ORAL HISTORY OF THOMAS C. GREEN

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewer is Judy Feigin and the interviewee is Thomas C. Green. The interview is taking place over Zoom on June 26, 2024. Tom is at his home on the Eastern Shore of Maryland and Judy is at home in D.C. This is the fourth interview.

MS. FEIGIN: Good morning.

MR. GREEN: Good morning.

MS. FEIGIN: When we last spoke we talked a lot about the Mardian case, but there were a couple of questions I didn't ask you, so let me just finish up with that before we plow ahead into something new. I didn't ask you anything about either his co-defendants or the prosecutor. They were pretty notorious co-defendants -- Haldeman, Ehrlichman and Mitchell. Any thoughts about how the trial progressed as to them or about them individually?

MR. GREEN: It was, as you intimated, quite a collection of individuals. Mardian was very close to Mitchell. Mitchell had brought Mardian into the Justice Department and then took him with him when he left Justice to go head up the Committee to Reelect the President [CREEP]. And at the trial, the two of them kind of, for lack of a better word, hung together.

Mitchell was represented by Bill Hundley and Plato Cacheris, two wonderful guys whom I was very close to. I spent a lot of time with them over the years.

Haldeman and Ehrlichman kind of had their own little twosome. They were White House occupants on Nixon's staff but their lawyers weren't that close, Bill Frates who represented Ehrlichman and John

Wilson who represented Haldeman. Those two guys were not close, were not similar in style or age. I don't know how much togetherness was there except that the two of them -- Haldeman and Ehrlichman -- hung around together.

And Ken Parkinson, the lawyer to the Committee to Reelect, was a guy that we all knew from our lawyering days in Washington. Very good guy. Represented by Jake Stein. He was around and certainly friendly and so forth but we weren't together with him that much. So that's kind of a take on who these guys were.

Haldeman and Ehrlichman were more removed. They were kind of austere. They were kind of strange dudes anyway. Ehrlichman was kind of an amateur sketch artist. He made sketches all through the trial.

MS. FEIGIN: Quality sketches?

MR. GREEN: Yes. They were put together in a book and somebody published them. I have probably one of the few remaining copies on earth. He made a sketch of me cross-examining Jeb Magruder. I remember that, and he gave it to me, which was kind of interesting. God knows where it is today. But a copy of it may be in the book.

Mitchell was living in an apartment up by the Shoreham Hotel. I remember there were nights when Hundley and Cacheris would invite me, not my client, but me to come by, and kind of noodle with them about John's testimony. And sometimes give a little practice cross-examination

to John. In the end I don't think John even testified; I can't remember. So those are my quick impressions, if that'll suffice.

MS. FEIGIN: Certainly. I think that Ehrlichman later on, after all these events, settled in Santa Fe, New Mexico and lived the life of an artist.

MR. GREEN: Yes, he kind of withdrew from the world a little bit.

MS. FEIGIN: And Neal was the prosecutor?

MR. GREEN: The principal prosecutor was Jimmy Neal. Jimmy Neal had been a really prominent guy in the Justice Department as a prosecuting attorney. He was a wonderful guy. They brought him back. He came back from his firm in Nashville I believe, to take on the prosecution. And he was a real gentleman. He certainly knew what he was doing and knew where he wanted to go and had a fervor about his mandate. But he was still a very nice and wonderful guy, very friendly. As I think I remarked earlier, he had no objection to my motion for severance when David Bress got sick, which was a gentlemanly thing to do. A very nice gesture on his part. I had nothing but admiration for him.

In years following our paths crossed here and there. I don't think we were ever in a case together. I do know that our paths crossed, and we always had warm greetings for each other. He was just a really good guy. Richard Ben-Veniste was one of his principal deputies, as was Jill Volner, now Jill Wine-Banks. And then there were some really exquisitely talented bright men and women in the back doing all their motions.

It's funny. This is just a little one of my quirks, but for the last 50 years, I'll meet people or read about people, and they say they were on the Watergate case task force. And I scratch my head and say who the hell were you?

MS. FEIGIN: [Laughter]

MR. GREEN: I mean, I never saw them, never heard of them, but they're pounding their chest that they were on the Watergate task force. Maybe there were 150 people stuck in the back room, I don't know, but it's just kind of amusing.

MS. FEIGIN: [Laughter] I guess the next big trial that you did, or that I know about, is Harry Rodgers who was tried with Maryland Governor Mandel. So for people reading this years from now, who won't know who either of those people are, do you want to set the scene and tell us how you came to be involved?

MR. GREEN: So not too long after the end of the Watergate case and all the appeals, I got a call from one of my Yale Law School classmates who at that time was practicing with a big firm up in Baltimore, Weinberg and Green. And he, unbeknownst to me, had been representing Harry Rodgers in a number of Harry's business deals.

Harry Rodgers and his brother, William or Bill Rodgers, owned an entity called the Tidewater Insurance company. Some of my memory as to names and that is likely imprecise. But Tidewater Insurance was a huge insurance brokerage company that wrote insurance for many, many

companies and may have been writing insurance even for the government, the Maryland state government.

