

1 something that enters into the jury deliberations. The
2 issue for them to address is whether or not the elements
3 have been proven beyond a reasonable doubt or not. If
4 there are aggravating factors that exist in a
5 second-degree homicide case, it's appropriate for the
6 court to do an upward departure regardless of whether or
7 not the jury acquitted on other charges. If defendant's
8 position is true, the state could never ask for an upward
9 departure in cases where juries convict in
10 lesser-included offenses. And there are countless cases

11 -- and I'm not going to spend a lot more time on that,
12 Your Honor -- where courts have done upward departures
13 even though juries have convicted only on lesser-included
14 offenses.

15 Your Honor, if one had to choose the manner one
16 had to die, one would not choose to be beaten to death.
17 It's not a gentle way to die. It's not a pleasant way to
18 die, and no one should have to endure that manner of
19 death. MacKenzie's last minutes on earth were full of
20 horror, brutality, and ugliness. And here on this sunny
21 Friday afternoon in this antiseptic and well-lit
22 courtroom, I cannot convey what she surely must have felt
23 when this 150-pound man inflicted multiple blows on her,
24 this 37-pound, three-year-old girl. I can't force people
25 to smell the vomit or taste the blood from the cut lip or

1 feel the pain of two tears to the hymen, or surely the
2 pain from the abrasions that were on her chest and face
3 and stomach. And I can't recreate because words are
4 ineffective and inadequate vessels to convey what her
5 last moments had to have been like.

6 The purpose of the sentence, as Your Honor
7 knows, is to reflect justice. It's to reflect the law.
8 Your Honor. It's clear that society -- what we call
9 society -- is not possible without a moral order, and a
10 remorseful person owns up to what they have done, and
11 they accept consequences of their actions.

12 The law states, Your Honor, that we are all
13 personally responsible for our actions. We are all
14 morally accountable for our actions. And Brian Merkt is
15 responsible for his actions, and he's tried to escape his
16 moral responsibility. He lied to the police about what
17 happened. He lied on the witness stand about what
18 happened. And it's clear the jury concluded that, Your
19 Honor, because they convicted him of murder. They
20 clearly had to have concluded that he has lied about what
21 happened.

22 Your Honor, the purpose of sentencing can be
23 rehabilitation, deterrence or incapacitation. We are
24 asking for this 40-year sentence not for any of those
25 purposes because I do not believe a prison sentence will

1 rehabilitate, deter or even ultimately incapacitate
2 Mr. Merkt because he'll be released again. But a
3 sentence can serve the function of telling the community
4 that what a defendant did is wrong, that what a defendant
5 did is not acceptable behavior in the community, that
6 what a defendant did is morally condemnable. And, Your
7 Honor, if murdering a three-year-old girl is not morally
8 condemnable, then I do not know what is not.

9 We have charges of homicide because our law is
10 based on the premise that every human being is of value
11 and every murder is a violation of the spiritual kinship
12 between every human being, and it's an affront to the
13 fundamental good of the community and to the dignity of
14 each member of the community. Human life should be
15 considered invaluable. Human life is sacred, Your Honor,
16 and we ask you to sentence defendant to the statutory
17 maximum sentence because the defendant murdered MacKenzie
18 Bussiere in her own home, in a place that should have
19 been a sanctuary for her, a sanctuary of life, a
20 sanctuary with her family, and we ask to you sentence him
21 that way because it's a truly just and appropriate
22 sentence given the facts in this case. Thank you.

23 THE COURT: Thank you Mr. Harbinson.

24 We turn to the defense at this point. Mr.
25 Gray?

1 MR. GRAY: Your Honor, may it please the court,
2 the beginning of Mr. Harbinson's argument reminding the
3 court that you have discretion and it won't reversed
4 except for the abuse of discretion seems to ask this
5 court -- as I suspected from the get-go when I read his
6 memorandum asking for an upward departure -- was to ask
7 for a judgment notwithstanding the verdict in this case.

