FINANCIAL INSTITUTION USE

SEP 29 21

1110000025

4-12-03

4-05

98300

BANK OF AMERICA NA HOV
 1110000025 E0853 9F P09
 09/28/01

U.S. Federal Reserve 5,510,199

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CONFIDENTIAL

RD0000009306

LADA 126934

ROBERT A DURST
[REDACTED]

Master Relationship Account 705

Date 3/31 11-35/1210 124

Pay to the Order of Cash \$ 9500+

ninety five hundred

Bank of America
Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

Account Customer Service 44930135
Cash Check \$9,500.00
N DRL TX 12/12/2005

For [REDACTED] 0705 [REDACTED] 0000950000

© Clarity American

1220000001

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE.
RESERVED FOR FINANCIAL INSTITUTION USE.

200999

IMPORTANT: The back of this document has been printed with a patented security process in order to deter check fraud. If you do not clearly see the words "Original Document" and the Security Water Pattern, or the word VOID appears to the right of this message, do not cash. U.S. Patent No. 5,510,199

CONFIDENTIAL

RD0000009312

ROBERT A DURST

Master Relationship Account 709

Date 04/23/01 11-35/1210-12

Pay to the Order of Cash \$ 9500

ninety five hundred Dollars

Bank of America
Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

Customer Since 1996

For Robert Durst

0709 0000950000

GUARANTEE SAFETY BLUE INK

IMMUTABLE: The back of this document has been printed with a patented security process in order to deter check fraud. It is not clearly see the words "Original Document" and the Security Watermark, or the word VOID appears to the right of this message, do not cash.

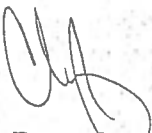
U.S. Patent No. 5,510,199

Bank of America

007-7831128-42301#042 \$9500.0000

CONFIDENTIAL

RD0000009314


ROBERT A DURST
 [REDACTED]

Master Relationship Account 711
 Date 4/25/01 11-35 12 124

Pay to the Order of Cash \$ 9500
ninety five hundred Dollars


Bank of America
 Eureka Main Branch #0124
 334 F Street
 Eureka, CA 95501 (800) 237-8052

Customer Since 1996

For 005 047 4-25-01#000 \$9,500.00

0711 [REDACTED] 0000950000

© Clarke American

RESPONSE HERE


No Endorsement: Stamp dated 4/25/01
 RECEIVED FOR FINANCIAL INSTITUTION 4/25/01
 Bank of America
 Eureka, CA 95501
 4/25/01

U.S. Patent No. 5,510,199

IMPORTANT: The back of this document is heavily printed with a national security pattern in order to deter check fraud. If you do not clearly see the words "Financial Document" and the Security Mark pattern, or the word VOID, appears to the right of this message, do not cash.

CONFIDENTIAL

RD000009315

ROBERT A DURST

Master
Relationship Account

516

DATE 10/1/02

11-35/1210
124

Printed on Recycled Paper CA Blue Shiny

PAY TO THE
ORDER OF

Cash
methuane

\$ 9000.00

Trans 00004 10/27/2000 09:15
Entity NCH 10/0006021 TOA08092

Bank of America
Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

VALUED ACCOUNT
Customer Since 1996 # 74070135

Cash Check \$9,000.00
NCH ***** 10/01/02

FOR all \$100's

1: [REDACTED] :0516 [REDACTED] :0000900000

FEDERAL RESERVE BANK REGULATION C
The security features listed below, as well as those
not listed, exceed FSA guidelines.
Security Features: Results of document alteration:
MicroPrint Signature Line • Small type in signature line appears
as dotted line when photocopied
• Absence of "Original Document"
variance on back of check
Security Screen

#12100035846
145 MARKET ST, CA 94003
10/27/00 0000605002 CA59
01201653

Do not activate. This feature is for
security of the document.

CONFIDENTIAL

RD0000008441

EXHIBIT 17

REPORTER'S RECORD

VOLUME 2 OF 4 VOLUMES

CAUSE NO. 01CR1900

THE STATE OF TEXAS)(IN THE DISTRICT COURT OF
VS.)(GALVESTON COUNTY, TEXAS
ROBERT DURST)(212TH JUDICIAL DISTRICT

TRIAL TESTIMONY OF ROBERT DURST

A P P E A R A N C E S:

FOR THE STATE:

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BE IT REMEMBERED that upon this 23rd day of
October, 2003, the following proceeding occurred
before the Honorable Susan Criss, Judge of the 212th
District Court of Galveston County, Texas:

1 broke about meeting Morris now as a man and about
2 watching television, drinking Jack Daniels together.
3 In the days and weeks to come, what sort of
4 relationship developed between you and Morris?

5 A We became good friends. When I got back
6 here, I drove from New Orleans to here I guess the
7 middle of March. Until I went away at the end of
8 March, we spent a great deal of time together. We
9 would watch T. V. like the morning talk shows, then
10 go out for coffee, usually to the E. Street coffee
11 house, and to the Rosenberg library.

12 Q What did you and Morris have in common?

13 A We had a lot in common. Both of us are
14 loners. Neither of us had much of a relationship
15 with our family, either when we were young or grew
16 up, got older.

17 Q Let me stop you there. About your
18 relationship with your families, what was your
19 understanding from knowing Morris about his
20 relationship with his family?

21 A I don't know if it was the other ones
22 didn't get along with him. I thought none of the
23 siblings spent much time with any of the other
24 siblings in his family. But in terms of Morris, he
25 had kept in contact primarily since he was a

1 were on 23rd, so maybe it was on 25th, something
2 like that, and the Seawall.

3 Q Okay. Restaurants?

4 A. We didn't go to restaurants much. We liked
5 the Cadillac Bar and Grill. They had a big buffet
6 lunch. We went to that Cactus Cafe or Grill,
7 whatever it is over here on -- I think it's on 14th
8 Street. That was pretty much it.

9 Q When you went to the Poop Deck, who bought
10 the drinks?

11 A I usually would.

12 Q When you went to the Cadillac Bar, who
13 bought food?

14 A I usually would.

15 Q When you went to the Cactus Cafe, who
16 bought the food?

17 A I would usually do those type of things.

18 Q Did you come to trust Morris Black?

19 A Yes, yes. I was very comfortable with
20 Morris Black. I have always, when I would walk into
21 the apartment, I would always put whatever I was
22 carrying, keys and my money and glasses and stuff
23 like that down on that little blue table in front of
24 the model. And I never was the least bit concerned
25 that he would take anything, which he never did. I

1 they would do that until they deleted certain
2 information about him.

3 Q But you now have been told or you
4 witnessed these incidents with Morris. He has told
5 you about U. T. M. B. having to call a guard. He
6 has told you about and you have seen some notice
7 from the Rosenberg Library that he had to be kicked
8 out and wasn't welcome to come back there. Has he
9 turned any of this on you yet?

10 A Well, he would never argue with me. I
11 would walk away. When we were in the apartment
12 watching television and I would criticize something
13 he was doing, like taking the remote and just
14 changing channels faster than I could imagine or
15 turning it up too loud and I would tell him, he
16 would always act very apologetic and sheepish and
17 just -- he would go back and doing it again soon.
18 But I know I never really had an argument with him.
19 He also knew I wouldn't argue with him, so he
20 wouldn't start doing that with me.

21 Q At some point during that summer did
22 Morris Black become aware that you had a lot of
23 money?

24 A I don't know how much money. He became
25 aware that I had financial resources or whatever,

1 that I had owned things in the past. I wasn't -- I
2 never told Morris about my background, and like
3 that. But I didn't hide it that I was from New
4 York, and I didn't hide it that I was brought up
5 from governesses and that type of stuff. And
6 investments that I had made, we talked about and
7 stuff. So he knew that I had some money in the bank
8 and stuff like that.

9 Q You have heard in the courtroom an
10 incident described by Ted Handley of the Jesse Tree.
11 He describes that Morris Black had told him that
12 he knew a person with lot of money that might
13 provide funding or a loan or an interest free loan.
14 And shortly after that Mr. Handley describes you
15 came to the Jesse Tree with glasses with tape on
16 them. Tell the Jury what happened.

17 A Pretty much what Mr. Handley said was
18 true. I had read of the Jesse tree and come to know
19 of it through Morris, and it seemed like what
20 Mr. Handley was doing was worthwhile and that was
21 kind of an organization if I ended up spending time
22 here, bought a house and all that, that I would make
23 a donation to. Now I never knew about Morris
24 telling Mr. Handley that I was going to give him a
25 loan or whatever it is that he said until this all

1 records are in. The State introduced records that
2 you had used or that you had cashed several checks
3 for \$9,500 each in the week or so before Morris
4 Black died. The other records that we used shows
5 that is a pattern that goes way back of cashing
6 checks for \$9,500. Why were you cashing checks for
7 \$9,500?

8 A If you cash a check for more than -- for
9 \$10,000, there's a big form that gets filled in and
10 it takes a long time and it goes to some agency,
11 some place or other. And I always paid a lot of
12 bills with cash and stuff, restaurants and things
13 like that. But when this first happened in November
14 of 2000, when I first ever went bananas and came
15 down here, I knew if I ever had to go into hiding, I
16 would need cash. And so I started withdrawing money
17 from my banks and I just sort of kept doing it like
18 on remote control or something like that.

19 Q How much money had you accumulated by the
20 third week in September of 2001 when you started
21 cashing checks in Galveston, also? Roughly how much
22 cash money had you accumulated?

23 A 550 -- \$600,000.

24 Q All your money?

25 A All my money.

1 sitting at the table and would turn around to go to
2 the kitchen.

3 Q We are having difficulty hearing you, so
4 if you will step back up here where you have got the
5 microphone, Bob, please. As you fell, did you fall
6 all the way?

7 A Oh, we fell all the way, yes, sir.

8 Q Did you fall hard?

9 A Yes, sir.

10 Q And what hit -- what part of your body hit
11 first?

12 A My left elbow.

13 Q Your left elbow?

14 A Yeah, right here.

15 Q And where was your right hand as you fell?

16 A My right hand was in the same place it had
17 been from the beginning, on the barrel of the gun on
18 top of his hand.

19 Q As this was going on, Bob, what did you
20 think Morris was about to do? What were you
21 concerned about?

22 A I was concerned that Morris was going to
23 shoot the gun, most likely at my face.

24 Q Were you in fear of that?

25 A Well, yes. I mean, I don't know that I

1 thought all these things, but I do know that the gun
2 was aiming at me. He was pushing the gun towards
3 me, and I was trying to pull the gun away.

4 Q So as you held your hand on the part, the
5 front part of the gun and wrestled with him over the
6 gun --

7 A We never really wrestled. I went to pull
8 the gun and the gun didn't move. He moved and the
9 two of us fell back like that.

10 Q As you hit the ground or the floor and as
11 your elbow hit, what happened?

12 A The gun went off.

13 Q Bam, like that?

14 A Like that.

15 Q And then what did you see?

16 A I pushed myself up on my left hand and I
17 saw blood on the side of Morris' nose like that.

18 Q Now, you and I could sit here and try to
19 duplicate what happened all day long. You're 60
20 years old, I'm 62 years old. We can't fall down
21 without hurting ourselves, can we?

22 A I doubt it.

23 Q Did you hurt your elbow?

24 A Yes, sir.

25 Q Was it sore?

1 A Yes, sir.

2 MR. DeGUERIN: Your Honor, I think
3 this is where we want to approach the Bench about
4 the other thing that we have.

5 THE COURT: Do we need to approach
6 the Bench and ask the Jury to step out?

7 MR. DeGUERIN: Well, it's up to the
8 Court. I don't know if I am supposed to say it in
9 open court.

10 MR. LEWIS: Let the Jury go.

11 (Out of the Jury's presence:)

12 VOIR DIRE EXAMINATION

13 BY MR. DeGUERIN:

14 Q Bob, have you seen a computerize animation
15 of what you just described, what you saw happen,
16 what you participated in, have you seen a video
17 animation of those events that you have tried to
18 describe in words?

19 A Yes, sir.

20 Q And does the video animation that you have
21 seen duplicate exactly what happened as you recall
22 it and as you experienced it?

23 A Yes, sir.

24 Q Is it or not inadequate to try to describe
25 in words what happened?

1 A Yes, sir.

2 Q And by this computer animation, does it
3 duplicate, as nearly as is possible with technology
4 as we have it today, exactly what happened?

5 A Yes, sir.

6 Q The apartment as is shown in the video
7 animation, is it accurate? Is it an accurate
8 depiction of the apartment?

9 A Yes, sir.

10 Q Is the struggle that you and Morris Black
11 had over the gun an accurate depiction in the video
12 animation?

13 A Yes, sir.

14 Q This, of course, is going to have to be
15 terribly leading; but would it aid the Jury in
16 understanding exactly how this happened and more so
17 than just being able to describe it in words?

18 A Yes, sir.

19 MR. DeGUERIN: Your Honor, we have
20 previously supplied to the Prosecution and to the
21 Court the computerized video animation. We would
22 like to play it for the Court so this Court can see
23 it on the record and we offer the video animation.

24 THE COURT: You want to number it as
25 No. 62?

1 MR. DeGUERIN: For demonstrative
2 purposes it's Defendant's Exhibit 62.

3 THE COURT: All right. You can go
4 ahead and play it, then. That's what you are asking
5 me to do, play it?

6 MR. DeGUERIN: Yes, ma'am.

7 MR. BENNETT: Could I take him on
8 voir dire, Your Honor?

9 THE COURT: Certainly.

10 VOIR DIRE EXAMINATION

11 BY MR. BENNETT:

12 Q Mr. Durst, you said that it would aid the
13 Jury in understanding exactly how this happened more
14 so than just being able to describe it in words,
15 correct?

16 A Yes.

17 Q How?

18 A Your question is how?

19 Q Yes, sir.

20 A How the Jury would be able to see what
21 happened --

22 Q The question was would it aid the Jury in
23 understanding more factually how this happened more
24 so than being able to describe it in words? How is
25 it more accurate than you are able to describe it in

1 words?

2 A It's more accurate because it's to scale.
3 It's more accurate because there's no way that I,
4 Mr. DeGuerin, or somebody else could duplicate what
5 happened here.

6 Q How do you know it's to scale?

7 A I was told it was to scale.

8 Q Did you participate in creating this?

9 A It was shown to me a number of times, and
10 I made corrections.

11 Q So this is all based upon your words,
12 correct?

13 A It's my descriptions.

14 Q So it is basically showing the exact same
15 thing as your description?

16 A Yes.

17 Q And how tall are you?

18 A I am 5' 7".

19 Q How much do you weigh?

20 A When I was arrested, I weighed about 140.

21 Q Your booking at G. P. D. shows 150. Would
22 you dispute that?

23 A No.

24 Q Morris was also five foot seven, correct?

25 A Yes, sir.

1 Q And he was also 150?

2 A I don't know that.

3 Q And how long were his legs?

4 A How long were his legs?

5 Q Yes, sir.

6 A I have no idea.

7 Q And how long was his torso?

8 A I have no idea.

9 Q And how big around were his arms?

10 A I have no idea.

11 Q And how long was it from his shoulder to

12 his elbow?

13 A I have no idea.

14 Q And how long was it from his elbow to his

15 wrist?

16 A I have no idea.

17 Q And his hands, how big were they?

18 A I have no idea.

19 Q When you walked over and approached Morris

20 and he was standing up, what were you looking at?

21 MR. DeGUERIN: Your Honor, this is

22 now cross-examination.

23 MR. BENNETT: This is not

24 cross-examination.

25 THE COURT: Overruled.

1 Q (By Mr. Bennett) What were you looking
2 at?

3 A What Mr. DeGuerin and I just did now was
4 not very accurate. The layout here is too long and
5 too skinny.

6 Q That wasn't my question.

7 A Okay.

8 Q My question to you was when you walked
9 over to Morris, what were you looking at?

10 A I was looking at Morris and the gun.

11 Q And your focus was on the gun, was it not?

12 A Probably.

13 Q You are not sure?

14 A I'm not sure.

15 Q You are not sure what you were looking at?

16 A I was looking at Morris and the gun.

17 Q But exactly what you were looking at, you
18 are not sure?

19 MR. DeGUERIN: This is
20 cross-examination, Your Honor. It does not go to
21 voir dire.

22 THE COURT: It goes to his
23 description. Overruled.

24 Q (By Mr. Bennett) So you are not sure what
25 you were looking at?

1 A I was more -- I was looking at Morris and
2 the gun.

3 Q Exactly, though.

4 MR. DeGUERIN: Judge, he has asked
5 the question three times and got the same answer. I
6 object to repetition.

7 THE COURT: Sustained.

8 Q (By Mr. Bennett) Were you looking at his
9 feet?

10 A No.

11 Q And how far was it from where -- from you
12 to Morris when he started standing up?

13 A I would have to show you the model. If
14 you want me to guess, five, six, seven feet, like
15 that.

16 Q And how many steps did it take to get over
17 there?

18 A I have no idea.

19 Q And when you got over to Morris, I believe
20 you demonstrated with Mr. DeGuerin, one hand you
21 grabbed the gun. What did you do with the other
22 hand?