Anyway, the brothers were big Democratic power brokers. They were very, very close to Marvin Mandel, the then-Governor of Maryland. And they were also friendly with Dale Hess. Dale Hess was the former Democratic Majority Leader in the Maryland House and when he left in 1970 he became a vice-president of Tidewater as well. Dale Hess was another one of these huge, Democratic fundraiser power brokers very, very close to Mandel. Harry Rodgers and Dale Hess were kind of Mandel's outside confidants. So to make a long story short, my lawyer friend from law school calls up and says that there's an investigation brewing in Baltimore. The U.S. Attorney's office in Baltimore is looking into the relationship among the governor, Hess, the two Rodgers brothers, a lawyer by the name of Ernest Cory, and Irv Kovens. Irv Kovens was an elderly guy, wasn't part of Tidewater Insurance, but was a very good friend of Mandel's. I don't know if they were lifelong friends, but a very, very, very close friend. Mandel was Jewish. Kovens was Jewish, and they were very tight.

Ernie Cory was just a lawyer on the periphery. The investigation focused principally on the governor, Harry Rodgers, Dale Hess and Irv Kovens. Bill Rogers was less involved but still part of the investigation. Harry Rodgers, Irv Kovens, and Dale Hess were Mandel's kind of go-to political guys to raise money and so forth.

What the grand jury was looking into was whether or not these guys had – I'll use the word bribery – whether they had financially induced or bribed Mandel to assist them in their objective of getting more racing dates for a racetrack in Upper Marlboro, Maryland. In those days, the horse racing season in the state of Maryland moved around to various tracks in the state. Each track was allocated certain days and that was all done by the legislature. The Rodgers brothers and Kovens had bought the track at Upper Marlboro, not visibly but in a holding company where really it was hard to figure out who exactly owned the track. Their identity was not apparent. The alleged scheme, as it was framed up eventually in the indictment, was that they had provided the governor with certain financial benefits in return for his help in increasing the days at that Upper Marlboro track because each day was a valuable commodity. At that time Mandel's salary was $25,000 I believe.

MS. FEIGIN: When we're talking that time, when was it?

MR. GREEN: We're talking the mid-'70s. The arraignment took place on December 4 of 1975 so the indictment had to be fairly close to that date, when it came down. So we're talking 1975, maybe some of 1974. It was really right on the heels of the Watergate case. And the allegations were that they had essentially kind of wined and dined the governor.

This is not a [New Jersey] Senator Menendez [2024] case of cars, gold bars and cash. They took Mandel to their tailor; they got him five suits; they took Mandel on a fishing trip. All those guys, the defendants --

not Cory, but the others -- were in a partnership where they bought a building, and if you're familiar with the way some of these partnership transactions work, the partners each put in a relatively small amount of cash and then they borrow $5 million and buy or construct a building. I think the venture was formed to construct and then lease a building to the Social Security Administration. They formed a partnership, and they each put in $5, not literally, but figuratively. Each put in $5, and Mandel probably did the same. Then the big boys signed a note. I don't think Mandel was liable on the financing but he was in the partnership. As these kinds of cases go, looking backwards, and I don't mean to be facetious, but the benefits received by Mandel were not something extraordinary. They didn't buy Mandel a home or take him around the world or funnel huge amounts of cash to him. On a $25,000 salary he probably needed a few suits.

In the U.S. Attorneys Office Barney Skolnik was the principal prosecutor. Ron Liebman was kind of second in command who, as an aside, I've stayed friendly with all these years, and see him somewhat frequently now. So that was the case and we went to trial.

MS. FEIGIN: Before we get to the trial, let me just say that looking into this a little bit, I was impressed that you had some really prescient pre-trial motions. You actually had a motion, which was kind of a *McNally* argument before *McNally*. So you were on top of things before they became the law.

MR. GREEN: I kind of recall that. But we weren't the only ones to have thought that the theory of dishonest services under the mail fraud statute was a little bit of an exaggerated theory, in that the mail fraud statute was really aimed at money and defrauding people or entities out of money or property. So I think the argument that we made had been raised previously. I don't think we dreamed it up. But if we did, I'll take credit for it. But I don't think we did. [Laughter]

MS. FEIGIN: You also had a recusal motion that I think was effective.

MR. GREEN: So when this goes to trial all the judges on the Maryland court recuse themselves. All the federal judges in Baltimore recuse themselves. And they brought John Pratt over from Washington to try the case. John Pratt was a wonderful judge, a wonderful human being as I have described earlier, and a judge that I knew extraordinarily well from my days in the U.S. Attorney's Office. Something came up.

MS. FEIGIN: What I believe it was is that the judge had been a law partner with someone who was going to be to called as a witness.

MR. GREEN: That kind of rings a bell.

MS. FEIGIN: It's not important. But it's just unusual for those things to succeed and I think yours did.