8 There's not one case in Minnesota that says
9 that you can rely on facts that my client was acquitted
10 of to upward depart. The fact is the jury -- and who
11 knows what the jury was thinking? Mr. Harbinson likes to
12 inject some conjecture as to what they were thinking, but
13 the fact is that the jury found my client guilty of an
14 unintentional murder while committing a felony. And
15 under our law, which the court is sworn up to hold, the
16 Sentencing Guidelines Commission has determined 150-month
17 month sentence. That's their decision. That's unless
18 there's some significant and compelling reasons to
19 depart, and I've cited all the cases, and I don't --
20 I'll just tell you once. I'm not going to go into all
21 that. However, it seems to me, Your Honor, this is a
22 classic case of a 150-month sentence on second-degree
23 murder where he caused the death of -- he was convicted
24 of causing the death of an individual while committing a
25 felony, and our law, which the court has to follow, says

1 that if the felony is part -- if the underlying conduct,
2 the vulnerability, is a felony that was relied upon by
3 the state or by the -- in convicting my client, they
4 can't rely on that to depart. Otherwise, if he was
5 convicted of manslaughter -- and you cite the Stumm case,
6 which is a manslaughter case, where the fellow was only
7 looking at two years and the judge departed to six --
8 this would be a manslaughter case because there wasn't
9 the underlying felony. There were no broken bones in
10 this case, Judge.

11 What the court instructed the jury in a recent
12 law, very recent law in Minnesota that if you receive
13 bruises above your -- about your face and neck -- that's
14 a felony for somebody under four. And there's no
15 question that after this jury was out for a while -- I
16 read your instruction, I'm sure, more than one time --
17 that that's what they relied on in convicting him.

18 Therefore, Your Honor, with respect to the
19 vulnerability of the victim, that's an element of this
20 crime and relying on age, and if they did not have that
21 statute, he wouldn't even be convicted. He'd be
22 acquitted.

23 There are no substantial and compelling reasons
24 in this case, Your Honor, when you take away the counts
25 that he was acquitted of. The jury -- you talk about

1 this torn hymen. The jury did not find him guilty of
2 tearing that hymen in a sexual manner, and Mr. Harbinson
3 says it could have been in some other manner. He seems
4 to forget that he argued and the court instructed if it
5 was done in a sexual manner or aggressive manner under
6 sexual contact that he would be responsible, and they
7 rejected that. My client has no prior record. He did
8 not intentionally murder this child.

9 As far as the particular cruelty, I just remind
10 the court of the 911 call and what he was doing during
11 that call of trying to revive MacKenzie.

12 The idea -- just to comment on a couple other
13 things. Mr. Harbinson argues that MacKenzie was
14 conscious. Well -- and that he should have got medical
15 attention right away. Well, the evidence in this case
16 from all of these doctors said that as soon as the blow
17 to the head was received, however it was received, she
18 was dead; that that would have -- that was their big
19 argument in this case, that that was such a severe blow,
20 could not have been falling downstairs; that it killed
21 her instantly, or if it didn't kill her instantly, that
22 she was conscious for only seconds. And now he stands up
23 and argues that she had a night of terror.

24 In any event, Your Honor, we have briefed
25 everything with respect to the departure. I think by law

1 and by sentencing guidelines, there's absolutely no basis
2 to depart in this case. The only possible basis would be
3 the abuse of position and trust where the fact there that
4 my client knew MacKenzie is a reason to depart, and he
5 was held in trust. Well, I don't know if it's anymore
6 serious to be convicted of unintentionally murdering
7 someone you don't know than somebody you do know. Just
8 doesn't appear to me to be an aggravating factor, and
9 there are cases that seem to -- the ends justify the
10 means. But if you follow the law here and the sentencing
11 guidelines for an unintentional murder, it's a 150-month
12 month sentence. I can see the state now. "Well, he
13 didn't know her. She had no contact with him, and that's
14 a reason to depart." What reason would that be to depart
15 if the same reason is he knew her, and he was with her
16 for an hour? It certainly is not a reason for a
17 substantial departure. It's no reason for departure at
18 all.

19 The other grounds, Your Honor, we have
20 briefed. We dispute the fact you can take into
21 consideration the impact on the members of the family. I
22 read briefly this case that he cited and gave me here,
23 and I don't think -- apparently the judge -- Your
24 Honor -- had that case. I don't think that stands for
25 anything different than we put in our brief.

