PHILIP S. SMITH

having entered the Grand Jury Room, was sworn by the Foreperson as follows:

THE FOREPERSON: You do solemnly swear that in the testimony you are about to give before this Grand Jury you will speak the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE FOREPERSON: Please be seated.

EXAMINATION

BY MR. BRANDING:

Q Would you please state your name and give your current address?

A Philip, middle initial S., Smith, 417 Berry Road, Barrington, Illinois.

Q Mr. Smith, have you had an opportunity to meet with representatives of the United States Attorney's Office and the Food and Drug Administration over the past months?

A Yes, I have.

Q As a result of those meetings have you had an opportunity to prepare a statement to be read to the ladies and gentlemen of the Grand Jury today?

A Yes, I have.

MR. BRANDING: Would you please proceed and read

your statement?

THE WITNESS: Yes. (Reading:)

"I was employed by Industrial Bio-Test Laboratories on January 25, 1971, as an assistant toxicologist. As an assistant toxicologist my duties included running toxicity studies, scheduling toxicity studies and conducting pilot studies.

"In September of 1971, my duties changed although my title remained the same. I was assigned at that point to write reports. As a report writer it was my responsibility to compile the data generated in the various departments within IBT into a report form that would then go to the sponsor.

"In April of 1976, following the FDA inspectio of Industrial Bio-Test, I was assigned to audit a series of long-term studies. I spent the rest of my career at IBT auditing studies and training other personnel in audit procedures. In April of 1977, my title was change to "Quality Assurance Specialist," a title I retained until my termination on June 15, 1977.

"My first involvement with the Naprosyn study, IBT No. B-7922, was in early 1971, perhaps February or March of that year. I believe that I helped weigh the study one or two times and condense the study, for

(Reading of statement continued:)

"example, remove empty cages where animals had died.

"In April or May of 1971, I conducted an animal census on B-7922 at the request of my supervisor, Mr. James Plank. I can remember delivering a copy of the census to Dr. Moreno L. Keplinger who was manager of toxicology at that time. Copies of the census were also provided to Mr. Plank and Dr. Paul Wright who was the section head of toxicology and Mr. Plank's immediate supervisor.

"In May of 1971, I was told by Mr. Plank that Dr. Keplinger had ordered a hold on the final sacrifice of this study. I was told by Mr. Plank that the hold was put on the study as a result of a telephone conversation between Dr. Keplinger and the client because the client wanted to decide whether or not to run the study for twenty-four months. I believe I contacted the Necro sy and Clinical Pathology Labs to put a hold on the fina sacrifice and final bleeding and urinalysis tests at the order of Mr. Plank.

"From May of 1971 until August of 1971, one of my jobs was to keep Mr. Plank, Dr. Wright and Dr. Keplinger informed as to the number of surviving animals in this study. I was to report to them regularly,

(Reading of statement continued:)

"every week or every two weeks, and I did this by both telephone and handwritten lists.

"In early September 1971, I remember hearing either from Mr. Plank or Dr. Wright that Dr. Keplinger had called Syntex to find out whether or not they wantec the study to go twenty-four months. At this point the study was in its twenty-second month.

"Syntex was angry that the study had not been sacrificed at eighteen months, apparently as a result of some misunderstanding between Dr. Keplinger and representatives of Syntex in May of 1971. Syntex had been about ready to call IBT to find out where the repo was for B-7922 when Dr. Keplinger called them. Syntex requested that Dr. Keplinger have this study sacrificed immediately.

"In late September or early October 1971, I w assigned the job of preparing the final report on study B-7922. The protocol for this study called for hematology, clinical blood chemistry and urinalysis studies to be conducted during the study. Hematology and clini blood chemistry studies were to be done at the time of final sacrifice and urinalysis was called for at variou intervals throughout the study including at the time

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(Reading of statement continued:)

"of final sacrifice.