MR. GREEN: There is more background to this. Judge Pratt had to declare a mistrial in December of 1976 because some members of the jury, which had been sequestered in a hotel, heard news reports on TV that someone had tried to bribe a member of the jury. Thereafter my co-counsel came to me and

wanted to discuss recusal of Judge Pratt. They wanted a different judge for the new trial. This is a little bit of a reprise because Hundley and Cacheris are there representing Dale Hess. It's kind of like we're back together again in another trial. And Arnold Weiner is representing the governor. Mike Marr and some other lawyer are representing Bill Rodgers. Kovens had been severed from the trial because of illness, and the plan was that he would be tried later. My co-counsel felt strongly that there were good grounds for recusal. I was less convinced that this was a compelling argument and I particularly was reticent to do anything about it because of my relationship with Judge Pratt. But they really leaned on me to be the voice of the motion for the very reason that they felt Pratt would respect what I said. And I succumbed to that, and I, to this day, I regret that. But I argued the motion and he didn't fight it, but I am sure he was disappointed in me.

Now what goes around comes around, and Warren Burger, who, at least by virtue of what I had heard, had no love for Marvin Mandel, reached down to Tennessee to get Judge Robert Taylor to come up and replace Pratt. And what these guys got, these defense lawyers, in exchange for a really good, thoughtful, modest judge, they got a real tough son-of-a-gun.

MS. FEIGIN: Be careful what you wish for.

MR. GREEN: Be careful what you wish for. And he came up and presided at the new trial which began in June and ended in August of 1977. By that time Kovens had recovered and was a defendant in the second trial.

But to make the long story short, we went to trial and the jury was out a real long time.

MS. FEIGIN: 13 days.

MR. GREEN: Yes, 13 days. We were a little bit apoplectic about that, because ultimately they were just hammered into a verdict by Taylor.

MS. FEIGIN: With an *Allen* charge?

MR. GREEN: Yeah, I think there were a couple of *Allen* charges along the way. Even Allen would have been impressed with how emphatic the *Allen* charges were. [laughter] In any event, the jury came back and I believe convicted everyone. And then they had to forfeit a lot of stuff, including stock and this and that. Taylor sentenced the governor, my client, Hess and Kovens to four years in prison and the other defendants received lesser terms. But Taylor allowed them to remain free on appeal.

It went up on appeal. The panel of the Court of Appeals for the Fourth Circuit, as then constituted, reversed, 2-to-1. I think the grounds for reversal were evidentiary rulings and jury instructions.

The government then moved to have the decision reheard *en banc*, and the Court of Appeals split 3-3. In the Fourth Circuit, when the *en banc* court splits, it doesn't uphold the panel decision. It reverses the panel decision, because, under the Fourth Circuit's precedents at that time,

an *en banc* split is equivalent to no decision. It's equivalent to no appellate decision so the original conviction stands. So after that *en banc* split they were deemed convicted. Then two more judges were appointed to the Fourth Circuit, raising it to, I believe, its full complement of eight judges. I think we then petitioned the appellate court to rehear it with its full complement and they split four-four.

MS. FEIGIN: That is so dramatic! [laughter]

MR. GREEN: So again, the convictions stand. And so off they go to jail.

MS. FEIGIN: Did you argue the cases in the appellate court?

MR. GREEN: No, I did not. Again, as I said earlier, the talent for being an appellate advocate and a jury trial advocate are really different. Some guys think they're ambidextrous, right hand, left hand. I don't believe that.

Anyway, after that they are then in prison in minimum security facilities. Years later, in 1987, *McNally* [*v. U.S.*] comes down in the Supreme Court, holding that the mail fraud dishonest services theory is facocta [Yiddish word for nuts] which is an old Irish saying.

MS. FEIGIN: [laughter]

MR. GREEN: Congress ultimately legislated to put that theory back into the mail fraud statute. But *McNally* comes down and says the intangible right to honest services is not a viable theory under the statute. So now our clients went to prison for a crime they really didn't commit.

MS. FEIGIN: Were they still in prison when *McNally* came down?

MR. GREEN: No they were not. *McNally* came down about five years after all the sentences had been served. After absorbing *McNally* I drafted a writ of *coram nobis* and filed it with the district court. The argument was simply they were in prison for a crime they didn't commit. And the district court agreed, granted the writ.

As a result, all of the financial deprivations that attached to the conviction were reversed and they got all their money back and all their stock back, and everything else that they had to forfeit. They walked away with all of that back in their pockets.

MS. FEIGIN: That is a pretty dramatic sequence of events. If we could just go back to the trial for a minute, I read that the trial took three months. I wonder if you could tell me what it's like to have to go through three months of trial because that's quite an adrenaline rush.

MR. GREEN: There were a number of my cases that went three months or more. It's probably part of the reason that not one of my three sons or daughter elected to become a lawyer.

MS. FEIGIN: [laughter]

MR. GREEN: I was away so many times for so long. It's immensely taxing in just about every way that you could conceive. Physically, mentally, emotionally. You're exhausted. You're in prison because you're living in a hotel. Even though the Mandel trial was in Baltimore, it was still too far to go home to Washington every night. And on the weekends, in these mammoth trials,

that's the only time you really had to work with the witnesses, to get them ready. There was rarely a night off.

The Mandel trial had one significant impact on my life, of a personal nature. I was separated from my wife at the time. We ultimately were divorced a couple of years later, but I was separated.

When I came back from Vietnam, I got married right away to a lovely woman. But it was probably a mistake because I was a different human being. She was a different person. We were together for like four years and then we separated. I had been a bachelor, if you will, for some time.

