

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA)	Criminal No. 3-95CR-294-R
)	
v.)	Filed: 3/19/96
)	
MRS. BAIRD'S BAKERIES, INC.)	Violation: 15 U.S.C. § 1
)	
)	
Defendant.)	

Addendum to Government's Response to
Defendant's Motions for New Trial and Acquittal

In its response to the Defendant's motion for acquittal and new trial, the government specifically pointed out that the Court admitted the tape recording between Stanley Oler and Steve Green without objection by defense counsel, referring the Court to page 428 of the official transcript. Referring to pages 642 and 643 of the transcript, the Defendant claims that the tape recording was not admitted until after the record was closed and over defense counsel's objection. See, Defendant's Reply in Support of Motion for New Trial at page 4, n.3.

The Court should look to the trial transcript in order to resolve its factual dispute. On February 7, 1996, the third day of trial, all counsel met with the Court in chambers. At that time, the following colloquy took place:

MR ROSENBERG: Second thing. I know the ladies and gentlemen of the jury heard the tape yesterday. I thought I had asked the court to move it in but I'm not sure now if I had

asked you to move it in and I'd like to do that. They've already heard it.

THE COURT: I thought that you did.

MR. ROSENBERG: I thought did I did too.

MR. EVANS: He really didn't, but now he's figured it out.

MR. SHAPIRO: I figured it out.

MR. EVANS: Okay.

MR. ROSENBERG: Duncan figured it out.

MR. WALLACE: We thought we had something going.

THE COURT: I am going to overrule the defendants' gotcha, and
the tape is admitted.

(TR III - 449, 450)

Respectfully submitted,

_____/s/
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CERTIFICATE OF SERVICE

This is to certify that true and correct copies of the foregoing Addendum to Government's Response to Defendant's Motions for New Trial and Acquittal was sent via facsimile on the 19th day of March 1996, to the following:

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