"As stated earlier, as a report writer it was necessary for me to compile the raw data generated in the departments within IBT into report form which would go to the client. I was unable to find the final blood and urine data. The first place I looked for the final blood and urine data was in the animal department study file. This was where such data was usually kept in the animal department. I found that the file contained most of the urinalysis data from the first fifteen months of the study. The animal department file, however, contained no hematology, clinical blood chemistry or urinalysis data that was to have been done at the time of the final sacrifice. It was not unusual for the animal department copies of this type of data to be misplaced before being filed in the animal department study file. I went to the Clinical Pathology Lab to obtain copies of the data that were missing in the animal department file.

"The Clinical Pathology Lab files contained only the clinical pathology protocol with a note that stated that the final blood and urinalysis work had been postponed. It also contained the urinalysis data

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(Reading of statement continued:)

"that had been collected during the first fifteen months of the study.

"After searching through the Clinical Patholog Lab files myself, I went to Mr. Ron Greco, group leader of the Clinical Pathology Lab, to see if he knew whether or not the work had been done. Mr. Greco and I double-checked the files and it appeared that the work had not bee done. So we checked the scheduling records, the equipment output files, the differential slide file, the freezer for frozen serum samples, and his department time charge records. At this point both Mr. Greco and I concluded that the final blood and urinalysis work hac not been conducted.

"I completed the hand-written rough draft of the report with the data I did have available in the animal department study file. The summary and individu data tables for the final hematology, clinical blood chemistry and urinalysis tests were left blank. I then took the study file and the hand-written rough dra of the report to Dr. Wright's office because he assigne me to write the final report on B-7922. I informed Dr. Wright that the final blood and urinalysis work had not been done, gave him the animal department study fil

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(Reading of statement continued:)

"and the hand-written rough draft of the report and told him that I would not sign the report.

"Several weeks later I received a xerox copy of the typed final report of B-7922 that had been sent to the client. It was standard operating procedure in the mailroom at IBT at that time to send the xerox copy of the final report to the person whose name appeared as preparer on the signature page of the report and another copy to the head of the animal department. I checked the summary and individual data tables for the final blood and urine tests and saw that the values were reported for these tests. I checked the signature page of the report and my name and signature were there as having prepared the report. I then checked the project center file containing the original report and my signature was on the original. However, to my knowledge, I had never signed the report. About one week prior to this I had signed the three final reports for B-7298, a two-year study with three different test materials, in Dr. Paul Wright's office and in Dr. Wright's presence. I checked the project center file for B-7298, and two of the repor each contained a signature page with my actual signatur and the third report contained a signature page with a

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(Reading of statement continued:)

"signature made to look like my signature. Apparently, someone had taken the signature page from this particular report on B-7298 and inserted in in the B-7922 report.

"Several days later I was sent the handwritten rough draft of the report that had been left in the typing pool. I was sent the handwritten rough draft by the typing pool because my name appeared in the final report as having prepared it. I examined the handwritten rough draft and it contained no summary or signature pages. However, the individual and summary data pages for the results of the final hematology, clinical blood chemistry and urinalysis studies, which both Mr. Greco and I had determined had not been done, had data entered in them. Some of the data were in what I recognized as Mr. Plank's handwriting and some were in what I recogniz as Dr. Wright's handwriting. All of the final hematolog clinical blood chemistry and urinalysis data in the draf were in the handwriting of either Dr. Wright or Mr. Plank with one exception. When I was putting together the blank forms for the various tables into which hematology, clinical chemistry and urinalysis data would be placed, I filled in the abbreviation "neg" for negative in the urine glucose summary table for the three, six,

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(Reading of statement continued:)

"nine, twelve, fifteen and the final twenty-two month testing periods. I did this because my experience at IBT up to that point had been that urine glucose values in the rat were always negative and I could always chang it if the raw data indicated it otherwise. I retained the handwritten rough draft of the final report for B-7922 in my files in case any questions arose at a later time regarding the final blood and urinalysis data.