23 A I put it on his shoulder.

24 Q When you were acting it out with
25 Mr. DeGuerin, you had your hand on his bicep, did

1 you not?

2 A On his what?

3 Q His bicep, not his shoulder.

4 A Then I put my hand on the wrong place. It
5 should have been on his shoulder.

6 Q And the location of the chair, how far was
7 it from the outside wall of his apartment?

8 A How far was it?

9 Q Yes, sir.

10 A In feet?

11 Q Yes, sir.

12 A A couple.

13 Q Do you know -- do you have have an exact
14 measurement of how far the chair was?

15 A No, sir.

16 Q And how far was it from the closet wall?

17 A The back of the chair?

18 Q Yes, sir.

19 A Probably less than a foot.

20 Q Do you have an exact measurement?

21 A No, sir.

22 Q How far was the chair from the edge of the
23 carpet going into the living room?

24 A The back of the chair?

25 Q Yes, sir.

1 A Whatever the depth of the closet is,
2 probably 30, 36 inches plus another foot.

3 Q But, again, you don't have an exact
4 measurement, do you?

5 A No, sir.

6 Q And correct me if I am wrong; but as I
7 understand your testimony, Morris was sitting in the
8 chair and he reached under the table and he stood up
9 with the gun, correct?

10 A He reached under the jacket on top of the
11 table.

12 Q Right under the jacket?

13 A Yes, sir.

14 Q On top of the table?

15 A Yes, sir.

16 Q Pulled out a gun?

17 A But not like that; but, yes, he took the
18 gun out from under the jacket.

19 Q Show me how he pulled it out. Tell me to
20 do with it my hand.

21 A Just move it parallel to the floor the way
22 you are doing it like that.

23 Q That's when you saw the gun?

24 A And his elbow was far more straightened
25 out.

1 Q Straightened out, down?

2 A No. Yes, not all the way straightened
3 out, but most of the way straightened out.

4 Q Just sort of whip it around towards you?

5 A I didn't say whip it around, but yes.

6 Q And then he went to stand up?

7 A By the time he was in a standing position,
8 I had my hand on the gun.

9 Q And where was his left arm?

10 A His left arm was either at his side or up
11 there like that. He had picked up his left arm.

12 Q So you don't know where his left arm was?

13 A No, sir.

14 Q And this is where y'all started to fall;
15 is that correct?

16 A About. I don't think he ever got to a
17 complete standing position.

18 Q And you are here and one hand was on the
19 gun and one hand was on the shoulder. You were
20 looking at gun, weren't you?

21 A Yes, sir.

22 Q So you have no idea where his feet were,
23 do you?

24 A I have no idea where his feet were.

25 Q So when you testified earlier that he

1 tripped over the chair, that was just speculation?

2 A No. I felt him trip over the chair leg
3 because I had done it myself a thousand times.

4 Q You are assuming that he did because you
5 had done it before?

6 A Yes, sir.

7 Q So that was an assumption on your part?

8 A Yes, sir.

9 Q We don't know that for a fact?

10 A No, sir.

11 Q And exactly what angle was Morris to the
12 kitchen?

13 A When I put my hand on his hand?

14 Q Yes, sir.

15 A Pretty much the way you are now.

16 Q Could it have been a few degrees this way
17 or a few degrees this way?

18 A Certainly a few degrees.

19 Q So the reconstruction can't tell you
20 exactly where -- how Morris was facing, one way or
21 the other, can it?

22 A No, sir.

23 Q And then you fell down; is that correct?

24 A That's correct.

25 Q And then you landed on your left elbow?

1 A Yes, sir.

2 Q And where was your right elbow?

3 A My right hand was on the gun, and my right
4 elbow was where it would be, sort of.

5 Q Did your gun -- your hand stay on the
6 gun --

7 A The whole time, yes, sir.

8 Q And when it went off, your hand was still
9 on the gun?

10 A Yes, sir.

11 Q And how did Morris Black land?

12 A Pretty much on his black. A little bit on
13 the right shoulder but mostly on his back.

14 Q And how do you know that for sure?

15 A I don't know that for sure.

16 THE COURT: I am sorry, what?

17 A I don't know that for sure.

18 Q (By Mr. Bennett) And when y'all fell
19 down, where was his -- where was his right elbow?

20 A On top of his body.

21 Q And his left elbow?

22 A I don't know.

23 Q What was Morris Black wearing?

24 A Long-sleeved shirt and long-sleeved pants.

25 Q What color?

1 A I don't remember.

2 Q When you were falling down, did your hand,
3 your left hand, stay on his shoulder all the way to
4 the ground?

5 A I don't know.

6 Q Which direction was the gun pointing when
7 you started to fall?

8 A When we started to fall, the gun was
9 pretty much between us.

10 Q Which way was it pointing, though?

11 A When we started to fall, the gun was -- it
12 was pointed mostly up around my chest.

13 Q I am sorry, mostly up --

14 A Mostly up. It was around my chest.

15 Q You are unsure exactly which direction the
16 gun was pointed, but it was generally in an up
17 direction?

18 A Yes.

19 Q And as you fell, how did the gun turn?

20 A It must have turned towards his face.

21 Q Do you know? Do you know how the gun got
22 pointed up at Morris' face?

23 A I don't know the answer to that.

24 Q Where was Morris' finger when he pulled
25 his hand out from underneath the gun -- I mean

1 pulled the gun out from underneath the jacket?

2 A He was holding the gun the way you would
3 hold a gun to shoot it.

4 Q When Morris fell or when you and Morris
5 fell, exactly where was the break between the carpet
6 and the linoleum on his back?

7 A Sort of around his -- I think it was above
8 his waist. I think his -- I think that the linoleum
9 went to not get as far as his waist. The carpet was
10 above his waist a little bit, my waist, too, I
11 think.

12 Q You don't know exactly but in this general
13 area?

14 A Yes, sir.

15 Q Is it your testimony you never had your
16 finger on the trigger at any time?

17 A That's correct.

18 Q And when you fell, exactly how far away
19 were you from the wall?

20 A I fell with my back against -- against the
21 archway that goes into the kitchen.

22 Q So your back hit the archway?

23 A I think so. It was right next to it.

24 Q You are unsure?

25 A Well, the archway was right there. It was

1 an inch or half an inch like that but the archway
2 was in back of my back.

3 Q Did your back hit the archway when you
4 fell?

5 A No, I don't think so.

6 Q So you are unsure whether your back hit
7 the archway or not?

8 A Correct.

9 Q And exactly how far was Morris away from
10 the archway?

11 A Well, the length of my body.

12 Q In inches or feet, how far?

13 A Less than a foot.

14 Q You don't know for sure?

15 A Correct.

16 MR. BENNETT: Nothing further on voir
17 dire, Your Honor.

18 THE COURT: All right. Do you want
19 to play it now?

20 MR. LEWIS: Sure, Judge.

21 MR. DeGUERIN: Yes, Your Honor.

22 (The video was played.)

23 THE COURT: All right.

24 MR. BENNETT: Judge, if I may ask a
25 couple of more questions. He may not be the right

1 witness for this.

2 THE COURT: Okay.

3 Q (By Mr. Bennett) Mr. Durst, do you know
4 how this was created?

5 A You mean the technical aspect of it?

6 Q Yes, sir.

7 A I have no idea.

8 Q Do you know what the basis of the
9 technical aspects of it were?

10 A Not the slightest.

11 MR. BENNETT: No further questions on
12 that.

13 THE COURT: All right.

14 MR. LEWIS: Nothing further, Judge.
15 We have argument.

16 THE COURT: Make your argument.

17 (Argument occurred and bill of exceptions
18 presented.)

19

20

21

22

23

24

25

1 and the day, October 1.

2 Q Did that lead you to any change of your
3 state of mind or due to your thinking?

4 A Well, then I thought that if the rent did
5 not arrive on time, Monday was October the first.
6 This is Friday. Then Morris -- not Morris, then
7 Klaus Dillmann would come over to the apartment and
8 look for Morris to get the rent. And whenever he
9 came over, he sort of checked out the other
10 apartments or at least checked out Dorothy Ciner's
11 apartment.

12 Q Mr. Durst, we are talking about the 28th,
13 are we not, a Friday?

14 A Yes, sir.

15 Q That's still four days away before the
16 check would be due, is it not? Here that's one,
17 two, three, four days would be October 1st, wouldn't
18 it?

19 A A Monday, yeah.

20 Q What were your intentions? What did you
21 think? What was your emotional state?

22 A I thought that if Klaus Dillman did not
23 get the check on Monday, October the 1st, he would
24 come over to the building.

25 Q And what was your plan?

1 Q Well, did you move it at all?

2 A I rolled it up. It ended up into the
3 kitchen. Yes, I rolled it up into the dropcloth.

4 Q All right. Did you take any action
5 relative to Morris' belongings at that time?

6 A I don't think so.

7 Q What did you do next?

8 A Then I realized there was no way I could
9 area Morris Black out of the apartment. I went out
10 and I went to Economy liquor store I had been going
11 to on 23rd Street and Seawall. And I bought a fifth
12 of Jack Daniels. And I went back to 2213 Avenue K.
13 I walked around for a while.

14 Q Did you drink the liquor?

15 A I started to, yes.

16 Q Do you know how much of it you drank
17 during the course of that day?

18 A I just about finished it.

19 Q What did you do relative to Morris Black?
20 What were you thinking about Morris Black at that
21 point, Morris Black's body?

22 A I had somehow got it into my mind that
23 Morris Black had -- there were a bunch of tools in
24 his apartment, several saws and an ax and hammers
25 and other stuff like that. And I got this idea that

1 recollection?

2 A That would be fine.

3 Q What did you do after you -- I am told I
4 misspoke. I should have said 8:53. I think I said
5 9:53. The truth of the it is the record says 8:53.

6 A That's fine, too.

7 Q Do you really remember, Mr. Durst?

8 A I said early in the evening. That's early
9 in the evening.

10 Q What did you, your best recollection, what
11 did you do after you got to Holiday Inn Express back
12 here in Galveston?

13 A I went to the New Orleans a couple of
14 blocks to Arland's and bought dessert.

15 Q Bought dessert at Arland's and then what?

16 A I went to sleep.

17 Q The next day would be Tuesday, October the
18 9th. Do you remember what did you on that day?

19 A I woke up early. And when I got to
20 Galveston, I remembered that I had put the laundry
21 in the back seat in the back of the Honda. And I
22 had taken a couple of blankets and stuff to a dry
23 cleaner in New Orleans, and I had a couple of
24 garbage bags of laundry in the back of the Honda.
25 And I remembered when I got to the room at night

EXHIBIT 18

1 I want to cancel the power of attorney, I can do
2 that. I mean I could turn my bookkeeping over to you
3 guys.

4 DOUG: But she has the power at this
5 point to get all your distributions.

6 DUST SPEAKER 1: No. The distributions go
7 to J.P. Morgan. And then the J.P. Morgan has
8 instructions once a month to send them to it used to
9 be DLJ Direct and they were bought by CSF, whatever
10 it is and the money goes there. And this all
11 happened in 2000, November 11th of 2000. If you look
12 at that stuff, you'd see that on October 31st, is
13 when you called me to say the newspapers articles are
14 coming out.

15 On November 3rd, I said, you know, I'd
16 already told her, I said: "Well, let's get married.
17 I'm not going to marry anybody else. You want to get
18 married?"

19 She talked about it periodically,
20 "yes." We we went and got a marriage license on
21 November 3rd. And then I split on November 15th.
22 Before I split, I said: I want to you write my
23 checks and stuff like that.

24 WENDY: So she knew what you were
25 doing?

EXHIBIT 19



THE CITY CLERK
The City of New York—The State of New York

Ex-1

PARTIES PLEASE NOTE:

License permits the Groom and Bride to be married anywhere in New York State only. The ceremony may be performed after 10:47:18 on 11/4/00 and no later than 01/02/01. Please return this license whether used or unused.

ISSUED

No.: M-2000-20899

Date: 11/03/2000

Time: 10:47:18

P A R T Y 1 G R O M	Name: Robert Durst	Age: 57		
	A.K.A.	New Surname		
	Address: [REDACTED]	County:		
	City: Dallas	State: TX	Zip: [REDACTED]	
	BIRTH INFO: Date 04/12/1943	City: New York	State: NY	Country: USA
	Usual Occupation: Retired			
	FATHER Name: Seymour Durst	Birth Place: USA		
	MOTHER Maiden Name: Bernice Herstein	Birth Place: USA		
	Number of Previous Marriages(s): 1			
	1. Name: Kathleen McCormick	Alive/Dead: Unknown	Date:	
Termination: Divorce	Date: 08/13/1990	Against Spouse	Where: New York, NY, USA	
P A R T Y 2 B R I D E	Name: Debrah Lee Charatan	Age: 43		
	A.K.A.	New Surname:		
	Address: [REDACTED]	County:		
	City: New York	State: NY	Zip: [REDACTED]	
	BIRTH INFO: Date [REDACTED]	City: New York	State: NY	Country: USA
	Usual Occupation: Real Estate Broker			
	FATHER Name: Joseph Charatan	Birth Place: Poland		
	MOTHER Maiden Name: Pauline Margullus	Birth Place: Poland		
	Number of Previous Marriages(s): 1			
	1. Name: [REDACTED]	Alive/Dead: Unknown	Date:	
Termination: [REDACTED]	Date: [REDACTED]	Against Spouse	Where: New York, NY, USA	

CERTIFICATE OF OFFICIANT PERFORMING CEREMONY. PRINT OR TYPE ALL INFORMATION CLEARLY IN EITHER BLUE OR BLACK INK. FILL IN COMPLETELY

Full Name of Officiant	Title of Officiant					
ROBERT I SUMMERS	RABBI					
Residence Address	Town or City	State	Zip			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
Do Hereby Certify That I did On	Month	Day	Year	Time	At Location	State Of
	12	11	2000	1:00 PM	1500 BROADWAY NYC	New York
Solemnize The Rites of Matrimony Between	Groom	Of	County/State	Bride	Of	County/State
	Robert Durst	[REDACTED]	Dallas, TX	Debrah Lee Charatan	[REDACTED]	NY
WITNESS INFORMATION (PRINT)	Name	Address	City	State	Zip	
	JONATHAN W. GROSSER	1500 Broadway	NY	NY	100	
WITNESS INFORMATION (PRINT)	Name	Address	City	State	Zip	
	Robert I. Summers	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
GROOM	(Signature of Groom)		WITNESS X	(Signature of Witness)		
BRIDE	(Signature of Bride)		WITNESS: X	(Signature of Witness)		
WITNESS MY HAND AT	1500 Broadway NYC	COUNTY OF NY	THIS 11 th DAY	DAY OF DECEMBER		
Signature of Person Performing Ceremony	[Signature]			M-2000-18-003381		

108-1 2000-11-11

RD000002639

-W013 WEP111 0-51-100

EXHIBIT 20

DURABLE GENERAL POWER OF ATTORNEY **NEW YORK STATUTORY SHORT FORM**

**THE POWERS YOU GRANT BELOW CONTINUE TO BE EFFECTIVE
SHOULD YOU BECOME DISABLED OR INCOMPETENT**

Caution: This is an important document. It gives the person whom you designate (your "Agent") broad powers to handle your property during your lifetime, which may include powers to mortgage, sell, or otherwise dispose of any real or personal property without advance notice to you or approval by you. These powers will continue to exist even after you become disabled or incompetent. These powers are explained more fully in New York General Obligations Law, Article 5, Title 15, Sections 5-1502A through 5-1503, which expressly permit the use of any other or different form of power of attorney.

This document does not authorize anyone to make medical or other health care decisions. You may execute a health care proxy to do this.

If there is anything about this form that you do not understand, you should ask a lawyer to explain it to you.

THIS is intended to constitute a DURABLE GENERAL POWER OF ATTORNEY pursuant to Article 5, Title 15 of the New York General Obligations Law.

I, **ROBERT A. DURST,** [REDACTED],

(insert your name and address)

do hereby appoint:

DEBRAH LEE CHARATAN, [REDACTED], and

(If 1 person is to be appointed agent, insert the name and address of your agent above)

ANTON WBISS, [REDACTED]

(If 2 or more persons are to be appointed agents by you insert their names and addresses above)

my attorney(s)-in-fact TO ACT

(If more than one agent is designated, CHOOSE ONE of the following two choices by putting your initials in ONE of the blank spaces to the left of your choice:)

- [☒] Each agent may SEPARATELY act.
[☐] All agents must act TOGETHER.