Anyway, back when I was getting ready and working on the Mandel case at Ginsburg Feldman & Bress, before we moved to Baltimore to try the case, I needed some extra help. I talked to the law firm and said I could use a law clerk to do some things. They sent down this attractive young woman who was still at GW law school but working at the firm. I had never met her. She came in one day and introduced herself and began working on the case. Quite attractive.

So it comes time to go to move to Baltimore. What I am about to describe was done in a serious vein, no other agenda attached, and I mean that truthfully. I said to her, "You know, if you want a unique experience, you should come. You've worked on this case now for six months or whatever. You know it backwards and forwards. You should come and watch it tried. You'll learn more through that hands-on experience than

you'll ever, ever learn in law school. So you ought to go back and talk to your mother." Her father had passed away and her mother had remarried. "Go back to talk to your parents and to your professors and just leave law school for a semester. You'll go back and finish up. Come to this trial, you can live at your home in Baltimore at night, and frankly I could use the help because you've been of great help to me." And so she thought about it. And then I don't know how much later, but before we went, she came in and said, "I would like to do that; I think that would be great." So she came up and was part of the team.

One of my principal colleagues and buddies from the firm was Bill Taylor. He was with me at Ginsburg at that time. I brought him to Ginsburg, Feldman & Bress. Then he went on to Zuckerman, Spaeder, Taylor and so forth. Really a wonderful guy. And he was kind of my deputy up there, if you will, or major helper. And a few others were there. And Pam was there, Pam Kellogg. So we're up there, and we're getting ready for trial and this and that, and we had a lot of contact with each other and then just biology took over. [laughter] We ended up as a couple and forty-five years later we're still married to each other.

MS. FEIGIN: That's a wonderful story.

MR. GREEN: Yes. Great story. And then she and I had two wonderful kids, and then the wonderful thing in my life is that they and my two other children were all raised together. Four of them as a family. And they all treat each other as

their family. Blood brothers/sister. So that's been great, and I was very lucky to have found Pam.

MS. FEIGIN: Let me ask you one more question about the trial. You said there was at least one, maybe multiple *Allen* charges. I'm curious what you think of *Allen* charges.

MR. GREEN: I don't think there should be multiple *Allen* charges to where the jury feels like if they don't come back with a verdict the judge is going to lock them up or something. But an appeal to them to refocus on the facts and put aside any prejudices they might have, and see if they can come to a verdict, I don't have a negative reaction to it. I think in some instances it's justified. I don't think it's justified in every case.

If judges are really thoughtful, they have a pretty good, or should have a pretty good, intuition as to whether there's enough evidence in the case or whether there isn't. If a jury reports themselves in conflict and incapable of reaching a verdict, the judge should have some insight into whether that's a reasonable proposition on its face and leave matters be as they are. Or he could tell the jury to go back in there and try to come to a conclusion or whatever. But some judges want to hammer home a verdict and I clearly do not approve of that.

MS. FEIGIN: I hope people reading this understand what an *Allen* charge is. You sort of described it, but why don't you make it a little more specific.

MR. GREEN: It comes out of a case and someone named Allen was in it I'm sure. [laughter] But basically the judge is imploring the jury – brings the jury

back in, puts them into the box and reads them what is pretty much a customary charge, in which he invites them or implores them to return to the jury room.

So I'm reading from a case here, *United States v. Haynes*, 729 F.3d 178: "The *Allen* charge in this case encouraged the jurors to exchange views with one another, consider each other's views, work diligently to reach a verdict." It's language along those lines where the judge is saying, please go back and try harder. One more time.

MS. FEIGIN: I think the next matter of notoriety that I know that you had -- and we don't have to limit ourselves to cases of notoriety but there are so many -- [laughter] is that you were quite involved in Iran-Contra.

MR. GREEN: To say the least.

MS. FEIGIN: To say the least. But before we talk about any of it, let's just say what Iran-Contra was because that's a short term for a whole bunch of cases that evolved over a certain –

MR. GREEN: There are a lot of moving pieces to the Iran-Contra affair. I have already told the story about how Independent Counsel Walsh put me in the grand jury. So I will now try to provide some context. President Reagan was elected in 1980 and part of his platform was to oppose communism wherever. But in the mid-term elections in 1982, the Democrats took over control of both houses in Congress, and the next year Congress passed the Boland Amendment. I actually think there was a second Boland Amendment as well. The amendment was aimed at Nicaragua where anti-

communist Contras were fighting the communist government. The Boland Amendment was passed to prohibit the CIA, the Department of Defense, and other government agencies involved in intelligence from using any funds whatsoever for the purpose of overthrowing the government of Nicaragua.

The Contras were not great guys and I think they were very heavy into dealing drugs. And it will probably remain in doubt in perpetuity to what extent President Reagan at the time authorized or put into motion an arrangement to assist the Contras by basically providing them with arms and money. But the weight of the evidence is that he did.