"In late November or early December, 1971, the final report on B-7922, which had gone to Syntex, was returned by them because it didn't contain much of the information requested in the original contract. Among the things which were missing from the report were the individual gross and microscopic pathologic findings for each animal on test.

"As we did not normally provide this type of individual animal data as part of a final report, I was requested by Mr. Plank to prepare a form that he could use to report the individual gross and microscopic pathologic findings for each of the animals. I prepare the forms as Mr. Plank requested and gave them to him.

"In January, 1972, I received a copy of the

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(Reading of statement continued:)

"revised report on B-7922 from the mailroom since my name still appeared on the report as its preparer. I had not signed this revised copy of the report; it simpl used the signature page from the earlier report. I note that the report contained an Appendix II, which was not part of the original report. The Appendix II contained abbreviations for the gross and microscopic pathologic findings for individual animals in the study on the form that I had prepared for Mr. Plank. The data entries appeared to be in Mr. Plank's handwriting.

"In December, 1971 or January, 1972, I was approached by Mr. Greco regarding B-7922. Mr. Greco told me that Dr. Donovan Gordon, Head of Pathology, of which Mr. Greco's laboratory was a part, had criticized him and his department for the hematology results in B-7922. Both Dr. Otis Fancher, consultant to and former laboratory director of IBT, and Dr. Gordon seemed to fee that they should have seen some anemia in the test grou animals because of gastrointestinal tract lesions seen some of the animals in the study. Mr. Greco told me th when he and Dr. Gordon went to the Clinical Pathology Lab's files to examine the original blood data there weren't any in the files. Mr. Greco came to me to find

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(Reading of statement continued:)

"out where the data in the final report on B-7922 had come from. I reminded Mr. Greco of the time in late September or early October, 1971, when he and I had searched his laboratory for the records of the final hematology, clinical chemistry and urinalysis data for this study. I related to him that I had given the handwritten rough draft to Dr. Wright minus the final blood and urine data, that I had refused to sign the fina report and that I later received a copy of the final report that contained my signature as well as data entries for the final hematology, clinical chemistry and urinalysis results. I told Mr. Greco that I had a copy of the handwritten rough draft of the report with the final values for the hematology, clinical chemistry and urinalysis tests in the handwriting of Mr. Plank and Dr. Wright.

"Mr. Greco recalled that during the time perioc about when the B-7922 report was sent out, November 11th 1971, that Dr. Wright had requested from him information regarding normal blood values for two year old rats for parameters, many of which were not usually conducted in two year rat studies, for example, serum electrolytes, but were requested in the protocol for B-7922.

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(Reading of statement continued:)

"Mr. Greco came back to see me a few days later and told me that he had discussed what I had told him with his immediate supervisor, Dr. James Vondruska. Mr. Greco asked me if I would discuss the matter with Dr. Vondruska. I went to Dr. Vondruska's office by myself and told him what I had already related to Mr. Greco concerning the origin of the final blood and urine data and the fact that I had the handwritten rough draft of the final report containing values for the various parameters in the handwritings of Mr. Plank and Dr. Wright.

"A few days later Mr. Greco approached me again to see if I would allow Dr. Vondruska to make a xerox copy of the handwritten rough draft because, according to Greco, Dr. Vondruska and Dr. Gordon were going to inform Dr. Keplinger that the blood work apparently had been falsified. I gave Mr. Greco the original handwritte rough draft of B-7922 for Dr. Vondruska to copy. A few days later Mr. Greco informed me that Dr. Vondruska had told him that he, Dr. Vondruska, and Dr. Gordon had gone to Dr. Keplinger, had given him a copy of the handwritten rough draft, and had told him that the final blood and urine values were apparently falsified. According to Mr. Greco, Dr. Vondruska had told him that

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"Dr. Keplinger's response to the whole situation was that "he, (Dr. Keplinger,) would take care of it." Several days later Dr. Vondruska summoned me to his office to return the handwritten rough draft of the report to me. I asked him about what Mr. Greco had told me concerning the meeting with Dr. Keplinger, and Dr. Vondruska confirmed that he and Dr. Gordon had met with Dr. Keplinger, discussed the apparent falsification of the final blood and urine data with Dr. Keplinger, and had given Dr. Keplinger a copy of the handwritten rough draft. Dr. Vondruska told me what Mr. Greco had relayed earlier that Dr. Keplinger had said that "he would take care of it."