1 With respect to the lack of remorse, does that
2 mean that you are not allowed to defend yourself in a
3 court of law in this state of Minnesota? That you are
4 going to be departing upward if you have maintained your
5 innocence? What about the person that is innocent? Does
6 that mean that that person gets punished more because
7 he's asserted his innocence and because of circumstances
8 beyond his control which could well have been in this
9 case -- and I'm not going to argue his innocence -- that
10 he stands convicted? Well, all right, then punish him;
11 but don't punish him because he says he didn't do it,
12 because you know what? Maybe he didn't do it. That's no
13 reason to punish, Your Honor. And so you get a
14 catch-22. Well, he lacks remorse. Well, who wouldn't
15 lack remorse if he was innocent and stands to serve 150
16 months in prison? And the jury did not believe he
17 intentionally murdered anybody that day. The jury
18 believed that it was an unintentional murder. They have
19 the burden to prove these aggravating circumstances,
20 substantial and compelling reasons to depart, and they
21 simply haven't, Your Honor, not when you take away the
22 four counts that he was acquitted of -- the rapes and
23 the murder one and even the pattern of abuse. The jury
24 found it wasn't a pattern of abuse. This was a one-time
25 thing. So, just punish him for what he was convicted of,

1 Your Honor. I ask the court to sentence him to the
2 guidelines sentence of 150 months on behalf of him and
3 his family.

4 A couple of comments with respect to the
5 probation officer's request for DNA and sex offender
6 registration. We briefed that. We argue that statute
7 simply doesn't apply. And one argument that wasn't put
8 in the brief is that if in fact this does apply, then
9 it's clearly a violation of due process, particularly in
10 light of all of the trauma and havoc caused by this
11 so-called registration. My client was acquitted of each
12 and every sex crime in this case. He should not have to,
13 when he is done being punished for this case, have to
14 register as a sex offender when he was acquitted of it.
15 We believe the statute doesn't apply to him, but if it
16 does, it's clearly a violation of due process for making
17 him do something that's something for a sex offender.
18 So, we would object to that.

19 With respect to the restitution, Your Honor, we
20 briefed that. My client has no money. They want
21 restitution for Nicole, but the interesting thing is --
22 and this is not disputed -- if you read the custody of
23 Nicole, the transcript, she didn't start acting up like
24 this until after she lost her mother. That's when she
25 started acting up and that was a few months after. I

1 think it was two or three months later after the death of
2 MacKenzie. And she lost her mother because, as I
3 remember the transcript of that custody hearing that I
4 read, because the mother didn't show up one weekend to
5 take her. She was out all night and didn't show up to
6 meet the grandmother to have her, and the custody judge
7 who heard that ordered custody to the grandmother.
8 That's hardly a reason to punish my client by, and that's
9 what they want. They want punishment here. My goodness,
10 even the state, with all the money they have, put a
11 ceiling on the victim's reparations of \$5,000. They seem
12 to want to use this therapy. And the state, as I read
13 this, they only allow somebody to be paid \$75 an hour,
14 and Dr. Hewitt is \$110 an hour but oh, yes, my client was
15 going to go to prison, who doesn't have a bean. They
16 seem to want him to be paying for Nicole's treatment.
17 I'd ask Your Honor not to require him to make
18 restitution. We filed the affidavit.

19 Hopefully, when he's finished being punished,
20 he can still have a productive life, Your Honor. The
21 punishment in this case is 150 months in prison which is
22 not any small time. That's a lot of time in prison.
23 Thank you, Your Honor.

24 THE COURT: Thank you, Mr. Gray. A few weeks
25 ago, I notified the attorneys in this case that I

1 intended to depart upward in the sentencing, and I was
2 considering that, and I asked them to submit to me their
3 respective positions. They have supplied me with that.

4 MR. GRAY: Before you get there, I've talked to
5 Mr. Merkt beforehand, and he would rely on what I say and
6 doesn't wish to make a statement.

7 THE COURT: That's what I understood.

8 MR. GRAY: I thought I better put it on the
9 record.

10 MR. HARBINSON: We wanted that on the record.

11 THE COURT: Mr. Merkt, you did not want to say
12 anything at this point? Correct? That's what I thought
13 was the case, but I didn't put that on the record. Thank
14 you.

15 So, they did supply me with the information
16 some of which they have highlighted here this morning
17 during their verbal statements. What I want to do
18 briefly is touch upon a number of topics very quickly and
19 then we will go ahead with the formalization of the
20 sentence.

