

CR-10-00757-PHX-ROS, May 30, 2012

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

08:21:14

1					
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4					
5	United States of America,	)			
6		)			
7	Plaintiff,	)			
8	vs.	)			
9		)	CR-10-00757-PHX-ROS		
10	James R. Parker,	)			
11		)			
12	Defendant.	)			
13		)	May 30, 2012		
14		)	8:35 a.m.		
15		)			

08:21:14

08:21:14

BEFORE: THE HONORABLE ROSLYN O. SILVER, CHIEF JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - Day 2

(Pages 180 through 365)

08:21:14

Official Court Reporter:  
**Elaine Cropper, RDR, CRR, CCP**  
 Sandra Day O'Connor U.S. Courthouse, Suite 312  
 401 West Washington Street, Spc. 35  
 Phoenix, Arizona 85003-2151  
 (602) 322-7249

08:21:14

Proceedings Reported by Stenographic Court Reporter  
Transcript Prepared by Computer-Aided Transcription

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I N D E X

TESTIMONY

WITNESS	Direct	Cross	Redirect	VD
KRISTY MORGAN	198			

E X H I B I T S

Number		Ident	Rec'd
1	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 1997 for JAMES and JACQUELINE PARKER	205	205
2	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 1998 for JAMES and JACQUELINE PARKER	285	285
3	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 2001 for JAMES and JACQUELINE PARKER	313	313
4	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 2002 for JAMES and JACQUELINE PARKER	323	324
5	Certified Copy of Amended U.S. Individual Income Tax Return (Form 1040X) for the calendar year 2002 for JAMES and JACQUELINE PARKER	329	329
6	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 2003 for JAMES and JACQUELINE PARKER	338	338
7	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 2004 for JAMES and JACQUELINE PARKER	344	344
8	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 2005 for JAMES and JACQUELINE PARKER	348	349
9	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 2006 for JAMES and JACQUELINE PARKER	353	353

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1					08:21:14
2	10	Certified Copy of U.S. Individual Income Tax Return (Form 1040) for the calendar year 2007 for JAMES and JACQUELINE PARKER	358	358	
3					
4	11	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 1997 for JAMES and JACQUELINE PARKER	203	203	08:21:14
5					
6	12	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 1998 for JAMES and JACQUELINE PARKER	284	284	
7					
8					
9	13	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 1999 for JAMES and JACQUELINE PARKER	303	303	08:21:14
10					
11					
12	14	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2000 for JAMES and JACQUELINE PARKER	309	309	
13					
14					
15	15	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2001 for JAMES and JACQUELINE PARKER	312	312	08:21:14
16					
17					
18	16	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2002 for JAMES and JACQUELINE PARKER	322	322	08:21:14
19					
20					
21	17	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2003 for JAMES and JACQUELINE PARKER	337	337	
22					
23					
24	18	IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040)	343	344	08:21:14
25					

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1	for the calendar year 2004 for JAMES and JACQUELINE PARKER			08:21:14
2				
3	19 IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2005 for JAMES and JACQUELINE PARKER	348	348	
4				
5	20 IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2006 for JAMES and JACQUELINE PARKER	353	353	08:21:14
6				
7				
8	21 IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2007 for JAMES and JACQUELINE PARKER	357	357	
9				
10				08:21:14
11	22 IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2008 for JAMES and JACQUELINE PARKER	361	361	
12				
13				
14	23 IRS Certificate of Assessments, Payments, and Other Specified Matters for U.S. Individual Income Tax Return (Form 1040) for the calendar year 2009 for JAMES and JACQUELINE PARKER	361	361	
15				08:21:14
16				
17	32 IRS Form 4549-A, Income Tax Examination Changes for tax year ended December 31, 1997, for JAMES and JACQUELINE PARKER	213	213	
18				
19	33 IRS Form 4549-A, Income Tax Examination Changes for tax year ended December 31, 1998, for JAMES and JACQUELINE PARKER	292	292	
20				08:21:14
21	34 Certified Copy of IRS Letter 531, Notice of Deficiency for tax year ended December 31, 1997, for JAMES and JACQUELINE PARKER	216	217	
22				
23	35 Certified Copy of IRS Letter 531, Notice of Deficiency for tax year ended December 31, 1998, for JAMES and JACQUELINE PARKER	295	295	
24				
25				08:21:14

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1	36	Certified Copy of Notice of Federal Tax Lien for JAMES and JACQUELINE PARKER dated February 13, 2004	281	281	08:21:14
2					
3	37	Certified Copy of U.S. Tax Court Decision (JAMES and JACQUELINE PARKER 1997) dated May 14, 2003	221	222	
4					
5	38	Certified Copy of U.S. Tax Court Decision (JAMES and JACQUELINE PARKER 1998) dated May 6, 2003	296	296	08:21:14
6					
7	104	Certified Copy of specific pages from the Collections File, Offer in Compromise (Form 656) signed June 18, 2004, for JAMES R. and JACQUELINE R. PARKER including IRS Form 433-B Collection Information Statement for Businesses (OMEGA CONSTRUCTION INC) dated June 18, 2004, and IRS Form 433-A Collection Information Statement for Wage Earners and Self- Employed Individuals dated June 18, 2004	229	229	08:21:14
8					
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13	106	Certified Copy of specific pages from the Collections File, Offer in Compromise (Form 656) signed October 3, 2004, for JAMES R. and JACQUELINE R. PARKER including IRS Form 433-B Collection Information Statement for Businesses (OMEGA CONSTRUCTION INC) dated June 18, 2004, and IRS Form 433-A Collection Information Statement for Wage Earners and Self- Employed Individuals dated June 18, 2004	250	250	08:21:14
14					
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18					
19	110	Certified Copy of Correspondence dated April 4, 2005, from Farley, Robinson & Larsen regarding an Offer in Compromise for JAMES & JACQUELINE PARKER	265	266	08:21:14
20					
21					
22	111	Certified Copy of specific pages from the Collections File, Offer in Compromise (Form 656) signed March 24, 2005, for JAMES R. and JACQUELINE R. PARKER including IRS Form 433-B Collection Information Statement for Businesses (OMEGA CONSTRUCTION INC) dated March 24, 2005, and IRS Form 433-A Collection Information Statement for Wage Earners and	254	255	08:21:14
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24					
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1	Self-Employed Individuals dated March 24, 2005			08:21:14
2				
3	114 Certified Copy of Correspondence from the	268	269	
4	Collection File including Collection			
5	Information Statement for Businesses (Form			08:21:14
6	433-B) signed August 3, 2005, by JAMES			
7	PARKER and Collection Information			
8	Statement for Wage Earners and			
9	Self-Employed Individuals (Form 433-A)			
10	signed August 3, 2005, by JAMES and			08:21:14
11	JACQUELINE PARKER			
12				
13	450 IRS Final Notice dated February 12, 2004	225	225	
14				
15	545 IRS IMFOLT dated May 16, 2012, for the	320	320	
16	Calendar Year 2001 for James and			
17	Jacqueline Parker			
18				
19	546 IRS IMFOLT dated May 16, 2012, for the	335	335	08:21:14
20	Calendar Year 2002 for James and			
21	Jacqueline Parker			

**MISCELLANEOUS NOTATIONS**

15	Item		Page	08:21:14
16	Proceedings outside the presence of the jury		187	

**RECESSES**

19		Page	Line	
20	(Recess at 8:50; resumed at 8:58.)	197	7	08:21:14
21	(Recess at 10:12; resumed at 10:37.)	238	19	
22	(Recess at 11:32; resumed at 11:43.)	269	12	
23	(Recess at 12:07; resumed at 1:25.)	283	25	
24	(Recess at 2:30; resumed at 2:56.)	322	9	
25	(Recess at 3:50; resumed at 4:09.)	352	15	

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A P P E A R A N C E S

08:21:14

1  
2 For the Government:

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5 U.S. Attorney's Office

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08:21:14

6 For the Defendant:

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P R O C E E D I N G S

08:21:13

(Court was called to order by the courtroom deputy.)

(Proceedings begin at 8:35.)

(Jury out.)

THE COURT: Please be seated.

08:35:35

All right. Let me just say this: I think it was a good idea that we had 14 jurors. We lost one this morning, as you know, juror number nine. Another one of the jurors, and we're not sure which number he is, which is probably a good idea, asked if they could discuss the case before the verdict. And he told Christine that it's just only natural, which is what all of the jurors will generally say, particularly over a long period of time.

08:35:55

So I will -- unless there's an objection and you wish for the jurors to discuss the case, then I will inform the jurors that they can not discuss the case until deliberations.

08:36:19

Mr. Perkel, what's your position?

MR. SEXTON: I'll -- we have no objection to having them discuss it as it goes along, but I believe they have an objection to it.

08:36:39

THE COURT: Counsel?

MR. MINNS: Yes, Your Honor. It's possibly my age. I just fear the unknown. I've never done it before. I asked the jury consultant. He recommended that we not do it.

THE COURT: Sure.

08:36:56



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1 MR. SEXTON: He has a matter he would like to bring 08:36:59  
2 to your attention.

3 THE COURT: Okay. We don't have all of the jurors in  
4 any event.

5 Mr. Minns, come on up. 08:37:04

6 MR. MINNS: Thank you.

7 With a very long witness, which we don't consider to  
8 be critical either, the government has said, in line with what  
9 the Court has said, that they do not mind if I have to leave  
10 for a moment, that Ashley would take over seamlessly. We 08:37:26  
11 wouldn't say anything to the jurors, I would step out and if  
12 there's an objection to be made, she would make the objection.  
13 Then I would come back in quickly. I run back and forth.

14 THE COURT: That's fine, no problem.

15 MR. MINNS: I also -- we received the Court's order 08:37:44  
16 last night. I think everybody is grateful. This Court seems  
17 to be working 24 hours a day and sometimes you have to wait --  
18 I've waited a year for an answer to a thing.

19 THE COURT: During a trial?

20 MR. MINNS: Well, I've waited a year for a setting 08:38:03  
21 several times for even a response. I don't think I've ever  
22 waited an hour for a response from this Court and I applaud the  
23 Court.

24 I just want the Court -- to say I greatly appreciate  
25 it. But I don't want to think the Court to think we're not 08:38:22

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1 reading it immediately. There's just two of us right now and 08:38:25  
2 we won't be able to get a response in until after the Thursday  
3 recess. We have read it. We will be working on it.

4 THE COURT: That's fine, Mr. Minns. We have a long  
5 trial. The last issue is of great importance to you and I'm 08:38:43  
6 sure you understand what I've said.

7 So just get the motion in as soon as you can and  
8 we'll ask for expedited response and expedited reply so that we  
9 can move this issue forward.

10 MR. MINNS: And we're going to confer with the 08:39:05  
11 professor. He can't testify but he can still consult. That's  
12 part of it. This is an area that I have -- there's no such  
13 thing in trial where you don't do something you've never done  
14 before. So it's new territory for us, too Your Honor.

15 THE COURT: Okay. 08:39:21

16 MR. MINNS: Thank you.

17 THE COURT: Thank you.

18 MR. SEXTON: For clarification if I may, Judge. We  
19 filed on Monday what the Court asked in the way of a schedule  
20 of witnesses, what our expected direct time is, expected 08:39:30  
21 redirect. I mentioned to counsel that I thought you wanted  
22 them to also estimate for the Court and submit to you a  
23 proposed cross schedule as best that they can estimate at this  
24 time and so --

25 THE COURT: Yeah, I have not seen your request yet. 08:39:49

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1 I'm sure that's somewhere publicly on my desk and that is 08:39:58  
2 correct in terms of cross. And this is in order to ensure that  
3 we stay on schedule. As I mentioned to the jury and to  
4 counsel, I appreciate the fact that you have done everything  
5 that you can to shorten the trial and keep it within limits. 08:40:16

6 So, Mr. Minns, I'm going to also ask of you to, order  
7 you essentially, estimate how much time you're going to take  
8 for cross-examination. And then if you call witnesses and it's  
9 only if it's how much time you're going to take with those  
10 witnesses. 08:40:46

11 MR. MINNS: And I have great respect for Mr. Sexton.  
12 I had a conversation with him this morning on this issue and it  
13 has been my experience, and I probably cross-examined somewhere  
14 in the neighborhood and 50 similar type of witnesses for the  
15 one that is on the stand today. And from my experience, the 08:41:03  
16 government would put them on for about an hour and my cross  
17 would be about 30 minutes.

18 This is an unusual circumstance for me. Mr. Sexton  
19 has said that the witness is likely to take eight hours. I  
20 have no clue what that means for me in terms of 08:41:18  
21 cross-examination on this type of witness. I've never had one.  
22 I'm not complaining about it. I don't know the trial strategy  
23 yet.

24 We have agreed, and we filed this, not to object to  
25 any predicate questions. The only ones that were coming in 08:41:36

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1 for -- usually -- and Mr. Sexton said during lunch we would  
2 visit on this.

08:41:40

3 I am accustomed to agreeing to exhibits coming in  
4 even before the trial starts if we can so that they don't take  
5 any time. Mr. Sexton said he would talk to me about this on  
6 the lunch.

08:41:51

7 The only predicate exhibits, and it's not a predicate  
8 objection, that would slow it down at all is -- and the  
9 Court -- I know how the Court is going to rule because of the  
10 motion in limine. I'm not going to make a long objection.

08:42:07

11 It's going to be short objection, relevance, prejudicial. It  
12 has been -- the Court has indicated it will come in and then  
13 I'm going to ask the Court for limiting instructions. I am  
14 told -- that's the only reason I wouldn't -- that's the only  
15 reason I wouldn't just let all those in, because I have no  
16 objection to the predicate questions.

08:42:24

17 So we're still trying to work and I think Mr. Sexton  
18 is trying to work with us now to expedite that.

19 And I respect this, too. He's putting on a witness.  
20 He couldn't move his mind from that this morning. I respect  
21 that so I did approach for that. I don't have a clue how long  
22 cross is on this. I would expect the direct to be an hour and  
23 the cross would be 30 minutes. If it's an eight-hour direct, I  
24 don't have clue -- I can't make a good-faith representation on  
25 eight-hour cross on a custodian witness -- I mean on an

08:42:43

08:43:03

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1 eight-hour direct. I don't know. 08:43:10

2 THE COURT: On a custodian witness, you anticipate

3 eight hours?

4 MR. SEXTON: Approximately. To go through all of the

5 exhibits, there are probably 50 to 60 exhibits to go through 08:43:17

6 with this witness and present them to the jury. I am

7 anticipating -- that is my best estimate of time.

8 THE COURT: When you say predicate, you mean

9 foundation?

10 MR. MINNS: Yes, Your Honor. 08:43:32

11 THE COURT: So, in your own words, it is what it

12 purports to be?

13 MR. MINNS: Yes, Your Honor.

14 THE COURT: And, secondly, it's not hearsay?

15 MR. MINNS: These are certified government records, 08:43:44

16 so I don't think that the hearsay objection, unless there's

17 something handwritten in it or something over and above the

18 normal government function, I don't think that is a legitimate

19 objection. So I won't be raising either of those two

20 objections unless -- I mean -- 08:43:58

21 THE COURT: I'm sorry to interrupt. Are your

22 objections relevancy?

23 MR. MINNS: Yes.

24 THE COURT: Okay, and prejudice, Your Honor.

25 MR. SEXTON: And the Court had an in-limine motion 08:44:10

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1 and he's mostly talking about the years that we moved in limine 08:44:13  
2 to see these are relevant to show notice and intent and  
3 willfulness. And other years and you've already ruled that  
4 that comes in. So he's simply preserving his record by making  
5 that objection at trial even though you've already ruled 08:44:27  
6 pretrial about that.

7 THE COURT: All right. So you don't need to stand up  
8 unless you feel, as a matter of law, that you have to each  
9 time.

10 As far as I'm concerned, you are perpetuating here, 08:44:45  
11 your objections that have already been made. If you think,  
12 Mr. Minns, that that is not enough, then, of course, you do  
13 what you have to do.

14 My understanding is that once we do this in Court,  
15 you don't have to renew it again. So eight hours but you still 08:45:01  
16 think on those exhibits that you can't tell how much time  
17 you're going to take for cross-examination on the admissibility  
18 of those exhibits or are you talking about testimony?

19 MR. MINNS: Testimony.

20 And this is helpful. It's my understanding -- I get 08:45:29  
21 corrected often by the circuit court. Sometimes I think I'm  
22 right. Sometimes I find out I am. Sometimes I find out I'm  
23 wrong. But I think that I had to make a proffer on the limine  
24 in the courtroom. I think the Court has dealt with that now  
25 and the record completed. 08:45:48

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1 I need instruction, though, that he is not being 08:45:51  
2 charged with this particular conduct; that the government is  
3 offering it for whatever purpose they are offering it for. And  
4 if the Court will give those instructions on the non-years,  
5 then I think I am covered. That is basically what I want. 08:46:07

6 I don't want the jurors, at the end, to convict him  
7 thinking, well, they just said they didn't file a return in  
8 2,000 and whatever. That means he's guilty and the defense  
9 didn't say anything about it.

10 THE COURT: Well, that's -- I've already ruled that 08:46:24  
11 they are admissible so that is in the nature of  
12 cross-examination it seems to me. So you would take up those  
13 exhibits and then you can ask the witness questions that you  
14 think are appropriate on the issue of relevancy.

15 MR. MINNS: I may be wrong, Your Honor, but I think 08:46:41  
16 that if I don't ask the Court for limiting instruction, the  
17 Ninth Circuit may say that I waived the right to the limiting  
18 instruction.

19 THE COURT: Do you have an objection to the limiting  
20 instruction? 08:46:57

21 MR. SEXTON: I don't, Judge. But obviously, your  
22 final instructions talk about the jury is only to consider what  
23 is charged and not the uncharged things from the standpoint --  
24 it's used for some other purpose, for either notice or intent  
25 or willfulness, and it's not to be -- he's not to be convicted 08:47:13

United States District Court

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1 on -- your final destructions cover it but I don't have any  
2 objection if he wishes a limiting instruction. Maybe you can  
3 do it more in an encapsulating way that wouldn't have to have  
4 every time there's a year that we're talking about that you  
5 have to give the same limiting instruction.

08:47:16

08:47:28

6 THE COURT: If you would prefer that I give a  
7 limiting instruction each time, that's fine. Or at the end of  
8 the testimony, if you would prefer, and it may seem to me it's  
9 better organized that for each of those exhibits, and we can  
10 name them, then I can give the instruction you are asking for.

08:47:51

11 MR. MINNS: Can we pull up each of those exhibits?

12 MS. ARNETT: I have some of them.

13 MR. MINNS: We can --

14 MS. ARNETT: I'll have a list of them.

15 MR. MINNS: Ashley is going to make a list. I think  
16 that's a wise decision.

08:48:06

17 I want to be clear, too, because I didn't answer  
18 appropriately the Court's other question and I appreciate it,  
19 the Court's duty to find out scheduling and everything. I am  
20 not laying behind the log on this. I have never seen one of  
21 these for eight hours. Mr. Sexton is a very good attorney. He  
22 has his reasons for doing it and so I objected to the  
23 frivolous -- the protested type questions of that witness. I  
24 do have some questions in cross to ask.

08:48:24

25 I lost the objection. The Court allowed the

08:48:48

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1 questioning of that and I waited quite some time. So that's 08:48:53  
2 the type thing that will add to my cross-examination that I'm,  
3 generally, on a regular income tax evasion case, I'm  
4 unaccustomed to getting. And I'm not questioning his strategy.  
5 I'm wrong. I thought it was irrelevant. The Court has ruled. 08:49:11  
6 I don't go back and argue with the Court on that.

7 But it raises some question. So to the extent that  
8 happens, that's why I think my experience doesn't let me tell  
9 you yet how long my cross will be on this.