"Dr. Vondruska told me that I should keep the handwritten rough draft in a safe place. As I had no file cabinets or desk drawers that locked and Dr. Vondruska did, I asked him if he would keep the handwritten rough draft in his file cabinet. Dr. Vondruska returned the handwritten rough draft to me when he left the compa[illegible] When he returned the handwritten rough draft to me, I took it to my office where I buried it in one of the drawers of a three-drawer file cabinet that contained rough drafts of other reports I had been involved in

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(Reading of statement continued:)

"preparing.

"In February, 1972, I had conveyed the story of the apparent falsification of the final blood data in B-7922 to Dennis Taff, a fellow IBT employee and a personal friend of mine. In September, 1974, a few day after Mr. Taff resigned from IBT, he called me at work and told me that he had relayed the story of the falsification of the final blood data in B-7922 to Dr. Josep Calandra, president of IBT, during his exit interview.

"In April, 1976, after the Food and Drug Administration had started their inspection regarding a long-term rat study done with a compound named Isoprino sine, Dr. Joseph Calandra called a meeting in the administration building conference room. The meeting was attended by Dr. Calandra, Dr. Keplinger, Mr. Gerald Kennedy, Dr. Florence Kinoshita, Mr. Jim Plank, Mr. Car Mastri, Mr. Dennis Arnold, Mr. Chuck Berndt, Ms. Irene Dressler, Mr. Marty Garafalo, Ms. Sandy Smith, Mr. Bruc Burtner, Mr. Andy Marias and myself.

"Dr. Calandra announced that he was going to set up an audit group and that some departments would audit their own records. The audits would consist of checking some completed studies to see if raw data exi

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(Reading of statement continued:)

"to substantiate the data appearing in the final report to the client. During the meeting Dr. Calandra turned to me and asked me if I knew of any falsification in any study. I said that I did. Dr. Calandra said something to the effect that he was unaware of any falsification and asked who was in charge of the study in which falsified material appeared. I said Dr. Wright. I did not name Mr. Plank as he was sitting across the table from me. Dr. Calandra did not pursue this area of questioning any further.

"Dr. Calandra was in Scotland attending a convention in June of 1976. Mrs. Adele Rose, Dr. Calandra's secretary, called me on the phone and told me that Dr. Calandra was on the telephone in Mr. Ray Roman's office and that Dr. Calandra wanted to talk to me. I went to Mr. Roman's office. Present in the office were Mr. Roman, Mr. Plank and Mr. Ted Mooney, a Nalco attorney. In Mr. Roman's office I learned that Adrian Gross of the Food and Drug Administration was in the Administration Building Conference room, and that Dr. Gross wanted to inspect the records for study B-7922 Naprosyn, and that Dr. Calandra wanted to talk to me

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(Reading of statement continued:)

"about the study. When I got on the phone, Dr. Calandra asked me what kind of condition B-7922 was in. I asked him if he remembered the meeting in April, 1976, when he asked me about the falsification of studies. He said yes. I said that this was one of those studies. Dr. Calandra asked me what the problem was with B-7922. I told him that the report contained values for blood and urine data and that as near as I could tell the work had never been done. Dr. Calandra's response was that the raw data must have been misplaced. I said that I didn't think so.

"Our conversation ended and Dr. Calandra then spoke with Mr. Plank and Mr. Mooney, not necessarily in that order. I could not hear much of Mr. Plank's conversation with Dr. Calandra. Mr. Mooney discussed with Dr. Calandra what type of authorization IBT should get from Syntex before allowing the FDA to inspect the raw data records for B-7922.