21 And this is for Brian Merkt and for all of you
22 who're present, the professional people that are
23 regularly in court and familiar with some of these
24 things, but I think you all need to understand
25 something. The state of Minnesota has Sentencing

1 Guidelines which were put together and starting off with
2 a group of people and ranking all the crimes going from
3 thefts all the way up through murders, serious crimes --
4 rapes, kidnaps, all kind of serious matters.

5 They called upon, when they began developing
6 these Sentencing Guidelines, people from all walks of
7 life and everyone who's involved in the system, from
8 police personnel, defense counsel, prosecutors,
9 Department of Correction personnel, sociologists,
10 psychologists, people from all walks of life -- lay
11 people, normal citizens -- to develop what would be an
12 appropriate kind of sentence for each specific crime.
13 They held hearings, extensive hearings all over the
14 state. People testified at those hearings for and
15 against the proposals for these different kinds of
16 sentences. And what was developed from that was an
17 opportunity given then to the sentencing judge to depart
18 if, in a sentencing judge's opinion, the guideline
19 sentence was not appropriate, and what they said is there
20 have to be substantial and compelling reasons why that
21 judge should go up or down: Either that there were
22 aggravating circumstances in the crime which would
23 suggest an upward departure; mitigating circumstances in
24 the crime which would suggest a downward departure. For
25 example, someone could be accused of theft and convicted

1 of theft and perhaps that person was without a job and
2 was stealing to provide food for his family. It's a
3 mitigating circumstance which would probably allow the
4 court to depart downward rather than the guidelines
5 sentence.

6 Anyway, these guidelines were put together and
7 the judges in this state must follow the guidelines, and
8 it's to provide for uniformity so that people convicted
9 of the same crime are not treated differently in
10 different parts of the state and in front of the
11 different judges.

12 So, in this particular case, there is a statute
13 that says people convicted of the crime of murder in the
14 second degree can be sentenced up to 40 years in prison.
15 Sentencing Guidelines call for 150 months, which is 12
16 and a half years in prison. I suppose the outside time
17 that ever would be allowed would be the 40 years in this
18 kind of a situation. The guidelines, however, call for
19 12 and a half years. And unless the court can spell out
20 with specificity particular reasons as to why that
21 guideline should be changed, the sentence to be imposed
22 should be 150 months, and that's it. And that is again
23 to provide for uniformity and people are not treated
24 differently.

25 Now, for reasons that I'm going to tell now, I

1 am going to depart, and I am going to depart upward on
2 the guidelines. This particular case involves several
3 reasons for wanting to depart upward from the guidelines
4 which I believe are substantial and compelling and
5 aggravating circumstances.

6 Number one is the vulnerability of the victim,
7 MacKenzie, due to her age. We all heard the testimony.
8 We all know about her being a three-year-old. And wasn't
9 much question she was a very vulnerable person -- little
10 girl, 47 pounds, small person, vulnerable.

11 Second compelling and substantial reason for an
12 upward departure is that the particular cruelty of the
13 offense, and I am looking at specifically three separate
14 categories under that. Number one, and the very obvious
15 one again, testimony which was heard by all of us who
16 were here was the extensive bruising and the injuries to
17 the victim. I don't think I need to say much more than
18 that. We saw the pictures. We heard the testimony. We
19 heard from numerous physicians and medical personnel
20 about the nature, the extent, the duration of those
21 injuries and how horrible they were.

22 As part of that particular cruelty, there's a
23 second item, and that is leaving the victim in an injured
24 state without calling medical personnel. The jury
25 accepted that testimony. That is what the defendant has

1 been convicted of, and that is what the court has to deal
2 with.

3 Thirdly, as part of that same cruelty incident
4 is the impact that that had, that whole incident had on
5 the victim's sister, Nicole, causing her some severe
6 psychological trauma as a result. That definitely is
7 something we heard a lot about during the course of this
8 trial, and the timing is not simply coincidental with
9 having been removed from her mother's custody. It's
10 something from what I heard at least in my recall of the
11 testimony that was directly related to what happened to
12 MacKenzie. So, that's a second category of particular
13 cruelty of the offense which would suggest an upward
14 departure.

15 And finally there's a third category, and that
16 is that the offender's position of authority and trust
17 over the victim was violated. He was left to care for
18 her while her mother went shopping. One would have
19 expected nothing like what occurred, and he violated that
20 trust. He violated the competence. He violated his
21 authority. Twenty-three-year old man, a three-year-old
22 girl. And the jury found that he murdered her.