(If neither blank space is initialed, the agents will be required to act TOGETHER)

IN MY NAME, PLACE AND STEAD in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in Title 15 of Article 5 of the New York General Obligations Law to the extent that I am permitted by law to act through an agent:

RD000001403

_____ in the blank space to the left of your choice any one or more of the following lettered subdivisions as to which you WANT to give your agent authority. If the blank space to the left of any particular lettered subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Alternatively, the letter corresponding to each power you wish to grant may be written or typed on the blank line in subdivision "(Q)", and you may then put your initials in the blank space to the left of subdivision "(Q)" in order to grant each of the powers so indicated.)

- | | |
|--|---|
| <input type="checkbox"/> (A) real estate transactions; | <input type="checkbox"/> (M) making gifts to my spouse, children and more remote descendants, and parents, not to exceed in the aggregate \$10,000 to each of such persons in any year; |
| <input type="checkbox"/> (B) chattel and goods transactions; | |
| <input type="checkbox"/> (C) bond, share and commodity transactions; | |
| <input type="checkbox"/> (D) banking transactions; | <input type="checkbox"/> (N) tax matters; |
| <input type="checkbox"/> (E) business operating transactions; | <input type="checkbox"/> (O) all other matters |
| <input type="checkbox"/> (F) insurance transactions; | <input type="checkbox"/> (P) full and unqualified authority to my attorney(s)-in-fact to delegate any or all of the foregoing powers to any person or persons whom my attorney(s)-in-fact shall select; |
| <input type="checkbox"/> (G) estate transactions; | |
| <input type="checkbox"/> (H) claims and litigation; | |
| <input type="checkbox"/> (I) personal relationships and affairs; | |
| <input type="checkbox"/> (J) benefits from military service; | <input checked="" type="checkbox"/> (Q) each of the above matters identified by the following letters: _____ |
| <input type="checkbox"/> (K) records, reports and statements; | _____A_____through_____P_____ |
| <input type="checkbox"/> (L) retirement benefit transactions; | |

(Special provisions and limitations may be included in the statutory short form durable power of attorney only if they conform to the requirements of section 5-1503 of the New York General Obligations Law.)

RD000001404

This Durable Power of Attorney shall not be affected by my subsequent disability or incompetence.
If every agent named above is unable or unwilling to serve, I appoint *(insert name and address of successor)*

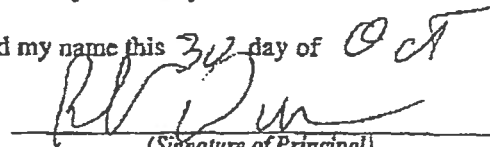
to be my agent for all purposes hereunder.

To induce any third party to act hereunder, I hereby agree that any third party receiving a duly executed copy or facsimile of this instrument may act hereunder, and that revocation or termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or termination shall have been received by such third party, and I for myself and for my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied on the provisions of this instrument.

This Durable General Power of Attorney may be revoked by me at any time.

In Witness Whereof, I have hereunto signed my name this 30 day of Oct, 2000.

(YOU SIGN HERE:)


(Signature of Principal)
Robert A. Durst

ACKNOWLEDGMENT IN NEW YORK STATE

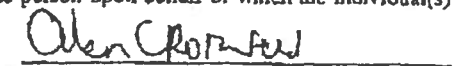
STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

On October 30, 2000 before me, the undersigned, personally appeared Robert A. Durst

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ALAN C. ROTHFELD
Notary Public, State of New York
No. 31-4602332
Qualified in New York County
Commission Expires March 30, 2002


(signature and office of individual taking acknowledgment)
Notary Public

ACKNOWLEDGMENT OUTSIDE NEW YORK STATE

STATE OF

COUNTY OF

ss.:

On before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in

(insert city or political subdivision and state or county or other place acknowledgment taken).

(signature and office of individual taking acknowledgment)

RD000001405

AFFIDAVIT THAT POWER OF ATTORNEY IS IN FULL FORCE

(Sign before a notary public)

STATE OF

COUNTY OF

SS:

being duly sworn, deposes and says:

1. The Principal within did, in writing, appoint me as the Principal's true and lawful ATTORNEY(S)-IN-FACT in the within Power of Attorney.
2. I have no actual knowledge or actual notice of revocation or termination of the Power of Attorney by death or otherwise, or knowledge of any facts indicating the same. I further represent that the Principal is alive, has not revoked or repudiated the Power of Attorney and the Power of Attorney still is in full force and effect.
3. I make this affidavit for the purpose of inducing

to accept delivery of the following instrument(s), as executed by me in my capacity as the ATTORNEY(S)-IN-FACT, with full knowledge that this affidavit will be relied upon in accepting the execution and delivery of the instrument(s) and in paying good and valuable consideration therefor:

Sworn to before me on _____

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ROBERT A. DURST

TO

DEBRAH LEE CHARATAN

and

ANTON WEISS

DURABLE

Power of Attorney

Statutory Short Form

Dated, October 3, 2000

RD000001406

63

DURABLE GENERAL POWER OF ATTORNEY
NEW YORK STATUTORY SHORT FORM

*THE POWERS YOU GRANT BELOW CONTINUE TO BE EFFECTIVE
SHOULD YOU BECOME DISABLED OR INCOMPETENT*

Caution: This is an important document. It gives the person whom you designate (your "Agent") broad powers to handle your property during your lifetime, which may include powers to mortgage, sell, or otherwise dispose of any real or personal property without advance notice to you or approval by you. These powers will continue to exist even after you become disabled or incompetent. These powers are explained more fully in New York General Obligations Law, Article 5, Title 15, Sections 5-1502A through 5-1503, which expressly permit the use of any other or different form of power of attorney.

This document does not authorize anyone to make medical or other health care decisions. You may execute a health care proxy to do this.

If there is anything about this form that you do not understand, you should ask a lawyer to explain it to you.

THIS is intended to constitute a DURABLE GENERAL POWER OF ATTORNEY pursuant to Article 5, Title 15 of the New York General Obligations Law:

I, ROBERT DURST, [REDACTED]

(insert your name and address)

do hereby appoint:

DEBRAN LEE CHARATAN, [REDACTED]

(If 1 person is to be appointed agent, insert the name and address of your agent above)

(If 2 or more persons are to be appointed agents by you insert their names and addresses above)

my attorney(s)-in-fact TO ACT

(If more than one agent is designated, CHOOSE ONE of the following two choices by putting your initials in ONE of the blank spaces to the left of your choice:)

[] Each agent may SEPARATELY act.

[] All agents must act TOGETHER.

(If neither blank space is initialed, the agents will be required to act TOGETHER)

IN MY NAME, PLACE AND STEAD in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined in Title 15 of Article 5 of the New York General Obligations Law to the extent that I am permitted by law to act through an agent:

RD000001655

if any particular selected subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Alternatively, the letter corresponding to each power you wish to grant may be written or typed on the blank line in subdivision "(Q)", and you may then put your initials in the blank space to the left of subdivision "(Q)" in order to grant each of the powers so indicated.)

- | | |
|--|---|
| <input type="checkbox"/> (A) real estate transactions; | <input type="checkbox"/> (M) making gifts to my spouse, children and more remote descendants, and parents, not to exceed in the aggregate \$10,000 to each of such persons in any year; |
| <input type="checkbox"/> (B) chattel and goods transactions; | |
| <input type="checkbox"/> (C) bond, share and commodity transactions; | |
| <input type="checkbox"/> (D) banking transactions; | <input type="checkbox"/> (N) tax matters; |
| <input type="checkbox"/> (E) business operating transactions; | <input type="checkbox"/> (O) all other matters |
| <input type="checkbox"/> (F) insurance transactions; | <input type="checkbox"/> (P) full and unqualified authority to my attorney(s)-in-fact to delegate any or all of the foregoing powers to any person or persons whom my attorney(s)-in-fact shall select; |
| <input type="checkbox"/> (G) estate transactions; | |
| <input type="checkbox"/> (H) claims and litigation; | |
| <input type="checkbox"/> (I) personal relationships and affairs; | |
| <input type="checkbox"/> (J) benefits from military service; | <input checked="" type="checkbox"/> (Q) each of the above matters identified by the following letters:
A through P |
| <input type="checkbox"/> (K) records, reports and statements; | |
| <input type="checkbox"/> (L) retirement benefit transactions; | |

(Special provisions and limitations may be included in the statutory short form durable power of attorney only if they conform to the requirements of section 5-1503 of the New York General Obligations Law.)

My attorney-in-fact shall also be authorized and empowered as follows:

- ☒ (R) supplementing subdivision (M), to make gifts in any amount and from time to time to such individuals (including Debrah Lee Charatan) and organizations as my attorney-in-fact determines.

RD000001656

This Durable Power of Attorney shall not be affected by my subsequent disability or incompetence.
If every agent named above is unable or unwilling to serve, I appoint (insert name and address of successor)

to be my agent for all purposes hereunder.

To induce any third party to act hereunder, I hereby agree that any third party receiving a duly executed copy or facsimile of this instrument may act hereunder, and that revocation or termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or termination shall have been received by such third party, and I for myself and for my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied on the provisions of this instrument.

This Durable General Power of Attorney may be revoked by me at any time.

In Witness Whereof, I have hereunto signed my name this 11th day of December, 2000.

(YOU SIGN HERE:)


(Signature of Principal)
Robert Durst

ACKNOWLEDGMENT IN NEW YORK STATE

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

On December 11, 2000 before me, the undersigned, personally appeared Robert Durst

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ALAN C. ROTHFELD
Notary Public, State of New York
No. 31-4602332
Qualified in New York County
Commission Expires March 30, 2002


(signature and office of individual taking acknowledgment)
Notary Public

ACKNOWLEDGMENT OUTSIDE NEW YORK STATE

STATE OF

COUNTY OF

ss.:

On

before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in

(insert city or political subdivision and state or county or other place acknowledgment taken).

(signature and office of individual taking acknowledgment)

RD000001657

AFFIDAVIT THAT POWER OF ATTORNEY IS IN FULL FORCE

(Sign before a notary public)

STATE OF

COUNTY OF

SS.

being duly sworn, deposes and says:

1. The Principal within did, in writing, appoint me as the Principal's true and lawful ATTORNEY(S)-IN-FACT in the within Power of Attorney.
2. I have no actual knowledge or actual notice of revocation or termination of the Power of Attorney by death or otherwise, or knowledge of any facts indicating the same. I further represent that the Principal is alive, has not revoked or repudiated the Power of Attorney and the Power of Attorney still is in full force and effect.
3. I make this affidavit for the purpose of inducing

to accept delivery of the following Instrument(s), as executed by me in my capacity as the ATTORNEY(S)-IN-FACT, with full knowledge that this affidavit will be relied upon in accepting the execution and delivery of the Instrument(s) and in paying good and valuable consideration therefor:

Sworn to before me on

Publisher's Note: This document is printed on 50% cotton paper. Unlike ordinary photocopy paper, this stock resists turning brittle and brown with age. Insist on genuine Blumberg forms to ensure the longevity of this important document.

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ROBERT DURST

TO

DEBRAH LEE CHARATAN

DURABLE

Power of Attorney

Statutory Short Form

Dated, December 11, 2000

RD000001658

EXHIBIT 21

ROBERT A DURST

TRINIDAD, CA

Master
Relationship Account

528

DATE

12/20/00

11-35/1210
124

PAY TO THE
ORDER OF

Bank of America

Eureka Main Branch #0124
334 F Street
Eureka, CA 95501 (800) 237-8052

FOR

Tran 00088

12/20/2000 12:47

Entity NCN AC 0000124 TL 0009

Account

Customer Sign # 540930135
1996

Cash Check

RTT

\$9,500.00

MP

12100035810528

0000950000

Printed on Recycled Paper CA 85a Safety

The security features listed below, as well as those not listed, are covered by the guidelines.

Security Features:

- Results of document alteration: Microprint signature line - Small type in signature line appears as dotted line when photocopied
- Security thread - Absence of "Original Document" watermark on back of check

12100035810528
1555 MARKET ST., CA. 4003
12/20/00 0000124 TL 0009

01231000

CONFIDENTIAL

RD0000008438

EXHIBIT 22

GEVORK SHAMLYAN - Fwd: FW: Check

From: [REDACTED]
To: 25836 <[REDACTED]>
Date: 6/19/2015 3:41 PM
Subject: Fwd: FW: Check

----- Forwarded message -----

From: John Lewin <[REDACTED]>
Date: Thu, Jun 18, 2015 at 4:31 PM
Subject: FW: Check
To: [REDACTED]

From: Langel, Benjamin C. (NY) (FBI) [REDACTED]
Sent: Thursday, June 18, 2015 11:47 AM
To: [REDACTED]
Subject: FW: Check

From: Clark, Linda M [mailto:[REDACTED]@bankofamerica.com]
Sent: Thursday, June 18, 2015 2:37 PM
To: Langel, Benjamin C. (NY) (FBI)
Subject: RE: Check

Great photo Ben!

The check was cashed 12/20/2000 @ 12:47.

The Banking Center was Eureka Main #124, 334 F Street, Eureka, CA 95501

This information is from the imprint on the front of the check by the teller at the time the check is cashed.

The account happens to be from the same branch and you can see the branch address on the front of the check as well.

You can also see KTT imprinted on the check and that means 'Known To Teller' – which means identification was not taken for this transaction because the teller was familiar with the customer.

I looked up Eureka Main in the Bank's current directory and it does not exist any longer.

Let me know if you have any other questions about the check.

Linda Clark

Vice President; Sr Gbl Fin Crimes Compl Spec

Global Financial Crimes Compliance Fraud

[REDACTED]

Confidential

This message, and any attachments, is for the intended recipient(s) only, may contain information that is privileged, confidential and/or proprietary and subject to important terms and conditions available at <http://www.bankofamerica.com/emaildisclaimer>. If you are not the intended recipient, please delete this message.

EXHIBIT 23

REPORTER'S RECORD

VOLUME _____ OF _____ VOLUMES

APPELLATE COURT NO. _____

CAUSE NO. 01CR1901

THE STATE OF TEXAS) (IN THE DISTRICT COURT OF

VS.) (GALVESTON COUNTY, TEXAS

ROBERT DURST) (212TH JUDICIAL DISTRICT

TRIAL

A P P E A R A N C E S:

FOR THE STATE:

Kurt Sistrunk, District Attorney SBOT: 18444950

Joel H. Bennett, ADA SBOT: 00787069

District Attorney's Office

722 Moody, Room 300, Galveston, Texas 77550

(409) 766-2355 (409) 766-2290 (fax)

FOR THE DEFENDANT:

Dick DeGuerin, Esq. SBOT: 0563800

1018 Preston, 7th Floor, Houston, Texas 77002

(713) 223-5959 (713) 223-9231 (fax)

Michael Ramsey, Esq. SBOT: 16521000

Chip Lewis, Esq. SBOT: 00791107

2120 Welch, Houston, Texas 77019

(713) 523-7878 (713) 523-7887 (fax)

BE IT REMEMBERED that upon this 7th day of
October, 2003, the following proceeding occurred
before the Honorable Susan Criss, Judge of the 212th
District Court of Galveston County, Texas:

COPY

VOLUME _____
CHRONOLOGICAL INDEX

OCTOBER 7, 2003

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	Direct	Cross	Redirect
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	Recross		
	81		

	Direct	Cross	Redirect
ZINA SIMMONS DAVIS	84	89	97

	Direct	Cross	Redirect
CANDACE JONES	100	120	123
	Recross	Furt Redir.	
	124	126	

	Direct	Cross	Redirect
MICHAEL WHEAT	128	145	153
	Recross		
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	Direct	Cross
MICHAEL OGDEN	156	166

	Direct	Cross	Redirect
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	Direct	Cross	Redirect
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	Direct	Cross	Redirect
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EXHIBIT INDEX

STATE'S

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168,	Cingular records	130	130
169,	map	136	136
170,	site records	133	134
171,	site records	133	134
172,	site records	133	134
173,	Coast Guard records	31	31
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EXHIBIT INDEX (Continued)

STATE'S

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DEFENDANT'S

NO.	DESCRIPTION	OFFERED	ADMITTED
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37,	photo	168	168

1 THE COURT: Yes.

2
3 MICHAEL OGDEN,

4 having first been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BENNETT:

7 Q. Please state your name for the record.

8 A. Michael Ogden.

9 Q. And where do you live?

10 A. New Orleans, Louisiana.

11 Q. And do you run a business there? What's
12 your occupation?

13 A. I own a construction company and also have
14 property that I rent and lease.

15 Q. Referring you back to March of 2001, did you
16 have an apartment for lease in New Orleans?

17 A. I did.

18 Q. And were you contacted by anybody about
19 renting that apartment?

20 A. Yes, I was.

21 Q. How were you contacted?

22 A. By phone.

23 Q. Who contacted you?

24 A. The gentleman on the other end of the phone
25 said that he was an assistant to the mute and was I

1 open to renting my apartment to a handicapped woman
2 approximately 50 years of age that was looking for an
3 apartment in that area.