10 THE COURT: Well. All right. We're back to the 08:49:29  
11 question that I asked initially. Do the best you can.

12 MR. MINNS: Yes, Your Honor.

13 THE COURT: So let's do that and so I have from the  
14 government what they have indicated will be the timing for  
15 their direction and I anticipate redirect. So, you can, then, 08:49:43  
16 submit your cross. The United States government can't always  
17 anticipate what their redirect is until they know how much time  
18 you're taking in cross. But I expect that the United States  
19 government knows or anticipates what your cross is going to be  
20 so that they would know what the redirect is. 08:50:06

21 Right?

22 MR. SEXTON: We gave our estimate of that and I want  
23 the Court to know we went beyond your order and actually put  
24 on -- for all 29 witnesses, we listed every exhibit that we  
25 intend at this time to move in through those people and so we 08:50:18

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1 went beyond your order and actually listed all of the exhibits  
2 as well so they have a preview for the next month of what is  
3 going to occur.

08:50:21

4 THE COURT: All right. I understand the jury is here  
5 but we'll start in about five minutes.

08:50:32

6 COURTROOM DEPUTY: All rise.

7 (Recess at 8:50; resumed at 8:58.)

8 (Jury enters.)

9 (Court was called to order by the courtroom deputy.)

10 THE COURT: Okay. Please be seated.

08:58:40

11 Ladies and gentlemen, one of our jurors this morning  
12 had an emergency and so we are now 13.

13 The other thing is that someone has asked, which is  
14 not unusual, as to whether or not you can discuss the case  
15 prior to deliberations. And the rule is that, unfortunately,  
16 you cannot, even though it doesn't make much sense sometimes  
17 because it doesn't make much sense in any event. Because you  
18 have a lot of questions and you'll have a lot of things that  
19 you would like to talk about but, unfortunately, the rule is  
20 that you cannot.

08:59:01

08:59:24

21 And as I understand the reason, over 18 years, is  
22 that the deliberations are only supposed to occur after you  
23 have had a full opportunity to hear all of the evidence as it  
24 is presented.

25 And that's why we allow, and have allowed over time,

08:59:51

United States District Court

KRISTY MORGAN - Direct

1 for you to take notes and so that the notes will assist you at  
2 the end. And then you pull them all together and then you  
3 begin your deliberations.

08:59:55

4 Okay. Mr. Sexton?

5 MR. SEXTON: Thank you, Judge.

09:00:07

6 KRISTY MORGAN,  
7 called as a witness herein by the Government, having been  
8 previously duly sworn or affirmed to testify to the truth, was  
9 further examined and testified as follows:

10 **DIRECT EXAMINATION** (Continued)

09:00:09

11 BY MR. SEXTON:

12 Q. Ms. Morgan, yesterday we were kind of going backwards from  
13 your beginnings at the IRS and moving towards what you do  
14 today.

15 So I think we left off roughly -- well, let me just  
16 make sure we can briefly recap. How long were you in what you  
17 refer to as the investigation side of the Internal Revenue  
18 Service?

09:00:20

19 A. Criminal investigations I started in 2002.

20 Q. Okay. And before that you were in what's referred to as  
21 the examination side?

09:00:35

22 A. Correct.

23 Q. How many years did you have in that part of the IRS?

24 A. 18 years.

25 Q. I don't remember how far we had gone precisely with the

09:00:49

United States District Court

KRISTY MORGAN - Direct

1 tasks. I know you were talking about being an investigative 09:00:53  
2 aid fraud detection center person.  
3 A. Yes.  
4 Q. Was that the right term?  
5 A. Yes. It's investigative aid. 09:01:02  
6 Q. Okay. Would you explain what did you in that capacity and  
7 when did you do that for the IRS?  
8 A. Starting in 2002, when I was selected, I would gather  
9 information from returns that were processed or received at the  
10 IRS, compile a package and that would go out to a special agent 09:01:22  
11 in the field for a further investigation to see whether or not  
12 that they could continue looking at the individual or group. I  
13 did that from 2002 until approximately 2008.  
14 In 2008 I was moved to what is an area that is more  
15 support for the field agent once they have decided to pursue 09:01:43  
16 the investigation. I was support for them looking more at tax  
17 returns on that specific case.  
18 In 2010 is when I was selected as the court witness  
19 coordinator.  
20 Q. Let me go back. When you talk about that you prepared 09:02:02  
21 packages that would go out to special agents, is  
22 Ms. Giovannelli a special agent with the Internal Revenue  
23 Service?  
24 A. Yes, she is.  
25 Q. Is a special agent on the civil side or on the criminal 09:02:14

KRISTY MORGAN - Direct

1 side of the Internal Revenue Service? 09:02:16

2 A. Special agents are on the criminal side.

3 Q. So is your work in this capacity one that is used for

4 criminal investigations as opposed to civil investigations?

5 A. That's correct, yes. 09:02:31

6 Q. Now, today you are referred to what is a court witness

7 coordinator?

8 A. Yes.

9 Q. Would you explain what your duties and functions are in

10 that capacity? 09:02:44

11 A. As the court witness, I basically am support to the field

12 agent, the case agent, for getting transcripts and tax returns

13 ready for trial. The agent will send me an order for what is

14 needed. Tax returns, if they have used them through the

15 investigation they will mail them to me, the original returns. 09:03:06

16 If not, then I will order the tax returns needed from the

17 Federal Records Center. I'll make a completed copy of the tax

18 return and type up a paper that identifies what type of

19 document it is. For instance, a 1040, the name of the

20 individual, what year and how many pages are included. 09:03:23

21 That document then goes to another area in our

22 criminal investigations, usually an analyst, to review, make

23 sure it's correct. Then it's signed by the resident agent in

24 charge who is my boss or who he designates. If he is out of

25 the office, he designates someone else to sign the 09:03:45

United States District Court

KRISTY MORGAN - Direct

1 certifications.

09:03:46

2 Q. And from the standpoint of this position you're in now,  
3 are you familiar with the databases that are associated with  
4 the Internal Revenue Service?

5 A. Yes, I am.

09:03:57

6 Q. Why don't you give an overview to the jury of sort of how  
7 the records are kept and how you go about searching for and  
8 finding records that are associated with a particular taxpayer  
9 or a particular tax year?

10 A. The Internal Revenue Service has what they call a master  
11 file. It's the computer that stores all of the data of all tax  
12 returns that are filed, payments, audits, any amended tax  
13 returns are all stored on that database. It's electronically  
14 stored. We can go in and research that based on either a  
15 Social Security number or a business identification number and  
16 come back with a filing history, what is called a transcript of  
17 the activity. And it's usually chronological order of what has  
18 happened for that specific individual for that specific year.

09:04:17

09:04:37

19 It also gives us information where we can order  
20 documents that have been filed, tax returns that have been sent  
21 to the Federal Records Center. That database maintains those  
22 certification numbers so that we can secure the tax returns.

09:05:00

23 Q. The transcript you're talking about, is that a central  
24 document that is within the Internal Revenue Service database?

25 A. Yes. That is the history. That is the main thing that

09:05:22

United States District Court

KRISTY MORGAN - Direct

1 we, as employees, look at when working a case or doing any 09:05:24  
2 research is that transcript.

3 Q. Would it have information about what was done in any  
4 examination process that occurred with the IRS?

5 A. Yes. It stores that, yes. 09:05:37

6 Q. Would it have anything that would pertain to the  
7 collection process that the IRS embarked in on a particular tax  
8 year?

9 A. Yes, it does.

10 Q. Would it have things dealing with -- list the notices and 09:05:49  
11 letters and other correspondence that was sent out to the  
12 taxpayer in that regard?

13 A. The required notices are on that transcript, yes.

14 Q. Would it include any information about appeals and other  
15 tax court matters that would have arisen in that particular tax 09:06:06  
16 year?

17 A. Yes, it does.

18 Q. Does it also list things like offers in compromise by the  
19 taxpayer in order to try to compromise their taxes?

20 A. Yes. It's a full record of the activity on the account. 09:06:24

21 Q. And as a court witness coordinator, are there many of you  
22 in the IRS or few?

23 A. There's few. There's only seven of us.

24 Q. And are you designated for a particular region of the  
25 United States? 09:06:43

United States District Court

KRISTY MORGAN - Direct

1 A. Yes. I work the western United States except for 09:06:43  
2 California and the Detroit area.

3 Q. And have you testified in federal court in this capacity  
4 on more than one occasion?

5 A. Yes. Today I've testified in over 60 trials. 09:07:01

6 Q. And in Arizona, have you testified in front of various  
7 courts in this jurisdiction?

8 A. Yes.

9 Q. Approximately how many times?

10 A. In the last year, three. 09:07:13

11 Q. Would you see -- there's a stack of exhibits in front of  
12 you and they should be in somewhat of an order. Is the top one  
13 Exhibit 11?

14 A. That's correct.

15 Q. Okay. Would you take a look at Exhibit 11 and see if you 09:07:41  
16 recognize that?

17 A. Yes, I do.

18 MR. SEXTON: We would offer Exhibit 11 as a certified  
19 record of 1997 tax year. It's the transcript for that year.

20 MR. MINNS: No objection, Your Honor. 09:08:01

21 THE COURT: It's admitted.

22 (Exhibit Number 11 was admitted into evidence.)

23 MR. SEXTON: May I publish it to the jury, Your  
24 Honor?

25 THE COURT: Yes. 09:08:09

United States District Court



KRISTY MORGAN - Direct

1 MR. SEXTON: Page one, please. Sorry. Page two. 09:08:10  
2 I'm sorry.  
3 One moment, Judge. Sorry about that.  
4 All right. Can you zoom on the top portion for me.  
5 Focus on the top portion for the jury? 09:09:11  
6 BY MR. SEXTON:  
7 Q. All right. We're ready now. At the top, would you read  
8 what that says at the top there as to what this document is  
9 entitled?  
10 A. It's entitled Certificate of Assessments, Payments, and 09:09:42  
11 Other Specified Matters.  
12 Q. Is the shorthand that you use in the IRS for this  
13 particular document the transcript that you were just talking  
14 about?  
15 A. Yes, it is. 09:09:55  
16 Q. And is this associated with a particular tax year?  
17 A. I'm sorry?  
18 Q. Is this transcript for a particular tax year?  
19 A. Yes, it is.  
20 Q. What year is that? 09:10:11  
21 A. 1997.  
22 Q. Is that right there in sort of the middle there that can  
23 be highlighted there the tax period, December --  
24 A. Correct.  
25 Q. And who are the taxpayers associated with this? 09:10:23

United States District Court

KRISTY MORGAN - Direct

1 A. The taxpayers are James R. and Jacqueline Parker. 09:10:25

2 Q. Now, expand out again if you would.

3 Do you see the entry that says 5-30-1998 on the far  
4 left-hand side there?

5 A. Yes. 09:10:47

6 Q. What does that entry reflect?

7 A. It shows that a tax return was filed. The tax assessed of  
8 \$2,089 and, basically, that the return was filed and processed.

9 Q. Would you now look at Exhibit 1 for me? Keep that  
10 transcript handy for you but look at Exhibit 1. 09:11:09

11 Is that the 1997 tax return that was filed by Mr. and  
12 Mrs. Parker in this case?

13 A. Yes, it is.

14 MR. SEXTON: I would offer Exhibit 1 into evidence.

15 MR. MINNS: No objection, Your Honor. 09:11:27

16 THE COURT: It's admitted.

17 (Exhibit Number 1 was admitted into evidence.)

18 MR. SEXTON: Let's put page one of Exhibit 3 on the  
19 screen. Focus on the top half if you would.

20 BY MR. SEXTON: 09:12:14

21 Q. So that entry on the transcript that we just saw, is this  
22 the tax return that is associated with that entry?

23 A. That's correct.

24 Q. And is this for the Parkers for 1997, James and Jacqueline  
25 R. Parker? 09:12:26

United States District Court

KRISTY MORGAN - Direct

1 A. Correct. 09:12:30

2 Q. And at the upper top of it, that says it's a 1997. Is  
3 that how we associate it with the 1997 tax year?

4 A. Yes.

5 Q. And then looking at the dependents on this particular 09:12:44  
6 return, are the two dependents listed there?

7 A. Yes, there are.

8 Q. Who are the two dependents of the Parkers in 1997?

9 A. They list Samuel Parker and James Parker.

10 Q. And now backing out and looking at sort of the bottom half 09:13:02  
11 of this document, what does it reflect as the income that was  
12 reported in 1997?

13 A. The total income on line 22 is \$52,000.

14 Q. And then the adjusted gross income is listed at the very  
15 bottom of that page. 09:13:48

16 A. On line 32 it's \$52,000.

17 Q. And then on the far left corner there you can see  
18 something that is received stamp. Do you see that?

19 A. Yes.

20 Q. What does that indicate? 09:13:57

21 A. That shows the tax return was received in Ogden, Utah, May  
22 30, 1998.

23 Q. Go to page two, if you would, of this document. It's  
24 actually page four, I'm sorry.

25 All right. Is this the second page of the 1040 for 09:14:26

United States District Court

KRISTY MORGAN - Direct

1 1997? 09:14:29

2 A. Yes, it is.

3 Q. Okay. Working down to what is line 38, do you see that?

4 A. Yes.

5 Q. Okay. We'll highlight it and make it a little bit larger. 09:14:38

6 What is the taxable income that is reported for this year?

7 A. The taxable income is \$13,904.

8 Q. And then right below that, what tax was determined by this

9 return to be owed for this year?

10 A. It shows the tax was \$2,089. 09:15:01

11 Q. And then at the bottom of this document, the last half of

12 the document, does this indicate that some amount of money was

13 paid prior to the tax return being filed?

14 A. Yes. It shows \$1900 was paid with Form 4868.

15 Q. And what is Form 4868? 09:15:31

16 A. That is the form that we request an additional time to

17 file, an extension to file.

18 Q. And so what did it leave as the remaining amount owed by

19 the taxpayer for 1997 to be paid?

20 A. The return shows \$189 owed. 09:15:46

21 Q. And then below that is what you called yesterday, is this

22 the jurat that you referred to or the signature section of the

23 return?

24 A. Yes, that's correct.

25 Q. And there are two signatures below that represent the 09:16:02

United States District Court

KRISTY MORGAN - Direct

1 taxpayers in this case? 09:16:04  
2 A. Yes.  
3 Q. And then there's also a box at the very bottom for a paid  
4 preparer and there's a typed version. Who is the paid preparer  
5 that signed this return? 09:16:18  
6 A. The paid preparer is Eugene C. Galant.  
7 Q. Page three. Sorry. Page five. Explain to the jury what  
8 this schedule is for itemized deductions.  
9 A. This is the schedule that you use to report certain  
10 allowable deductions like your mortgage interest, charitable 09:16:53  
11 deductions that you paid to a charity, and it's deducted from  
12 your adjusted gross income to come up with your taxable income.  
13 Q. Now, on this particular Schedule A for 1997, are there  
14 real estate taxes that are deducted on this return?  
15 A. Real estate taxes? There's not. 09:17:14  
16 Q. Line six?  
17 A. Oh, excuse me. There is.  
18 Q. How much is it?  
19 A. Real estate taxes is \$3,308.  
20 Q. And was home mortgage interest deducted on this 1997 09:17:30  
21 return as an itemized deduction?  
22 A. Yes. On line 10 it is the home mortgage interest of  
23 \$9,104.  
24 Q. And then page six. In the middle section, if you would  
25 highlight where it says Cornerstone Resources Trust, all the 09:17:57

United States District Court

KRISTY MORGAN - Direct

1 way down. 09:18:00

2 Okay. Now, is this the section that explains the

3 income on the first page of the 1040A we were looking for just

4 a moment ago?

5 A. Yes. It identifies where the income is coming from. 09:18:13

6 Q. And in this particular case, it refers to how much income

7 and from what source?

8 A. There's \$52,000 of income from Cornerstone Resources

9 Trust.

10 Q. And then page nine of the document, would you explain to 09:18:49

11 the jury when somebody is representing a taxpayer before the

12 IRS, do you just talk to somebody that says, "I'm his

13 accountant, or, "I'm his lawyer," or do you have to have

14 something filed first in order to have, in essence, permission

15 to talk to that person about this person's taxes? 09:19:11

16 A. Yes. You have to have a power of attorney with the IRS

17 before you can talk to anyone regarding their personal

18 information unless it is the taxpayer themselves.

19 Q. So in this particular case, there's a power of attorney on

20 page nine here being filed with the IRS as it pertains to this 09:19:30

21 tax year?

22 A. Correct.

23 Q. And if you could enlarge the first half. Do the first

24 half of it.

25 And who is the power of attorney designated in this 09:19:52

KRISTY MORGAN - Direct

1 particular power of attorney form? 09:19:56

2 A. This shows Martha C. Patrick.

3 Q. On behalf of the taxpayers James and Jacqueline Parker?

4 A. Correct.

5 Q. And then down below it says what matters that she's 09:20:06

6 entitled to speak to. What does it indicate?

7 A. It shows 1997 and 1998 1040s can be discussed with Martha

8 C. Patrick.

9 Q. Page 10. In the middle there, does it indicate the

10 consent of Mr. and Mrs. Parker to that power of appointment? 09:20:39

11 A. It does. It has signatures.

12 Q. And on page 13 is another power of attorney associated

13 with a 1997 return executed?

14 A. There is.

15 Q. Okay. Would you highlight the top half of it, please. 09:21:24

16 So in addition to Martha Patrick, who is now

17 indicated as a person who can speak on behalf of the taxpayer?

18 A. It shows Gregory A. Robinson and Eugene C. Galant can

19 represent or receive information on the 1997 and 1998 Form

20 1040. 09:21:56

21 Q. And that is that information at the bottom of the screen

22 down there?

23 A. Correct.

24 Q. And then the next page, which is page 14, right in the

25 middle, is that the signature of the taxpayer consenting to 09:22:21

KRISTY MORGAN - Direct

1 the -- these two additional powers of attorney being granted? 09:22:27

2 A. Yes, it is.

3 Q. When the IRS and a taxpayer have a difference of opinion  
4 about what should have been on a tax return, would you  
5 summarize for the jury in essence the audit and appeal process 09:23:12  
6 that takes place thereafter?

7 A. If the tax return is selected for audit, which is usually  
8 either by the computer or by someone looking at the tax  
9 document for specific things, the first step would be that a  
10 letter go out informing the taxpayer of an audit, what year, 09:23:33  
11 and ask for books and records to be sent or to set up an  
12 appointment to talk with them about the books and records. The  
13 first letter that goes out will have a proposed amount of tax  
14 owed. It will say that if you agree with this, you can sign it  
15 and mail back the check. If you disagree, there's phone 09:23:55  
16 numbers or an address where you can write to explain your  
17 position as far as the assessment or ask for additional time,  
18 additional information.

19 When it's not agreed upon on the first letter, then a  
20 second letter goes out and it's in certified mail. It's a 09:24:13  
21 letter. It and will actually again have a proposed amount of  
22 tax which you can agree at that time. Also, the letter will  
23 outline if you don't agree, you can ask for an appeal session  
24 with someone. It would be a different office and a different  
25 person to look at the different reports and the books and 09:24:33

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KRISTY MORGAN - Direct

1 records to see if a determination is agreed upon or if it can  
2 be changed, if they can come to resolution.

09:24:37

3 If they choose not to do that, they can also petition  
4 tax court which, in turn, the tax court will make the decision  
5 on the amount of tax and accept or decline what the taxpayer is  
6 proposing.

09:24:51

7 Q. Now, in this particular 1997 return -- in fact, let's  
8 return back to the transcript. Exhibit 11, page two. We  
9 talked about the 5-30-1998 entry, that's Exhibit 1, the tax  
10 return being filed.