23 Now, ladies and gentlemen, that's what we have
24 to deal with. We deal with what the jury found. The
25 jury did not find that there was any sexual criminal

1 conduct. They did not find that, and the case law which
2 has been submitted by both counsel suggests pretty
3 strongly to me that what the court needs to do is look at
4 what the jury found. I cannot impose my own beliefs and
5 my own findings. I'm not the jury. I take the jury's
6 finding, which was second-degree murder, and I impose a
7 sentence based upon that and that alone, and I have to
8 neglect and forget and not deal with any alleged criminal
9 sexual conduct because that was simply alleged. It was
10 not proven to the satisfaction of that jury beyond a
11 reasonable doubt and therefore, the defendant was
12 acquitted, and the judge cannot now take that same
13 information for which the person has been acquitted and,
14 in effect, turn it against them again and say, "Even
15 though you were acquitted, we are still going to use this
16 against you in your sentencing." So can't do that, and I
17 think you all have to understand that. What we are
18 dealing with as a matter of law is what the jury found.
19 They were fact finders, and the jury did find
20 second-degree murder. And for the reasons that I have
21 suggested, I believe that the 12-and-a-half year sentence
22 or 150 months is not an appropriate sentence.

23 Before I go ahead with that sentence, three or
24 four other things very quickly that I'll address. There
25 have been requests for restitution. I'm going to order

1 some restitution, but it's going to be based upon the
2 findings of the Minnesota Crime Victim's Reparation
3 Board. If there's any other request for restitution,
4 that will have to be addressed to that organization.
5 Again, both counsel -- or all counsel, I should say --
6 have briefed this issue to the court, and I have also
7 received copies from Ms. Vilcins from the Department of
8 Corrections and from some of you individually with
9 respect to your restitution. And those matters should be
10 addressed to that Crime Victim Reparation Board.

11 When you look at restitution, there's a reason
12 for it. It's not just to make the people whole again
13 because you really cannot be made whole again, and not
14 all of your expenses incurred are going to be
15 reimbursable. Some things are kind elective. In other
16 words, if you choose to take time off of work because of
17 the trial or because of things you need to do and so on,
18 those aren't necessarily expenses that will be
19 reimbursed. Out of pocket, where you pay somebody else
20 for psychological counseling or whatever, some of those
21 can be reimbursed but I'm going to have delegated to the
22 Department of Corrections and the crime reparation board
23 the need to take care of those things.

24 It's been pointed out that the defendant is
25 going to be in prison really, not in much of a position

1 to pay a lot of money out. That's true. I asked this
2 morning if anyone was aware of what they are getting paid
3 in prison when they work in prison industries and no one
4 is quite sure what that amount is that I talked with, but
5 it's something below the minimum wage but it's not twenty
6 cents an hour. Probably more in the neighborhood of four
7 or five dollars an hour at least. And unlike some people
8 that are paid the minimum wage, the defendant in this
9 case is going to get his housing, his food, his
10 recreation, his medical, his dental, and anything else he
11 needs. So that money is there. It can be used, and it
12 should be used to pay the restitution.

13 The other item that was discussed dealt with
14 whether or not a defendant should be required to give a
15 sample for DNA purposes and whether or not the defendant
16 should be required to register under a sex offender
17 statute. Again, I'm bound by the law as it exists
18 today. The law says that whenever a person, even if
19 acquitted, has been charged with a criminal sexual
20 conduct charge, but arising from that same set of
21 circumstance he's convicted of something else, that he
22 must register and he must have a DNA sample provided. So
23 that's going to be required of you. I frankly don't know
24 how constitutional that law is. The problem is it hasn't
25 been at this point challenged, as it may well be in this

1 case. But unless and until the constitutionality is
2 changed and that law is overturned, I'm bound to follow
3 it. So I'm going to require that at this point. There
4 is some requirement of assessment and surcharge fees and
5 really it doesn't amount to a whole lot of money, and
6 there's a minimum of \$20 for an assessment and \$25 for
7 surcharge, and that would be ordered by the court.

8 The final thing that's been discussed here is
9 whether or not there should be any contact by the
10 defendant with Nicole, and she does not wish to have that
11 contact, and that will be a condition: That there not be
12 contact with Nicole unless she voluntarily wishes to have
13 that contact.