While all this is happening, terrorists in the Middle East took several Americans as hostages in Lebanon. Also during this time the Iran-Iraq war was going on and Iran had asked the U.S. if it could purchase weapons. So a plan was developed inside the administration whereby the U.S. would surreptitiously sell arms to Iran in the hope that this might free the hostages and generate funds which could be secretly funneled to the Contras. The operators, if you will, who were going to oversee this program, were, principally, a marine lieutenant colonel, Oliver North, who was assigned I think to the National Security Advisor's Office, and a retired two-star, Air Force General Richard V. Secord.

Ultimately when this undercover operation was exposed, there were investigations both by a joint committee of Congress and by an independent counsel. Retired judge Lawrence Walsh was appointed as the

independent counsel. In my mind, the Iran-Contra affair and the investigations that followed were the most significant crisis in this country after Watergate because again we have a president and his close aides involved. One of the allegations investigated was whether any of the funds generated in this scheme were siphoned off into private bank accounts for either other authorized covert purposes or to line the pockets of the operators, who turned out to be my clients.

I think the first time the public came to learn about the possibility of U.S. involvement in the effort to overthrow the Sandinistas was with the downing of a plane and the survival of Richard Hasenfus, but I need to back up a little bit. Some time before the Iran-Contra case blossomed, which was in 1986, I had met General Secord when he retained me on another matter. Secord was a quintessential military man and an enormously gifted combat pilot during Vietnam. He ultimately retired with two stars on each shoulder.

The Camp David Accords were negotiated by U.S. President Jimmy Carter, and were agreed to by Egyptian President Anwar el-Sadat, and Israeli Prime Minister Menachem Begin, in September of 1978. They established a framework for a historic peace treaty between Israel and Egypt which was signed in March 1979. In order to induce Egypt to sign off on this process, the United States had to promise Egypt a ton of military equipment. Part of the arrangements for that were going to be conducted through the CIA and the Air Force was going to move all the

equipment over to Egypt. Secord was in charge of that effort or had a very principal role to play in that effort.

MS. FEIGIN: So he was still in the Air Force then?

MR. GREEN: Yes and there had to be a freight forwarder. There was an investigation into the circumstances of the selection of the freight forwarder, which was owned, I believe, at the time by a former high-ranking official from the CIA. And there was a suggestion that Secord in selecting that freight forwarder had received something under the table for doing that.

There was a huge investigation and in the end nothing happened. There were no charges, nothing happened. But I think that may have actually been the impetus for General Secord's retirement. I think he may have retired at or about that time, and I think that incident played a substantial role in his retirement. But he wasn't implicated in anything. He had a great lawyer. [laughter]

So I knew Secord. And like with almost all the guys I represented, except for some known crazies like Mardian, they became lifelong friends of mine. So I knew Secord and come 1986 I'm actually on a hunting trip.

MS. FEIGIN: You're a hunter? We'll have to talk about that at some point.

MR. GREEN: Well, not very much anymore. And just waterfowl. I'm not like Don Trump Jr.

MS. FEIGIN: [laughter]

MR. GREEN: *** that he is.

MS. FEIGIN: [laughter]

MR. GREEN: So I'm on a hunting trip with my pal Harry Rodgers. And we are up in Hudson Bay in Canada shooting geese with the Cree Indians. It's a very isolated place. I could spend an hour talking about hunting at Cabbage Willows on the banks of little creeks feeding into Hudson Bay. But anyway, there's no phone or anything up there. It's very primitive. They do have a radio –

MS. FEIGIN: And we should just say -- I'm sorry to interrupt -- but people reading this later will not think this way. There were no cell phones.

MR. GREEN: No cell phones, no landlines, no nothing, but there is a radio. And I'm not sure who they're in contact with, but there's a radio. So we come back one afternoon after hunting, and you don't come back when you want to come back; you have to wait till the tides come in so that you can take your little canoe down these rivulets and get into Hudson's Bay. Once you leave in the morning, you're out there 12, 13 hours because you have to go in on the high tide and come out on the high tide.

Anyway, I come back to camp and the guys who run this camp rush up to me and say that there's someone on the radio or going to be on the radio that's looking for me and it's like an emergency. And I thought, oh, you know –

MS. FEIGIN: Was this like a shortwave radio?

MR. GREEN: It's a two-way radio. I don't know what frequency they were on, but it's like a shortwave radio. And so I go up to the radio room, and then, I don't know, maybe they said like at 6:00 someone's going to call. So I'm there

in the radio room and through the static I hear Oliver North. I recognized his voice.

I had met North during the incipient days of the Iran-Contra operation. I knew nothing about the operation. But Secord would bring North to my office and I was introduced to him. And then they would in the most elliptical language try to intimate or suggest to me what they were doing without telling me what they were doing. It was bizarre. And then they would ask me "Do you think we have a problem?" To which my answer was "I don't even know what you're doing, because you can't tell me." And I said "It's hard for me to tell you if you have a problem, but based on what little you're telling me, I don't think you have a problem. But don't rely on that because I don't know what you're doing."

Secord probably brought North to my office two or three times. And we had these short conversations, which are kind of a zero for me because I really never had any idea what they were doing. So I knew who North was. I knew that Secord was helping North in some project ordained by the U.S. government, but God knows what it was and what they were doing.

So in the radio room I recognized North's voice. And he tells me you have to return. There's been a development. Those aren't his exact words because I can't remember the exact conversation obviously, but you have to return. There's been a serious development. Get here as quickly as you can.