09:25:36

11 A. Yes.

12 Q. And then the amounts that are shown there below that, the  
13 1900 and \$189, does that come from the face of that tax return  
14 that we were just reviewing?

15 A. Yes, it is.

09:25:49

16 Q. And then you see on 5-15-2001, the word POA there, do you  
17 see that POA?

18 A. Yes.

19 Q. Is this what we were just talking about, when it comes to  
20 a power of attorney? That's what the POA stands for.

09:26:06

21 A. That shows that that form was filed and it was settlement.

22 Q. And then the next entry, below, below that is additional  
23 tax assessed by examination and some other things down there.  
24 And then it has a date on the opposite side.

25 MR. SEXTON: Where are the arrows coming from?

09:26:37

United States District Court

KRISTY MORGAN - Direct

1 COURTROOM DEPUTY: Are you touching the screen? 09:26:39  
2 MR. SEXTON: Oh, it's my fault. Oh, so it was me.  
3 I'm sorry. All right. Hands behind me.  
4 BY MR. SEXTON:  
5 Q. The 9-30-2002 date, is that associated with that tax -- 09:26:56  
6 additional tax assessed.  
7 A. Yes.  
8 Q. Would you explain that what entry is that is added on  
9 9-30-2002 to the transcript?  
10 A. It's shows an additional tax assessment by exam 09:27:11  
11 collections, it says 90-day letter unagreed, closed to appeals.  
12 So this case they did not agree with the amount of tax. The  
13 taxpayer chose to go to the appeals office and see if they  
14 could come to a conclusion as far as tax owed.  
15 Q. Now, if you look at Exhibit 32. Is that a certified copy 09:27:38  
16 of the income tax examination process?  
17 A. That's correct.  
18 MR. SEXTON: I would offer Exhibit 32 into evidence.  
19 THE COURT: It's admitted.  
20 (Exhibit Number 32 was admitted into evidence.) 09:28:06  
21 BY MR. SEXTON:  
22 Q. Page three of Exhibit 32, please. All right. This one is  
23 hard to read. Let's start at the very -- do the top part there  
24 and I'll go -- you're fine there.  
25 All right. This is for the taxpayer James and 09:28:31

United States District Court

KRISTY MORGAN - Direct

1 Jacqueline Parker? 09:28:33  
2 A. Correct.  
3 Q. And does it indicate that a particular person was  
4 discussed these changes?  
5 A. Excuse me? 09:28:45  
6 Q. Was there a power of attorney representative who was part  
7 of the discussion where it says the person with whom  
8 examination changes were discussed?  
9 A. Yes. The name and title of that is Martha C. Patrick.  
10 Q. Is that the same one that we saw power of attorney was 09:29:06  
11 executed?  
12 A. Yes.  
13 Q. And for Mrs. -- this is called the income tax examination  
14 changes. Is that the name of this document?  
15 A. Yes, it is the proposed amount of tax. 09:29:16  
16 Q. And it's for the 1997 year?  
17 A. Correct.  
18 Q. And it's proposing in D. What's the amount of gross  
19 receipts that it's proposing?  
20 A. It shows the Schedule C gross receipts of \$1,134,889. 09:29:37  
21 Q. And when we say Schedule C, would you explain to a jury  
22 what a Schedule C is in a tax return?  
23 A. That's a form that would be used if you are self-employed.  
24 For instance, if you are a plumber. If you are beautician, you  
25 would enter in your receipts, any income that you may do in the 09:29:59

United States District Court

KRISTY MORGAN - Direct

1 business, take your deductions and you'll come up with the 09:30:04  
2 amount of income that should be reported on the tax return and  
3 then as attached to your 1040 and the amount is also listed on  
4 the front of your 1040 as income.

5 Q. So when we talk about that Schedule A, itemized deduction, 09:30:18  
6 that's an attachment to your first couple of pages your 1040?

7 A. Yes.

8 Q. A Schedule C is just another attachment for a business  
9 that you might have that has income that flows to you  
10 individually? 09:30:35

11 A. Yes.

12 Q. Does this examination changes document also indicate the  
13 amount of expenses that were allowed on Schedule C as well?

14 A. Yes, it does. That is item C.

15 Q. How much is indicated as being allowable expenses in that 09:30:53  
16 business?

17 A. The allowable expenses was \$318,508.

18 Q. So that the net effect, if you look at what's at the very  
19 bottom there, it's number four, what is the corrected taxable  
20 income for 1997? 09:31:20

21 A. The correct taxable income is \$802,387.

22 Q. Now, if we can just sort of now move down from this and  
23 sort of highlight sort of the bottom two-thirds of it from this  
24 point down.

25 MR. SEXTON: Highlight sort of the bottom part from 09:31:47

KRISTY MORGAN - Direct

1 number two down. 09:31:49

2 BY MR. SEXTON:

3 Q. So we just talked about number four at the top there, the  
4 corrected taxable income, and then number five says, now, the  
5 tax on that corrected taxable income is what? 09:32:05

6 A. \$292,056.

7 Q. And then line 10 adds something to that tax amount. What  
8 is that?

9 A. That is the self-employment tax.

10 Q. Explain that to the jury. What is the self-employment tax 09:32:24  
11 that is added to the regular income tax?

12 A. That is when you're self-employed, you are required to  
13 actually pay a self-employment tax and that would be an  
14 additional tax owed above the income tax.

15 Q. So that overall line number 11 is the corrected tax 09:32:45  
16 liability for 1997 is -- what?

17 A. The total corrected tax liability is \$322,244.

18 Q. And in line 12, it reflects what was shown on the filed  
19 tax return by the taxpayer?

20 A. Right. That is the previous amount reported? 09:33:02

21 Q. And then the difference is what?

22 A. The deficiency amount was \$320,155.

23 Q. Now if you would turn to -- open up Exhibit 34. Keep that  
24 transcript available as much as you can on Exhibit 11 but go  
25 ahead and turn to Exhibit 34. Is that a certified copy of 09:33:30

United States District Court

KRISTY MORGAN - Direct

1 notice of deficiency sent to the taxpayer in this case for tax 09:33:48  
2 year 1987?

3 A. That's correct.

4 MR. SEXTON: I would offer Exhibit 34 into evidence.

5 MR. MINNS: No objection, Your Honor. 09:33:57

6 THE COURT: It's admitted.

7 (Exhibit Number 34 was admitted into evidence.)

8 MR. SEXTON: If we could go to page three of that  
9 document. How about the top, down to tax court right in the  
10 middle. Do you see that? Enlarge that if you would. 09:34:16

11 Okay.

12 BY MR. SEXTON:

13 Q. Can you read the date of this on your copy up there, what  
14 the date in the upper left-hand corner is?

15 A. It's May, I believe that's May 28, 2000. 09:34:27

16 Q. One moment. Take a look at the transcript in Exhibit 11  
17 and see if that -- does that tell you a different date that you  
18 can read as to when the notice of deficiency was actually sent  
19 out?

20 A. Not that I'm seeing, no. 09:35:13

21 Q. Okay. We'll come back to that. Back to the notice of  
22 deficiency, Exhibit 33, page three. Wrong exhibit.

23 Exhibit 34, page three. Thanks.

24 Go ahead and highlight the top again.

25 What is the tax year that is associated with this 09:35:48

KRISTY MORGAN - Direct

1 notice of deficiency? 09:35:50

2 A. This is showing the tax year ending December 31, 1997.

3 Q. And what is the deficiency that is in this notice?

4 A. It shows an increase of tax of \$320,155.

5 Q. Is that the same tax number we just have been looking at 09:36:05

6 in Exhibit 32?

7 A. Yes.

8 Q. And then below that there are penalties of how much?

9 A. \$64,031.

10 Q. Explain to the jury in what situations penalties are 09:36:19

11 assessed by the IRS when returns are -- have incorrect

12 information on them.

13 A. They can be subject to a failure to pay file. There's

14 also a penalty for not paying enough and there can also be

15 penalties for late filing. 09:36:39

16 Q. And looking at this, by looking at the IRS 6662 -- or is

17 that 5662?

18 A. It's a 6662.

19 Q. Can you tell what type of penalty was assessed?

20 A. This is a failure to pay and the fact that there wasn't 09:36:56

21 enough money paid by a certain date.

22 Q. And then the second paragraph after the taxpayer, second

23 paragraph, would you read the first full line?

24 A. Again beginning with "If you"?

25 Q. Yes. 09:37:17

United States District Court

KRISTY MORGAN - Direct

- 1 A. "If you want to contest this determination in court before 09:37:17  
2 making any payment, you have 90 days from the date of this  
3 letter (150 if the letter is addressed to you outside the  
4 United States) to file a petition with the United States Tax  
5 Court for a redetermination of the deficiency." 09:37:33
- 6 Q. The name of this document is a Notice of Deficiency right  
7 above Dear Taxpayer?
- 8 A. Yes.
- 9 Q. Do you sometimes call this a 90-day letter because of the  
10 time frame? 09:37:48
- 11 A. Yes, we do.
- 12 Q. Page four of Exhibit 34. Focus on the upper part if you  
13 would.
- 14 Would you read the first paragraph at the top of page  
15 two of this document? 09:38:17
- 16 A. "As required by law, separate notices are sent to husbands  
17 and wives. If this letter is addressed to both husband and  
18 wife, and both want to petition the Tax Court, both must sign  
19 and file the petition or each must file a separate petition.  
20 If more than one tax year is shown above, you may file one 09:38:34  
21 petition form showing all of the years you are contesting."
- 22 Q. And a notice of deficiency is -- that went by regular mail  
23 or something more personal?
- 24 A. That is required to be sent certified.
- 25 Q. To them as a couple or individually to both taxpayers? 09:38:58

United States District Court



KRISTY MORGAN - Direct

- 1 A. To both taxpayers. 09:39:01
- 2 Q. Now, if you go back to Exhibit 1, page 17.
- 3 Explain what this document is.
- 4 A. This is the internal document that -- actually, the
- 5 assessment document. This is the amount of tax and penalties 09:39:49
- 6 that were agreed upon and assessed on this taxpayer.
- 7 Q. Now, if we go to the numbers on the far left, let's
- 8 highlight the middle section of this starting with -- is this
- 9 for the 1997 tax year?
- 10 A. That's correct. 09:40:24
- 11 Q. And the audit, tax audit, the amount 320,155, that's the
- 12 number that we've seen on the last few documents we've looked
- 13 at?
- 14 A. Yes.
- 15 Q. And then there's a reference code, too, and it has the 09:40:33
- 16 \$64,000. What is that for that?
- 17 A. Is input by the clerk processing this document and
- 18 identifies the type of penalty and how much.
- 19 Q. And does it indicates in line 17 the amount of interest
- 20 that has been accruing on that obligation? 09:40:51
- 21 A. Yes. It shows interest of \$169,375.09.
- 22 Q. And that was the interest, as of what date?
- 23 A. That was as of June 13, 2003.
- 24 Q. Now, if you would go back to Exhibit 11, page two. At the
- 25 top of page two is indicated the numbers that we've looked at 09:41:35

United States District Court

KRISTY MORGAN - Direct

1 already regarding adjusted -- after the audit, the adjusted 09:41:43  
2 gross income and the taxable gross income and self-employment  
3 tax. Those are all things that the transcript has pulled from  
4 those earlier documents we were looking at?  
5 A. Yes. The transcript would be updated based on that 09:41:54  
6 information.  
7 Q. And then on page three, do you see the 6-23-2003 entry  
8 there?  
9 A. Yes.  
10 Q. Is that all of the information that we were just looking 09:42:16  
11 at as far as the tax, penalty and interest as of 6-23-2003?  
12 A. Correct.  
13 Q. Now, back to page two on this transcript, Exhibit 11. Do  
14 you see the entry down there that says 10-21-2002?  
15 A. Yes. 09:42:49  
16 Q. What does that say?  
17 A. It shows legal suit pending.  
18 Q. What does that mean?  
19 A. That shows that the taxpayer has petitioned the tax court.  
20 Q. Would you look at Exhibit 37 in front of you? 09:43:10  
21 MR. SEXTON: We would offer that as a certified  
22 record of the tax court judgment in this case for 1997.  
23 MR. MINNS: I'm sorry. No objection, Your Honor.  
24 THE COURT: It's admitted.  
25 (Exhibit Number 37 was admitted into evidence.) 09:43:43

United States District Court

KRISTY MORGAN - Direct

1 MR. SEXTON: Page two of the judgment, if you would. 09:43:45  
2 Highlight at the top above the judge's signature.  
3 BY MR. SEXTON:  
4 Q. Who are the petitioners in this particular tax court?  
5 A. James R. and Jacqueline Parker. 09:44:03  
6 Q. And then read the first line under the word "decision"?  
7 A. "Pursuant to agreement of the parties in this case, it  
8 is" --  
9 Q. Keep going. Read the whole thing.  
10 A. -- "it is ordered and decided: That there are a 09:44:19  
11 deficiency in income tax and penalty due from the petitioners  
12 as follows:"  
13 Q. And then it lists the tax year as being 1997?  
14 A. Correct.  
15 Q. And is the deficiency and penalty the same numbers that we 09:44:33  
16 were discussing in the other documents?  
17 A. Yes, it is.  
18 Q. And then just below that, if you go back to that, signed  
19 by a judge right below that?  
20 A. Yes, it is. 09:44:47  
21 Q. And what's the date that this decision or judgment is  
22 entered?  
23 A. It's May 14, 2003.  
24 Q. And the next line below that, it begins and it flows on to  
25 the next page, would you read what it says at the bottom of 09:45:08

United States District Court

KRISTY MORGAN - Direct

1 this document? 09:45:10

2 A. "It is hereby stipulated that the Court may enter the  
3 foregoing decision in this case.

4 "It is further stipulated" --

5 Q. Hold up. Let me get the next page on the screen, page 09:45:22  
6 three, so you can read it at the top.

7 A. "It is further stipulated that interest will be assessed  
8 as provided by law on deficiency and penalty due from the  
9 petitioners."

10 Q. And the next paragraph. 09:45:39

11 A. "It is further stipulated that, effective upon the entry  
12 of this decision by the Court, the petitioners waive the  
13 restrictions contained in I.R.C., Section 6213(a) prohibiting  
14 assessment and collection of the deficiency and penalty plus  
15 statutory interest until the decision of the Tax Court becomes 09:46:05  
16 final."

17 Q. And then the signature line, who was representing the  
18 Parkers in this case?

19 A. Henry W. Tom.

20 Q. And when did he sign this document? 09:46:17

21 A. April 24, 2003.

22 Q. Let's go back to Exhibit 11, page four. Do you see where  
23 it says 3-10-2004, kind of a third of the way down in the  
24 entries.

25 A. Yes. 09:47:08

United States District Court

KRISTY MORGAN - Direct

1 Q. It says "legal suit pending." 09:47:08

2 A. Correct.

3 Q. And then it says a couple entries down after that,

4 7-21-2004, "legal suit no longer pending"?

5 A. Correct. 09:47:23

6 Q. Are those two entries associated with the tax court

7 judgment finality that you were just talking about?

8 A. Yes, it is.

9 MR. SEXTON: Go back to page three on Exhibit 11.

10 BY MR. SEXTON: 09:48:06

11 Q. There are some entries on 2-12-2004, do you see those?

12 Intent to levy collection, do you see those two?

13 A. Yes.

14 Q. Would you explain to the jury what an intent to levy

15 collection is? 09:48:17

16 A. On this situation, the notice goes out to the taxpayer

17 once the tax is agreed on and it's sent, a notice of intent to

18 levy collection due process notice is sent. That gives the

19 taxpayer an option to work out the amount owed if they choose

20 to through a collection process hearing. 09:48:33

21 Q. There's three lines in each one of these entries. Is it

22 one thing or three separate things?

23 A. It would identify that the collection due process notice

24 was issued and it would show that it goes to the husband and

25 the wife. 09:48:52

KRISTY MORGAN - Direct

1 Q. Would you look at Exhibit 450, please. Is this the notice 09:48:58  
2 that was reflected on the transcript?  
3 A. This is the notice of intent to levy, yes.  
4 Q. This is a certified copy. We would of.  
5 MR. SEXTON: We would move Exhibit 450 into evidence. 09:49:27  
6 MR. MINNS: No objection, Your Honor.  
7 THE COURT: And it's admitted.  
8 (Exhibit Number 450 was admitted into evidence.)  
9 BY MR. SEXTON:  
10 Q. Page three of Exhibit 450, if you could put that on the 09:49:32  
11 screen for me. Let's focus on the top two-thirds. Can you  
12 read that?  
13 First off, in the upper left-hand corner, how does it  
14 indicate the mailing was done?  
15 A. It's done by certified mail, return receipt requested. 09:50:02  
16 Q. And what's the date of the letter on the right-hand side?  
17 A. The letter is February 12, 2004.  
18 Q. And who is the contact person to -- for them to talk to  
19 anybody about?  
20 A. The IRS contact is Paul Wedepohl. 09:50:16  
21 Q. And what was the address used to send to the Parkers?  
22 A. It was a P.O. Box 5722 in Carefree, Arizona.  
23 Q. And read the heading of the document.  
24 A. The heading is: "Final Notice, notice of intent to levy  
25 and notice of your right to a hearing. Please respond 09:50:37

United States District Court

KRISTY MORGAN - Direct

1 immediately." 09:50:40

2 Q. And if you would read the first full paragraph.

3 A. "Your federal tax is still not paid. We previously asked

4 you to pay this, but we still haven't received your payment.

5 This letter is your notice of our intent to levy under Internal 09:50:54

6 Revenue Code, (IRC), Section 6333 and your right to receive

7 Appeals consideration under IRC Section 6330."

8 Q. And then skip the next paragraph and read the first

9 sentence in the third paragraph.

10 A. "If you don't pay the amount you owe, make alternative 09:51:16

11 arrangements to pay, or request Appeals consideration within 30

12 days from the date of this letter, we may take your property,

13 or rights to property, such as real estate, automobiles,

14 business assets, bank accounts, wages, commissions, and other

15 income." 09:51:33

16 Q. Let's go to page four of this document, the second page

17 but page four of the exhibit. Highlight the signature line and

18 the chart right below it if you would.

19 What is being included in this particular notice to

20 the taxpayer, what tax years? 09:52:07

21 A. This shows the tax periods ending December 31, 1997, '98,

22 2001 and 2002.

23 Q. We've only talked so far about the 1997. What does it

24 show as the unpaid amount from prior notices in the next column

25 over for 1997? 09:52:28

United States District Court

KRISTY MORGAN - Direct

1 A. For 1997, \$553,561.09. 09:52:30

2 Q. And then ultimately there's a penalty and interest coming  
3 to a grand total for what for 1997.

4 A. The amount owed is \$602,390.84.

5 Q. And we'll talk about '98 and 2001 and 2002 in a few 09:52:52  
6 minutes. But what is the total that is on this notice that is  
7 being sent to them?

8 A. The total is \$1,883,030.86.

9 Q. And then on the next two pages, pages five and six, are  
10 those the certified mailing return receipts associated with 09:53:13  
11 this notice?

12 A. That's correct.

13 Q. And then after that, on page seven of this document, is it  
14 also something that was sent to the CPA, Timothy Liggett?

15 A. Yes. It was sent to the power of attorney. 09:53:42

16 Q. By certified mail as well?

17 A. Correct.

18 Q. Back to Exhibit 11, page three. We just went through the  
19 intent to levy collection on 2-12-2004, those entries there.