14 Both counsel have pointed out that we are here
15 to do some justice, that the judge must try to look at
16 the entire situation and provide for some justice. It's a
17 very delicate balancing situation we look at. We look at
18 the victim, or victims. We look at the general
19 underlying concern of the public, not concern as far as
20 I'm concerned as far as popularity goes or anything with
21 the press or any of that kind of thing, but I'm talking
22 about the need of the public to have some rationale for
23 what's being done in these court systems. And in
24 justice, there's a thing called retribution and because
25 we do it in court manner, we don't take people out and

1 shoot them and hang them in the public square and those
2 kinds of things. We try to do it in the American manner,
3 proper manner unlike what's done in many places in the
4 world.

5 There's always concern for the victim --
6 excuse me -- for the defendant. The defendant, the
7 possibility of rehabilitation and all those things, much
8 of which have been discussed by counsel in their
9 respective briefs, and I think to some extent verbally
10 here today. So, we look at all of these things in trying
11 to come up with a sentence that makes some sense and
12 again, that sentence isn't exactly what the judge might
13 do given his or her "druthers" because there are these
14 strict provisions that we need to follow, and I think
15 I've commented enough on those, and I'm not going to get
16 into it any further.

17 At this point I'm going to ask you to stand,
18 Mr. Merkt, and we are going to proceed with the formal
19 sentence.

20 You, Brian Patrick Merkt, having been convicted
21 of murder in the second degree, it's the sentence of this
22 court and the judgment of this court that as a
23 punishment, you are hereby committed to the Commissioner
24 of Corrections for a period of 300 months, a period
25 double the presumptive sentence under the Minnesota

1 Sentencing Guidelines. You shall be given credit for
2 time you have already served in this matter. Further
3 under state law you will serve two-third's of that total
4 executed sentence in prison and the maximum supervised
5 release term equal to the remaining one-third. The
6 Commissioner may extend your term of imprisonment up to
7 the entire sentence if you do violate any disciplinary
8 rules while in prison or violate any conditions of
9 supervised release.

10 In addition to that sentence, you will be
11 required to make restitution in the amount of \$4,582.50
12 to the Minnesota Crime Victim Reparation Board for the
13 medical or mental health expense already incurred by the
14 victim's family as a result of the defendant's criminal
15 behavior, and the Department of Corrections will work a
16 payment schedule out with you to have that paid from any
17 earnings you have while you are in prison.

18 You will be required to provide a DNA sample
19 and also to register as a convicted offender under
20 Minnesota Statute 243.166. You will be required to pay
21 the \$20 assessment fee, \$25 surcharge, and insofar as
22 out-of-pocket costs are concerned for Nicole's continued
23 therapy, I'm going to have those addressed to the
24 Minnesota Crime Victim Reparation Board again. And if
25 they have examined that and make a determination that

1 there's some additional amount to be paid, it should be
2 paid. I'm concerned at this point about projected costs
3 that can go on forever, and I don't think it's
4 appropriate for me to use that kind of conjecture here to
5 require payment and give someone basically a blank check
6 here. So, we will leave it to them to make the
7 determination as to the appropriate amount. If there is
8 any person who's aggrieved by that, there's -- there are
9 hearing processes that can be followed after the crime
10 board has made its decision.

11 Is there anything further the state wants to
12 address at this point?

13 MR. HARBINSON: I don't know if you've
14 mentioned the condition of no contact with Nicole, Your
15 Honor. We would ask that to be --.

16 THE COURT: I did indicate earlier, but I'll
17 say it again: That given the family and Nicole's
18 preference, there should be no contact with Nicole.

19 Mr. Gray?

20 MR. GRAY: I have nothing.

21 THE COURT: Thank you.

22 MR. HARBINSON: Thank you, Your Honor.

23 THE COURT: We stand adjourned.

24 (The proceedings were adjourned.)
25

1 STATE OF MINNESOTA)

2) REPORTER'S CERTIFICATE

3 COUNTY OF SCOTT)

4 I, Barbara B. Bennett, a stenographic reporter
5 of, do hereby certify the foregoing 45 pages of material
6 constitute a true, accurate, and complete transcription of the
7 record taken by me at the date and place hereinbefore
8 mentioned to the best of my ability.

9

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Barbara B. Bennett

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16 Dated this 13th day of May, 1997.

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