"I could not hear Dr. Calandra's side of the conversation with either Mr. Plank or Mr. Mooney. I was dismissed from Mr. Roman's office before the telephor connection with Dr. Calandra was terminated.

"Dr. Calandra ordered a search of the company

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"archives and storage areas in July, 1976, for any raw data records for study B-7922, but primarily for any blood and urine records. The search, which lasted four to five hours, was conducted on a Saturday by Dr. Calandra, Dr. Calandra's younger son, Mr. Plank, Dr. Kinoshita, Ms. Madeline Pinelli and myself. Dr. Calandra's son accompanied me on the search of the record storage and storage rooms on the third floor of the research building. No final blood or urine data for B-7922 was found.

"In September, 1976, I made two xerox copies of the handwritten rough draft I had of the B-7922. I made these copies using the Xerox machine in the mailroo As I left the Administration Building with the handwrit rough draft and copies, I walked by the conference room windows. Dr. Calandra tapped on the window and motione for me to come back in. Dr. Calandra met me at the conference room door. Over Dr. Calandra's shoulder I could see Dr. Gordon and Mr. Chuck Berndt at the other end of the conference room. Dr. Calandra spoke quietly and said that someone had told him that the rough draft for B-7922 might still exist. Dr. Calandra asked me if I knew if it still existed. I said that it did.

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(Reading of statement continued:)

"Dr. Calandra asked me if I knew where it was. I said that I had it. Dr. Calandra asked me to bring it to him. I told him that I would have to go to my office to get it.

"I took the xerox copies and the handwritten rough draft back to my office and hid the copies. I returned to the Administration Building with the handwritten rough draft. As I entered the building Dr. Calandra came out of the conference room and motioned for m to follow him into his office and close the door. I handed Dr. Calandra the handwritten rough draft. While he quickly looked through the handwritten rough draft, he asked me what its significance was. I pointed out to him that the handwritten rough draft contained the individual and mean values for the final blood and urine work that had not been done and that these values, except for the final urine glucose, were in Mr. Plank's and Dr. Wright's handwriting. Dr. Calandra then asked me if there were any copies of the rough draft. I told him that other than the copy that had been given to Dr. Keplinger in Decmeber of 1971 or January of 1972, there were none.

"Dr. Calandra asked me again if I was sure

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(Reading of statement continued:)

"that there were no copies of the rough draft. I again answered that there were no copies. Dr. Calandra kept the handwritten rough draft and told me that as far as I was concerned, he had never seen the rough draft and I had never given him the rough draft. Dr. Calandra then dismissed me from his office.

"One or two days later Dr. Gordon told me in his office that on the day Dr. Calandra asked me for the rough draft he had told Dr. Calandra that he thought that the B-7922 rough draft might still exist. I did no tell Dr. Gordon that the handwritten rough draft was sti in existence, that I had given the original handwritten rough draft to Dr. Calandra at Dr. Calandra's request, or that I had any copies of the handwritten rough draft.

"Between September and November, 1976, Dr. Calandra would summon me into the Administration Buildir Conference room or his office approximately once a week and would try to convince me that the final blood and urine work for B-7922 had been done and that the raw data had been lost or misplaced. Dr. Calandra would speculate on one or more of the following possible explanations for what had happened to the final blood and urine data:

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(Reading of statement continued:)

"1. The blood and urine samples were sent out to another lab to be analyzed.

2. Dr. Wright came in after hours and conducted all of the analyses in the Clinical Pathology Lab and would state, "After all, he was a biochemist."

3. The work actually had been done in the Clinical Pathology Laboratory.

"Then Dr. Calandra would speculate that regardless of what the origin of the data was, either the data were lost, or because the report was such a rush, the typing pool used the original raw data to type the report and one of the typists accidentally threw the data out when she was finished typing the report.

"On several occasions during these session, and I would disagree with his possible explanations and say that as far as I knew the work had not been done, Dr. Calandra would gaze out of the window and say, "If I called so and so a crook and he really wasn't, I would be guilty of slander." Dr. Calandra would then turn back to me and ask, "Do you know what I mean?" I would nod my head. I understood his remark to mean that I was to keep my mouth shut.