20 A. Yes. 09:54:28

21 Q. Then right below that there's an entry 2-20-2004, do you  
22 see that?

23 A. I do.

24 Q. What does it say?

25 A. It says a federal tax lien. 09:54:36

United States District Court



KRISTY MORGAN - Direct

1 Q. Would you explain to the jury what a federal tax lien is? 09:54:38  
2 A. Once the balance has not been paid and the notices have  
3 gone out, then a federal tax lien is placed on the taxpayer's  
4 income, property, bank accounts. This document said that was  
5 done. 09:54:54  
6 Q. Let's go to page four. We've already talked about the  
7 legal suit pending and the legal suit no longer pending but in  
8 between there there's an entry on 7-30-2004, what is that?  
9 A. It shows an offer in compromise was received.  
10 Q. Explain to the jury what an offer in compromise is used 09:55:35  
11 for.  
12 A. When there's an amount owed and the taxpayer is trying to  
13 settle the amount, they have the option to file an offer in  
14 compromise and make a payment of a percentage of the amount of  
15 tax owed. Based on that, the IRS makes the decision whether to 09:55:49  
16 accept that or it's rejected.  
17 Q. What kinds of things need to be reported to the IRS in  
18 order for them to make an assessment of whether they should  
19 accept an offer in compromise?  
20 A. The paperwork would show your assets, your income, 09:56:03  
21 properties that are owned, other debts, what your utilities are  
22 for the month and rent, house payments, basically, your  
23 financial information.  
24 Q. When an offer in compromise filed, does that have any  
25 effect on the collection process that was started? 09:56:29

United States District Court

KRISTY MORGAN - Direct

1 A. It does have an effect on the collection process. The 09:56:32  
2 notices are then stopped. Because of the offer, the IRS thinks  
3 that the taxpayer is going to come in and settle the tax debt.  
4 So the notices will cease until the offer is complete.  
5 Q. In other words, does the collection side stand down until 09:56:48  
6 the offer is evaluated?  
7 A. Yes.  
8 Q. Exhibit 104, if you would turn to that.  
9 MR. MINNS: No objection.  
10 MR. SEXTON: I will offer Exhibit 104 into evidence. 09:57:11  
11 THE COURT: It's admitted.  
12 (Exhibit Number 104 was admitted into evidence.)  
13 BY MR. SEXTON:  
14 Q. Is this the offer in compromise we were just talking about  
15 for 1997? 09:57:29  
16 A. Yes, it is.  
17 Q. Let's go to page -- let's just go to page three. We'll go  
18 page by page. Page three. Let's start with this one. Start  
19 at the top if you would. Who does it indicate the taxpayer is?  
20 A. James R. Parker and Jacqueline R. Parker. 09:57:51  
21 Q. And then, actually, let's make it -- let's take the  
22 middle -- clearly that would be the best part, from below their  
23 IDs down to -- that's good. Thanks.  
24 Okay. Let's start on the left-hand side where you  
25 see that item five. 09:58:18

United States District Court

KRISTY MORGAN - Direct

1 A. Yes. 09:58:22

2 Q. Does it indicate what tax years the taxpayer is seeking to

3 cover?

4 A. Yes. It lists the 1997, '98, 2001, 2002, 2003 tax years.

5 Q. And we're talking about their 1040 individual returns? 09:58:33

6 A. That's correct.

7 Q. And then item six in the upper part there, what does it

8 indicate as being the -- they are submitting this offer -- for

9 what reason do they check the box?

10 A. The box is checked as doubt as to collectability. 09:58:52

11 Q. Read what it says after that entry.

12 A. It states, "I have insufficient assets and income to pay

13 the full amount."

14 It also states, "You must include a complete

15 collection information statement, Form 433-A and/or Form 09:59:10

16 433-B."

17 Q. And right above that as available is what kind of box?

18 A. The first box is a doubt as to liability.

19 Q. And read what that option was.

20 A. That states, "I do not believe I owe this amount." And 09:59:29

21 then it states, "You must include a detailed explanation as to

22 the reasons why you believe you do not owe the tax."

23 Q. So as to these tax years, it is only indicated that

24 there's a doubt as to collectability as opposed to liability?

25 A. Correct. 09:59:48

United States District Court

KRISTY MORGAN - Direct

1 Q. What is the amount in item seven that they are offering to 09:59:54  
2 pay to settle those five tax years?  
3 A. The offer to pay to settle the debt is \$130,000.  
4 Q. And how do they propose, just below that, to pay it?  
5 A. It's a cash offer. 10:00:07  
6 Q. And how many days do they need in order to make that  
7 happen?  
8 A. They are asking for 90 days.  
9 Q. And this form itself at the top, they just referred to  
10 this 433-A form and 433-B which we'll talk about in a few 10:00:26  
11 seconds. This form here, offer in compromise, does it have an  
12 IRS designation as well?  
13 A. Yes. It's a Form 656.  
14 Q. So now go to the second page -- excuse me, page 4 of this  
15 offer. 10:00:46  
16 MR. SEXTON: Highlight this section (d) in the  
17 left-hand side there.  
18 Q. Do you see section (d) over there. Could you read the  
19 first full line in that, in this offer in compromise?  
20 A. "I/we will comply with all provisions of the Internal 10:01:13  
21 Revenue Code relating to filing my/our returns and paying  
22 my/our required taxes for 5 years or until the offered amount  
23 is paid in full, whichever is longer."  
24 Q. And then page five, what is the next page of this  
25 document? 10:01:33

United States District Court

KRISTY MORGAN - Direct

- 1 MR. SEXTON: It's paragraph (1) on the left-hand 10:01:47  
2 side. Actually, let's enlarge it. Would you read what it says  
3 in that paragraph (1) right there.
- 4 A. "Once the IRS accepts the offer in writing, I/we have no  
5 right to contest, in court or otherwise, the amount of the tax 10:02:08  
6 liability."
- 7 Q. And then page six of this offer.
- 8 MR. SEXTON: At the very top. Could you highlight  
9 this section below item 9?
- 10 Q. Would you read the first the first sentence in the note 10:02:28  
11 where it says there, it says "note:" Would you read that to  
12 the jury.
- 13 A. "If you are requesting compromise based on doubt as to  
14 liability, explain why you don't believe you owe the tax."
- 15 Q. Is there anything indicated below that in this section at 10:02:45  
16 all?
- 17 A. No, there's no entry.
- 18 Q. And then item 10 down below is the source of funds. Let's  
19 highlight that. Would you read what it says there?
- 20 A. Item 10, Source of Funds, states, "I/we shall obtain the 10:03:05  
21 funds to make this offer from the following sources: Borrow  
22 from friends and bank."
- 23 Q. And then back to the full document. Is it signed by Mr.  
24 and Mrs. Parker?
- 25 A. Yes. It's signed under penalty of perjury. 10:03:22

United States District Court

KRISTY MORGAN - Direct

1 Q. And what's the date at the bottom there? 10:03:25

2 A. The signature date is 6-18-04.

3 Q. And if you would, would you read the penalty of percentage  
4 provision?

5 A. "Under penalties of perjury, I declare that I have 10:03:36  
6 examined this offer, including accompanying schedules and  
7 statements, and to the best of my knowledge and belief, it is  
8 true, correct and complete."

9 Q. Now let's go to page seven. In the upper left-hand  
10 corner, is this the 433-B form that was asked for in the first 10:04:00  
11 document, the form 656 that says "Please Accompany"?

12 A. Yes, it is.

13 Q. So, now, what is the purpose of this Form 433-B? Why does  
14 the IRS want this information?

15 A. This is the supporting documents for the collection for 10:04:19  
16 the offer in compromise and it's going to show the assets and  
17 liabilities.

18 Q. For the individual or any businesses?

19 A. This is for the businesses.

20 Q. And so back to the full page. Let's start with section 10:04:32  
21 one over there. What is indicated as the business in this  
22 particular section?

23 A. The business name is Omega Construction, Incorporated.

24 Q. And what is the business address?

25 A. The business address is P.O. Box 5722. 10:05:00

United States District Court

KRISTY MORGAN - Direct

1 Q. Is that the same P.O. Box that we have been using for the 10:05:06  
2 notices that have been sent to the Parkers in 1997?  
3 A. That's correct.  
4 Q. What does it say as the type of business in line 2(c) down  
5 there? 10:05:21  
6 A. It shows a real estate and construction business.  
7 Q. And who does it say is the contact person in the upper  
8 right-hand side?  
9 A. James Parker.  
10 Q. Now, pulling back from it, let's go to section two, the 10:05:34  
11 paragraph five for this business, who does it indicate is the  
12 officer or shareholder?  
13 A. James Parker, president.  
14 Q. Anybody else listed?  
15 A. No. 10:05:57  
16 Q. And then section three, what's it say just under the word  
17 section three over there as to what this section is supposed to  
18 be capturing?  
19 A. Accounts/notes receivable.  
20 Q. And what does it indicate as a note receivable or account 10:06:17  
21 receivable for this Omega Construction?  
22 A. It shows a business called Sunlight Financial. The amount  
23 is \$296,000.  
24 Q. And what does it indicate is the due date for that debt?  
25 A. February 2009. 10:06:36

United States District Court

KRISTY MORGAN - Direct

1 Q. Go to page eight. This is this next page of the 433-B so 10:06:42  
2 we're still talking about Omega Construction and liabilities  
3 and assets?

4 A. Correct.

5 Q. Let's look at the section entitled roughly number nine 10:07:01  
6 right in the middle there, the last half of the document.

7 The first section there talks about any purchased or  
8 leased automobiles associated with this business. Are there  
9 any indicated?

10 A. No. 10:07:26

11 Q. Going to the next page, page nine, up to the top, any real  
12 estate associated with Omega Construction?

13 A. No.

14 Q. Next section is called Business Assets. Let's enlarge it.  
15 For section 11, does it indicate as any machinery or equipment 10:08:00  
16 or merchandise or any other assets whatsoever?

17 A. It states none.

18 Q. And then the last section on page nine is investments.  
19 What does it indicate on the investments of Omega Construction?

20 A. It shows none. 10:08:21

21 Q. The next page, page 10, top part is bank accounts for  
22 Omega Construction.

23 A. Correct.

24 Q. Does it indicate a checking account?

25 A. It shows a checking account at Harris Bank. 10:08:41

United States District Court



KRISTY MORGAN - Direct

1 Q. And does it indicate a balance? 10:08:45  
2 A. It shows a balance of \$3,414.  
3 Q. And are there any other bank accounts of any sort listed  
4 other than this one account at Harris Bank?  
5 A. No. 10:08:59  
6 Q. And then go to section 14. Any other accounts of any sort  
7 anywhere that are indicated as any other accounts anywhere  
8 else?  
9 A. It's listed none.  
10 Q. And right below that is cash on hand, what does it 10:09:24  
11 indicate for that?  
12 A. None.  
13 Q. Right below that is available credit for Omega. What does  
14 it indicate for that?  
15 A. None. 10:09:33  
16 Q. The page 11, a whole page is dedicated to accounts  
17 receivable. Does it indicate that Omega Construction is owed  
18 any money by anybody?  
19 A. It has no entry on this page.  
20 Q. Page 12. And the very top portion of page 12, it's 10:10:02  
21 indicating sort of a period of time that they are reporting for  
22 Omega. Can you read what it says handwritten in there?  
23 A. The period is January '01 to 5-31-04.  
24 Q. So we're talking roughly three and a half years?  
25 A. Correct. 10:10:25

United States District Court

KRISTY MORGAN - Direct

1 Q. Now, just below that is the income and expenses. What is 10:10:28  
2 it indicating is the income for Omega for the last three and a  
3 half years?

4 A. Zero.

5 Q. And then it indicates -- and by the way, when it talks 10:10:48  
6 about income, it's talking about any monthly income above that.  
7 Do you see that?

8 A. Yes.

9 Q. So this is what they are asking for is what's the gross 10:11:03  
10 monthly income for Omega in this particular case for the last  
11 three and a half years?

12 A. Correct.

13 Q. And then it has expenses over on the right-hand side.  
14 What does it indicate are the expenses of Omega?

15 A. On line 31 it shows supplies of \$160 and 32, utilities or 10:11:17  
16 telephone, \$600.

17 Q. So total expenses of approximately \$760?

18 A. Yes.

19 Q. And then at the bottom of this page is the signature  
20 section. 10:11:43

21 A. Right.

22 Q. Right above the signature, would you read the  
23 certification to the jury?

24 A. The certification states, "Under penalties of perjury, I  
25 declare that, to the best of my knowledge and belief, this 10:11:51

KRISTY MORGAN - Direct

1 statement of assets, liabilities and other information is true, 10:11:55  
2 correct and complete."

3 Q. And then it has a signature of James Parker?

4 A. Correct.

5 Q. And indicating he is what? 10:12:03

6 A. The president.

7 Q. And what is the date this was signed?

8 A. June 18, 2004.

9 Q. Now, page 13, is this that other form, the 433-A, which is  
10 now a collection of data as it would pertain to individuals as 10:12:22  
11 opposed to the individual's businesses?

12 A. Correct.

13 Q. So let's start at the top --

14 THE COURT: We're going to take a break here for 20  
15 minutes about. 10:12:35

16 All right. We're in recess.

17 COURTROOM DEPUTY: All rise.

18 (Jury departs.)

19 (Recess at 10:12; resumed at 10:37.)

20 (Jury enters.) 10:37:38

21 THE COURT: Please be seated.

22 All right. Ladies and gentlemen, there are a number  
23 of -- there is an instruction that pertains to a number of  
24 exhibits and this is on behalf of the defendant. And they are  
25 Exhibits 13, 14, 17, 6, 18, 7, 19, 8, 20, 9, 21, 10, 22, 23, 10:37:52

United States District Court

KRISTY MORGAN - Direct

1 207, 210, 24, 25, 208, 209, 26, 27, 28, 29, and 30. With 10:38:20  
2 respect to all of those exhibits, which I understand that the  
3 defendant and Mr. Minns are not going to object or they made an  
4 objection and I overruled the objection except -- so they will  
5 be admitted, but with this stipulation: Those exhibits are not 10:39:03  
6 exhibits that you are to take as proof that the defendant has  
7 committed another crime other than what is alleged in the  
8 indictment, meaning he's only been alleged to have committed  
9 certain crimes, certain number of crimes in the indictment, and  
10 these may relate only to whether or not he committed the crimes 10:39:40  
11 that are alleged in the indictment. They are not to be  
12 considered by you as other crimes. They are only to be  
13 considered by you if, in fact, you determine that they relate  
14 to the crimes for which he has been charged.

15 All right. Mr. Sexton? 10:40:10

16 BY MR. SEXTON:

17 Q. Before we go to page 13 where we left off, let me make  
18 sure -- I sometimes assume a greater level of understanding.  
19 An individual tax return is what number designation by the IRS?

20 A. An individual is the Form 1040. 10:40:30

21 Q. And then we talked a little bit about sometimes there are  
22 schedules that are attached to that, like the Schedule A for  
23 itemized deductions and the Schedule C for a business that is  
24 associated with the individual that isn't a formal corporation?

25 A. Correct. 10:40:48

United States District Court

KRISTY MORGAN - Direct

- 1 Q. And then corporations, do they have filing requirements? 10:40:54
- 2 A. They do.
- 3 Q. What is the designation number for a corporation for  
4 filing?
- 5 A. It can be a form 1120 or 1120-S. 10:40:59
- 6 Q. And do partnerships have filing requirements as well?
- 7 A. Yes, they do.
- 8 Q. What is the numeric designation for partnership filings?
- 9 A. That would be a Form 1065.
- 10 Q. Do trusts have filing requirements? 10:41:16
- 11 A. Yes, they do.
- 12 Q. Is there a designation for a trust?
- 13 A. Yes. The Form 1041.
- 14 Q. Now, back to page 13 of Exhibit 104. If we could pull out  
15 of what the screen shows. This document is now the companion 10:41:43  
16 that deals with the assets and liabilities of the individual  
17 taxpayers as opposed to the business that we just talked about?
- 18 A. That's correct.
- 19 Q. Now, the top, Section 1 here, indicates that the taxpayer  
20 says James and Jacqueline Parker. 10:42:06
- 21 A. Correct.
- 22 Q. What is the address -- can you make out the address there  
23 or at least the digits of it?
- 24 A. 35802 North --
- 25 Q. And you may not be able to tell. What is the city that it 10:42:22

United States District Court

KRISTY MORGAN - Direct

1 is designated? 10:42:24

2 A. Out of Carefree, Arizona.

3 Q. And then there's an indication below how long the person

4 has been in that location. How long does it indicate?

5 A. Six years. 10:42:31

6 Q. And then in line five there, does it indicate whether

7 somebody owns or rents or does something else?

8 A. This shows that the home is a rent.

9 Q. And then in Section 2, it says under section two, what is

10 it asking for? 10:43:01

11 A. It is showing your business income information.

12 Q. And what does it indicate in this particular section that

13 was filled out?

14 A. It shows Omega Construction is the business.

15 Q. Is that the one we just went through with the prior form? 10:43:16

16 A. Yes.

17 Q. And then Section 3, is this employment information?

18 A. That's correct.

19 Q. So it's not that good of a copy here. What does it say is

20 the employer here again? 10:43:36

21 A. It's Omega Construction.

22 Q. And what is the address again? Is it the 35802 again?

23 A. Yes, it is.

24 Q. And what does it indicate is the occupation?

25 A. The occupation is real estate and construction. 10:43:49

United States District Court

KRISTY MORGAN - Direct

1 Q. And then Section 4, the last section on this page, what is 10:44:03  
2 this Section 4 entitled?  
3 A. It's for other income information.  
4 Q. And what does it indicate for any other income?  
5 A. Not applicable. 10:44:22  
6 Q. Page 14, first start with Section 11. Does it indicate  
7 that the Parkers have a checking account?  
8 A. No.  
9 Q. Next Section 12 and would you read -- actually, pull up to  
10 the very top of Section 12 and catch what it's asking for. 10:44:57  
11 Would you read what Section 12 is asking for?  
12 A. It states other accounts. "List all accounts, including  
13 brokerage, savings and money market, not listed on line 11."  
14 Q. And what's indicated for this section by the taxpayer?  
15 A. Shows not applicable. 10:45:21  
16 Q. Section 13, read what is required to be answered as  
17 applied in this section?  
18 A. Section 13, investments. "List all investment assets  
19 below. Include stocks, bonds, mutual funds, stock options,  
20 certificates of deposit, and retirement assets such as IRAs, 10:45:45  
21 key 83, and 401(k) plans."  
22 Q. And what is indicated in response to this section?  
23 A. It's not applicable.  
24 Q. The next section is Section 14, cash on hand. They can  
25 probably read that without highlighting it. What does it say 10:46:06

United States District Court

KRISTY MORGAN - Direct

1 the cash on hand in Section 14? 10:46:09

2 A. \$2,900.

3 Q. And then highlight this last section which is Section 15

4 which is available credit. How many different credit items --

5 first off, what does it mean by available credit up there? 10:46:25

6 What is it asking for?

7 A. It's listing money that you have -- excuse me, it lists

8 lines of credit including credit cards.

9 Q. And are there three cards listed?

10 A. Correct. 10:46:40

11 Q. Capital One, Bank of America, and American Express?

12 A. Correct.

13 Q. And as to the America Express, it seems to indicate that

14 it has a credit limit that has been max'd out?

15 A. Right. 10:46:58

16 Q. And then there are smaller balances on the other two

17 accounts?

18 A. That's correct.

19 Q. The next page, page 15, first off, without highlighting

20 it, the first section is life insurance. Does it have any 10:47:22

21 indication that there's life insurance?