4 Q. And how did you respond?

5 A. That, of course, I had no problem with that.

6 Q. And did that person identify himself on the
7 phone, give you a name?

8 A. I believe at that time they did say that the
9 name was James or Jim Cordez.

10 Q. What apartment did you have for lease at
11 that point?

12 A. I had an apartment on General Pershing
13 Street in New Orleans. The address is 2837 A General
14 Pershing.

15 Q. And what -- did this phone call continue
16 after you told him you didn't have a problem with
17 renting it a mute?

18 A. He asked if 2:00 o'clock would be okay for
19 an appointment with the lady that would like the
20 apartment, the mute woman. And I said, "No problem."
21 And I was there at 2:00 o'clock and so was she.

22 Q. At 2:00 o'clock on -- do you remember what
23 day --

24 A. 2:00 o'clock that afternoon.

25 Q. Do you remember what day it was?

EXHIBIT 24

REPORTER'S RECORD

VOLUME 3 OF 4 VOLUMES

CAUSE NO. 01CR1901

THE STATE OF TEXAS)(IN THE DISTRICT COURT OF
VS.)(GALVESTON COUNTY, TEXAS
ROBERT DURST)(212TH JUDICIAL DISTRICT

TRIAL TESTIMONY OF ROBERT DURST

A P P E A R A N C E S:

FOR THE STATE:

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BE IT REMEMBERED that upon this 27th day of
October, 2003, the following proceeding occurred
before the Honorable Susan Criss, Judge of the 212th
District Court of Galveston County, Texas:

1 milimeter just one time. And I think it was short
2 of in the middle of March. I am sorry, I misspoke.
3 In the middle of July.

4 Q And that's the only time you shot the 9
5 milimeter, the middle of July?

6 A Yes, sir.

7 Q Okay. So with other guns did you go out
8 there and shoot at Pelican Island?

9 A The .22 that I bought.

10 Q Well, before you got the .22.

11 A Just the 9 millimeter that one time.

12 Q And just so I am clear on the record, you
13 only went one time in the middle of July and shot
14 the 9 milimeter and you never shot again until after
15 you bought the .22; is that correct?

16 A That is correct.

17 Q Okay. In your testimony -- and I hope you
18 can correct me again if I am wrong -- you stated at
19 one point that Morris didn't find out you had a lot
20 of money and then a little bit further down the line
21 you stated Morris knew you had a lot of money. Is
22 there a difference between those two statements, or
23 do they mean the same thing?

24 A I assume they mean the same thing.

25 Q So either he didn't know you had a lot or

1 he did know you had a lot. Which did he know and
2 when did he know it?

3 A I know he knew it after September 11 when
4 I told him I was going to start using the name
5 "Robert Durst" and told him that my correct name
6 was "Robert --"

7 MR. SISTRUNK: Objection,
8 nonresponsive.

9 MR. RAMSEY: I think it is
10 responsive. I disagree completely.

11 THE COURT: Listen to the question
12 and answer the question that he has asked you.

13 THE WITNESS: Could you read the
14 question back, please.

15 (The last question was read back.)

16 A I think I was answering the question.
17 After September 11th I told him my correct name. I
18 told him I was going to definitely buy a house here,
19 and I told him some things about my family in New
20 York. Now, prior to 9/11 from the time we became
21 friendly, I would tell him about the things I was
22 doing, the travels I was doing. He knew I stayed
23 first class when I left Galveston, things like that.
24 Now, whether that meant he knew I had a lot of money
25 or he knew I had a lot of money, enough money to

1 MR. RAMSEY: Pardon me, Counsel is
2 getting ahead of himself. One question at a time.

3 A I don't want to confirm the March 1 date
4 as opposed to a February 28th or a March 2 or
5 something like that.

6 Q I didn't say March 1st. I said March of
7 2001.

8 A Oh, okay.

9 Q You came back to Galveston and decided not
10 to be a woman anymore?

11 A It could have been late February, but yes.

12 Q You also testified that you were not going
13 to be Robert Durst here in Galveston?

14 A Correct.

15 Q Who were you?

16 A Who was I going to be?

17 Q Who were you?

18 A Who was I?

19 Q Yes, sir.

20 A Well, the few places where I had to give
21 them a name, I would say I was Jim Cordis. I cannot
22 hardly ever remember writing it except perhaps at
23 the library in the computer room and I would
24 scribble it.

25 Q And who did you tell Morris Black you

1 absolutely I was there.

2 Q And also during July we know that Morris
3 Black -- the eviction letter that was sent to Morris
4 Black was dated July 13th, 2001, correct?

5 A If that's when it's dated, that's when
6 it's dated.

7 Q Your testimony was you didn't find out
8 about it until you got back from your trip to New
9 York, correct?

10 A I didn't find out about it --

11 Q About Morris' eviction.

12 A July 13th, no, I didn't find out about it
13 until I got back here, whenever I got back here in
14 August.

15 Q And then while you were in New York, isn't
16 it true you saw a television show on ABC about
17 yourself and Kathy Durst?

18 A There were shows about me frequently.

19 Q ABC News did a special called "Vanished:
20 The disappearance of Kathy Durst"?

21 A I saw that show, yes, sir.

22 Q In fact, you not only saw it; you made a
23 tape of it?

24 A I didn't make a tape of it.

25 Q At some point you came into possession of

1 a tape of that show?

2 A Yes, sir.

3 Q And you left that tape in the New Orleans
4 apartment when you fled from there, didn't you?

5 A Yes, sir.

6 Q ABC News, that's not tabloid press, is it?
7 ABC News is not tabloid press, is it?

8 A ABC News is tabloid. I'm sorry. I
9 shouldn't say that.

10 Q It's your testimony, Mr. Durst. And that
11 was a nationwide television show, correct?

12 A Yes, sir.

13 Q And it wasn't a show that just aired in
14 New York, was it?

15 A No.

16 Q And it wasn't a show that just aired in
17 California, was it?

18 A No, sir.

19 Q So "Vanished: Kathy Durst Story and Bob
20 Durst Story" is now a nationwide problem for you,
21 isn't it?

22 A It was a nationwide problem long before
23 July 25th of 2001.

24 Q So in August --

25 A "America's Most Wanted" did something

1 right after the tabloid press in New York did stuff
2 in November of 2000.

3 Q If you could just answer the question,
4 please.

5 A I am sorry.

6 Q I appreciate that, sir.

7 A Okay.

8 Q So you found out after the airing of
9 "Vanished: The disappearance of Kathy Durst," you
10 at sometime in early or mid August, you found out
11 that Morris had been evicted, correct?

12 A Well, he showed me the eviction notice.

13 Q And then on August 30th, 2001, you bought
14 the .22 pistol, correct?

15 A Yes, sir.

16 Q And you describe yourself, you are a gun
17 aficionado, correct?

18 A Excuse me?

19 Q You are a gun aficionado?

20 A I don't use that word, no, sir. I target
21 shoot.

22 Q You have used guns for long periods of
23 time?

24 A Yes, sir.

25 Q You are no stranger to having guns? Guns

1 bullets.

2 Q And those in this case happened to be
3 hollow point bullets?

4 A Whatever the most expensive is what I
5 would buy.

6 Q You also know that from being around guns
7 a hollow point bullet expands faster and, therefore,
8 would do more damage than a slug would do?

9 A I had read about hollow point bullets.

10 Q And so you are familiar with that?

11 A I am familiar with that, yes, sir.

12 Q And that the bullets in the .22 were
13 hollow points?

14 A The bullets in the .22 were the most
15 expensive .22s they had for sale.

16 Q And the bullets you had for your 9
17 millimeter were hollow points?

18 A Also the most expensive bullets they had
19 for sale.

20 Q And the bullets you had for your 38s were
21 also hollow point bullets?

22 A Also the most expensive bullets they had
23 for sale.

24 Q Mr. Durst, let me show you what's been
25 admitted as State's Exhibit 64, this bow saw, Green

1 Q But you identified yourself as Morris
2 Black to the man?

3 A Say it again.

4 Q You identified yourself as Morris Black to
5 the man?

6 A Yes, sir.

7 Q And if he would have asked for it, you
8 would have given it to him?

9 A If he had asked for it, I would have given
10 it to him.

11 Q And how long did you rent that vehicle
12 for?

13 A Oh, just those couple of days until I got
14 to Mobile.

15 Q And did you use the car you rented in New
16 Orleans to drive to Mobile, Alabama?

17 A Yes, sir.

18 Q And you abandoned it there?

19 A Yes, sir.

20 Q And the second -- let me back up. You
21 went to your nephew's wedding in Houston, correct?

22 A That's correct.

23 Q And that was checked in on the 19th of
24 September?

25 A The wedding was the 22nd. I checked into

1 the Four Seasons on the 19th.

2 Q And you checked out on the 23rd?

3 A That's correct.

4 Q And prior to going to the Four Seasons,
5 you had packed up a majority of your apartment
6 before you ever went to the Four Seasons, didn't
7 you?

8 A Almost everything I wasn't going to give
9 to Goodwill.

10 Q And you packed your apartment even though
11 you had no storage place to put this stuff into,
12 correct?

13 A At the time, correct.

14 Q So you kept it in your car?

15 A Yes, sir.

16 Q And on 9/22 you came down and met Zena
17 Simmons and had her clean your apartment, correct?

18 A Yes. I want to back up a second. I had
19 most of it in the car. The rest was either in the
20 Four Seasons or in the San Luis.

21 Q But on 9/22/01 --

22 THE COURT: Excuse me. Yes, sir?

23 MR. DeGUERIN: When we agreed that
24 two people could cross-examine, we didn't agree they
25 could go over the same material. It's improper to

1 have two people go over the same material.

2 THE COURT: Overruled.

3 Q (By Mr. Bennett) 9/22/01 you had Zena
4 Simmons clean your apartment?

5 A Yes, sir.

6 Q You had -- prior to that using her service
7 on that day, you had never used her service before,
8 had you?

9 A I had never used her service before.

10 Q And you gave her a false name?

11 A Correct.

12 Q And you didn't give her the same false
13 name that you had been using, James Cordis; you gave
14 her a different false name of Robert Klosty?

15 A Yes, sir.

16 Q On 9/23 you left the Four Seasons to check
17 directly into the San Luis, correct?

18 A Correct.

19 Q And you checked out of there on October
20 1st, 2001, correct?

21 A Correct.

22 Q You had already paid up your rent to the
23 end of November, correct?

24 A I am not sure what I paid through.

25 Q You purchased a money order on September

1 12th, 2001, for two months of rent, October and
2 November, correct?

3 A I remember \$500 or something like that.

4 Q You paid your rent on 9/12/01, and you
5 purchased a money order for Klaus Dillmann for \$500,
6 correct?

7 A That's what I recall that saying, yes,
8 sir.

9 Q And then right above that there was a \$300
10 money order also to Klaus Dillmann from Dorothy
11 Ciner on that same day, correct?

12 A Without putting my glasses on, do those
13 say one for 500 and one for 300?

14 Q Yes, sir.

15 A That's 800.

16 Q Yes, sir.

17 A Did I send those to Klaus Dillmann?

18 Q That's the question, yes, sir.

19 A I don't recall. Did Klaus Dillmann
20 receive those money orders?

21 Q I am showing you State's Exhibit 150,
22 which are the Guaranty Federal Bank records of Klaus
23 Dillmann. And it shows two money orders from
24 Dorothy Ciner, one for 300 and one for 500, both
25 purchased on 9/12/01.

1 A Oh, yes. The biggest money order was
2 \$500, so that would definitely take me through
3 November.

4 Q So under the terms of your lease, you had
5 paid it up. All you had to give him was a letter
6 saying, "I am moving out," correct? Or Dorothy
7 Ciner, all she would have to do was send him a
8 letter saying, "I have moved out"?

9 A That's all she would have to do?

10 Q To fulfill the terms of your lease,
11 correct.

12 A Sure. I guess.

13 Q I mean, you had to give notice to move
14 out, correct?

15 A I guess.

16 Q I mean, your family is in the real estate
17 business. You don't know whether you have to give
18 notice to move out or not?

19 A Yes, you have to give notice to move out.

20 Q Would you agree that a .22 caliber pistol
21 sounds like a firecracker?

22 A I guess I would not, no, sir. It depends
23 on what kind of firecracker.

24 Q It's your testimony that after the
25 incident with -- well, let me back up. I am showing

1 A Yeah, but his lease expired long before
2 that. Klaus Dillmann hadn't taken any steps to move
3 him out.

4 Q But you knew if he moved out, that would
5 not be surprising to Dillmann, nor would he object
6 to it?

7 A No, certainly wouldn't object to it.

8 Q And before you can make it look like he
9 moved out, you had to make sure that Klaus Dillmann
10 wasn't coming looking for him, correct?

11 A Yes, sir.

12 Q And that was another one of your mental
13 thought processes?

14 A Yes, sir.

15 Q And that was a good thought process,
16 wasn't it?

17 A I guess, yes, sir.

18 Q And when you were cleaning up his
19 apartment, you said you came across a folder that
20 had a check that was filled out for October's rent,
21 correct?

22 A Yes, sir. Cleaning up, is that what you
23 said?

24 Q Yes, sir.

25 A I hadn't gotten to cleaning up at that

1 Q You don't remember what happened when you
2 were in the car? Is that what your testimony is?

3 A I don't remember all the experience.

4 Q But you were able to fill out the money
5 order, put it in an envelope, stamp it, address it,
6 and mail it?

7 A Yes, sir.

8 Q So at this point once that letter is
9 written saying that Morris has moved out and the
10 rent is paid, Morris is gone forever, isn't he?

11 A Say that again, please.

12 Q Once you have paid his rent, written a
13 note to Dillmann saying, "I am moving out," Morris
14 is gone forever, isn't he?

15 A Yes, sir.

16 Q Had no friends that would be looking for
17 him, would he?

18 A Well, maybe his sister or his
19 sister-in-law or
20 Mr. Hanley. But I don't really know of friends of
21 his.

22 Q Since November of 2000 you hadn't seen any
23 friends come by looking for him, had you?

24 A No, sir.

25 Q No family had come down here looking for

1 him, had they?

2 A No, sir.

3 Q He has been evicted. You knew he had an
4 eviction letter, didn't you?

5 A Yes, sir.

6 Q And you made it appear that he had
7 followed through on that letter and moved out,
8 correct?

9 A I was going to show that he moved out,
10 yes, sir, make it appear that he moved out, yes,
11 sir.

12 Q And this is a man that nobody would come
13 looking for?

14 A Yes, sir.

15 Q And if someone ever did come looking for
16 him, I mean, he was 71 years old with a bad heart.
17 And nobody knew where he was. You could just assume
18 that he succumbed to his heart condition, correct?

19 A Well, whatever.

20 Q That would be a logical assumption if
21 Morris disappeared, right?

22 A Who is making this assumption?

23 Q Anybody that could possibly be looking for
24 him.

25 A I will go along with this. I am not going

EXHIBIT 25

KLAUS DILLMANN

4520 Ave. S
Galveston, TX 77555
(409)762-1775

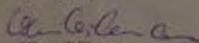
July 13, 2001

Mr. Morris Black
2213 Ave. K
Apt. #1
Galveston, TX 77550

Dear Mr. Black,

Your contract to lease apartment #1 at 2213 Ave. K expires August 14, 2001. I will not renew your lease past that date. This letter will serve as written notice of termination as required by the contract.

Sincerely,


Klaus Dillmann

847-52

2 7:35 PM

EXHIBIT 26

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Jonathyn Priest*



Associates:
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Thursday, September 8, 2016

John Lewin
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Ref: Durst Trial in Galveston, TX
BGA Case # 16-

As requested by your office a physical evidence review and scene analysis has been conducted on the above case.

A physical evidence review and scene analysis is a study of available reports, photographs, drawings, diagrams, and physical evidence by the analyst to form an expert opinion as to the best explanation of events.

The analyst's opinions are based upon the available evidence and rely upon his experience, education, and training. While all events and segments may not be explained, those that are explained reflect the best explanation of event(s) sequence based upon the known facts. Should additional evidence or information become available, the analyst will consider its importance and may revise portions of the event analysis.

The physical evidence analysis is then used, as a benchmark, upon which any statements may be compared against.

