FACTUAL STIPULATIONS FOR GRABELSKY

The parties stipulate to the following matters:

1. On the afternoon of July 15, 2011, the defendant left the envelope and note at the OCTF office. The envelope was placed on Captain Kowalski’s desk and addressed to him.
2. The person appearing in the photograph on the lower left corner of the photo album page directly above the word “me” is the defendant.
3. The note beginning “Dear Maxim” was written by the defendant’s father, Edward Grabelsky.
4. The diagram of the OTB parlor at 99 76th St is a fair and accurate representation of the OTB interior at all relevant times.
5. The 911 call of “people with guns” in the OTB parlor at 99 76th St. was placed at 4:36 p.m. on the day of the burglary.
6. The back room of the OTB where the vault is located is open only to authorized OTB employees.
7. OTB records from the branch at 99 76th St. indicate that a total of $5,210,244.00 in cash was on hand in the vault at the close of business on the day of the burglary. There was no cash inside the vault when OCTF agents entered it later that day.
8. Luther Bybel’s cause of death was determined by Buffalo-Niagara Medical Examiner, J.J. Gittes, M.D. to be asphyxiation secondary to a fracture of the hyoid bone.
9. Dr. Gittes also determined that Chester Krupczyk died as a result of massive bleeding secondary to a gunshot wound of the abdomen. The bullet removed from the deceased was a .38 caliber.
10. Lyman Zyrga has not yet been sentenced for his plea to Burglary in the First Degree.
11. Flight records from Jet Blue Airways indicate that on June 23, 2013, Harry Gondorff, the 76th St. OTB branch manager, reserved round-trip tickets from Buffalo-Niagara to Las Vegas, leaving Buffalo-Niagara at 7:00 p.m. on Thursday, July 14, 2013 and leaving Las Vegas at 6:00 p.m. on Sunday, July 17, 2013.
12. Guest records and receipts from the Gold Nugget Hotel/Casino indicate that on June 23, 2013, Harry Gondorff made reservations at that hotel from Thursday night, July 14, 2013 through Sunday, July 17, 2013.
13. OTB personnel records indicate that on June 24, 2013, Harry Gondorff had requested a vacation day for Friday, July 15, 2013, but was denied by OTB because another branch manager, Doyle Lonergan, had already been approved for vacation for that entire week.
14. OTB personnel records further indicate that Harry Gondorff called in sick in the early morning hours of July 15, 2013 and that Lyther Bybel, the 19th St. OTB branch manager, was assigned to OTB to fill in for Gondorff at the 76th St. branch.
15. Harry Gondorff was fired by OTB on Monday, July 18, 2013. He has left the jurisdiction and is unavailable as a witness.