22 A. It says no.

23 Q. The next section is Section 17, other information.

24 A. Correct.

25 Q. Okay. There's a 17(b) there. It says, "Are there any 10:47:33

United States District Court



KRISTY MORGAN - Direct

1 judgments against you?" Do you see that? 10:47:38  
2 A. I do.  
3 Q. And then it indicates a judgment date. Do you read that?  
4 A. The date is 2/04.  
5 Q. And does it indicate in sort of a cut-off fashion what the 10:47:48  
6 amount of the debt is?  
7 A. Yes, it does.  
8 Q. What is the different digits that you can see?  
9 A. One million, 740.  
10 Q. Comma eight blank, blank? 10:48:00  
11 A. Yeah.  
12 Q. And then 17(e) on that same page, there's a question right  
13 in the middle there of 17.  
14 Do you see 17(e) there?  
15 A. I do. 10:48:28  
16 Q. Would you read what it says there?  
17 A. It states, "In the past 10 years, did you transfer any  
18 assets out of your name for less than their actual value?"  
19 The box is checked, "No."  
20 Q. Okay. Then at the bottom, Section 18, would you highlight 10:48:44  
21 that for us? What is being asked for in this section?  
22 A. Section 18 is for purchased automobiles, trucks, and other  
23 licensed assets.  
24 Q. And what has been listed here?  
25 A. It shows a 1999 Yamaha jet ski, a 1999 -- a second 1999 10:49:06

United States District Court

KRISTY MORGAN - Direct

1 jet ski, a 1999 trailer, and a 1999 Cadillac Seville. 10:49:15

2 Q. Any other trucks, vehicles, RVs or boats listed other than

3 these four items?

4 A. No.

5 Q. Page 16. You can take the top half probably. Section 19 10:49:44

6 is asking for leased vehicles and trucks and other licensed

7 assets.

8 A. Correct.

9 Q. Are there any indicated?

10 A. None. 10:50:06

11 Q. Right below that they are asking for any real estate you

12 own?

13 A. Yes.

14 Q. What is indicated in that section?

15 A. It shows none. 10:50:14

16 Q. Section 21 just below this, right in the middle, read what

17 it says in 21 that should be included here?

18 A. It shows personal assets. "List all personal assets

19 below. If you need additional space, attach separate sheet."

20 It states, "Furniture, personal effects includes the total 10:50:47

21 current market value of your household such as furniture and

22 appliances. Other personal assets includes all artwork,

23 jewelry, collections, coin/gun, antiques or other assets."

24 Q. Now, to the extent you can, because it's sort of darkened,

25 can you try to help the jury with what is in 21(a) there, what 10:51:10

United States District Court

KRISTY MORGAN - Direct

1 is written there? 10:51:13

2 A. It's furniture/personal effects, \$6,600.

3 Q. And is there any loan balance that they are indicating on

4 those furniture items?

5 A. No. 10:51:23

6 Q. And then below that, is there anything in the 21(b),

7 artwork, that is listed?

8 A. No.

9 Q. Is there something written there, though?

10 A. It shows a -- what looks like to be a not applicable. 10:51:33

11 Q. And then 21(c) it says jewelry, watches. Does it give a

12 value for those watches?

13 A. \$700.

14 Q. 21(d) is a wedding ring. Can you read the value that it

15 gives to the wedding ring? 10:51:48

16 A. 2,450.

17 Q. And then finally, a gun, can you read the value for the

18 gun?

19 A. \$560.

20 Q. And then Section 22. What is being asked for in Section 10:52:04

21 22?

22 A. 22 asks for business assets.

23 Q. And 22(a), can you read what is written in there in the

24 dark thing as far as under that one?

25 A. 22(a) is tools used in trade or business. It states none. 10:52:30

United States District Court

KRISTY MORGAN - Direct

1 Q. Okay. And then below that is machinery and equipment. 10:52:34  
2 Can you read what is in the blackened portion there?  
3 A. It also says not applicable.  
4 Q. Page 17. Highlight what is being asked in this Section  
5 23. What's being asked here? 10:53:06  
6 A. This accounts/notes receivable.  
7 Q. Do you remember when we were talking about at Omega that  
8 Sunlight Financial note receivable of \$296,000? Do you  
9 remember that?  
10 A. Yes. 10:53:27  
11 Q. Now, explain to the jury when we are talking about note  
12 receivable and Omega is listing it, is that something Omega  
13 owed Sunlight or Sunlight owes Omega?  
14 A. It's listing Omega as the business that would receive the  
15 money. 10:53:43  
16 Q. And so in that particular instance, it's indicating  
17 Sunlight owes Omega \$296,000?  
18 A. Correct.  
19 Q. Now, here are there any -- well, my colleague went back  
20 there. 10:54:00  
21 Back to page 17. Are there any accounts or notes  
22 receivable listed individually being owed to Mr. and  
23 Mrs. Parker on page 17?  
24 A. No.  
25 Q. Page 18, the upper portion, total income as individuals. 10:54:20

United States District Court

KRISTY MORGAN - Direct

1 Do either of them indicate that they have any income whatsoever 10:54:38  
2 from wages?  
3 A. No.  
4 Q. Interest and dividends?  
5 A. It shows not applicable. 10:54:45  
6 Q. What about net income from business?  
7 A. It says zero this year.  
8 Q. And all the way down to the end, even including other  
9 income, do they indicate any income whatsoever?  
10 A. No. 10:55:01  
11 Q. Looking at the opposite side, the total living expenses,  
12 what are the top three entries? What do they reflect?  
13 A. Line 35, food, clothing, miscellaneous is \$1290; housing  
14 and utilities is \$2500; transportation is \$336.  
15 Q. And then they actually indicate a term life insurance cost 10:55:29  
16 of a certain amount.  
17 A. \$58.  
18 Q. And then something called Other Expenses and how much do  
19 they indicate there?  
20 A. Other is \$100. 10:55:40  
21 Q. So in that blackened portion, can you read what they sum  
22 their actual monthly expenses to be?  
23 A. It appears to be either 428 or 488.  
24 Q. 488 or four thousand?  
25 A. Thousand. 10:55:59

United States District Court

KRISTY MORGAN - Direct

1 Q. Okay. And so total living expenses are in excess of 4,000 10:56:04  
2 but total income is zero?  
3 A. Correct.  
4 Q. And these are monthly averages?  
5 A. Monthly, yes. 10:56:09  
6 Q. And at the bottom of this document, there's a signature by  
7 James Parker?  
8 A. That's correct.  
9 Q. And right above this signature, what is the certification?  
10 A. Certification states, "Under penalties of perjury, I 10:56:38  
11 declare, to the best of my knowledge and belief, this statement  
12 of assets, liabilities, and other information is true, correct  
13 and complete."  
14 Q. And what's the date on it?  
15 A. The signature date is June 18, 2004. 10:56:57  
16 Q. Now if you would go back to page four of Exhibit 11. We  
17 just went through -- are you with me yet?  
18 A. Yes.  
19 Q. We just went through the offer in compromise was submitted  
20 on the entry 32 at 7-30-2004. That was the first offer in 10:57:33  
21 compromise?  
22 A. Yes.  
23 Q. And then we've already talked about the entry on 7-21-2004  
24 but then the next entry on 10-13-2004, would you read what that  
25 is? 10:57:51

United States District Court

KRISTY MORGAN - Direct

1 A. "Offer in compromise rejected, returned, terminated." 10:57:52

2 Q. Does that mean that the offer we were just going through  
3 was rejected by the IRS?

4 A. That's correct.

5 Q. And then right after that, roughly a month later, another 10:58:12  
6 offer in compromise is filed?

7 A. That's correct.

8 Q. Now, when an offer of compromise is filed again, does that  
9 similarly make the collection efforts stands down at that  
10 point? 10:58:31

11 A. That does.

12 Q. It does?

13 A. Yes.

14 Q. So now another offer in compromise is being submitted?

15 A. That's correct. November 19, 2004. 10:58:44

16 Q. Would you look at Exhibit 106?

17 MR. SEXTON: I would offer Exhibit 106 into evidence.

18 MR. MINNS: No objection.

19 THE COURT: It's admitted.

20 (Exhibit Number 106 was admitted into evidence.) 10:59:12

21 MR. SEXTON: Page three.

22 BY MR. SEXTON:

23 Q. First off, there's a received stamp in the upper  
24 right-hand corner. What does that indicate?

25 A. That shows that this document was received November 16, 10:59:34

KRISTY MORGAN - Direct

1	2004.	10:59:38
2	Q. Again, for the same two taxpayers, Mr. and Mrs. Parker?	
3	A. Yes.	
4	Q. Now, let's look at item five. Do you see in the middle	
5	there, they have checked a box there?	11:00:02
6	A. Yes.	
7	Q. What are the tax years they are seeking to compromise in	
8	this offer in compromise?	
9	A. 1997 and '98, '99, 2000, 2001, 2002, and 2003.	
10	Q. Okay. If you look quickly at Exhibit 104, have they added	11:00:22
11	any additional tax years now to their offer in compromise from	
12	the previous one we just went through?	
13	A. They have.	
14	Q. What years did they add that weren't in the last one?	
15	A. Compared to that, they have added in 1999, 2000, so those	11:00:39
16	two years, 1999 and 2000.	
17	Q. Back to page three on Exhibit 106. We'll go through this	
18	one a little faster. On the upper right-hand corner, do they	
19	indicate whether they were doubting liability or	
20	collectibility?	11:01:06
21	A. It shows doubt as to collectability.	
22	Q. And is the offer unchanged from the previous one?	
23	A. Same amount.	
24	Q. And are the payment terms the same as the previous one?	
25	A. Yes.	11:01:20

United States District Court



KRISTY MORGAN - Direct

- 1 Q. Page six and that upper section, item 9, if you're 11:01:33  
2 doubting liability, please explain below. Is there any  
3 explanation about liability that is put in this particular  
4 offer in compromise?
- 5 A. No. 11:01:50
- 6 Q. And then item 10 as far as the source of funds?
- 7 A. Borrow from friends and family.
- 8 Q. Is this different than the previous one as far as  
9 borrowing from friends and a bank?
- 10 A. Right. The bank not listed. Just now it's friends and 11:02:05  
11 family.
- 12 Q. And then let's go to the signature line. Is it signed by  
13 Mr. and Mrs. Parker and indicating a date?
- 14 A. Correct. October 3, 2004.
- 15 Q. And right above that, is it signed under penalty of 11:02:24  
16 perjury?
- 17 A. That's correct.
- 18 Q. Starting on page seven, we have the business again. If  
19 you wouldn't mind doing this for me, would you look at  
20 Exhibit 106 and then look at 104 and see if you see any 11:02:44  
21 differences between the forms that are being submitted with  
22 this one or are they a photocopy of what was submitted before?
- 23 A. It is a copy. It's also a stamped copy.
- 24 Q. So first off, is this first page here, in essence, it is a  
25 photocopy of the previous offer in compromise as to this Form 11:03:15

United States District Court

KRISTY MORGAN - Direct

1 433-B information, first page? 11:03:17

2 A. Yes.

3 Q. Is the same true of page eight?

4 A. It is a copy, yes.

5 Q. The only difference might be, is there a slight heading of 11:03:33

6 how the business name at the top. Is that different?

7 A. It is. The business name on the Exhibit 106 is Omega

8 Construction written out and on the Exhibit 104, it's Omega

9 Construction, abbreviated, Incorporated.

10 Q. And, otherwise, it appears to actually be a photocopy of 11:03:55

11 what was submitted before?

12 A. Yes.

13 Q. The next page, page nine, does it appear to be a photocopy

14 except for the header at the top?

15 A. That's correct. 11:04:19

16 Q. Same as to page 10, even including the balance in the

17 checking account?

18 A. It is the same. Yes, other than the business name.

19 Q. Page 11, same thing?

20 A. Yes. 11:04:38

21 Q. And then the signature line is a photocopy of the previous

22 one that was submitted before?

23 A. That's correct.

24 Q. And then starting on page 12 which was the individual form

25 433-A, is that, likewise, a photocopy of the first one that 11:05:03

United States District Court

KRISTY MORGAN - Direct

1 they submitted in their first offer in compromise? 11:05:12  
2 A. Yes, it is.  
3 Q. And to shorten this, are pages 13, 14, 15, 16, and 17 also  
4 photocopies of the first offer in compromise as to this  
5 433-A form? 11:05:32  
6 A. That's correct, yes.  
7 Q. Now, back to the transcript on page four of Exhibit 11,  
8 after this offer in compromise was submitted, was it rejected?  
9 A. It was.  
10 Q. When? 11:06:12  
11 A. The second offer was rejected April 13, 2005 -- excuse me.  
12 February 4, 2005.  
13 Q. And then back to the fuller page on this, a few months  
14 later there's another offer in compromise filed?  
15 A. That's correct. 11:06:39  
16 Q. 4-13-2005?  
17 A. Yes.  
18 Q. Again, does this delay collection efforts at this point?  
19 A. It does.  
20 Q. Would you look at Exhibit 111? Is that the third offer in 11:06:56  
21 compromise?  
22 A. That's correct.  
23 MR. SEXTON: I would offer Exhibit 111 into evidence.  
24 MR. MINNS: No objection.  
25 THE COURT: It's admitted. 11:07:22

United States District Court

KRISTY MORGAN - Direct

1 (Exhibit Number 111 was admitted into evidence.) 11:07:24

2 BY MR. SEXTON:

3 Q. First offer, is this for the James and Jacqueline Parker

4 again?

5 A. It is. 11:07:39

6 Q. Now, do they have an address up there in the top part?

7 What is it, now typed this time?

8 A. 35802 North Meander, Carefree, Arizona.

9 Q. And they also have an alternative mailing address, what

10 does that indicate? 11:07:52

11 A. Post Office Box 5722, Carefree, Arizona.

12 Q. Now, let's go down to item five as to what they are

13 seeking to compromise.

14 A. It shows Form 1040 for tax years '97, '98, '99, 2000,

15 2001, 2002, 2003, and 2004. 11:08:12

16 Q. So they are seeking to compromise eight tax years?

17 A. Yes.

18 Q. And from the previous one that we just looked at,

19 Exhibit 106, have they added the 2004 tax return to this list

20 of returns they want to compromise? 11:08:32

21 A. Yes.

22 Q. Now, looking over on item six, do they indicate that they

23 doubt liability as to those years or doubt as to

24 collectability?

25 A. Doubt as to collectibility is checked. 11:08:50

United States District Court

KRISTY MORGAN - Direct

1 Q. And in item seven just below that, does it indicate a 11:08:53  
2 different offer from before?  
3 A. Yes. The offer is now \$450,000.  
4 Q. Go to page six. Let's start with item nine above. Again,  
5 this is the section as to do you have any concerns about 11:09:36  
6 liability, put them down here. Do they indicate anything?  
7 A. They don't.  
8 Q. And then the next section below that is the source of the  
9 funds for the \$450,000. What is it? Let me highlight it here.  
10 A. It states, "Collection of the note due Omega Construction 11:09:54  
11 and a loan from family."  
12 Q. And then in the signature portion, is it signed by Mr. and  
13 Mrs. Parker?  
14 A. It is.  
15 Q. Dated March 24, 2005? 11:10:14  
16 A. Yes.  
17 Q. And right above that is a warning that these -- you are  
18 signing this under penalties of perjury?  
19 A. They are signed under penalties of perjury.  
20 Q. Now, page seven is that 433-B we've looked the a couple of 11:10:29  
21 times now. So the business, is it unchanged or is it still  
22 Omega Construction?  
23 A. Still Omega Construction.  
24 Q. And then as far as in the section six here, go to the  
25 Section 2 instead. For Omega, it indicates -- what? 11:11:05

United States District Court

KRISTY MORGAN - Direct

1	A.	In Section 6?	11:11:14
2	Q.	5(a), excuse me.	
3	A.	Partners.	
4	Q.	Partners, officers and shareholders. What does it	
5		indicate there?	11:11:25
6	A.	It shows James Parker, President.	
7	Q.	And what is the address that is used?	
8	A.	35802 North Meander Way.	
9	Q.	And then Section 3 now is this accounts receivable, notes	
10		receivable?	11:11:40
11	A.	That's correct.	
12	Q.	And it would still be the same, Sunlight Financial we	
13		looked at earlier.	
14	A.	Yes.	
15	Q.	Same amount?	11:11:47
16	A.	Same amount.	
17	Q.	And same due date?	
18	A.	Yes.	
19	Q.	On page eight, is it still indicating that there are	
20		absolutely no purchased or leased automobiles or trucks for	11:12:15
21		Omega?	
22	A.	That's correct.	
23	Q.	Any change in the -- any of the automobiles leased or	
24		otherwise purchased for Omega?	
25	A.	No.	11:12:24

United States District Court

KRISTY MORGAN - Direct

- 1 Q. What do they indicate in those two sections? 11:12:29
- 2 A. In Section 5 on the purchased automobiles or leased,  
3 there's no entries.
- 4 Q. And is there a typed designation there?
- 5 A. There is a -- 11:12:38
- 6 Q. An N/A?
- 7 A. Yes. Both have nonapplicable in there.
- 8 Q. And then the next page, page nine at the top it asks for  
9 real estate?
- 10 A. Yes. 11:12:50
- 11 Q. What does it indicate?
- 12 A. Real estate also has an "N/A," so no entries for that.
- 13 Q. And then the middle of the section it deals with business  
14 assets like machinery and equipment and other assets.
- 15 A. Yes. 11:13:04
- 16 Q. What does it indicate?
- 17 A. It has a "not applicable" entry.
- 18 Q. Section 12 below that, investments, what does it indicate?
- 19 A. "Not applicable."
- 20 Q. Page 10, Section 13, does it still have the same Harris  
21 Bank account up at the top? 11:13:14
- 22 A. It does.
- 23 Q. The balance is slightly less than was reported before?
- 24 A. Correct.
- 25 Q. The next section, 14, any other accounts including 11:13:32

United States District Court

KRISTY MORGAN - Direct

1 brokerage or money market accounts? What does it indicate? 11:13:38  
2 A. "Not applicable."  
3 Q. Section 15 is a little darkened there but it's the cash on  
4 hand, any cash on hand at this business?  
5 A. It says, "Not applicable." 11:13:56  
6 Q. And then a credit, does it have any credit available to  
7 it?  
8 A. No. There's also "Not Applicable" on that.  
9 Q. And then, finally, on page 11 at the very top it's talking  
10 about a particular year. It's typed in there in Section 17. 11:14:15  
11 Do you see that?  
12 A. Yes.  
13 Q. What is it reporting now for Omega for 1-1 of '4 through  
14 12-31 of 2004?  
15 A. It shows a gross receipts amount cash of \$2620 monthly. 11:14:31  
16 Q. And then business expenses, does it list any actual  
17 business expenses?  
18 A. It states on line 37 to see 433-A.  
19 Q. But that's for individual expenses, isn't it?  
20 A. It is. 11:15:01  
21 Q. So are there any business expenses associated with this  
22 new income of 2620 per month?  
23 A. Not according to this form, no.  
24 Q. Such that they are saying on line 39 that the expenses at  
25 least equal the income? 11:15:18

United States District Court



KRISTY MORGAN - Direct

1 A. Yes. 11:15:20  
2 Q. Page 12. Oh, actually, hold on. Go to the bottom of page  
3 11.  
4 Did James Parker sign this?  
5 A. That's correct. 11:15:51  
6 Q. On what date?  
7 A. March 24, 2005.  
8 Q. Under penalty of perjury just above it?  
9 A. Yes.  
10 Q. And he signed it as the president? 11:15:58  
11 A. Correct.  
12 Q. And then page 12, this actually might be out of order. Is  
13 this the accounts receivable for Omega?  
14 A. Yes.  
15 Q. Does it indicate that Omega is owed by any third party 11:16:18  
16 anything for its business work?  
17 A. No.  
18 Q. Then page 13, is this now back to the 433-A form for the  
19 individual again? This is the individual's assets and  
20 liabilities as opposed to their business? 11:16:39  
21 A. Correct.  
22 Q. Now it indicates in Section 1 where they are living.  
23 Where does it indicate they are living?  
24 A. The street address is 35802 North Meander Way, Carefree,  
25 Arizona. 11:17:00

United States District Court

KRISTY MORGAN - Direct

- 1 Q. And how long does it indicate they have been living at 11:17:01  
2 that location?
- 3 A. Seven years.
- 4 Q. Section 2, is it listing only Omega Construction as the  
5 only business information that is provided? 11:17:17
- 6 A. That's correct.
- 7 Q. The same with Section 3, as far as its employment  
8 information. Is it only listing Omega Construction?
- 9 A. Yes.
- 10 Q. And then Section 4, which is kind of a catch-all for other 11:17:34  
11 income, is there any other income that they are declaring in  
12 any way on this?
- 13 A. It has the entry "not applicable."
- 14 Q. And is this entry limited to pensions and Social Security  
15 or does it have a box for any other income? 11:17:54
- 16 A. It has for other income.
- 17 Q. The next page is page 14.
- 18 A. M'hum.
- 19 Q. Top of the page. Bank accounts for the individuals. What  
20 does it list for checking account? 11:18:29
- 21 A. It says, "See Form 433-B."
- 22 Q. And we were just looking at that. Is that simply that  
23 Harris Bank account that we were just looking at?
- 24 A. That's correct.
- 25 Q. But that's a business account; correct? 11:18:41

United States District Court

KRISTY MORGAN - Direct

1 A. That's a business account according to this form. 11:18:42

2 Q. So on this form, are they indicating they have a personal

3 checking account in any fashion?