Information considered in forming my opinions:

Bevel analysis of BPA on wall and baseboard from Durst Apartment #2 in Galveston, Texas
Bevel Testimony on Durst Trial in Galveston, Texas
Deputy David Rossi apartment #1 and #2 diagrams
Robert Durst Galveston trial testimony on Morris Black Homicide – four (4) volumes
Dr. Harvey Galveston trial testimony on Morris Black Homicide
Defense Expert Max Courtney Galveston Trial testimony on Morris Black Homicide
Photograph of Durst Apt. #2 (See below photograph)

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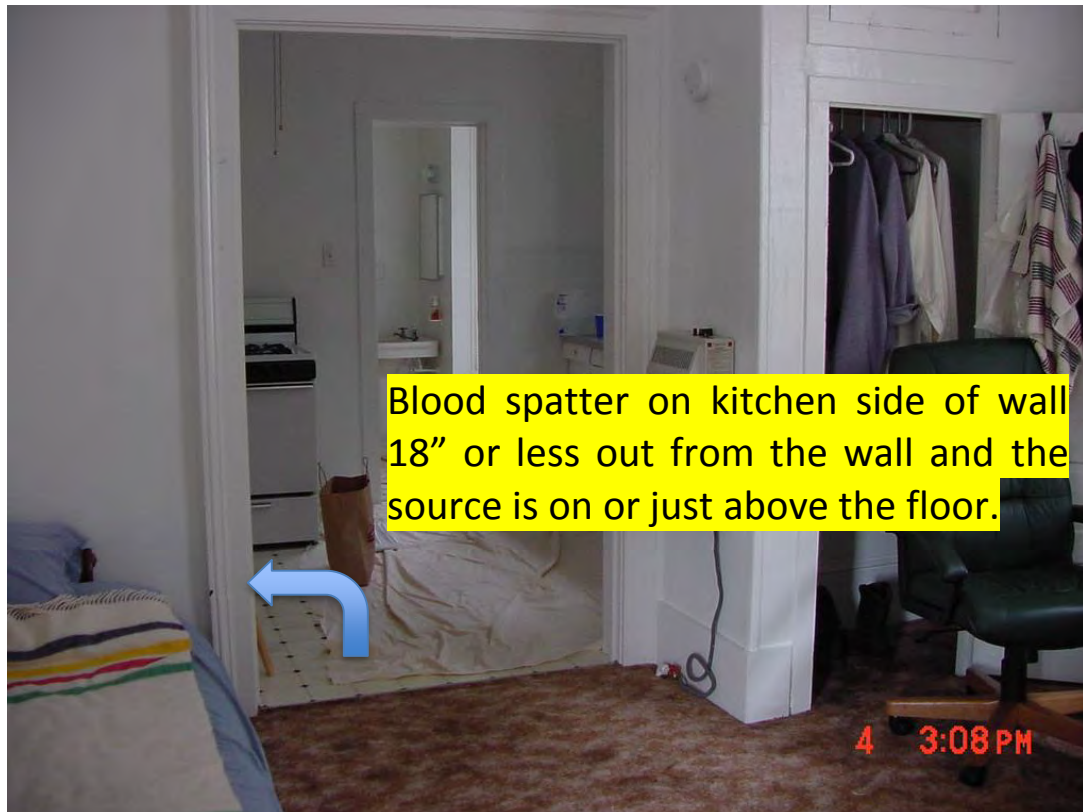


Figure 2 Bloodstain pattern on wall with no void in pattern.

Investigative Question #1 (IQ-1)

Is Robert Durst testimony at the Morris Black trial consistent or inconsistent with the bloodstain pattern evidence on the wall separating the kitchen from the bedroom on the kitchen side?

Data:

Approximately twenty-two (22) spatter stains on wallboard and baseboard from the kitchen side of the wall separating the bedroom from the kitchen.

The spatter stains are consistent with a gunshot

Morris' dismembered body was recovered from the ocean, except for his head

Morris' dismembered body parts display no evidence of a gunshot

The spatter pattern is consistent with a gunshot to the head, but no head was recovered

Most stains are near a 90 degree angle straight out from the wall

The blood source is eighteen (18) inches or less out from the wall

The blood source is on or just above the floor

There is not an identifiable void in the pattern

Either Robert's body or Morris' head is between the wall and the creation of the spatter

Durst testifies that:

P 89 L 16 How close you were to Morris when you fell and you hit the floor and the gun went off? I was right next to him.

P 90 L16 I pretty much lunged towards him.

P 90 L 20 And he is getting up from the table. His left hand is lifting the yellow jacket from the table. His right hand is grabbing the gun that is under the jacket.

If lunging towards Morris and Morris is just getting up from the table, I would expect Robert's forward momentum to keep Morris close to the

table or moving in the opposite direction of where the blood spatter is on the other side of the kitchen wall.

P 91 L 12 Grabbed the barrel and his hand as he was rising and moving the pistol towards me.

If Morris is still rising and Robert is lunging forward they should still be at the table or behind the table from just momentum alone.

L 16 Uses right hand to grab his right hand with the gun.

P 92 L 18 Does the gun ever get above his shoulder height? No

L 21 In which direction does the gun go once you have your hands on it. It was between our faces.

P 93 L 9 My right hand is on the barrel, and I am pushing the gun up and away.

L 16 My hand is on top of the gun.

P 96 L 14 They are facing the wall that's toward Durst's bed.

Is this the kitchen S wall or the bedroom E wall?

P 99 L 11 And just about before you get totally risen, you move towards me and trip over the chair leg and the two of us of falling towards the back.

L 15 When falling Durst right hand stays on gun.

P 100 L 1 ...towards me, and you're trying to take the gun away. You're looking at me and not giving me the gun. I am trying to pull the gun away from you, up and away.

If Morris is trying to take the gun away and Robert is trying to pull the gun away by moving up and away, I would expect the weapon to discharge missing both people.

L 9 I hit the ground a little bit first on my elbow. At some point this gun has to turn and face me, does it not?

P 48 L 13 As soon as I started saying "Where's the gun" and started to get up, he

turned back that way and picked up the gun and turned back toward me like that, and he fell over the chair leg.

L 23 I had my hand on the gun, my hand on top of his.

P 49 L 1 and as you wrestled with him, what happened to the gun?

L 3 Well, he turned toward me. So he had the gun like this, and he was pushing like that and then we fell.

It is highly improbable to get the blood spatter pattern from the description given, as there is not a void identified in the pattern. If Robert is closest to the spatter wall and on the floor his body should block this pattern. If Morris is closest to the spatter wall and on the floor his head should produce a void in the middle of the pattern and there is not a void. This is inconsistent with Robert's testimony of his elbow hitting the floor while his right hand is over the barrel as this will create a path to the side of the deceased's head with back spatter coming back from the wound and away from the wall.

Opinion:

In Robert's description the weapon will be beside the head not above the head. If fired to the side of the head farthest from the bloodstained wall, the head will create a void in the pattern and there is not a void. The best explanation to produce this blood pattern from a gunshot into a person's head that is on the floor, the weapon is fired from above the head and downward.

If you have any questions on this report, please contact me at the above listed contact numbers.

Respectfully,

Tom Bevel
Board Certified Crime Scene Reconstructionist

EXHIBIT 27

*Tom Bevel, President
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Wednesday, October 26, 2016

John Lewin
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Ref: Durst Trial in Galveston, TX
BGA Case # 16-40 CA report II

As requested the following is an evaluation of Durst testimony at trial in Galveston, Texas on October 22, 2003 and a computer animation depicting how Durst and Black struggled over a handgun, fell to the floor with the weapon discharging into Black's head and creating blood back spatter onto the kitchen wall.

In viewing the animation the following observations are identified:

1. Durst testifies multiple times he grabbed the weapon from the top placing his hand over the barrel and over Black's hand. The animation shows Durst grabbing the weapon not from above but from under the weapon.
2. Durst says his elbow hits the floor and that is what causes the weapon to discharge. The animation shows his elbow up in the air and thus would not have hit the floor.
3. The weapon disappears immediately with the flash and blood spatter hitting the wall. The program has to be instructed to remove the weapon and for Durst's to alter positions. Durst's hand is no longer positioned under a weapon (if a weapon was still in place) but, is in a position as if holding a weapon by the grips and pointing toward Black's head from above with the long axis of the barrel from up to down.
4. Durst says in testimony that his finger never touches the gun trigger. This means that Black's finger is on the trigger to discharge it when Durst's elbow hits the floor.
5. The final position of Durst's hand after discharge is now as if holding the weapon by the grips and pointing it, not from underneath as he is originally shown to grab the weapon.

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Opinion:

The computer animation does not follow the description given at trial in Galveston, Texas on October 22, 2003.

If you have any questions on this report, please contact me at the above listed contact numbers.

Respectfully,

Tom Bevel
Board Certified Crime Scene Reconstructionist

EXHIBIT 28

TBI

*1827 Crestmont Norman, OK 73069**Voice: 405-447-4469**Fax: 405-447-4481**E-mail: thevek@CompuServe.com**Cell phone 405-850-6655*

January 8, 2002

Sgt. Gary W. Jones
Galveston Police Department
2213 Ave. K
Galveston, Texas 77550

e-mail GAJONES@CI.GALVESTON.TX.US

Re: Morris Black Death Investigation

Dear Sgt. Jones:

As requested I have completed an analysis of the blood spatter found on a kitchen wall connected to the Morris Black death investigation.

A section of the white wall, with blood spatter on it, was mounted inside a 2 X 4 frame with plywood forming a protective container to allow the sheet rock to be transported. A wooden baseboard and a wooden board for framing, both painted white, were also examined. The wooden boards were received wrapped in brown paper. The base board and the framing board were originally part of the area containing the wall section.

The exam utilized two different light sources, and magnifies of 2 X, 10 X and 20 X. Each spatter was measured with the 20 X magnifier. The scale in this magnifier measures to one-tenth of one mm. A measurement of 1.3 mm would indicate 1 mm and 3 tenths of another mm.

Blood spatter identified as #1 through 13 were found on the wallboard. Blood spatter identified as #14 through 21 were found on the wooden framing board. Blood spatter identified as #22 through 23 were found on the wooden base board.

Each blood spatter was measured and photographed with a scale of reference in each photograph. Each of the blood spatter are described below:

Stain #01 measured .4 X .9 mm; No direction of travel identified
Stain #02 measured .8 X 1.3 mm; Direction of travel was upward
Stain #03 measured 1.1 X 1.1 mm; No direction of travel identified
Stain #04 Broke off from wall before measuring and was not found again
Stain #05 measured .3 X .5 mm; No direction of travel identified; It is braking-up and falling off the wall board

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Page 1 of 3

TBI

1827 Crestmont Norman, OK 73069

Stain #06 measured .7 X .9 mm to outside original stain edge and measured .5 X .4 mm to the now existing blood solids; Stain was diluted with something

Stain #07 measured 1.2 X 1.2 mm; No direction of travel identified

Stain #08 measured .6 X .8 mm; No direction of travel identified; Stain is possibly dark wood fiber instead of blood

Stain #09 measured 1.2 X 1.5 mm; Direction of travel is either upward or downward, but not left or right

Stain #10 measured .7 X .9 mm; No direction of travel identified; The stain is broken and cracked and is falling off of the wall board

Stain #11 measured .9 X .9 mm; No direction of travel identified; There is a hair or hair transfer in and extending out from the blood stain

Stain #12 measured 1.3 X 1.7 mm; No direction of travel identified

Stain #13 measured 1.0 X .8 mm; It is loose and may be some substance other than blood

Stain #14 measured 1.5 X 1.5 mm; No direction of travel identified

Stain #15 measured 1.2 X 1.1 mm; No direction of travel identified

Stain #16-A measured 1.1 X 1.3 mm; No direction of travel identified

Stain #16-B measured .4 X .4 mm; No direction of travel identified

Note: #16-B is partially laying on top of #16-A

Stain #17 measured .7 X .8 mm; No direction of travel identified

Stain #18 measured 1.5 X 1.8 mm; No direction of travel identified

Stain #19 measured 1.8 X 2.0 mm; No direction of travel identified

Stain #20 measured 1.0 X .9 mm; No direction of travel identified

Stain #21 measured .7 X .7 mm; No direction of travel identified

Stain #22 measured 1.2 X 1.2 mm; No direction of travel identified

Stain #23 measured .6 X .7 mm; No direction of travel identified

Excluding stains #8 and #13 as possibly some other substance and not blood, that leaves a total of 22 stains consistent with blood spatter. Stains #16-A and #16-B under proper magnification were found to be two different spatter that partially overlay each other.

The pattern formed by all of the spatter listed above, extends from low to the floor on the left side of the wall and runs upward and to the right. This forms generally an upside down triangle shape leaning slightly to the right.

Possible actions that might produce this type of spatter include expectorate blood, and blood from some high velocity (HVIS) occurrence such as a gun shot. In considering the possibility of expectorate blood, (blood forced out of the mouth or nose) I looked for bubbles or bubble rings, larger stains and stains lighter in color as the blood was mixed with saliva from the mouth. None of the stains, except Stain #6, were consistent with any of the identifiers. Stain #6 is lighter in color on the outer edge and may be diluted with some substance.

TBI

1827 Crestmont Norman, OK 73069

In considering the possibility of HVIS such as a gun shot, I looked for stains measuring close to 1 mm or less, mixed with tissue, hair or bone and forming a conical or triangle shaped pattern. The majority of the stains are below 1 mm and those above are close to 1 mm in size. The general pattern forms a triangle or cone shape.

There is evidence of cleaning up the crime scene. Because of the cleanup, one other possible action to produce spatter consistent with that found might be a string mop that is dry and not yet soaked with water. If the mop was soaked with water, all of the spatter would be diluted. I will conduct an experiment with a dry, string mop to determine if this action can possibly produce blood spatter consistent with that found. My hypothesis is that this action will not produce consistent blood spatter. But, this experiment will have to be completed in order to include or exclude this action as possible.

Findings:

The shape, size, number, distribution, direction, color and appearance of the blood spatter are most consistent with spatter from an HVIS occurrence. A gun shot producing back spatter can not be eliminated as a probable action to have caused the blood spatter as found. Expectorate from the nose or mouth can, in my opinion, be excluded as the action that produced the blood spatter as found. A dry string mop used for cleanup will have to be tested in order to test this possibility.

*Note the identified spatter needs to be confirmed for blood as well as compared using DNA against the victim.

~~If you have additional questions, please contact me at the above phone numbers.~~

Respectfully,

Tom Bevel

TBI

1827 Crestmont Norman, OK 73069

Stain #06 measured .7 X .9 mm to outside original stain edge and measured .5 X .4 mm to the now existing blood solids; Stain was diluted with something

Stain #07 measured 1.2 X 1.2 mm; No direction of travel identified

Stain #08 measured .6 X .8 mm; No direction of travel identified; Stain is possibly dark wood fiber instead of blood

Stain #09 measured 1.2 X 1.5 mm; Direction of travel is either upward or downward, but not left or right

Stain #10 measured .7 X .9 mm; No direction of travel identified; The stain is broken and cracked and is falling off of the wall board

Stain #11 measured .9 X .9 mm; No direction of travel identified; There is a hair or hair transfer in and extending out from the blood stain *

Stain #12 measured 1.3 X 1.7 mm; No direction of travel identified

Stain #13 measured 1.0 X .8 mm; It is loose and may be some substance other than blood

Stain #14 measured 1.5 X 1.5 mm; No direction of travel identified

Stain #15 measured 1.2 X 1.1 mm; No direction of travel identified

Stain #16-A measured 1.1 X 1.3 mm; No direction of travel identified

Stain #16-B measured .4 X .4 mm; No direction of travel identified

Note: #16-B is partially laying on top of #16-A

Stain #17 measured .7 X .8 mm; No direction of travel identified

Stain #18 measured 1.5 X 1.8 mm; No direction of travel identified

Stain #19 measured 1.8 X 2.0 mm; No direction of travel identified

Stain #20 measured 1.0 X .9 mm; No direction of travel identified

Stain #21 measured .7 X 1.7 mm; No direction of travel identified

Stain #22 measured 1.2 X 1.2 mm; No direction of travel identified

Stain #23 measured .6 X .7 mm; No direction of travel identified

Excluding stains #8 and #13 as possibly some other substance and not blood, that leaves a total of 22 stains consistent with blood spatter. Stains #16-A and #16-B under proper magnification were found to be two different spatter that partially overlay each other.

The pattern formed by all of the spatter listed above, extends from low to the floor on the left side of the wall and runs upward and to the right. This forms generally an upside down triangle shape leaning slightly to the right.

Possible actions that might produce this type of spatter include expectorate blood, and blood from some high velocity (HVIS) occurrence such as a gun shot. In considering the possibility of expectorate blood, (blood forced out of the mouth or nose) I looked for bubbles or bubble rings, larger stains and stains lighter in color as the blood was mixed with saliva from the mouth. None of the stains, except Stain #6, were consistent with any of the identifiers. Stain #6 is lighter in color on the outer edge and may be diluted with some substance.

TBI

1827 Crestmont Norman, OK 73069

In considering the possibility of HVIS such as a gun shot, I looked for stains measuring close to 1 mm or less, mixed with tissue, hair or bone and forming a conical or triangle shaped pattern. The majority of the stains are below 1 mm and those above are close to 1 mm in size. The general pattern forms a triangle or cone shape.

There is evidence of cleaning up the crime scene. Because of the cleanup, one other possible action to produce spatter consistent with that found might be a string mop that is dry and not yet soaked with water. If the mop was soaked with water, all of the spatter would be diluted. I will conduct an experiment with a dry, string mop to determine if this action can possibly produce blood spatter consistent with that found. My hypothesis is that this action will not produce consistent blood spatter. But, this experiment will have to be completed in order to include or exclude this action as possible.