"During this same period of time, Mr. Greco

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(Reading of statement continued:)

"told me that Dr. Calandra would come into his office and try to convince him that he also was mistaken about the final blood and urine work not being done. Mr. Greco told me that he told Dr. Calandra that, based on records existing in 1976, it appeared that the blood and urine work had not been done in the Clinical Pathology Lab, that there did not appear to be sufficient records still existing in the Clinical Pathology Lab to prove 100 percent whether or not the work had been done, and that it was his, Mr. Greco's, memory, that the work had not been done. As a result of Dr. Calandra's attempts to convince him that he was mistaken about the blood work and urine work not being done, Mr. Greco told me he had continued searching through the Clinical Pathology Lab records. He said he had turned up some documents that would possibly help to show that the final blood and urin work had not been done, but that he had not told Dr. Calandra about them. Mr. Greco said that he had made xerox copies of these records and had taken copies home.

"Mr. Fred Current, IBT corporate attorney, formerly from the Nalco Legal Department, and I were bot working late one night during the first week of December 1976. Mr. Current took a break from the meeting he was

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(Reading of statement continued:)

"involved in in the Administration Building and came to the Research Building to see how my audit group was progressing.

"During our conversation, Mr. Current told me about the difficulty they, Nalco attorneys, Chadwell Kayser attorneys and IBT management, were having in answering some of the questions regarding an IBT study on a compound known as TCC. As I was somewhat familiar with the study and it appeared to me that someone was being less than honest with Mr. Current, I told him wha: I knew about the study. Because of this, I asked Mr. Current if he knew what really happened to the final bl and urine data in B-7922. Mr. Current told me that it was his understanding that the work had been done and t the data were lost after the report was completed. I told Mr. Current what I knew about B-7922, for example, the final blood and urine work had not been done and th the values in the final report were false.

"The last work day in 1976, before the New Year's weekend, Dr. Calandra summoned me out of the Research Building Conference Room at about 11:00 a.m. and spoke to me in a corner of the Reserach Building lobby. Dr. Calandra told me that Nalco was sending someone out

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(Reading of statement continued:)

"to investigate IBT as a result of statements that I had made to Mr. Current. Dr. Calandra said that he would deny ever having the following conversation with me. Dr. Calandra explained to me that the Nalco investigator would be interviewing a number of IBT employees regarding some of the studies conducted by IBT. Dr. Calandra told me that he would not testify about anythin that he was not one hundred percent sure of. He said that if he was only 95 percent sure of something, the 5 percent that he was not sure of would keep him from saying anything about it. Dr. Calandra then said it might be a good idea if I followed these same guidelines when the Nalco investigator spoke to me.

"About 2:30 p.m. of the same day, Mr. Gerald Kennedy, section head of toxicology and my immediate supervisor, summoned me to his office. Mr. Kennedy told me about the forthcoming Nalco investigation. Mr. Kennedy told me that he would deny ever having the following conversation with me. Mr. Kennedy's conversation that followed was virtually identical to the one Dr. Calandra had with me that morning, with the followir exception. After Mr. Kennedy told me that it might be a good idea if I followed the suggested guidelines when

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(Reading of statement continued:)

"I spoke with the Nalco investigator, he told me that if I didn't follow this advice for testifying, that "I would be the first to go."

"I was angry and upset after the conversations with Dr. Calandra and Mr. Kennedy. I was so angry that I decided that I would quit, but that I would wait until the beginning of the next week so that I wouldn't lose my profit sharing for 1976. I encountered Ms. Madeline Pinelli in the Research Building lounge about 4:00 p.m. on the same day that Dr. Calandra and Mr. Kennedy talked to me about how to testify in the Nalco investigation. She said that I appeared to be upset about something and wondered what the problem was. I related to her how earlier in the day Dr. Calandra and Mr. Kennedy had told me how to testify in the Nalco investigation and that Mr. Kennedy had told me that if I didn't follow this advice that I would be the first to go. I told Ms. Pinelli that I was so angry that I was going to quit. She told me that I should not quit but that I should talk to Mr. Current. I told her that I thought would quit anyway, but that I was not going to quit until the following week so that I wouldn't lose my profit sharing for the year.