4 A. No.

5 Q. Are they indicating just below that they have any savings 11:18:49

6 or other brokerage accounts of any sort personally?

7 A. No. There's a "Not Applicable" in the entry.

8 Q. Down in Section 13, are they listing any interest in any

9 investments of any sort?

10 A. The entry is, "Not Applicable." 11:19:12

11 Q. Cash on hand, what do they indicate in Section 14?

12 A. Cash on hand is \$300.

13 Q. And then Section 15, there is the available credit and

14 what does it say there?

15 A. It says, see attached. 11:19:27

16 Q. And so, then, turn to page 15, which is the attachment for

17 it, for the available credit.

18 Are these the same credit cards we were looking at in

19 the earlier offers in compromises?

20 A. The Capital One, Bank of America, and American Express, 11:19:49

21 yes.

22 Q. The amounts have changed but these are the same cards?

23 A. Correct.

24 Q. The next section, on page 16, let's focus on 17(b) there.

25 Can you read 17 and what the entries were that they put in 11:20:21

United States District Court

KRISTY MORGAN - Direct

1 there? 11:20:26

2 A. "Are there any judgments against you?" Box "yes" is  
3 checked.

4 "If yes, who is the creditor?" It lists "Internal  
5 Revenue Service." The date creditor obtained judgment was 11:20:33  
6 February of 2004. The amount of the debt, \$1,740,827.

7 Q. And leaving it just like this on the screen, and the 17  
8 just below it, does it indicate in the past 10 years that they  
9 transferred any assets out of their name for less than actual  
10 value? 11:21:00

11 A. The box "no" is checked.

12 Q. And then Section 18 as to their automobiles and other  
13 trucks and RVs.

14 A. The list says, "See attached."

15 Q. Which is on the next page, page 17. What do they list as 11:21:13  
16 their vehicles?

17 A. A 1999 Cadillac, 1999 Yamaha jet ski, two 1999 Yamaha jet  
18 skis and a 1999 trailer.

19 Q. Same things we looked at earlier?

20 A. That's correct. 11:21:32

21 Q. Page 18, any of these vehicles indicated in the top part  
22 of Section 7?

23 A. It has, "Not Applicable."

24 Q. Right below that they are asking about any real estate you  
25 might have. 11:21:57

United States District Court

KRISTY MORGAN - Direct

- 1 A. "Not Applicable." 11:21:58
- 2 Q. And then personal assets in Section 21. Is that the same  
3 stuff we already went through in the two prior offers in  
4 compromise?
- 5 A. Correct. 11:22:16
- 6 Q. Section 8 on the next page, page 19. Accounts receivable,  
7 notes receivable, do they claim anybody owes them any money?
- 8 A. No. The entry, "Not Applicable."
- 9 Q. And then page 20, start at the top on the total income.  
10 Is the income on line 27 there simply the amount that is 11:23:13  
11 reported as from Omega?
- 12 A. Yes.
- 13 Q. That really wasn't income. It was the gross receipts,  
14 wasn't it?
- 15 A. That's correct. 11:23:27
- 16 Q. And then they list living expenses?
- 17 A. That's correct.
- 18 Q. And then those living expenses, do they exceed or are less  
19 than the income that they have reported?
- 20 A. The total living expenses exceed the income reported. 11:23:43
- 21 Q. And at the bottom, is it signed by Mr. and Mrs. Parker on  
22 3-24-05?
- 23 A. Yes, it is.
- 24 Q. Under penalty of perjury?
- 25 A. Correct. 11:24:04

United States District Court

KRISTY MORGAN - Direct

1 Q. So back to Exhibit 11, page five, at the top, is this 11:24:04  
2 third offer in compromise rejected?

3 A. It is.

4 Q. On what date?

5 A. June 21, 2005. 11:24:25

6 Q. Now, pulling back from the individual entry here, less  
7 than two months later, has an installment agreement request  
8 been lodged?

9 A. Yes, it has.

10 Q. Explain to the members of the jury what an installment 11:24:47  
11 request is.

12 A. An installment request is a request to make a certain  
13 amount of payment every month. So the taxpayer files the  
14 applicable forms and then it's considered to see whether or not  
15 they can make monthly payments to pay off the tax debt. 11:25:04

16 Q. And like an offer in compromise, does an installment  
17 request also delay any collection process that may be  
18 undertaken to try to collect the tax liability?

19 A. It does stop that because it knows that the taxpayer is  
20 trying to resolve the tax issue. 11:25:32

21 Q. Would you look at Exhibit 114? Don't look at Exhibit 114.  
22 Let's go back. Would you look at Exhibit 110 first?

23 MR. SEXTON: I would offer Exhibit 110 as a certified  
24 record.

25 MR. MINNS: No objection. 11:26:33

United States District Court

KRISTY MORGAN - Direct

1 THE COURT: It's admitted. 11:26:34  
2 (Exhibit Number 110 was admitted into evidence.)  
3 BY MR. SEXTON:  
4 Q. After the third offer in compromise was submitted on March  
5 24 of 2005; but before the offer in compromise, the third one, 11:26:42  
6 was rejected, was this letter sent to the Internal Revenue  
7 Service?  
8 A. Yes. This letter is dated April 4, 2005.  
9 Q. Let's start on page one. Would you read the second line  
10 of the first paragraph? 11:27:15  
11 A. "The amounts due are large and the taxpayers have no  
12 ability to pay other than the amount which is offered here."  
13 Q. And then would you read the next paragraph?  
14 A. "The Parkers have been unable to pay the rent of \$2500 per  
15 month since August of 2004. Without the largesse of their 11:27:34  
16 family, the Parkers would have no place to live. Their tax  
17 debt is reflected on their credit rating and would require them  
18 to make substantial deposits in order to rent any other  
19 property. The property requires higher than normal utilities  
20 and only by not paying the rent have they been able to pay the 11:27:52  
21 utilities."  
22 Q. And would you read the first sentence of the next  
23 paragraph?  
24 A. "Jim and Jackie have cut their expenses to the bone."  
25 Q. And the last sentence of that paragraph? 11:28:08

United States District Court

KRISTY MORGAN - Direct

- 1 A. "They share one automobile and do not maintain the 11:28:10  
2 lifestyle that would be anticipated."  
3 Q. And would you read the next paragraph, four?  
4 A. "Jim and Jackie's tax problems began with an attempt to  
5 establish an enterprise to sell beach front lots in Belize. 11:28:24  
6 After much hard work the project was wiped out by September 11,  
7 2001, and immediately thereafter, Hurricane Mitch. Jim &  
8 Jackie were audited by the Internal Revenue Service. All the  
9 receipts of the Belizean corporation were adjusted as the  
10 Parkers' income." 11:28:58  
11 Q. Keep going on the next page.  
12 A. "The Parkers argued with the IRS through the Appeals  
13 Division and filed a Tax Court petition. They could not afford  
14 the expenses of a Tax Court trial. Their attorney recommended  
15 they issue an offer in compromise -- doubt as to collectability 11:29:17  
16 (because they were broke). There were no resources to begin  
17 again. Jim now runs a small construction company in Arizona.  
18 At the present time he has no projects pending."  
19 Q. And then the next paragraph.  
20 A. "Their children own through Sunlight Financial LLP a house 11:29:38  
21 and they intend to mortgage the property to supplement the  
22 funds to pay this offer. The Parkers rent that house. The  
23 revenue officer wants the Parkers to take ownership of the home  
24 and pay the tax. The children own the house and believe the  
25 Internal Revenue Service is acting irresponsibly. They have 11:29:56

United States District Court



KRISTY MORGAN - Direct

1 their own counsel who informs them that since the acquisition 11:30:01  
2 of the house was accomplished at a time when the Parkers owed  
3 no one, that it is properly the children's house through  
4 Sunlight Financial LLP. The house has appreciated  
5 substantially. The children make the mortgage payments and 11:30:17  
6 refuse the heavy handed pressure of the revenue officer. Since  
7 they offer to refinance to help pay this offer, it should be  
8 accepted."  
9 Q. And then skip the body right there and go to that last  
10 line on that page. 11:30:35  
11 A. "It is respectfully requested this offer be accepted and  
12 the Parker's be allowed to go forward with their lives. The  
13 couple has no retirement and at 57 and 53 must start over."  
14 Q. And then the next page, is it signed by Gregory Robinson?  
15 A. That's correct. 11:30:58  
16 Q. And on this letter, does it indicate a cc?  
17 A. Yes, it does.  
18 Q. And who does it indicate are the ccs on this letter?  
19 A. James and Jackie Parker and Jerry Carter, IRS.  
20 Q. Now let's go to Exhibit 114. 11:31:31  
21 MR. SEXTON: I don't remember if I moved this in.  
22 It's a certified copy. I would offer it into evidence.  
23 MR. MINNS: No objection.  
24 THE COURT: And it's admitted.  
25 (Exhibit Number 114 was admitted into evidence.) 11:31:55

United States District Court

KRISTY MORGAN - Direct

1 BY MR. SEXTON: 11:31:57

2 Q. Is this the installment request?

3 A. That's correct.

4 Q. That was submitted to the IRS?

5 A. Yes. 11:32:01

6 Q. All right. Let's look at page three to begin with.

7 THE COURT: I'm going to stop you for about seven

8 minutes. I need to do something. But we'll be back.

9 All right. We're in recess.

10 COURTROOM DEPUTY: All rise. 11:32:19

11 (Jury departs.)

12 (Recess at 11:32; resumed at 11:43.)

13 (Jury enters.)

14 (Court was called to order by the courtroom deputy.)

15 THE COURT: Please be seated. 11:44:11

16 Okay. Mr. Sexton?

17 BY MR. SEXTON:

18 Q. All right. Ms. Morgan, we're in Exhibit 114 and I think

19 we have the page three on the 16. What is the date of this

20 letter? 11:44:25

21 A. August 4, 2005.

22 Q. And who is the letter to?

23 A. It is to Jerry Carter from James and Jacqueline Parker --

24 regarding James and Jacqueline Parker.

25 Q. Right. And who is it signed by at the bottom? 11:44:39

United States District Court

KRISTY MORGAN - Direct

1 A. Gregory A. Robinson. 11:44:45  
2 Q. In fact, the letter header on this letter is his law  
3 office.  
4 A. Yes, it is.  
5 Q. And then if you would -- and in the lower left-hand 11:44:51  
6 corner, Mr. and Mrs. Parker are indicated as being cc'd on this  
7 letter.  
8 A. Correct.  
9 Q. Would you read the first sentence of this letter to  
10 Mr. Carter? 11:45:12  
11 A. "I hereby request an installment agreement be established  
12 for James & Jacqueline Parker."  
13 Q. And then the second sentence.  
14 A. "James is self-employed and his company, Omega  
15 Construction, Incorporated, has increased its income to an 11:45:25  
16 average of \$7,000 per month in gross receipts."  
17 Q. And then skipping down, what is the amount that they are  
18 proposing to be able to monthly pay in this letter?  
19 A. The monthly income or the monthly payment?  
20 Q. Right after the word "medical expenses," it says, "We 11:45:45  
21 request" --  
22 A. Oh, "We request an installment agreement of \$2,000 per  
23 month."  
24 Q. And then accompanying this letter, do we have set of the  
25 433-B and 433-A forms that we have been looking at for the 11:46:14

United States District Court

KRISTY MORGAN - Direct

1 offers in compromise? 11:46:19

2 A. Yes.

3 Q. And the 433-B being the thing about businesses that you

4 might be involved with and the 433-A about your own individual

5 assets and liabilities? 11:46:28

6 A. That's correct.

7 Q. We can probably go through this fairly quickly. Would you

8 look at page four?

9 A. Yes.

10 Q. Indicating, again, that the business is still Omega 11:46:43

11 Construction?

12 A. Yes.

13 Q. Any other businesses listed?

14 A. None.

15 Q. Is he still indicating himself in Section 2 as the 11:46:52

16 president of Omega Construction?

17 A. Yes.

18 Q. And is he still indicating in Section 3 that he has a note

19 receivable due to Omega of \$296,000 from Sunlight Financial?

20 A. That's correct. 11:47:09

21 Q. Page five, no changes at all as far as the vehicles that

22 are either leased or purchased by Omega?

23 A. That's correct.

24 Q. Page six indicates no real estate, no business assets of

25 any sort or any investments for Omega? 11:47:35

United States District Court

KRISTY MORGAN - Direct

1 A. Correct. 11:47:37

2 Q. Page seven, the only bank account is still this Harris

3 Bank account which now has a balance that is indicated as being

4 \$800?

5 A. Correct. 11:47:52

6 Q. Otherwise, there are no other checking, savings,

7 investment accounts indicated?

8 A. That's right.

9 Q. And in Section 15 on this page, there's no cash on hand?

10 A. Correct. 11:48:04

11 Q. And there's no available credit to this company?

12 A. Right.

13 Q. And then for the period -- excuse me. Page eight. At the

14 top, what does it indicate again is the period for reporting

15 here for Omega Construction? 11:48:33

16 A. January 1, 2004 to December 31, 2004.

17 Q. And what does it indicate is the gross receipts?

18 A. The gross receipts, \$2,620.

19 Q. But the cover letter that accompanied this indicated that

20 it had increased to something else; right? 11:48:55

21 A. The letter states gross receipts of \$7,000 per month.

22 Q. But the cover letter is dated August 4, 2005?

23 A. Yes.

24 Q. But the reporting information on page eight is limited to

25 2004? 11:49:15

United States District Court

KRISTY MORGAN - Direct

1	A.	Correct.	11:49:16
2	Q.	And then on the expense side of the equation up above, it	
3		has an entry on line 37 as the only expenses for the business.	
4		What does it indicate?	
5	A.	It says 2004 to James Parker, \$2620.	11:49:39
6	Q.	And in essence, the expenses wipe out the monthly income	
7		that is -- gross receipts that are reported?	
8	A.	That's correct.	
9	Q.	And at the bottom, on page eight, is it signed by James	
10		Parker as president?	11:49:57
11	A.	Correct.	
12	Q.	On what date?	
13	A.	August 3, 2005.	
14	Q.	And did sign it under penalty of perjury?	
15	A.	Yes.	11:50:06
16	Q.	Page nine is the accounts receivable.	
17	A.	Yes.	
18	Q.	Are there any indicated?	
19	A.	None.	
20	Q.	And then what he did is he added another page 10 that is	11:50:21
21		similar to the page five or -- excuse me, page eight. Do you	
22		see that?	
23	A.	I do.	
24	Q.	Now he's reporting from 1-1-05 to 12-30-05, do you see	
25		that?	11:50:42

United States District Court

KRISTY MORGAN - Direct

1 A. I do, yes. 11:50:42

2 Q. And he's indicating how much in the way of receipts?

3 A. That shows \$7,000.

4 Q. And then he is indicating expenses for the business and in  
5 some detail now. Do you see that? 11:50:57

6 A. I do.

7 Q. Would you read what he's indicating on lines 31 through 35  
8 on the right-hand side?

9 A. 31 is supplies of \$195; 32, utilities/telephone, \$580; 33,  
10 vehicle gasoline and oil, \$430; 34, repairs and maintenance of 11:51:14  
11 \$150; and 35 is insurance, \$145.

12 Q. And then there's a little section just below that's called  
13 other expenses. Do you see that?

14 A. I do.

15 Q. And what does it indicate there? 11:51:32

16 A. It states, "See Form 433-A."

17 Q. And to remind the jury, is the 433-A for individual  
18 expenses as opposed to business expenses?

19 A. Yes, it is.

20 Q. And what's it indicate there? 11:51:47

21 A. It shows the amount of \$5,550 -- excuse me, \$5,500.

22 Q. So line 39 shows how much -- how much in total expenses?

23 A. The entry is zero.

24 Q. Is that consistent with the information above it?

25 A. No. 11:52:04

United States District Court

KRISTY MORGAN - Direct

1 Q. Do the expenses again exceed total income? 11:52:12  
2 A. Not according to this form, no.  
3 Q. No. I meant if you add all of those expenses, is it  
4 pretty much the \$7,000 that is reported as income?  
5 A. Yes. 11:52:30  
6 Q. And then on page 15, this is now that 433-A form  
7 accompanying in installment request, page 15?  
8 A. Yes.  
9 Q. Going through it quickly, they are still living in the  
10 same place. 11:53:07  
11 A. Same addresses, yes.  
12 Q. Same number of years living there?  
13 A. Seven years.  
14 Q. Still renting?  
15 A. Yes. 11:53:14  
16 Q. As far as business income, do they own any Section 2, do  
17 they only list Omega?  
18 A. That's correct.  
19 Q. As far as employment information, do they only list Omega?  
20 A. That's correct. 11:53:24  
21 Q. And then in Section 4 as to any other source of income, do  
22 they list anything?  
23 A. Not applicable.  
24 Q. Page 16, still no personal bank accounts of any sort?  
25 A. Correct. 11:53:48

United States District Court



KRISTY MORGAN - Direct

1 Q. They reference there, do you see where they reference on 11:53:49  
2 line 11(a)?  
3 A. Yes.  
4 Q. They are referencing the 433-B we just went through?  
5 A. That's correct. 11:53:57  
6 Q. But that's a business account.  
7 A. That's the business account.  
8 Q. Is there any indication they have any personal checking,  
9 savings, mutual funds, anything of that nature?  
10 A. No. 11:54:06  
11 Q. They indicate they have some cash on hand in line 14.  
12 What does it indicate?  
13 A. \$275.  
14 Q. And then as far as their available credit, they reference  
15 an attachment? 11:54:20  
16 A. Correct.  
17 Q. Which is the next page, page 17, is an attachment that  
18 lists their credit?  
19 A. That's correct.  
20 Q. Does it appear to be the same credit cards we've already 11:54:31  
21 shown the jury in the previous offers in compromise?  
22 A. Yes.  
23 Q. And then on page 18, does it still indicate the same IRS  
24 judgment on line 17(b)?  
25 A. It does. 11:54:55

United States District Court

KRISTY MORGAN - Direct

1 Q. And what's the amount? 11:54:56  
2 A. \$1,740,827.  
3 Q. And then it gets into Section 7 which deals with assets  
4 and liabilities. As far as the automobiles, trucks, and other  
5 pleasure vehicles, does it say it refers to an attachment? 11:55:14  
6 A. It does.  
7 Q. Is the next page the attachment for that?  
8 A. That's correct.  
9 Q. Does it appear to list the same vehicles, jet skis and  
10 trailer that we have been talking about with the jury so far? 11:55:28  
11 A. It does.  
12 Q. Any additions?  
13 A. None.  
14 Q. Page 20, any leased vehicles indicated?  
15 A. Not applicable. 11:55:48  
16 Q. Any real estate indicated?  
17 A. Not applicable.  
18 Q. And then the personal assets, actually, do they list  
19 anything for personal or household effects at this time?  
20 A. No. There's nothing listed there. 11:56:03  
21 Q. And now we're just down to the wedding ring, watch and the  
22 gun?  
23 A. Correct.  
24 Q. And then as far as business assets at the bottom, Section  
25 22 down below there? 11:56:12

United States District Court

KRISTY MORGAN - Direct

1 A. Just, "Not Applicable." 11:56:13

2 Q. The next page, page 21, do they indicate that anybody owes  
3 them any money for anything?

4 A. No.

5 Q. Page 22, now they are indicating a net income from 11:56:36  
6 business of \$5500?

7 A. That's correct.

8 Q. When we were looking at 433-B, it didn't seem to have a  
9 net income of 5500.

10 A. Correct. 11:57:03

11 Q. And then as far as the living expenses, they are  
12 indicating how much in living expenses?

13 A. The total living expenses is \$3,479.

14 Q. Would you look at line items 36 and compare it to the  
15 previous offer in compromise as far as the housing -- which 11:57:29  
16 would be -- let's do it this way, Exhibit 111, page 20, on the  
17 third offer in compromise. Actually, it's been pulled up on  
18 the screen for you right here.