Findings:

The shape, size, number, distribution, direction, color and appearance of the blood spatter are most consistent with spatter from an HVIS occurrence. A gun shot producing back spatter can not be eliminated as a probable action to have caused the blood spatter as found. Expectorate from the nose or mouth can, in my opinion, be excluded as the action that produced the blood spatter as found. A dry string mop used for cleanup will have to be tested in order to test this possibility.

*Note the identified spatter needs to be confirmed for blood as well as compared using DNA against the victim.

If you have additional questions, please contact me at the above phone numbers.

Respectfully,

Tem Bevel

TBI

1327 Crestmont Norman, OK 73069

Voice: 405-447-4469

Fax: 405-447-4481

E-mail: thereck@compuserve.com

Cell phone 405-850-6655

January 8, 2002

Sgt. Gary W. Jones
Galveston Police Department
2213 Ave. K
Galveston, Texas 77550

e-mail GAJONES@CI.GALVESTON.TX.US

Re: Morris Black Death Investigation

Dear Sgt. Jones:

As requested I have completed an analysis of the blood spatter found on a kitchen wall connected to the Morris Black death investigation.

A section of the white wall, with blood spatter on it, was mounted inside a 2 X 4 frame with plywood forming a protective container to allow the sheet rock to be transported. A wooden base board and a wooden board for framing, both painted white, were also examined. The wooden boards were received wrapped in brown paper. The base board and the framing board were originally part of the area containing the wall section.

The exam utilized two different light sources, and magnifies of 2 X, 10 X and 20 X. Each spatter was measured with the 20 X magnifier. The scale in this magnifier measures to one tenth of one mm. A measurement of 1.3 mm would indicate 1 mm and 3 tenths of another mm.

Blood spatter identified as #1 through 13 were found on the wallboard. Blood spatter identified as #14 through 21 were found on the wooden framing board. Blood spatter identified as #22 through 23 were found on the wooden base board.

Each blood spatter was measured and photographed with a scale of reference in each photograph. Each of the blood spatter are described below:

Stain #01 measured .4 X .9 mm; No direction of travel identified
Stain #02 measured .8 X 1.3 mm; Direction of travel was upward
Stain #03 measured 1.1 X 1.1 mm; No direction of travel identified
Stain #04 Broke off from wall before measuring and was not found again
Stain #05 measured .3 X .5 mm; No direction of travel identified; It is braking-up and falling off the wall board

A Forensic Education & Consulting Company

Page 1 of 3

QUALIFYING QUESTIONS for Tom Bevel

- Q. What is your occupation and what positions or titles do you have?
- A. I'm the owner of TBI, LLC a forensic education and consulting co. I'm an Associate Professor at UCO in the Master of Forensic Science Program.
- Q. Were you formerly employed in law enforcement?
- A. Yes, I retired in May of 1996 from the Oklahoma City Police Department.
- Q. What was your last rank and assignment?
- A. I retired as a Captain and my last assignment was the Commander of 4 units: Homicide, Robbery, Missing Persons and Major Unsolved Cases.
- Q. How many years experience do you have in Technical Investigations?
- A. Approximately 26 years.
- Q. Do you have any degrees or certificates concerning your Police specialties in Technical Investigation?
- A. Yes, I have certificates from the FBI in Fingerprint Identification and have been qualified at the Municipal, State and Federal courts as an expert in identification work. I am a graduate from the Forensic Science Course at Scotland Yard in England. I completed the Medico-Legal Jurisprudence Course at London Medical Hospital in London, England. I have certificates from Orlando, FL Medical Examiner's Office and the Laboratory of Forensic Science in Corning, N.Y. in Bloodstain Pattern Analysis. I also have graduate Credit in Bloodstain Pattern Analysis at Elmira College in N.Y. I am a graduate of the FBI-NA. I'm a graduate of the month long Technical Investigation School at the Central U.S. Police Institute.
- Q. What teaching experience have you had concerning Bloodstain Pattern Analysis or Crime Scene Reconstruction?
- A. I have taught over forty-five (45) 40 hour schools to students from through out the U.S. and Foreign Countries to include England, Mexico, Philippines, Taiwan, San Salvador, Canada,

Australia, and Saudi Arabia.

- Q. Have you been invited to lecture on your specialties to any Universities or Professional Societies?
- A. Yes, I am an Associate Professor at UCO in the MFS Program, I have lectured to the IAI National and 11 state IAI, IABPA, ACSR, SWAFS, OU, OSU, UCO, UT, U OHIO, SCOTLAND YARD, FBI, INTERNATIONAL HOMICIDE SCHOOLS, FORENSIC PATHOLOGISTS, ETC.
- Q. Do you belong to any societies that limit membership to qualified investigators in the field of scientific crime scene investigation?
- A. Yes sir, I belong to the IAI, IABPA, ACSR, RMABPA, SWAFS, AAFS, FELLOW - BFS, Past President & Distinguished Member for both the ACSR & IABPA
- Q. Have you received any honors or awards in your profession?
- A. Yes sir, I have been named Distinguished Member by the IABPA and the ACSR; Distinguished Former Student by UCO; Diplomat by the ACFA; Outstanding Graduate of the CJ Master Degree at UCO; Past President of both IABPA, and ACSR; Regional Representative and Editorial Board for the IAI; Past President for the OK-IAI; Member of the Child Death Review Board for the State of Oklahoma; Advisory Committee for the Master of Forensic Science Degree at UCO
- Q. In how many U.S. states and foreign countries have you been called in as an expert consultant?
- A. 40 U.S. States and 6 foreign countries.
- Q. What articles have you written that have been published in professional journals?
- A. Six articles, one lab manual, and a 2 ½ hr. video tape program for the commercial market. One hard back book BLOODSTAIN PATTERN ANALYSIS: WITH AN INTRODUCTION TO CRIME SCENE RECONSTRUCTION, CRC PRESS, 1ST Edition 1997, 2nd Edition 2002
- Q. Has Bloodstain Pattern Analysis been proved to be a scientifically valid discipline?
- A. Yes, bloodstains are uniform in character and will

reproduce specific patterns under the same conditions. They react to the physical laws of fluids such as inertia, centrifugal force, gravity and cohesive force.

- Q. What information can you obtain from studying bloodstains at a crime scene?
- A. The origin of the bloodstain, type and direction of impact. Number of blows struck, position of victim during blows. Movement and direction of person(s) during and after attack. Type of force required to produce bloodstains. You are able to tell what occurrences took place to produce specific stains.
- Q. Has Bloodstain Pattern Analysis been admitted into courts of law as a scientifically valid discipline?
- A. Yes sir, many countries as well as the U.S. have used this discipline to shed light on the occurrences that took place at a crime scene.

CRIME SCENE RECONSTRUCTION

- Q. Have you been accepted in a court of law as a Crime Scene Reconstruction expert?
- A. Yes I have.
- Q. Explain what Crime Scene Reconstruction consists of.
- A. It is a study of the physical evidence and their relationships. Using a deductive and structured thinking process applying the scientific method, along with all other expert analysis such as the M.E., Firearms Examiner, Forensic Labs, etc. the inter-relationship of all the physical evidence are used in a puzzle fit process to arrive at the most probable sequence of events that took place.
- Q. Does the reconstruction discipline have a professional association?
- A. Yes, the ACSR
- Q. Does the ACSR offer peer review?
- A. Yes, it does.

Q. Has any of your work been subjected to peer review?

A. Yes, it has.

Q. Has CSR based on the scientific method, been accepted in courts of law as a valid discipline?

A. Yes, it has.

Jul-10-03 02:33P

P.01

SOUTHWEST AIRLINES® TICKETLESS TRAVELSM

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BRING A COPY OF THIS ITINERARY TO THE AIRPORT FOR FLIGHT CHECKIN
Receipt and Itinerary as of 07/09/03 10:21AM

Confirmation Number: 8URETR ARC no: 45887671 Received:
Confirmation Date: 07/09/03

Passenger(s): BENNETT/JOEL 526-2757355437-1
SISTRUNK/KURT 526-2757355439-3
Rapid Rewards Member Number:

Itinerary:	Flt#	Date	Depart	Arrive
HOUSTON HOBBY/OKLAHOMA CITY OK	2257 Y	22JUL03	07:10AM	08:20AM
OKLAHOMA CITY OK/HOUSTON HOBBY	1965 Y	22JUL03	02:35PM	03:55PM

Cost:	Total for 2 Passenger(s)	AIR:	442.80
		TAX:	45.20
		PFC:	6.00
		SECURITY FEE:	0.00
		Total Fare:	\$494.00

Payment Summary:
Current payment(s):
09JUL2003 MASTERCARD xxxxxxxxxxxx8321 Ref 526-2757355437-1 247.00
09JUL2003 MASTERCARD xxxxxxxxxxxx8321 Ref 526-2757355439-3 247.00
Total Payments: \$494.00

Fare Rule(s):
VALID ONLY ON SOUTHWEST AIRLINES
VIA WN ONLY

All travel involving funds from this Confirm no. must be completed by 07/09/04

Fare Calculation:
GST- 2 HOUNOKC YCATXHO 119.00 OKCWNHO 119.00 \$238.00
ZPHOU OKC XFOKC3.00 AYOKCO.00 \$247.00

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REFUND AND EXCHANGES-Any change to this itinerary may result in a fare increase. Unless otherwise noted, if you do not travel on this itinerary, you may qualify for a refund or exchange. To apply for a refund, please call 1-800-I-FLY-SWA. Written requests should include a copy of this document and be addressed to: Southwest Airlines Refund Department 6RF, PO Box 36649, Dallas, TX 75235-1649

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EXHIBIT 29

EXHIBIT 30

REPORTER'S RECORD

VOLUME _____ OF _____ VOLUMES

APPELLATE COURT NO. _____

CAUSE NO. 01CR1901

THE STATE OF TEXAS) (IN THE DISTRICT COURT OF

VS.) (GALVESTON COUNTY, TEXAS

ROBERT DURST) (212TH JUDICIAL DISTRICT

TRIAL

A P P E A R A N C E S:

FOR THE STATE:

Kurt Sistrunk, District Attorney SBOT: 18444950

Joel H. Bennett, ADA SBOT: 00787069

District Attorney's Office

722 Moody, Room 300

Galveston, Texas 77550

(409) 766-2355 (409) 766-2290 (fax)

FOR THE DEFENDANT:

Dick DeGuerin, Esq. SBOT: 0563800

1018 Preston, 7th Floor

Houston, Texas 77002

(713) 223-5959 (713) 223-9231 (fax)

Michael Ramsey, Esq. SBOT: 16521000

Chip Lewis, Esq. SBOT: 00791107

2120 Welch

Houston, Texas 77019

(713) 523-7878 (713) 523-7887 (fax)

BE IT REMEMBERED that upon this 20th day of

October, 2003, the following proceeding occurred

before the Honorable Susan Criss, Judge of the 212th

District Court of Galveston County, Texas:

1 Q. And you found what you thought was blood?

2 A. Correct.

3 Q. Up until this time, this is 9 October, Tuesday,
4 until Bob Durst literally fell into your lap, you didn't know
5 where he was, did you?

6 A. Correct.

7 Q. But in addition, what you find in the car is a
8 receipt from a dry cleaning company in New Orleans?

9 A. Correct.

10 Q. Now, you trace that receipt for the dry cleaning
11 company and you find that whoever did business with the dry
12 cleaning company, if it was Bob Durst, took a blanket to the
13 dry cleaning company on October the 8th in New Orleans?

14 A. Correct.

15 Q. A blanket with a red stain on it?

16 A. Correct.

17 Q. Now, you think, "Well, man, this is really -- how
18 can I be so lucky to get all these clues just given to me?"
19 Did that pass through your mind? It was almost too good to
20 be true, wasn't it? Okay. I will let the expression answer
21 that question.

22 THE COURT: Let's take a break.

23 (A recess was taken.)

24 THE COURT: You may be seated. You may
25 proceed.

1 car, right?

2 A. Correct.

3 Q. And it shows that sometime on the 8th someone took
4 a blanket to Young's dry cleaning in New Orleans, right?

5 A. Correct.

6 Q. Before that, you had not a clue whether Bob Durst
7 had any connection to New Orleans, did you?

8 A. Correct.

9 Q. You didn't know where he had been between October
10 the 1st, when he had come to Dr. Matocha's office, and when
11 you arrested him on October the 9th, right?

12 A. Correct.

13 Q. The Young's dry cleaning receipt was a clue that
14 perhaps he had been in New Orleans, right?

15 A. Correct.

16 Q. But what was really intriguing about this dry
17 cleaning receipt was that when you called the dry cleaners to
18 find out what this was about, you found that it was a blanket
19 that had a red stain in it?

20 A. Correct.

21 Q. And that the dry cleaners said, "I can't get the
22 stain out. Tell the owner I can't get the stain out"?

23 A. Correct.

24 Q. Right away you ask for permission from your
25 superiors to get to -- be beat feet to New Orleans and pick

EXHIBIT 31

1 REPORTER'S RECORD

2 VOLUME ____ OF ____ VOLUMES

3 APPELLATE COURT NO. _____

4 CAUSE NO. 01CR1901

5 THE STATE OF TEXAS) (IN THE DISTRICT COURT OF

6 VS.) (GALVESTON COUNTY, TEXAS

7 ROBERT DURST) (212TH JUDICIAL DISTRICT

8
9 TRIAL10
11 A P P E A R A N C E S:

12 FOR THE STATE:

13 Kurt Sistrunk, District Attorney SBOT: 18444950

14 Joel H. Bennett, ADA SBOT: 00787069

District Attorney's Office

15 722 Moody, Room 300, Galveston, Texas 77550

16 (409) 766-2355 (409) 766-2290 (fax)

17 FOR THE DEFENDANT:

18 Dick DeGuerin, Esq. SBOT: 0563800

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20 Michael Ramsey, Esq. SBOT: 16521000

Chip Lewis, Esq. SBOT: 00791107

2120 Welch, Houston, Texas 77019

21 (713) 523-7878 (713) 523-7887 (fax)

22 BE IT REMEMBERED that upon this 15th day of

23 October, 2003, the following proceeding occurred

24 before the Honorable Susan Criss, Judge of the 212th

25 District Court of Galveston County, Texas:

1 THE CLERK: Yes.
2 (In the jury's presence.)
3 THE COURT: You may call your next
4 witness.
5 (Witness sworn.)
6 MR. BENNETT: May I proceed, Your Honor?
7 THE COURT: Yes
8 KATHRYN FRANCES MILLIMACI,
9 having first been duly sworn, testified as follows:
10 DIRECT EXAMINATION
11 BY BENNETT:
12 Q. Please state your name for the record.
13 A. Kathryn Frances Millimaci.
14 Q. And how are you employed?
15 A. Through Wegmans Food Markets in Rochester,
16 New York.
17 Q. And in what capacity?
18 A. I'm a loss prevention division manager.
19 Q. Back in November of 2001, where were you
20 employed?
21 A. At Wegmans Food Markets.
22 Q. In a different location?
23 A. Bethlehem, Pennsylvania.
24 Q. And what was your duty or your assignment at
25 that location?

1 Mr. Durst?

2 A. Two.

3 Q. Who was that?

4 A. Myself and Nick Westgate.

5 Q. And what happened when y'all approached him?

6 A. We asked him for a receipt for the

7 merchandise. And he stated that he had money in his

8 car to pay for it.

9 Q. And what did you do at that point?

10 A. I told him that we weren't going to his car

11 and that he needed to come inside the store with us.

12 Q. Did he comply?

13 A. Yes.

14 Q. And when you went inside the store, where

15 did y'all go?

16 A. To the security office.

17 Q. And where is that located?

18 A. That's located inside the store on the right

19 side of the building. And there's an outside door

20 that leads to it.

21 Q. It's upstairs where the camera system is?

22 A. No. It's downstairs.

23 Q. And once you go to that location, what do

24 you do from there?

25 A. We bring the person in and the first thing

1 we ask for is identification.

2 Q. And was he able to produce any
3 identification?

4 A. No.

5 Q. Where did you go from there?

6 A. At that point I questioned him about where
7 he was from.

8 Q. Did he tell you?

9 A. He said that he was from New York.

10 Q. And what did you do from there?

11 A. I asked him that he -- I said, "You should
12 have New York plates on your car then." And he said,
13 no, he had Maryland plates.

14 Q. Do you have the ability to check the parking
15 lot from the office?

16 A. Yes.

17 Q. And how is that?

18 A. Through a camera.

19 Q. And these cameras, do they have ability to
20 zoom in and out like we saw on the video?

21 A. Yes.

22 Q. And when he said he had Maryland plates,
23 what did you do at that point?

24 A. At that point I had decided that I was going
25 to call the police because that's twice he wanted to

1 get to his car, once for the money and once for his
2 I.D. He said his I.D. was in his car. And so, I
3 decided to call the police.