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(Reading of statement continued:)

"Ms. Pinelli came into my office about 8:45 a.m. on the first work day of the next week, the first week in January, 1977. She told me that she had related my story to Mr. Current and that he wanted to talk with me before I quit. I set up a meeting with Mr. Current about 10:45 a.m. to be held in the Reserach Building lounge. I met with him and told him the conversations that Dr. Calandra and Mr. Kennedy had had with me about testifying in the Nalco investigation, and that I was so angry that I was going to quit. Mr. Current told me that I shouldn't quit and that I shouldn't worry too much about being "threatened" by Dr. Calandra or Mr. Kennedy. He told me, however, that if anyone tried to "threaten" me again, that I should let him know immediat

"I learned during the first week of January, 1977, that Mr. Jim Seamon, vice president of administration for Nalco, was going to conduct the investigation for Nalco. Dr. Calandra held a meeting to introduce Mr. Seamon when he arrived that week. I belie that the following people were in attendance: Drs. Calandra, Keplinger, Kinoshita, and Messrs. Kennedy, Plank, Greco, Ms. Marilyn Biederer, Mr. Dennis Arnold, Mr. Warren Thompson, Mrs. Sandy Haley-Smith and myself.

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"After being introduced, Mr. Seamon told about his background and career with Nalco and how he was going to conduct the investigation. During the next several weeks Mr. Seamon interviewed me for about twenty hours regarding some IBT studies, including B-7922.

"Mr. Seamon told me when he started the interview that he might not be able to keep his notes confidential, but that he would try to. I recounted to Mr. Seamon what I knew about the Naprosyn study and report and eventually gave him a copy of the handwritten rough draft.

"One day in February or March, 1977, I heard that Dr. Calandra was attending a meeting in Oakbrook, Illinois, with Nalco counsel and the Board of Directors to discuss the results of Mr. Seamon's investigation. I pieced this information together from remarks that I heard from Mr. Current, Ms. Pinelli and Mrs. Rose. Dr. Calandra summoned me to his office that afternoon when he returned from the meeting. When I entered his office, Dr. Calandra was clearly angry. He told me tha he had just returned from a meeting at Nalco and that someone at the meeting had a copy of the B-7922

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(reading of statement continued:)

"handwritten rough draft. Dr. Calandra said he thought it was his understanding from talking with me that there were no copies of the rough draft. He then asked me if I knew where this copy might have come from. I said that I had given a copy to Mr. Seamon and I assumed that that's where it came from.

"Dr. Calandra then told me that it was also his understanding that there were no copies of the handwritten memo summarizing the results of the first audit group. However, he said that Mr. Merrill Thompson, an attorney for Chadwell-Kayer, one of Nalco's outside counsel, had a copy of the memo. Dr. Calandra wondered if I knew where he got it. I said that I didn't know where Mr. Merrill Thompson got his copy, but that I had given a copy of the memo to Mr. Current. Dr. Calandra dismissed me from his office."

MR. BRANDING: Excuse me, Mr. Smith. Your prepared statement continues after this with reference to another study; does it not?

THE WITNESS: Yes.

MR. BRANDING: I am wondering, in view of the time, it is 10 after 12, if you would like to take your lunch

break now and come back a few minutes earlier and Mr. Smith could continue with his statement. I would estimate that we are approximately half way through the statement; is that correct?

THE WITNESS: Right.

THE FOREPERSON: Okay, would you like to continue now or would you like to break now for lunch and come back a few minutes early?

SOME GRAND JURORS: Let's break now.

THE FOREPERSON: Let's be back about 1:45 p.m.

(Witness excused.)