I said I'm in the middle of nowhere and I don't know how I can get anywhere quickly. And he said we'll send a helicopter. Either he told me he would send a helicopter or he was going to leave me information how to get one. I'm not sure which, but within about an hour a helicopter lands.

MS. FEIGIN: "We" being the U.S. government? North was with the government. Who would be sending the helicopter?

MR. GREEN: I can't remember whether he said I'm going to send a helicopter or do this to get a helicopter. Call this number to get it, that kind of thing. Anyway, a helicopter shows up. I remember Harry Rodgers saying, "Well, if you're getting out of here, I'm getting out of here too." [laughter] He got on the helicopter also. Certainly it didn't fly us to Washington, but it flew us to I think some little town that had an airport. And then we got a commercial flight I believe to Montreal and flew back to D.C. I can't remember all the details.

In the meantime, I had heard that this guy Hasenfus was shot down in Nicaragua, and we can date this because Hasenfus was shot down on October 5 of 1986. So this must have been within three, four days of that. The plane that Hasenfus was in was a CIA-contracted plane that was delivering weapons to the Contras. It was shot down over Nicaragua by a surface-to-air missile. Both pilots and the radio operator on the airplane were killed in the crash of the plane, but this guy, Hasenfus, bailed out, and he was the only one to survive. He was captured within 24 hours and he was put on trial, convicted of terrorism and sentenced to 30 years in

prison. He was pardoned a month later to return to the United States. But he had revealed, apparently during that process, that his was a CIA flight and was part of an attempt to arm the Contras. So that hit the press and that was a big blow up, massive blow up. That is what prompted North to call me. And why me? Because I probably was the only lawyer he had met and he was with Secord, and Secord said call Tom. So it could have been – you know, it could have been Moshe Pupik [amusing Yiddish name] and history would have been different. [laughter]. Anyway, I had the misfortune that he called me. [laughter]

I get home and I start to leave messages certainly for Secord, and maybe I had a number for North, saying I'm back. I expected I'd have a call from one of them in two seconds saying come here, come there, we've got to meet. The funniest thing is I couldn't find either one of them. I don't think we ever met. I don't have a recollection of ever talking about Hasenfus but I was back from my hunting trip. Obviously at some point I do meet with them. There's just this massive controversy brewing in the papers and the world's going a little bit nuts about what's going on. Things start to leak out and so forth.

I remember meeting with North and Secord in my office. I don't think these two guys were hiding out but they were not being very available, so to speak. And there were demands that the government wanted to talk to them and so forth. I said one option for you guys is to tell what you know. You'd have to do it fully and truthfully but tell what

you know to the Department of Justice in hopes of securing immunity because this thing could lead to all kinds of repercussions if it's not nipped off here. And they agreed. I remember calling Attorney General Meese and telling him that I was representing North and Secord for the time being and that I wanted to talk to him. And he said come on down.

MS. FEIGIN: The Attorney General directly?

MR. GREEN: Maybe I talked to his deputy who then said hang on. Maybe the deputy went in. But basically, Meese says come on down.

MS. FEIGIN: That's not the usual way it works. So you could tell this is high level.

MR. GREEN: I can't remember whether I talked to him. But I went down there and I did meet him. And I met Richard Cooper, a fairly prominent lawyer in Republican circles. I think he's still practicing. And here is where it gets imprecise. I can't remember whether I continue to talk to Meese and Cooper or Meese said Tom, sit down with Richard and tell him what you need to tell him, and then we'll work on it or something like that. But in any event, I basically said -- I think certainly Meese was in for part of this meeting -- I would bring them both in but I want immunity. And their answer to me was, in essence, we can't make an immediate decision on that right now. And I said well let's agree to preserve the status quo. You're not going to reach out and grab these guys and apprehend these guys while we're having these discussions. And until you make a decision, that's the agreement we'll have. And they said fine, we'll do that. So I left believing that I had implemented essentially a standstill agreement.

I got in a cab to go back to my office and the cab driver had the radio on. I'm listening to the radio and it is a broadcast of Reagan holding a press conference in which he fires North, terminates North. I said to the driver "Don't go to my office, take me to the White House." And by that I meant the Executive Office Building [EOB]where North was. And so I went there, and I don't know what I did to get admitted, but I was finally into North's office and I said to him you need to get out of here right now because in 10 minutes this place is going to be flooded with the press and you don't want to be here. And of course he had heard the president fire him too; he was watching it or listening to it.

So he left with me. And somehow I got a call. I got a message that General Secord was hanging out in a motel out of town in suburban Virginia, pretty far out into Virginia, not down at Winchester or anything like that but out in the far suburbs in some motel. And I remember that we went out there. He said come out here and we'll regroup out here. And so North and I went there, and the three of us hung out in that motel room basically for the day in an effort to avoid the press. And it was while we were there Reagan called North. North must have called his office and told them where he was on a landline. He gets a call back that the president wants to talk to him. And I remember North literally coming to attention holding the phone as the president apologizes for having to do it but that he had no other option and da, da, da, da, da. I wasn't privy to the full conversation but that was obviously the gist of it. And that was that.