19 Through the list as their housing and utilities on  
20 the third offer in compromise up there. 11:57:57

21 A. If you could enlarge it. I didn't bring my glasses.

22 Q. Yes. I know. I'm with you. Right there. It's number.

23 MR. SEXTON: Can you enlarge it even more?

24 Q. Do you see 36 there, housing and utilities from the third  
25 offer in compromise? 11:58:50

United States District Court

KRISTY MORGAN - Direct

1 A. Yes. \$3500. 11:58:51

2 Q. Now compare that with what they are reporting in the

3 installment request on page 22 of Exhibit 114.

4 A. That shows \$1,133.

5 Q. And at the bottom of page 22, is that signed by Mr. and 11:59:08

6 Mrs. Parker?

7 A. That's correct, it is.

8 Q. On what date did they sign it?

9 A. August 3, 2005.

10 Q. And did they both sign under penalties of perjury? 11:59:21

11 A. Yes.

12 Q. Now, back to Exhibit 11, page five, was this installment

13 agreement accepted?

14 A. It shows that it's pending.

15 Q. Was it ever shown that it was either rejected or accepted? 12:00:07

16 A. Not according to the transcript, no.

17 Q. That seems to be an omission from the transcript as to the

18 disposition of this installment?

19 A. Right, at this time.

20 Q. And then so after -- starting those -- do you see those 12:00:26

21 last entries there? We have, starting on June 23 of 2003, do

22 you see those down there? They are all sorts of notices there.

23 A. Correct.

24 Q. Starting with the first two there, would you look at

25 your -- tell them what the statutory notice of balance due 12:00:51

KRISTY MORGAN - Direct

1	is -- what is that?	12:00:54
2	A. That is the notice that goes out to the taxpayer informing	
3	them of the amount owed. It's a series of notices that go out	
4	before the next process is taken as far as collections.	
5	Q. And who is it sent to?	12:01:10
6	A. It's sent to the address of record of the taxpayer.	
7	Q. And if there is a husband and wife, is it to both of them	
8	or them as collective couple?	
9	A. The notice is sent to both.	
10	Q. Are those are sent certified mail?	12:01:26
11	A. Those are not certified.	
12	Q. And then the next entries, there's four of them that are	
13	all with various dates called statutory notice of intent to	
14	levy. Do you see those?	
15	A. I do.	12:01:38
16	Q. Would you explain what those are to the jury?	
17	A. Once we have not received payment on the notice of balance	
18	due, the next step to is enforcement and then the notice of	
19	intent to levy goes out to try to satisfy the tax debt.	
20	Q. When we use the word "levy," what are we talking about?	12:01:54
21	A. That's where the IRS will attach wages of property, bank	
22	accounts to satisfy the tax debt.	
23	Q. And then going on to page six of the transcript, are	
24	there, again, some additional statutory notices of intent to	
25	levy in February and July of 2005?	12:02:10

United States District Court

KRISTY MORGAN - Direct

1 A. That's correct. 12:02:16

2 Q. And then a statutory notice of balance due on 10-2 of '06?

3 A. That's correct.

4 Q. And those are of the similar type that we just talked  
5 about on the previous page? 12:02:32

6 A. Yes.

7 Q. And then on page seven of Exhibit 11. Let's go to  
8 Exhibit 36 first. Pull out Exhibit 36.

9 MR. SEXTON: This is a Maricopa County certified  
10 record of the notice of federal tax lien, Your Honor, and we  
11 offer it into evidence. 12:03:14

12 MR. MINNS: No objection?

13 THE COURT: It's admitted.

14 (Exhibit Number 36 was admitted into evidence.)

15 BY MR. SEXTON: 12:03:28

16 Q. All right. Let's go to page three, starting at top. What  
17 does this notice entitled?

18 A. It's Notice of Federal Tax Lien.

19 MR. SEXTON: There's like a little verbiage right  
20 here, "As provided." If we could highlight that or enlarge  
21 that for the jury, that middle section there. Right there.  
22 That's good. 12:03:53

23 Q. Would you read that section?

24 MR. MINNS: Pardon me. The government said page  
25 three. This is page two. 12:04:11

United States District Court

KRISTY MORGAN - Direct

1 MR. SEXTON: Well, we're using the Bates stamp 12:04:17  
2 numbers at the bottom. Bates stamp number 0003.

3 MR. MINNS: I just have something that says MCR, 2 of  
4 3.

5 MS. ARNETT: It's not Bates stamp numbered. 12:04:30

6 MR. SEXTON: That's exactly the same page I am on.  
7 They give the -- may I talk with counsel for a second?

8 THE COURT: Yes.

9 (Discussion off the record.)

10 MR. SEXTON: Thanks, Judge. 12:05:09

11 BY MR. SEXTON:

12 Q. Let's enlarge that. Would you read the highlighted  
13 section there for the jury?

14 A. "As provided by Section 6321, 6322, and 6323 of the  
15 Internal Revenue Code, we are giving a notice that taxes, 12:05:23  
16 (including interests and penalties) have been assessed against  
17 the following-named taxpayer. We have made a demand for  
18 payment of this liability, but it remains unpaid. Therefore,  
19 there is a lien in favor of the United States on all property  
20 and rights to property belonging to this taxpayer for the 12:05:39  
21 amount of these taxes, and additional penalties, interest, and  
22 costs that may occur."

23 Q. May occur or may accrue?

24 A. Accrue. Excuse me.

25 Q. And then in the body of this, what tax years and returns 12:05:57

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1 are indicated? 12:06:04

2 A. It shows a 1997 1040 listing that entry twice. 1998 1040,  
3 that entry is listed twice, and 2001 and 2002.

4 Q. And looking at the bottom, what is the -- in the far right  
5 is the unpaid balance. Is that correct? 12:06:24

6 A. Right.

7 Q. For each one of those tax years?

8 A. Correct.

9 Q. And it sums to what?

10 A. \$1,740,827.44. 12:06:34

11 Q. And this is a document that recorded where?

12 A. The recording is in Maricopa County records.

13 Q. And what is the purpose of this lien? What's it intended  
14 to do?

15 A. This puts a lien on the property to satisfy the tax debts. 12:06:53

16 Q. And when was this lien placed?

17 A. The date? 13th of February, 2004.

18 Q. And it was put there by a revenue officer?

19 A. That's correct.

20 THE COURT: All right. Ladies and gentlemen, we're 12:07:17  
21 going to take a break for lunch. We will see you back here at  
22 15 minutes after one.

23 We are in recess.

24 (Jury departs.)

25 (Recess at 12:07; resumed at 1:25.) 12:07:44

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1 (Jury enters.) 01:25:20  
2 (Court was called to order by the courtroom deputy.)  
3 THE COURT: Please be seated.  
4 All right. Mr. Sexton, you may proceed.  
5 BY MR. SEXTON: 01:25:55  
6 Q. All right. If we could pull up Exhibit 11, page seven,  
7 the transcript for 1997. This is the last page of the 1997  
8 transcript?  
9 A. Correct.  
10 Q. And this transcript request, when was it run? In other 01:26:18  
11 words, when was it up to?  
12 A. The date is July 20, 2010.  
13 Q. And as of that time frame, what was the balance that was  
14 still remaining due on the 1997 tax return?  
15 A. \$632,415.84. 01:26:39  
16 Q. Let's go on to the 1998 tax year. Would you look at  
17 Exhibit 12. Is that the transcript for the 1998 tax year for  
18 James and Jacqueline Parker?  
19 A. Yes.  
20 MR. SEXTON: Certified record. We would offer it 01:27:14  
21 into evidence at this time.  
22 MR. MINNS: No objection.  
23 THE COURT: It's admitted.  
24 (Exhibit Number 12 was admitted into evidence.)  
25

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1 BY MR. SEXTON: 01:27:24

2 Q. This is on the screen, the first page of the 1998

3 transcript?

4 A. Correct.

5 Q. Now, looking down, sort of, the first date entry on the 01:27:33

6 left, there's a 10-17-1999. Do you see that on the left?

7 A. Yes.

8 Q. What does it indicate happened on that date?

9 A. A return was filed and tax was assessed.

10 Q. And would you look at Exhibit 2 and tell me if that was 01:27:56

11 the return that was filed by the taxpayers at that time?

12 A. Yes.

13 MR. SEXTON: I would offer Exhibit 2 into evidence.

14 MR. MINNS: No objection to Exhibit 2.

15 THE COURT: And it is admitted. 01:28:17

16 (Exhibit Number 2 was admitted into evidence.)

17 MR. SEXTON: Let's put -- I'm going to call it page

18 three, which is the Bates number on the bottom, 003, the first

19 page of 1040.

20 BY MR. SEXTON: 01:28:34

21 Q. This is the 1998 return, if the first page of it?

22 A. Yes.

23 Q. For Mr. and Mrs. Parker as the taxpayers?

24 A. Yes.

25 Q. And then before you get to that, is it still showing that 01:28:50

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1 there are two individuals who are dependents? 01:28:54

2 A. Yes, that's correct.

3 Q. And who are those two?

4 A. Samuel Parker and James Parker.

5 Q. And then moving down into the income section of this first 01:29:06

6 page on line 12, what does it reflect as income?

7 A. It shows business income of \$53,372.

8 Q. And the line item for that, like a business income?

9 A. Yes.

10 Q. And then after that, it says Schedule C or C-EZ. It 01:29:23

11 says -- is this the Schedule C that you were talking about

12 earlier?

13 A. Yes. That would be the supporting document.

14 Q. And then there are some deductions on the bottom part of

15 the first page associated with moving expenses. Do you see 01:29:41

16 that down there at the bottom?

17 A. Yes.

18 Q. What is the amount that was indicated for moving expenses?

19 A. \$7,692.

20 Q. And then there's also a deduction for self-employment tax. 01:29:56

21 Do you see that?

22 A. Yes.

23 Q. That at the bottom of the first page, the reported

24 adjusted gross income was how much?

25 A. \$41,909. 01:30:10

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1 Q. And then moving to page two of the 1040, on line 39. Line 01:30:16  
2 39 roughly in the middle there, it says taxable income. What  
3 is the taxable income that is declared on his tax return?  
4 A. \$8,161.  
5 Q. And then just below that, what is the tax that has been 01:30:47  
6 determined on this return?  
7 A. \$1,226.  
8 Q. And then moving down to, sort of, the middle section of  
9 this 1040 tax return, does it increase the tax by the  
10 self-employment tax on line 50? 01:31:11  
11 A. Yes, it does.  
12 Q. And then, finally, on line 56, right in the middle here,  
13 does it come to a total tax that is due for the 1998 return as  
14 calculated by the Parkers?  
15 A. Yes. 01:31:27  
16 Q. And what was that amount?  
17 A. The total tax computed is \$7,967.  
18 Q. And then at the very bottom, does it indicate that an  
19 extension was asked to file this return later than normal?  
20 A. Yes. 01:31:44  
21 Q. And with that extension, was there an amount of money that  
22 was paid with that extension?  
23 A. With the extension was \$2100 paid.  
24 Q. And so at the bottom line on line -- at the bottom line,  
25 what's the amount that is still remaining to be owed and paid 01:31:58

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1 on this tax return as indicated by the Parkers? 01:32:00  
2 A. \$5,867.  
3 Q. And then just below that, is that the signature line?  
4 A. Yes.  
5 Q. Is it signed by James Parker and Jacqueline Parker? 01:32:11  
6 A. Yes.  
7 Q. And what's the date that is indicated on their signatures?  
8 A. October 8, 1999.  
9 Q. And above that, did they sign under penalties of perjury?  
10 A. Yes, it is. 01:32:27  
11 Q. And is there a paid preparer indicated?  
12 A. On the return, there's a paid preparer of Eugene C Galant.  
13 Q. And he signed and dated it as well?  
14 A. Yes, he did.  
15 Q. The third page -- well, actually the fifth page, this is 01:32:40  
16 the Schedule A for itemized deductions?  
17 A. Correct.  
18 Q. And then looking at lines six and ten for real estate  
19 taxes and home mortgage interest deducted on this as an  
20 itemized deduction? 01:33:04  
21 A. Yes, they were.  
22 Q. And then the next page, six, up in the upper left-hand  
23 corner, it says it's a Schedule C. Do you see that?  
24 A. Yes.  
25 Q. Is this what you were talking about earlier? 01:33:30

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1 A. Yes. 01:33:32

2 Q. And so the name of the proprietor indicates what?

3 A. James R. Parker.

4 Q. And what does it say is the principal business or

5 profession? 01:33:47

6 A. The business is real estate sales.

7 Q. And then what's listed as line C, the business name, did

8 he put down a business name for this business?

9 A. Not on this form, no.

10 Q. And then, ultimately, he lists the part one section for 01:34:15

11 income. How much, in the way of gross receipts or gross

12 income, does he list on line seven for his business?

13 A. \$83,170.

14 Q. And then the next section, part two, is a series of

15 expenses that he indicates. How much does he indicate in total 01:34:31

16 expenses?

17 A. Total expenses is \$27,958.

18 Q. And then there's a couple of other things but, ultimately,

19 on line 31, what does he indicate is the net profit or loss?

20 A. \$53,372. 01:34:51

21 Q. And is that ultimately the amount that is shown on the

22 first page of the 1040 as the business income reported?

23 A. Yes. It's carried forward to the front on line 12.

24 Q. And that's the only income reported on this 1040 tax

25 return for 1998? 01:35:09

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1 A. Correct. 01:35:11

2 Q. And then on page ten, there's a form that is used when you  
3 are using your home in part for a business, and so you get to  
4 deduct it as a business expense. Is that what this form is on  
5 page 10? 01:35:49

6 A. Yes. This is the form that is used?

7 Q. Now, on this particular form, there seems to be two of  
8 these, one on page 10 and one on page 11. Do you see that?

9 A. Yes.

10 Q. The first home, on page 10, looking at line two for the 01:36:10  
11 jury, seems to indicate a certain square footage for the home  
12 in line two. Do you see that?

13 A. I do.

14 Q. Would you -- let's wait for Mr. Perkel to catch up here.  
15 Do you see on line two it says total area for home. 01:36:33  
16 Do you see that?

17 A. Yes.

18 Q. What is the total area square footage-wise?

19 A. 2500.

20 Q. And then the next page, page 11, top of the second, again, 01:36:41  
21 where line two is, what does it indicate for the square footage  
22 of this other home?

23 A. 4,000.

24 Q. And, ultimately, both of these homes are used in some  
25 portion for a business expense? 01:37:06

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1 A. Yes. 01:37:10

2 Q. And then on page 12 with this one, is this also that power  
3 of attorney we looked at earlier for Martha Patrick, now being  
4 a power of attorney for the 1997 and 1998 tax returns?

5 A. Yes. 01:37:25

6 Q. And then on page 14 we have powers of attorneys executed  
7 for the same two returns with the powers of attorney being  
8 granted to Greg Robinson and Eugene Galant?

9 A. That's correct.

10 Q. Now, let's go back to the transcript for 1998, page -- 01:38:09  
11 Exhibit 12, page two. Going down to the end, sort of, where it  
12 says -- do you see where it says 5-15-2001? Those are the  
13 powers of attorney indicated there?

14 A. Yes.

15 Q. But then just below that, it's like we covered in 1997, do 01:38:42  
16 you see that where it says, "Additional tax assessed by  
17 examination"?

18 A. Yes.

19 Q. Is this an audit process that is being indicated here?

20 A. Yes. It's showing the audit was closed, unagreed to 01:38:55  
21 appeals.

22 Q. And that's on 2-2 of '03, the date on the right-hand side?

23 A. That's correct.

24 (The following portion was previously separately  
25 transcribed and is incorporated herein.) 01:39:14

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1 BY MR. SEXTON: 01:39:14

2 Q. Now, let's turn, if you would, in front of you to

3 Exhibit 33 that discussed the audit.

4 For 1998, is this the income tax examination changes

5 for the 1998 return? 01:39:32

6 A. That's correct.

7 MR. SEXTON: This is a certified record that we would

8 move in at this time.

9 MR. MINNS: No objection.

10 THE COURT: It's admitted. 01:39:44

11 (Exhibit Number 33 was admitted into evidence.)

12 MR. SEXTON: Let's put page three on the document.

13 Would you highlight sort of the top half of it for me?

14 Q. This is the income tax examination changes form?

15 A. Yes. 01:40:09

16 Q. And this is for James and Jacqueline Parker?

17 A. Correct.

18 Q. And it is for what period?

19 A. The period 1998.

20 Q. And this is their individual tax form? 01:40:23

21 A. That's correct.

22 Q. Now, look at --

23 MR. SEXTON: Maybe even highlight even more the

24 Adjustments for Income section to give it even greater --

25 Q. Now, number -- or letter e, do you see that? 01:40:37

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1 A. Yes. 01:40:41

2 Q. What does it indicate as the unreported income for the tax  
3 return?

4 A. \$1,708,656.

5 Q. And then starting with letter g down to k, does it 01:40:52  
6 indicate expenses that are being authorized for the Schedule C?

7 A. Yes, it does.

8 Q. And what does it indicate are being allowed expenses for  
9 the business?

10 A. There's legal, professional expenses of \$2,850; vehicle 01:41:17  
11 expenses of \$6,828; utilities of \$10,600; equipment and  
12 furniture, \$2,045; and office in the home of \$1,840.

13 Q. Now, pulling back to sort of the midsection of the  
14 document, kind of the middle part if you would. Ultimately, on  
15 that line two, do you see at the top there line two? 01:41:54

16 A. Yes.

17 Q. It's indicating that the total adjustments to the 1998 tax  
18 return is how much?

19 A. \$1,742,771.

20 Q. And then it tells us on line three what the actual taxable 01:42:10  
21 income that was reported by the taxpayer on the return. What  
22 was that?