4 Q. Did you have any other alternative than call
5 the police? Is there some other way to proceed?

6 A. Well, yeah. We turned the camera around to
7 the parking lot and we saw that there was a vehicle
8 out there. And we said, "Is this your car," because
9 he wanted someone to go to his car to get his I.D.

10 Q. Is there some kind of civil paperwork y'all
11 can do?

12 A. Yes. We civilly fine them for \$50.

13 Q. And did you do that?

14 A. Yes.

15 Q. And is that instead of a criminal offense or
16 can you do both in Pennsylvania?

17 A. We can do both.

18 Q. Since he wasn't able to produce any form of
19 I.D., did you take down any information from him?

20 A. Yes.

21 Q. And did you take down a name, address and
22 such?

23 A. Yes.

24 Q. Okay. And what name did he give you?

25 A. Robert Durst.

EXHIBIT 32

1 REPORTER'S RECORD
2 VOLUME _____ OF _____ VOLUMES
3 APPELLATE COURT NO. _____
4 CAUSE NO. 01CR1901
5 THE STATE OF TEXAS) (IN THE DISTRICT COURT OF
6 VS.) (GALVESTON COUNTY, TEXAS
7 ROBERT DURST) (212TH JUDICIAL DISTRICT
8
9 TRIAL
10
11 A P P E A R A N C E S:
12
13 FOR THE STATE:
14 Kurt Sistrunk, District Attorney SBOT: 18444950
15 Joel H. Bennett, ADA SBOT: 00787069
16 District Attorney's Office
17 722 Moody, Room 300, Galveston, Texas 77550
18 (409) 766-2355 (409) 766-2290 (fax)
19
20 FOR THE DEFENDANT:
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24 Michael Ramsey, Esq. SBOT: 16521000
25 Chip Lewis, Esq. SBOT: 00791107
2120 Welch, Houston, Texas 77019
(713) 523-7878 (713) 523-7887 (fax)

BE IT REMEMBERED that upon this 15th day of
October, 2003, the following proceeding occurred
before the Honorable Susan Criss, Judge of the 212th
District Court of Galveston County, Texas:

1 excused.

2 You can call your next witness.

3 MR. BENNETT: Mr. Benner.

4 (Witness sworn.)

5 MR. BENNETT: May I proceed, Your Honor?

6 THE COURT: Yes.

7 DEAN BENNER,

8 having first been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BENNETT:

11 Q. Please state your name for the record.

12 A. Dean Michael Benner.

13 Q. How are you employed?

14 A. I am employed with the Colonial Regional
15 Police Department in Pennsylvania.

16 Q. In what capacity?

17 A. I am a police officer.

18 Q. And how long have you held that position?

19 A. Eight years.

20 Q. Directing your attention back to November
21 30th, 2001, were you working on that day?

22 A. Yes, I was.

23 Q. Did you respond to a call at Wegmans
24 Grocery?

25 A. I did.

1 Q. And about what time, if you remember what
2 time that was?

3 A. I want to say maybe -- I don't know. 12:30
4 I think it was, but I'm not sure.

5 Q. Did you prepare a report?

6 A. Yes, I did.

7 Q. Is this a copy of your report?

8 A. Yes, it is.

9 Q. Would it assist you in your testimony here
10 today?

11 A. Yes.

12 Q. Approximately what time were you called over
13 to Wegmans?

14 A. I was correct. It was 12:36.

15 Q. And what was the purpose of the call?

16 A. It was a retail theft. A person was in
17 custody.

18 Q. And once you got to Wegmans, where did you
19 go?

20 A. I went right to the loss prevention office.

21 Q. And did you meet anybody there?

22 A. When I entered the loss prevention office, I
23 saw a little man sitting there. He was bald, had no
24 eyebrows, completely no facial hair whatsoever. And
25 then the two loss prevention people, Kay, who I

1 believe was just in here and her trainee at the time.

2 Q. And what was his name, if you remember?

3 A. Nick Westgate.

4 Q. And once you got to the loss prevention
5 office, what did you do?

6 A. Well, I received the story from them as to
7 what happened. And they informed me what happened and
8 then I asked the gentleman, who is seated in the
9 courtroom next to counsel, what his name was and he
10 said Robert Durst.

11 Q. You pointed to somebody. Would you please
12 identify an article of clothing and tell me what he is
13 wearing?

14 A. Yes. He is wearing a grey suit, no tie,
15 gray-haired man in the middle of the table.

16 MR. BENNETT: May the record reflect the
17 witness has identified the Defendant?

18 MR. DeGUERIN: No objection.

19 THE COURT: It will.

20 Q. (BY MR. BENNETT) Did you ask for any other
21 identifying information from Mr. Durst?

22 A. Yes. I asked him -- I received a copy of, I
23 guess it's their Wegmans report of the information
24 that they collected from him. And I asked him if he
25 had any identification on him.

1 Q. And how did he respond to you?

2 A. He said he did not, but he had it in his car
3 in his glove box. And if I could escort him back to
4 his car, he would retrieve it for me.

5 Q. And did you go to the car to the glove box?

6 A. I did not.

7 Q. Why not?

8 A. It's my personal -- not a department thing
9 but it's my personal rule, I guess, to -- I don't
10 really trust people in a capacity of that nature. I
11 just said to him, "That's all right. We'll figure out
12 who you are and deal with it."

13 Q. And after you declined the invitation to go
14 to the car to get his I.D. out of the glove box, what
15 happened next?

16 A. I asked him what his story was. I said,
17 "What happened?" And he began to tell me a story
18 of -- well, I asked him where he was from. And he
19 said, "New York."

20 And I said, "What are you doing in this
21 area?"

22 And he said that he was in the process of
23 moving to Baltimore and he was visiting his daughter
24 in Bethlehem in the area where the Wegmans was.

25 Q. And after he told you that, what did you do?

1 A. Well, he continued his story and stated that
2 he was very upset with himself --

3 MR. DeGUERIN: I think maybe we need to
4 approach the bench about something for a second.

5 THE COURT: All right.

6 (At the bench, on the record.)

7 MR. DeGUERIN: I believe these are
8 statements under arrest, under interrogation, under
9 arrest, oral statements and he has not talked about
10 any kind of warning or waiver. And I think we would
11 object to any further statements made under arrest.

12 THE COURT: All right.

13 MR. BENNETT: I will move on.

14 THE COURT: All right. I was just going
15 to say specifically prove that up, if you can.

16 MR. BENNETT: No big deal.

17 (In the jury's presence.)

18 Q. (BY MR. BENNETT) After the Defendant told
19 you his story, what action did you take?

20 A. I'm sorry?

21 Q. After the Defendant told you his story, what
22 action did you take?

23 A. Well, I told him since -- according to his
24 story he said he was from out of state --

25 Q. Without going into what he said --

1 A. That's fine. But since he was from out of
2 state, he said he was not from Pennsylvania, it is
3 Pennsylvania law that they -- any person out of state
4 that commits a crime must be arraigned in front of a
5 District Justice. And so, I informed him of that
6 since he was not from Pennsylvania, he said he was
7 just passing through, I would have to take him in
8 front of a Magistrate to -- well, they are District
9 Justices but they are also called Magistrates -- that
10 we would have to go in front of a District Justice to
11 be arraigned.

12 Q. So, was he taken into custody at that time?

13 A. Yes, he was.

14 Q. Prior to that, was he in custody?

15 A. He was not physically restrained as far as
16 handcuffs. He was sitting in the room. He was, you
17 know, Wegmans had him in the room, but I did not
18 physically take him into custody as far as restraints
19 until after I told him he was going to have to be
20 arraigned.

21 Q. And where did you take him at that point?

22 A. At that point I -- well, at that point I
23 asked him -- well, I asked Wegmans, I said, "Was he
24 checked for weapons or anything?" And they said, no,
25 that's not their policy. So, I stood him up after I

1 secured him in handcuffs and I patted him down. The
2 only thing found on him was a handful of money which
3 consisted of \$523 in cash.

4 Q. And after you searched him and found the
5 money, what did you do?

6 A. Well, he was very upset with himself --

7 Q. Without going into what he said, where did
8 y'all go?

9 A. Okay. So, what I told him was that the
10 maximum fine in this, at best, is \$300 plus the \$8 or
11 whatever the total was for the theft. I said, "You
12 obviously have plenty of money." What would happen is
13 we would get back to my police station. He would be
14 photographed and fingerprinted and then we would go to
15 the District Justice where if he pled guilty, he could
16 just pay that amount of money, whatever she set.
17 Anywhere from 25 to \$300 is the range for retail theft
18 first offense. He would just pay it and I would drive
19 him right back to the car and he would be free to
20 leave.

21 Q. So, did you take him back to the station?

22 A. I did, yes.

23 Q. And at the station, were you gathering
24 additional identifying information from him?

25 A. Yeah. At the station I have to do my -- all

EXHIBIT 33



Galveston Police Department

No:

Type of Incident:

Date of Incident:

Reporting Officer:

Badge #:

Date of Report:

Introduction:

On 12-05-01 Sgt. F. Cazalas and myself traveled to the Colonial Regional Police Department, located in Bath, Pennsylvania to assist in executing an evidentiary search warrant on a 1996 Chevrolet Corsica bearing VIN number 1G1LD55M6TY253817. The vehicle had been in the possession of Robert Durst upon his arrest by Pennsylvania authorities. Detective Gary Hammer of the Colonial Regional Police Department secured a search warrant for the listed vehicle, and subsequently completed the vehicle inventory list, and search warrant return. The search was conducted at the City of Bethlehem, PA, municipal garage facility located in Bethlehem, Pennsylvania. The vehicle was located in a secure paint booth at that facility. The vehicle was noted to be displaying a stolen Maryland license plate #DNT-572.

Search:

The search of the vehicle was performed by Detective Gary Hammer of the Colonial Regional Police Department (PA), Troopers Thomas Martin and George Maclarty of the Forensic Identification Unit of the New York State Police, as well as myself. The vehicle and its contents were photographed at the time of the search.

Additional non participatory personnel present included: Chief Daniel Spang (Colonial Regional Police Department, PA), District Attorney Jeanne Pirro (Westchester County, NY), Westchester County DA Investigator James O'Donnell (Westchester County, NY), Investigators Joseph Becerra and Dominick Chiumento (New York State Police), and Sgt. F. Cazalas, Galveston PD.

Serology:

Trooper's Martin and Maclarty conducted LMG blood presumptive tests on stains in the following locations, with negative results: Passenger side dashboard in area of glove compartment, Laser brand steak knife, rear drivers side seat belt, interior cuff of "Canton Ranch" long sleeved t-shirt. A copy of their narrative description was forwarded to Records for inclusion with case documents.

GPD item# 979-23 was sent to the DPS Laboratory in Houston on 12-13-2001 to examine for traces of DNA. If DNA was found to be present, to compare to DNA extractions from items 847-489 and 847-469 which had been previously submitted.

Latents:

I processed the listed items for latent fingerprints in the Galveston PD Identification office lab. upon return to Galveston. No Latent fingerprints were recovered.

Items processed with black powder: 979-04, 979-15, 979-19, 979-26, 979-27, 979-31

Items processed with Ninhydrin: 979-06, 979-16, 979-30, 979-46

Physical Evidence:

The below listed evidence which was brought to Galveston, was removed on 12-05-01 from the site of the search to the Colonial Regional Police Department's secure evidence room by Detective Hammer. On 12-07-01, I signed out the evidence from Detective Hammer, and hand carried the items on my return flight to Texas. A copy of the Colonial Regional Police Department's evidence and property record was submitted to



Galveston Police Department

No:

Type of Incident:

Date of Incident:

Reporting Officer:

Badge #:

Date of Report:

Records for inclusion with case documents. Cash money recovered from the suspect vehicle, (CRPD items #37,38,39,40, and 41) were retained by the Colonial Regional Police Department at the request of District Attorney John Morganelli of Northhampton County, Pennsylvania. The individual bills were photocopied by Detective Hammer, and the copies submitted to property (979-84). All items brought to Galveston were turned into the GPD property room, with the exception of 979-23 which was sent to DPS lab Houston.

Evidence Brought to Galveston:

- 979-01 (1) Safilo brand men's bifocal glasses
- 979-02 (1) Grey cap with Louisiana "Third world and proud of it" logo
- 979-03 (1) Taurus brand .38 Special (Blued steel, brown wood grips, Serial#MA62955
- 979-04 (5) Winchester brand .38 caliber live rounds (Recovered from cylinder of 979-03)
- 979-05 (1) Zip lock style clear baggie containing:
 - (1) HKS brand speedloader patent#4202124
 - (20) Federal brand .38 caliber live rounds
 - (19) Winchester brand .38 caliber live rounds
- 979-06 (1) Rent a Wreck Car rental folder containing:
 - (1) Receipt #RA 7977-01881 Renter: Morris Black 10-17-01
 - (1) Alabama insurance card (Northland Insurance Co. Policy #900167
- 979-07 (1) Matchbook "Moran's 103 Washington Street NYC"
- (1) Matchbook "Tequillaville New York City"
- (1) Matchbook "Theolphus"
- (1) Matchbook "Une Autre Amerique"
- 979-08 (1) Matchbook "Rainbow Grand Case St. Martin"
- 979-09 (1) Marlboro Lights pack with State of Connecticut tax stamp
- 979-10 (1) Uniball brand Vision fine point pen, with green in color ink
- 979-11 (1) "Stop and Shop" brand plastic party cups, blue in color (20 pack containing 10 cups)
- 979-14 (1) Citrucel box
- 979-15 (1) Fleet Total Access check card (Emilio Vignoni, Account#4326300002963083 Exp 01-04)
- 979-16 (1) Receipt from Staybridge Suites- Allentown, PA for Emilio Vignoni Nov 18-30
- 979-17 (1) United States Passport #151647361- Robert Durst
- 979-18 (1) Uniball brand Vision fine point pen, green in color ink
- 979-19 (1) Smith & Wesson Airlight .38 Special Revolver serial#CDD9764, Aluminum finish with black Pachmayr grips
 - (4) RP brand .38 caliber live rounds (removed from cylinder)
 - (1) Federal brand .38 caliber live rounds (removed from cylinder)
- 979-20 (7) Federal brand .38 caliber hollow point live rounds
 - (2) RP brand .38 caliber live rounds
- 979-21 (1pr) Unknown brand men's wire framed bifocal glasses
- 979-22 (1) USA Today "Life" section, November 30, 2001
- 979-23 (1) Sierra Designs 60/40 brand men's parka, size M. Blue with tan lining
- 979-24 (1) Marlboro lights pack with State of Connecticut tax stamp

2 of 3



Galveston Police Department

No:

Type of Incident:

Date of Incident:

Reporting Officer:

Badge #:

Date of Report:

Evidence brought to Galveston continued...