Interestingly enough, while I was out there I get a call from my office telling me that another old lawyer friend of mine was on the line and that he was representing Admiral Poindexter [National Security Advisor] and he wanted to send Poindexter to me. I remember telling my secretary to tell him I've got enough trouble as it is, and that I can't represent North, Secord, and Poindexter.

So we're out there all day and comes nightfall and I was starting to go home and North says how am I going to get back? And I think Secord said, well, you're going back in the city Tom, why don't you just take North back in?

It's possible that after I went to the White House to talk to North -- I'm pretty sure it was I who drove him out there. I know he didn't have his car. And Secord was already out there, so it must have been I that drove him out there. So I drive him back to the White House. It's now dark. It's evening. It's probably around 8:00. There's no press; it's quiet around the White House and the EOB. And he said come on up to my office and we'll have a beer. And I said okay. He had talked to Fawn Hall, his principal administrative assistant or whatever, several times during the day. I wasn't privy to what they were talking about but they had a number of conversations, one of which must have been her asking him to come back and what do they do about certain documents that they had there. I'm speculating but I'm guessing that one of the conversations must have been about that.

So I drive him back. I park my car right there next to the White House somewhere. Go up to his office and he gets me a beer. He says stay here for a couple of minutes, I have to go in the back. So I was in the little greeting area in his office, sitting on a chair and having this beer. And some time passes and he comes out with Fawn Hall and he says okay, we can go now, let's go. And he said do you mind driving me to my car, which is parked over here, wherever, and then I'll take Fawn home. I think that was the first time I had met her. I said no problem.

When we first got to the office, outside it was kind of calm, quiet. But posted right outside his office were two National Security Agency agents kind of sealing the office or protecting the office. So North talked us all in. I think they opened my briefcase to see what I had going into the office. And then when we left North and Fawn Hall had nothing on their persons but the agents again opened up my briefcase to see if I was removing anything from the office. Because there was nothing in it that wasn't in there before, they said okay, you can go. So we left.

As we go down the elevator, Fawn Hall starts talking to North and saying something like I want to show you this or something like that, and I said to her, why don't you wait till we're outside, okay? I didn't know what she wanted to do in the elevator or what. I just said I think it's best you just wait till you're outside. And when we got outside I recall that I came to understand somehow that she likely had documents on her person that she wanted to give to North.

So we walked to my car. North's in the back, she's in the seat next to me in the driver's seat. And as I go to start the car, she starts pulling documents out of her clothes, that were underneath her clothing. And she gives them to North. And I said "What is that? What are you doing?" And I think it was North who said "She's just giving me documents that show that Reagan approved everything we did."

I said "Jeez" -- or maybe something a bit different – "you've just created enormous problems here. Enormous problems. Not the least of which is I'm going to have to withdraw from your representation now, right now."

He and I had had discussions that I was going to withdraw from this representation anyway because I knew I could not continue to represent both Secord and North simultaneously. And since Secord was my historical client, it was, in my mind, more or most appropriate that I continue to represent Secord, out of a sense of loyalty and whatever. And North had said we need to talk about a lawyer for him. So North would have probably had his own lawyer within 24 or 48 hours of this incident anyway. But it could have been done with a little more luxury of time.

So I said to him "You created a problem for yourself, taking documents, secreting documents out of your office, and you created a problem for me because I'm going to have to now get out of the case."

He couldn't quite understand that but I had to explain to him that he, certainly in the view of the government, he'd committed a crime in my

presence. And so I had only the alternative of marching him back in there or getting him a new lawyer, let the new lawyer work with the problem.

I took him to his car and then I drove out to my partner Jim Sharp's house, told him what had happened. He agreed that we needed a new lawyer, and we went through a list of names. I don't think it's appropriate to go through that process with you, but I was persuaded to, and agreed to, send the case to Brendan Sullivan at Williams & Connolly – send North. So Jim called Brendan that night, late at night. They talked and we agreed to meet the next morning at some place, I think it was for breakfast, where we had a more fulsome discussion of what had happened.

MS. FEIGIN: We being who?

MR. GREEN: Jim Sharp, myself, and Brendan. And then I turned over the keys to North, so to speak, to Brendan and apprised him of everything that had taken place. And then he began, from that point forward, to undertake the representation of Oliver North. So that's how that went down.

After Walsh is appointed as Independent Counsel, he puts together his staff. Sooner or later Walsh wants to question Fawn Hall. And I think Plato [Cacheris] negotiates immunity for Fawn Hall. And she goes in there and among the things she reveals to Walsh is the story I just told you, insofar as she was party to it. And so Fawn Hall told him everything, that I was there that night and da, da, da, da, da. Later I came to understand that Fawn also told Walsh that before we all got to my car I asked her if she had been shredding any documents that related to North's activities.

My recollection is that I asked her that because once we were on the street I perceived that she had some documents she wanted to give to North. She assured me that she had not and that any shredding in the office had only been the kind of stuff, the normal stuff that they shredded every day. And I said good or great or whatever. And then I went on my way.