- 979-25 (1) white piece of paper with green handwriting
979-26 (1) South Carolina Drivers License- Morris Black DL#007804913
979-27 (1) CVS Pharmacy MCI World Com 80 minute phone card #1162953807
979-29 (1) Debrah Lee Charatan Realty Inc. logo pen/Rebecca Moss brand, silver in color with green cap, green in color ink.
979-30 (1) Medicare card: Morris Black #026-22-2164A
979-31 (1) Kinko's Express Pay stored value card #VC051185R01
979-32 (1) Set of Hudson brand keys with white key tab with "Argentina" written in green ink
979-33 (1) Jamy brand pen with green ink
979-35 (2) radio Shack MC-60 micro cassette tapes (blank)
979-42 (1) Zip-lock style clear baggie containing:
 (24) Winchester brand .38 special hollow point live rounds
 (13) Federal brand .38 special hollow point live rounds
979-44 (1pr) Clear vision brand gray plastic framed men's bifocal glasses
 (1pr) Unknown brand wire framed men's bifocal glasses
 (1pr) M-7058 silver colored metal framed bifocal sunglasses
979-45 (1) Radio shack Micro-46 micro cassette recorder with blank MC-60 tape
979-46 (1) Mead brand "Five star" spiral notebook containing:
 • Staybridge Suites hotel receipt for Emilio Vignoni
 • Newspaper clipping of discount hotel hotline
 • (2) Fleet statements of account for Emilio Vignoni
 • Green Uniball brand vision pen with green ink
 • Hilton Garden Inn notepaper with writing
 • Assorted personal photographs and writings in spiral notebook
979-56 (1set) SAAB key on plastic key fob with single unknown brand gold color key
979-81 (1) Gousha brand Connecticut/Rhode Island roadmap
979-82 (1) AAA New York Roadmap
979-83 (1) hagstrom brand Fairfield County atlas
979-84 Photocopies of money (CRPD items# 37,38,39,40, and 41)

EXHIBIT 34



EXHIBIT 35



EXHIBIT 36



EXHIBIT 37



EXHIBIT 38

EXHIBIT 39

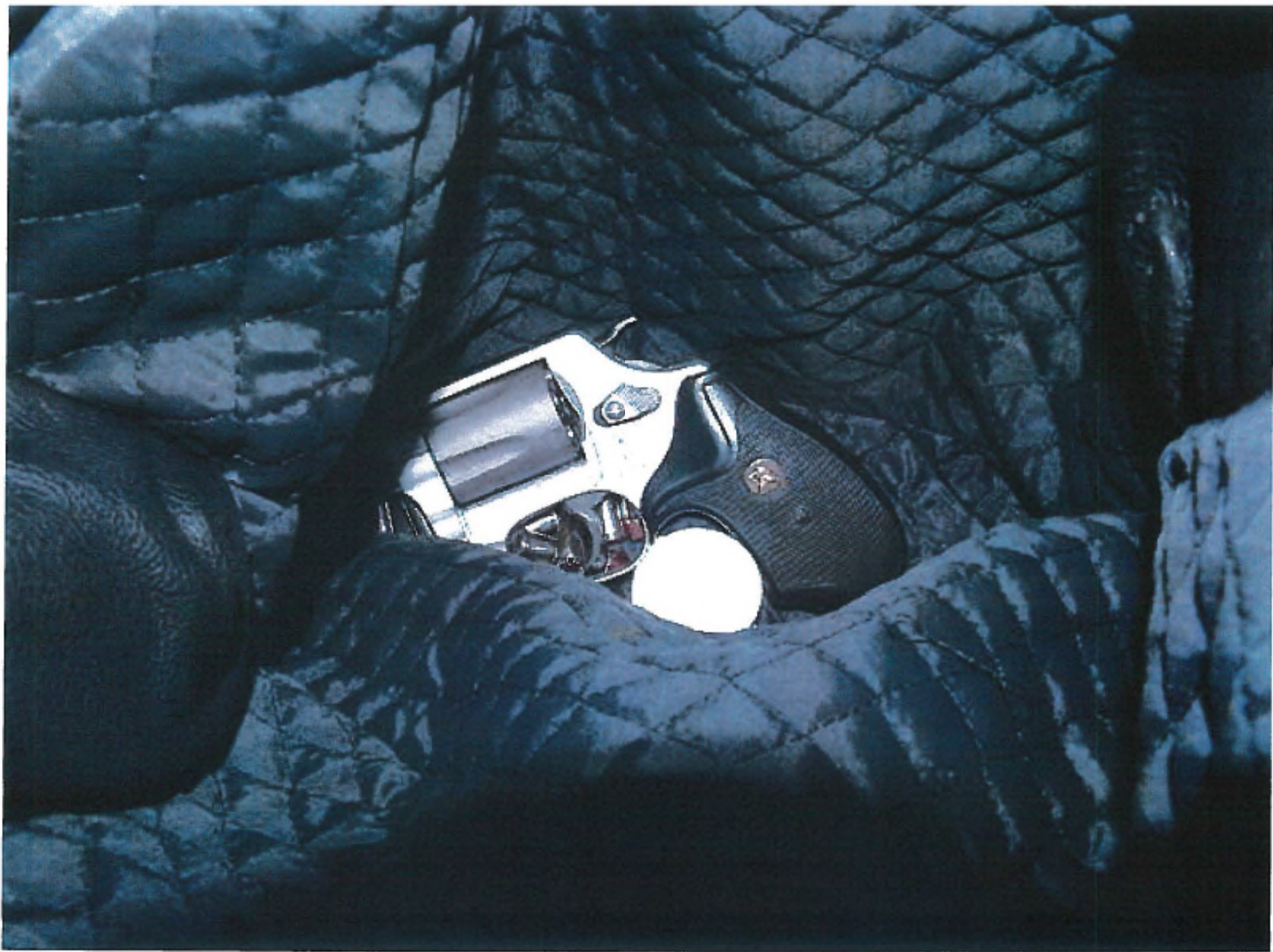


EXHIBIT 40

mead

STATE'S
EXHIBIT

84

FIVE-STAR
★★★★★

EXHIBIT 41



203 288 0210

334 6154

Center for Women
+ families

753 Fairfield

Ave ~~Bundy~~

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#102- RECOVERED INSIDE OF MEAD FIVE STAR
NOTE BOOK 10/21/14- GS Howard

LADA 037795

EXHIBIT 42

LOS ANGELES COUNTY DISTRICT ATTORNEY

PEOPLE OF THE STATE OF)	Case No. SA089983
CALIFORNIA,)	
Plaintiff,)	
)	
vs.)	
)	
ROBERT DURST,)	
)	
Defendant.)	
<hr/>)

INTERVIEW OF: ROBERT DURST (Day 1)

BY: ANDREW JARECKI

DATE: 12-11-10

AUDIO FILE NO.: DECEMBER 11, 2010 (DAY 1)

TRANSCRIBED BY: APRIL MARIE CARLOS

1 I thought was serendipitous, and also sort of funny,
2 that while we were sitting there having lunch, by
3 accident, Harvey Weinstein came into the room.

4 ROBERT DURST: I know. You pointed that out to
5 me.

6 ANDREW JARECKI: Who was somebody that, you know,
7 was involved in the movie and that wasn't sure about
8 the movie. And, um, of course, it's, you know, perfect
9 timing that he showed up when we were there. I don't
10 know whether he recognized you or not. You know, it's
11 -- it's possible that he just doesn't even remember it.
12 But, um, you know, that day we talked a bunch, and then
13 arranged for you to see the movie for the first time.

14 ROBERT DURST: That was the clincher. Then I knew
15 I wanted to do this with you. (0:18:01.2)

16 ANDREW JARECKI: And how did you feel when you --
17 when you -- when you sat down to see the movie? Did
18 you have trepidation about it? And how did you feel
19 when you were watching it?

20 ROBERT DURST: Oh, enormous trepidation. Oh, but
21 other than -- I -- and I -- I felt the movie was
22 very, very, very close in much of the ways about what,
23 pretty much, happened. There were -- there were parts
24 where I said, "Well, that's just not right. That's
25 just not right." But it wasn't like these True Crime

EXHIBIT 43

Partial Transcript

Date: April 18, 2012

Legend:

Robert Durst ("D")

Unknown Background Speaker ("U")

D	I am going to go use the restroom, which is right here. Except that it's locked. Oh, someone's in the bathroom.
U	Oh okay.
D	Or maybe this is the bathroom.
U	Yeah, that's it.
D	You're right, this is the bathroom. [Unintelligible] There it is, you're caught.
D	You were right, of course. But, can't imagine. They want to talk to [inaudible]. That's good. I find them very [inaudible] and I do not want to talk to them. Why should. [Unintelligible] I don't know what you expected to get. I don't know what's in the house. Oh, I want this. Killed them all, of course. [Unintelligible] I want to do something new. There's nothing new about that. [Inaudible - possibly "disaster."] He was right. I was wrong. The burping. I'm having difficulty with the question. What the hell did I do?

EXHIBIT 44

CHRONOLOGICAL RECORD

PAGE No. 46

INSTRUCTIONS: This form is used to document any past or future investigative events deemed necessary to control or develop this case. It is a work in progress report and may change as necessary.

Date: 12/24/2000

INVESTIGATION: MURDER

VICTIM SUSAN BERMAN

Location: 1527 BENEDICT CANYON RD, LOS ANGELES

DR NO. 00-0825485

03/10/15 Tuesday	1000	[REDACTED] [REDACTED] [REDACTED]
	1100	[REDACTED] [REDACTED] [REDACTED]
	1500	Shamlyan-Whelan/Romero-Conference call with FBI Agent Eric Perry, who stated that Robert Durst withdrew \$9,000 almost daily and approximately (35) times from his bank accounts since October 2014. According to Agent Perry, Robert Durst moved million dollars, maybe more. It was unknown at this point where the money was moved to. (GS25836)
	1550	Shamlyan received email from FBI Agent Eric Perry with the Toll records of Robert Durst's cell phone # [REDACTED]. (GS25836)
	1625	Shamlyan-Whelan/Romero Conference call with FBI Agents Eric Perry, Ben Langel, John Bauman, Scott Garriola, and FBI Forensic Accountant Eric VanDorn. According to Eric VanDorn, Robert Durst withdrew \$9,000.00 in cash at least 35 times, since October 2014. Durst also transferred a large amount of money, maybe to his wife, Debra Chataran. According to VanDorn, since October 2014, six Suspicious Activity Reports (SARS) had been filed by the banks, one for a transaction of over one million dollars. In addition, SARS were filed for the amounts of \$45,000 and \$106,000, again, post October 2014. Based on the aforementioned facts, detectives decided to obtain a search warrant/pen register for Robert Durst's cellular phone records as it appears that Durst was preparing to flee. Romero was assigned to prepare a search warrant (PEN REGISTER) for Robert Durst's cell phone, identified as [REDACTED]. (GS25836)
3/10/15 Tuesday	1700	Romero-Prepared search warrant-PEN REGISTER for Robert Durst's cell phone identified as [REDACTED].
	1850	Shamlyan received email from Eric Perry listing the phone numbers of a Jeanne Clark with whom Robert Durst has been in phone contact: [REDACTED] Perry's email also stated that someone from the Four Seasons Hotel located at 300

EXHIBIT 45



FEDERAL BUREAU OF INVESTIGATION

Date of entry 04/01/2015

A search warrant, issued in Orleans Parish Criminal District Court on 03/15/2015, for room 2303, 614 Canal Street, New Orleans, LA (J.W. Marriott Hotel) and a red 2005 Toyota Camery Lic #BCT4784 (parked in the hotel garage) was executed at approximately 2:05 AM on 03/15/2015.

The search began at 2:05 AM (03/15/2015). The following individuals either conducted or were present for the search:

- Los Angeles Police Department (LAPD) Detectives:
 - Mike Whelan (24961);
 - Blanca Lopez (32467);
 - Josh Byers (35673);
 - Luis Romero (30372).
- SA William C. Williams;
- SA Christopher Bauer;
- TFO Saunders Craine;

The following items of evidence were seized:

- J.W. Marriott plastic bag containing miscellaneous (misc.) clothing;
- Black backpack (Kipling) containing:
 - 2 travel related books on Florida;
 - Texas ID card in the name of Everette Ward with number 19084346, d.o.b. 08/24/1950, address 121 W. 117th Street, Galveston, TX;
 - green credit card holder;
 - Miscellaneous papers, including Federal Express receipts;
- Blue/Black/White Le Sport Sac (containing U.S. Currency and suspected marijuana (see below);
- Black toiletry bag (Greg Norman) with misc toiletries;
- Pill bottles containing unknown quantities of pills as follows:
 - 2 bottles purported to contain Nexium;
 - 1 bottle purported to contain Metanx;
 - 1 bottle purported to contain Cyclobenzaprine;
 - 1 bottle purported to contain Lisinopril;

Investigation on 03/14/2015 at New Orleans, Louisiana, United States (In Person)

File # 4-NO-6205214

Date drafted 03/18/2015

by William C. Williams, Christopher M. Bauer, Saunders Paul Craine

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4-NO-6205214

Continuation of FD-302 of Search of RM2303, On 03/14/2015, Page 2 of 3

- 1 bottle purported to contain Folbic;
- 1 bottle purported to contain Melatonin;
- 1 bottle purported to contain Aspirin;
- Brown suitcase (Bric's) containing: miscellaneous clothing;
- Green carry-on bag (Victorinox) containing:
 - Notebook;
 - Bulgari watch;
 - glasses;
 - 2 keys;
- Blue jacket (Loro Piana, size small);
- Black duffel (containing):
 - Misc. Clothing;
 - Two pairs of shoes;
 - File folders with misc. paper including:
 - U.S. Passport #136096832 in the name of Robert Durst;
 - Birth certificate in the name of Robert Durst;
 - Misc. photographs;
 - Mask (flesh tone with salt and pepper hair);
 - Smith & Wesson owner's manual;
- J.W. Marriott Valet Receipt (name of Everette Ward) (on Durst's person);
- U.S. Map;
- Misc. papers found in room 2303 including room telephone charges and J.W. Marriott stationary paper containing what appears to be a UPS tracking number;
- Matchbox with matches and a partially consumed (smoked) hand-rolled cigarette (see below re vegetable matter);
- Nokia touch screen cellular phone (imei 353047063349264) with charger, sim card and phone documents;
- Piaget watch (on Durst's person);
- Check book (Charles Schwab account number 440022853418) checks 1058-1075;
- Ink pens;
- Glasses;
- .38 caliber S&W Revolver s/n CVU9125;
- Vegetable matter suspected to be marijuana (total package weight 173.18 grams) as follows:
 - Plastic zip bag containing plastic bag containing green vegetable matter (believed to be marijuana);
 - Plastic zip bag containing green vegetable matter (believed to be marijuana);
 - 4 hand-rolled cigarettes (believed to be marijuana);
 - 1 partially consumed (smoked) hand-rolled cigarette (believed to be marijuana) (from matchbox listed above);
- Texas automobile title and application for a 2005 Toyota in the name of Alfonzo Paz (recovered from red 2005 Toyota, Camery Lic #BCT4784);
- Map of New Orleans;
- History magazine;
- Kiplinger Magazine;

4-NO-6205214

Continuation of FD-302 of Search of RM2303, On 03/14/2015, Page 3 of 3

- United States Currency as follows:
 - 446 x \$100 bills;
 - 1 x \$20 bill;
 - 1 x \$10 bill;
 - 7 x quarters;
 - Total: \$44,631.75
 - NOTE (17x 100's, the 1 x 20's, and 1 x \$10's and 1 x \$.25 were found on Durst's person)
- Car Key(s) with a white tag labeled as 418/WARD;
- Marriott Room Key (on Durst's person);
- Two books;
- White envelopes.

The above referenced Texas automobile title and application were recovered from the red Toyota Camery 4 door, TX Lic # BCT4784 by Dectives Whelan and Byers concurrently with the room search. The automobile was left in the J.W. Marriott parking garage in the condition it was found, where it was found. Room 2303 was secured at approximately 3:45 AM (03/15/2015). Photos of the search taken by Los Angeles Police Department Officers will be placed in the 1A section of this file.

The above referenced items were transported to the New Orleans Division Office by SAs Williams and Bauer immediately after the search. The cash was sealed in a plastic evidence bag, and the suspected marijuana was weighed and sealed in a separate bag. The sealed cash, sealed suspected marijuana, watches and pistol were locked in a safe in the FBI office until the same could be placed in the New Orleans Evidence Control Room. The other above referenced items were locked in a secure room inside the FBI Office until the same could be entered into the New Orleans Evidence Control Room.

EXHIBIT 46

1 RECORDED TELEPHONIC INTERVIEW OF LARAINNE NEWMAN
2 CONDUCTED BY DEPUTY DISTRICT ATTORNEY JOHN LEWIN AND
3 LAPD/RHD HOMICIDE DETECTIVE GEORGE SHAMLYAN.

4
5 CASE NO.: SA089983
6 CASE NAME: P v. Robert Durst
7 CHARGE: PC187(a)
8 RECORDING DATE: September 4, 2015
9 RECORDING TIME: Unknown
10 RECORDING NO.: Laraine Newman 9-4-15
11 DEPUTY D.A.: John Lewin
12 D.A. UNIT: Major Crimes Division

13 LEGEND:

14 D – DDA John Lewin
15 S – Det. George Shamlyan
16 N – Laraine Newman
17 U -- Unidentified Voice
18 *** Unintelligible

19
20
21
22 TRANSCRIPT PROVIDED BY
23 Los Angeles County District Attorney's Office
24
25 September 2015
26
27

28 sam

1 this is just more for my curiosity than anything else. When you heard
2 that Susan had been murdered, and you started thinking about it, what
3 did you think?

4 N I – uh, at the time, I – I’m – it’s, uhm, hard to remember. I
5 mean, I don’t know that I immediately thought it was Bobby.

6 D Was there –

7 N But, it was a process of elimination --

8 D Right.

9 N -- really. You know, uhm, I’m trying to think if the news about
10 him in Galveston was known at that time.

11 D So – so, let – when, uh, the incident in Galveston happened
12 in September of – late September of 2001, so, about nine months later –

13 N Okay.

14 D -- when – when that happened, did that affect any of your
15 thoughts?

16 N Yes, absolutely.

17 D And – and, have you – by the way, have you had any contact
18 – uh, did you see Bob Durst at any time – uh, you mentioned he was –
19 he – uh, I can’t remember if you said you –

20 N I only met him once.

21 D Uh, was that at the wedding? Or was that at the book, uh,
22 celebration in New York?

23 N No, it was at – at the Apple Pan.

24 D Okay.

25 N We – the three of us had a meal at the Apple Pan.

26 D Uhm, well, when was it?

27 N I couldn’t tell you the date. I don’t know.

28 D You – you – would it have, uh – do you remember, at all, uh,