So I'm speculating now. When she tells Walsh this, I think his first instinct was that this was some kind of a contrived conversation by me with her because he begins a very penetrating investigation of me. He subpoenas every document in my life for the last 50 years. And he's just all over me. I guess he was trying to examine or investigate whether I was party to obstruction, or to put pressure on me. I retained Earl Silbert.

All these guys that were working for Walsh, like Paul Friedman and Reid Weingarten -- there's a whole bunch of them – were all friends of mine, were all good friends of mine. And from time to time we'd have some brief conversations and I would say to them you know me, just tell Walsh that he's barking up a wrong tree. But Walsh was persistent and so he stayed focused on me.

I remember going down there one time and having a conversation with him. He was a retired federal judge and a lot of people kept calling him Judge. I couldn't abide calling him Judge and I refused to call him Judge. I called him Mr. Walsh. A couple of times I'd call him Larry, which would really piss him off but I couldn't care less.

I remember going down there and telling him "Look, I don't know why you're messing with me. I didn't do anything wrong, but if you're doing this to pressure me to talk about my relationship with Secord or North, I want you to know that that's privileged. You know it's privileged, and I'll never talk about it ever, ever, ever. So if that's what you're after, you might as well quit" and I walked out. That didn't stop him but I felt better.

Walsh decided that since they're not getting anything from me, and they're not finding anything in any document or anything, that it's time to put me in the grand jury. And I told that story a while back [Oral History, Session 3] when I related how in the grand jury they asked me questions. And I said I take the First, Second, Third, fourth, Sixth, Seventh, Eighth, and Ninth Amendments. I'm not answering. And I think Judy Hetherton was the prosecutor and they took me to the chief judge, Aubrey Robinson and he told me to use the other number and so on.

Meanwhile, while I'm under pressure from Walsh, Earl [Silbert] and I, and maybe even Jim [Sharp], say to Brendan Sullivan Tom's got a problem here and your client can clear it up in 32 seconds by confirming for Walsh that Tom knew nothing about your collaboration with Fawn Hall in getting those documents out of your White House Office. Why don't you just go down there and see Walsh and tell him that, which, frankly, is what I would have done had the situation been reversed. But Brendan took the position that he couldn't afford to let North say

abracadabra, let alone what I wanted, because it could jeopardize Brendan's attempt to get immunity for North. So I was kind of left twisting in the wind a little bit and it was very uncomfortable. I've never quite come to grips with that. I just didn't think it was the right thing to do. As I say, I wouldn't have done it.

Eventually Brendan said when North appears in front of Congress, or when he has to testify, if he gets the right question, he'll immediately exonerate Tom and tell them that he had nothing to do with it. And I think even when North testified before Congress, either my situation didn't come up or North didn't quite do that. I'm not sure. I just can't remember. But all stories have a happy ending, or at least most of them do, because Plato Cacheris knew about this and he took Fawn Hall back down to see Walsh. And she told Walsh that Tom Green had nothing to do with this and didn't know anything about it. And Walsh, although he never lost his interest in me, moved on.

But Walsh was a kind of a vindictive SOB. When he wrote his report to the Court of Appeals, he devoted two pages to me, or maybe three pages to me. I think I'm chapter seven in the report to the Court of Appeals. And he recounts this episode about the documents and then says something like we didn't have enough resources to pursue this at the time or something, so we dropped it. Just really ridiculous stuff but that's what he said.

MS. FEIGIN: Wow. Well let me just end with one question because we'll do Secord next time. But the whole idea of independent counsels is controversial. Having been through what you went through, I wonder your opinion of the whole concept of this as it was then. It's obviously changed somewhat now.

MR. GREEN: I had a role in just about every independent counsel investigation. I either had one of the targets or I had one of the principal witnesses. I lived with the Independent Counsel Act from the day it started till the day the statute expired in 1999. That statute was another part of the fallout from the Watergate case.

The problem with it – I mean in theory, when you suggest that there ought to be a way to conduct an investigation free from interference or influence from the Department of Justice or from other allegedly invidious sources, you could say I'm not going to quarrel with that. But the problem is that because they were so independent, they were really immune to input from experienced hands concerning the conduct of their investigation and whether they were acting reasonably or unreasonably.

Some of these guys got so carried away that an investigation which should have lasted two-and-a-half months lasted two-and-a-half-years. I don't know whether it was because they enjoyed the notoriety or they enjoyed the remuneration or what, but some of these investigations just went on interminably and at great cost where a really experienced prosecutor would have been able to separate the wheat from the chaff.

And I think that was the problem with some of these investigations. Some of them just got crazy but so too can an investigation by the Department of Justice.

MS. FEIGIN: But the Department of Justice doesn't write a report if they don't charge somebody. If you don't charge somebody you're not supposed to talk about what you might have done. So that the whole concept of a report . . .

MR. GREEN: Yes. What they put in that report is totally up to them. Take my example. That was just gratuitous, adding a chapter on me that was done out of spite. Walsh just felt that he had been trivialized by us, and he was mad, and that's why he stuck that in there. But that's just a function of personality. You're right. That was not consistent with DOJ policy. But there wasn't anybody to slap his fingers.

MS. FEIGIN: Well that's quite a dramatic story and probably a good place to end. So thank you very much. Hugely appreciate it. We'll pick up with Richard Secord next time.