23 A. \$8,161.

24 Q. And, now, what is the corrected taxable income on line 4?

25 A. The corrected amount is \$1,750,932. 01:42:29

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KRISTY MORGAN - Direct

- 1 Q. And on line five, what is the new tax? 01:42:36
- 2 A. Corrected tax is \$666,973.
- 3 Q. And to be added to that is line 10a, do you see that?
- 4 A. Yes.
- 5 Q. How much more is to be added for self-employment tax? 01:42:52
- 6 A. \$56,318.
- 7 Q. Coming to a grand total on line 11 of how much?
- 8 A. The total corrected tax liability is \$723,291.
- 9 Q. And then right below that is the tax that was actually
- 10 shown on the tax return? 01:43:09
- 11 A. Correct.
- 12 Q. How much was shown?
- 13 A. \$7,967.
- 14 Q. Therefore, the difference is the last number on that page,
- 15 what is the difference between those two amounts that increased 01:43:19
- 16 the amount of tax?
- 17 A. It's \$715,324.
- 18 Q. And then if you would turn to page four of Exhibit 33.
- 19 Looking at the last little summary at the bottom there on 19,
- 20 this is where it summarizes the taxes, penalties, and interest? 01:43:53
- 21 A. That's correct.
- 22 Q. The \$715,324 is the number that we just were talking about
- 23 on the other side?
- 24 A. Yes, the tax.
- 25 Q. And what is the amount of the penalties? 01:44:04

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1 A. \$143,064.80. 01:44:06  
2 Q. And what's the interest that was calculated on the unpaid  
3 balance?  
4 A. The interest calculated to October 5, 2002, is  
5 \$258,362.19. 01:44:19  
6 Q. And those -- and the total amount due for taxes, interest,  
7 and penalties for the 1998 return equals what?  
8 A. \$1,116,750.99.  
9 Q. After that determination -- would you go to Exhibit 35?  
10 Is that the certified copy of the notice of deficiency for the 01:44:52  
11 1998 return?  
12 A. That's correct.  
13 MR. SEXTON: I would offer Exhibit 35 into evidence.  
14 MR. MINNS: No objection.  
15 THE COURT: It's admitted. 01:45:13  
16 (Exhibit Number 35 was admitted into evidence.)  
17 BY MR. SEXTON:  
18 Q. Page three of this notice of deficiency, would you --  
19 okay. You've got it. First off, this is to Mr. and  
20 Mrs. Parker? 01:45:27  
21 A. That's correct.  
22 Q. And to remind the jury, is this something that is sent  
23 both of them individually or to them collectively?  
24 A. Sent to each individually, certified.  
25 Q. And just below that is the tax year, 1998? 01:45:43

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1 A. Correct. 01:45:46

2 Q. And then the deficiency in tax and the penalties are  
3 listed just below that?

4 A. Yes.

5 Q. Do those agree with the ones we were just looking at on 01:45:51  
6 the previous document?

7 A. They do.

8 Q. And does this document in the second paragraph indicate  
9 that they have a right to petition this deficiency to tax  
10 court? 01:46:09

11 A. Yes. It explains that to them, yes.

12 Q. So let's go to Exhibit 38.

13 (End of excerpted portion.)

14 MR. SEXTON: I would move for Exhibit 38 into  
15 evidence as a certified record of the tax court judgment for 01:46:26  
16 the 1998 tax year?

17 MR. MINNS: No objection.

18 THE COURT: It's admitted.

19 (Exhibit Number 38 was admitted into evidence.)

20 BY MR. SEXTON: 01:46:41

21 Q. Like the one that we saw for 1997, is this the tax court  
22 judgment signed by the judge?

23 A. That's correct.

24 Q. And in the decision area, let's go through that, does it  
25 indicate that's an agreement between the parties in this case? 01:47:07

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KRISTY MORGAN - Direct

1	A.	Does it?	01:47:09
2	Q.	And then would you read the next two paragraphs after	
3		that?	
4	A.	After the agreement it states, "Ordered and decided: That	
5		there is a deficiency in income tax due from the petitioners	01:47:16
6		for the taxable year 1998 in the amount of \$715,324; and that	
7		there is a penalty due from the petitioners for the taxable	
8		year 1998 under the provisions of Internal Revenue Code 6662(a)	
9		in the amount of \$143,064."	
10	Q.	And just below the judge's signature, what is the date	01:47:41
11		that this judgment is entered in the United States Tax Court?	
12	A.	May 6, 2003.	
13	Q.	And then page three of the exhibit, of Exhibit 38, does	
14		that indicate at the top that it is a stipulated agreement?	
15	A.	That does, yes.	01:48:05
16	Q.	Does it also say, in the second paragraph, that the	
17		parties agree that interest can be assessed as ordinarily	
18		provided by law?	
19	A.	Correct, yes.	
20	Q.	And in the signature line for counsel for Mr. and	01:48:18
21		Mrs. Parker, does it indicate and have a signature for Henry	
22		Tom?	
23	A.	That's correct.	
24	Q.	And when was his signature dated?	
25	A.	April 24, 2003.	01:48:31

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KRISTY MORGAN - Direct

- 1 Q. Let's go back to the transcript, Exhibit 12, for 1998, 01:48:40  
2 page three. Like we saw in the 1997 transcript, the first  
3 entry at the top is a legal suit pending. Is that the appeal  
4 process tax court stuff we've just gone through?
- 5 A. That's correct, yes. 01:49:20
- 6 Q. And then a couple entries down after that on 6-17-23, does  
7 the transcript indicate that it's no longer pending?
- 8 A. Yes.
- 9 Q. And then you have what is referred to as this quick  
10 assessment. Would you indicate to the jury what the whole 01:49:46  
11 process is of this quick assessment?
- 12 A. When there's a decision made by the courts, it needs to be  
13 manually input and they like to get that done as quick as  
14 possible so the assessment is actually done manually. They  
15 have some paperwork that they fill out to get this on the books 01:50:03  
16 as soon as possible.
- 17 Q. And then the quickest estimate has three things: The  
18 interest, tax, and the penalties.
- 19 As far as the tax, the \$715,000 right there in the  
20 middle -- 01:50:20
- 21 A. Yes.
- 22 Q. -- is that the same amount that's indicated in the tax  
23 court judgment we were just reviewing?
- 24 A. It is.
- 25 Q. And then the penalties above that, is that the same amount 01:50:27

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1 that was indicated in the stipulated tax court judgment as 01:50:30  
2 well?  
3 A. It is.  
4 Q. And then the interest is a floating number that changes.  
5 For every additional day that it goes unpaid, more and more 01:50:36  
6 interest is owed on the unpaid debt?  
7 A. That's correct.  
8 Q. And so as of this particular date, 6-16 of 2003, what was  
9 the interest charges on this debt?  
10 A. The interest was \$296,485.15. 01:50:50  
11 Q. Now, on page four of Exhibit 12, are there two entries at  
12 the top associated with a notice or an intent to levy  
13 collection?  
14 A. Yes.  
15 Q. Is this similar to the discussion we had for the '97 01:51:19  
16 return?  
17 A. Correct.  
18 Q. And then on 2-20 of '04, is the tax lien processed?  
19 A. The lien was filed, yes.  
20 Q. And that was -- when we looked at that earlier, we noticed 01:51:36  
21 that the tax lien not only had 1997 but it had 1998, 2001, and  
22 2002 on it?  
23 A. That's correct.  
24 Q. So this is covering what we've already shown the jury?  
25 A. That's correct. 01:51:49

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- 1 Q. And then there's an entry after that on 3-10-2004. Would 01:51:55  
2 you read what that says?
- 3 A. "Collections working case."
- 4 Q. And when we say "collections," what is the collections  
5 side? 01:52:08
- 6 A. That is the part of the Internal Revenue Service that will  
7 collect the taxes that are owed, whether it be through the  
8 notice routine or through enforcement actions.
- 9 Q. And then, moving down to on page four of the transcript,  
10 you see the offer in compromise pending 7-30-2004? 01:52:25
- 11 A. Yes.
- 12 Q. And that is that first offer of compromise that we've  
13 already presented to the jury?
- 14 A. Yes. Same thing.
- 15 Q. And so when a person puts an offer in compromise in, which 01:52:38  
16 they are saying several years are what we're interested in  
17 compromising, does each transcript then make -- let me put it  
18 this way. We saw the 1997 that it listed the offer in  
19 compromise, the first one.
- 20 A. Yes. 01:52:59
- 21 Q. And since, on the offer in compromise, it says we are  
22 trying to compromise 1997, 1998, 2001, 2002, does the IRS input  
23 that offer in compromise as a notation in each one of those tax  
24 years?
- 25 A. Yes. It would be reflected on each tax year. 01:53:18

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- 1 Q. So when you got to the third offer in compromise was for 01:53:25  
2 the tax years 1997 through 2004, every single one of those  
3 eight years would have an entry for that offer in compromise as  
4 having been part of the history for each one of those tax  
5 years? 01:53:41  
6 A. Yes.  
7 Q. So this offer in compromise that is listed on 7-30-2004 is  
8 the same offer in compromise that we just went over with the  
9 jury for 1997?  
10 A. It is. 01:53:55  
11 Q. And then when it has the rejection at 10-13-2004, is that  
12 the same rejection entry that would apply to all of the years  
13 that were in question for that offer in compromise?  
14 A. Yes, it is.  
15 Q. And then going on to the next page of the transcript, we 01:54:10  
16 have the first entry being the second offer in compromise?  
17 A. Yes.  
18 Q. Followed by the second rejection of the offer in  
19 compromise?  
20 A. Correct. 01:54:29  
21 Q. Followed by the third offer in compromise?  
22 A. Yes.  
23 Q. Followed by the rejection of that?  
24 A. Yes.  
25 Q. Followed by the installment agreement being lodged? 01:54:36

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1	A.	That's correct.	01:54:40
2	Q.	So all of these entries are the same type of entries that	
3		we just reviewed in 1997 and go to the exact same offers in	
4		compromise we went page by page through with the jury?	
5	A.	It is.	01:54:55
6	Q.	These are additional notices of the type that you already	
7		talked about before?	
8	A.	Yes, notices to the taxpayer about the balances owed.	
9	Q.	But these are notices specifically for the 1998 tax year	
10		whereas before we were talking about the 1997 tax year?	01:55:19
11	A.	Right. Specifically for 1998.	
12	Q.	And then on page six of the transcript, a similar listing	
13		of notices being sent to the taxpayers associated with an	
14		attempt to levy or a notice of balance due continuing on to	
15		that page?	01:55:41
16	A.	That's correct.	
17	Q.	Again, these would apply to the 1998 tax year as opposed	
18		to the earlier ones we were talking about of this type would	
19		apply to the 1997 tax year?	
20	A.	Correct.	01:55:52
21	Q.	And then, finally, on page seven, this is, again, the	
22		same -- you ran this transcript for 1998 at the same time you	
23		ran the transcript for 1997?	
24	A.	That's correct.	
25	Q.	And what was the date of that?	01:56:17

United States District Court

KRISTY MORGAN - Direct

1 A. July 20, 2010. 01:56:18  
2 Q. And as of that date, what was the amount of taxes,  
3 interest, and penalties remaining to be paid for the 1998 tax  
4 year?  
5 A. \$1,333,584.74. 01:56:28  
6 Q. All right. Let's go on to the next tax year. Would you  
7 look at Exhibit 13. Is that the transcript history for the  
8 1999 tax year?  
9 A. That's correct.  
10 MR. SEXTON: I would offer Exhibit 13 into evidence. 01:56:58  
11 MR. MINNS: I thought it was already -- I thought  
12 those listings had already been ruled on and were already in.  
13 THE COURT: They have and that particular exhibit,  
14 ladies and gentlemen, is subject to my limiting instruction.  
15 Thank you. 01:57:14  
16 (Exhibit Number 13 was admitted into evidence.)  
17 BY MR. SEXTON:  
18 Q. So on page two of that transcript -- let me ask you a  
19 question. For the 1999 tax year -- when we say a tax year, are  
20 we talking from January 1 to December 31? 01:57:39  
21 A. Yes.  
22 Q. So for 1999, when is the tax return for 1999 due by,  
23 unless you got permission to get an extension? When is it due  
24 by?  
25 A. April 15 of 2000. 01:57:57

United States District Court

KRISTY MORGAN - Direct

1 Q. In this particular case, looking at the entry right -- the 01:58:08  
2 second entry down with the date, do you see that date? Did  
3 they file an extension of time to file?  
4 A. Yes. There was an extension received.  
5 Q. And does it indicate when the time to file is extended to? 01:58:21  
6 A. It's extended to August 15 of 2000.  
7 Q. So a four-month extension?  
8 A. Yes.  
9 Q. And with that filing, did they pay something with it?  
10 A. Yes. There was a payment received with the extension of 01:58:43  
11 \$8,000.  
12 Q. Was the 1999 return actually filed by 8-15 of 2000?  
13 A. No.  
14 Q. Was it filed in 2001?  
15 A. In 2001? No. 01:59:04  
16 Q. 2002?  
17 A. No.  
18 Q. On 9-11 of 2002, do you see the first entry at the top  
19 here? Let's slow this down for the jury over here. 9-11-2002,  
20 do you see that? 01:59:28  
21 A. Yes.  
22 Q. Would you read what that entry is and explain what that  
23 entry represents?  
24 A. It states, "Substitute for return." This is when the  
25 individual has not filed a tax return and has the requirements. 01:59:38

United States District Court

KRISTY MORGAN - Direct

1 The information told to the IRS that there is requirement for 01:59:45  
2 filing. The IRS will go in and do a substitute for a tax  
3 return and do an audit so that these amounts -- a report can be  
4 done and the tax can be assessed.

5 Q. In other words, the IRS goes about trying to figure out 02:00:03  
6 what your return should have been?

7 A. Yes.

8 Q. Now, at the top of page two of the transcript, ultimately,  
9 there are some determinations as to what the adjusted gross  
10 income for the substitute return would be for Mr. and 02:00:24  
11 Mrs. Parker for 1999. What is the amount indicated at the top?

12 A. The adjusted gross income is \$2,204,569.

13 Q. And what is the amount that is considered to be taxable  
14 income?

15 A. They computed the taxable income at \$2,195,915. 02:00:42

16 Q. Now, from the standpoint of the substitute return/audit,  
17 are they, in essence, the same sort of an auditing process in  
18 which the IRS is trying to learn and work with the taxpayer to  
19 figure out what the true income and tax liabilities were for  
20 that year? 02:01:05

21 A. Yes. The notices go out. The request for books and  
22 records, phone numbers, contact information is all sent.

23 Q. Now, on this particular case, before the substitute return  
24 is filed, is there an indication on this transcript right in  
25 the middle on 6-4 of 2002 that the IRS has received a power of 02:01:29

United States District Court

KRISTY MORGAN - Direct

1 attorney for a representative of the taxpayers? 02:01:35

2 A. Yes.

3 Q. And then right in the middle there, and it's actually on

4 the screen. Where it says the "assessment statute expires,"

5 what's that mean? 02:02:12

6 A. That means that the Internal Revenue Service needs to

7 assess tax by 9-05-2006. So that's the time restraints that

8 are on the IRS to complete the audit and get the assessment

9 done.

10 Q. Is that kind of a drop-dead date from your side of things? 02:02:29

11 A. It is. It is.

12 Q. And then on 11-19, just below that, you can see a little

13 bit of it, the tip of it there, is this one of the offers in

14 compromise that was filed in this case?

15 A. That's correct. 02:02:57

16 Q. And this is the second one because the first one didn't

17 indicate the 1999 tax year, did it?

18 A. That's correct.

19 Q. And so this entry represents the same offer in compromise

20 that we've been talking about for the second one that was 02:03:13

21 submitted?

22 A. That's correct, yes.

23 Q. Page three of the transcript on the exhibit for 1999, and

24 I'll try to go through this quickly, that second offer in

25 compromise is being rejected for this tax year? 02:03:51

United States District Court

KRISTY MORGAN - Direct

1	A.	Yes.	02:03:53
2	Q.	The next one is being offered on 4-13-2005?	
3	A.	That's correct.	
4	Q.	Right after that?	
5	A.	Yes.	02:04:02
6	Q.	And then there's a series of entries here after the offer	
7		in compromise pending there. Do you see that, late filing	
8		penalty, miscellaneous penalty, additional tax assessed?	
9	A.	Yes.	
10	Q.	Would you explain this section here and when this	02:04:17
11		occurred?	
12	A.	On July 7, 2005, according to the last entry, it says,	
13		"Additional tax assessed by examination, agreed audit	
14		deficiency after 90-day letter." So this amount of tax was	
15		agreed to by the taxpayer. Also, the penalties and the	02:04:34
16		miscellaneous penalty and the late filing penalty were all	
17		agreed to and then assessed.	
18	Q.	And that was assessed when?	
19	A.	July 11, 2005.	
20	Q.	And so there were two separate penalties. What are the	02:04:57
21		differences between the two penalties that are assessed on	
22		this?	
23	A.	The first one is late filing for not timely filing a tax	
24		return. It's computed on the date the extension was filed up	
25		until the agreement.	02:05:10



KRISTY MORGAN - Direct

1           The second one is for inaccuracy of the return. 02:05:14  
2           Because of the amount of income that was not reported, the  
3           return is not accurate, so there is a penalty that can be  
4           assessed on the accuracy of your tax return.  
5           Q.    And the sum of these is just over a million dollars? 02:05:40  
6           A.    Yes, it is.  
7           Q.    And this is before any calculation of interest that were  
8           due on the unpaid balances?  
9           A.    That's correct.  
10          Q.    And then going to page three of the history transcript for 02:05:48  
11          '99, is the first entry the rejection of that third offer in  
12          compromise?  
13          A.    That's correct.  
14          Q.    And then there's another penalty there.  What is that?  
15          A.    That's, again, a failure to pay because the amount has not 02:06:05  
16          been paid yet.  
17          Q.    And then there are a series of liens and notices and  
18          balance due items that are sent there.  Are those all sort of  
19          statutorily required and prescribed by the IRS?  
20          A.    That's correct, yes. 02:06:24  
21          Q.    Are these similar in form to the ones we've already  
22          addressed with the jury so far today?  
23          A.    Yes.  
24          Q.    So would the only differences were that they apply to the  
25          1999 tax numbers as opposed to '98, '97 -- '98 and '97 that we 02:06:42

United States District Court

KRISTY MORGAN - Direct

1 talked about earlier? 02:06:46

2 A. That's right, yes.

3 Q. And then in 2005, as of the date you ran the history of

4 this 1999 return, what was the remaining amount of taxes,

5 interest and penalty that was still owed for 1999? 02:07:06

6 A. \$1,457,907.51.

7 Q. Let's turn to Exhibit 14 for the 2000 tax year. For the

8 2000 tax year -- first offer this is a certified record of the

9 2000 transcript we would offer into evidence?

10 MR. MINNS: No objection. 02:07:46

11 THE COURT: It's admitted.

12 (Exhibit Number 14 was admitted into evidence.)

13 MR. SEXTON: For the calendar year 2000 tax year,

14 when is that tax return normally due to be filed?

15 THE WITNESS: April 15, 2001. 02:08:02

16 BY MR. SEXTON:

17 Q. Like the '99 tax year, was a return not filed in a timely

18 fashion such that an audit process was commenced again?

19 A. Yes, that's correct.

20 Q. And the entry on 9-11-2002, the first one, is this the 02:08:18

21 same process of a substitute return that you already talked

22 about for the 1999 tax year?

23 A. Yes.

24 Q. And, again, on 6-4-2002, does it indicate that a power of

25 attorney was filed for this tax year for somebody to speak on 02:08:40

KRISTY MORGAN - Direct

1 behalf of the taxpayer in regard to this year? 02:08:47

2 A. That's correct, yes.

3 Q. And from an audit standpoint at the top, what is indicated

4 as the findings by the IRS as to the adjusted gross income?

5 A. It shows \$491,920 adjusted gross income. 02:09:09

6 Q. And for taxable income, what does it say just below that?

7 A. \$452,697.36.

8 Q. And then the second offer of compromise on 11-19-2004 is

9 rejected on this history for 2000?

10 A. Yes. 02:10:03

11 Q. And then there are series of penalties, additional taxes

12 and interest assessed just below that?

13 A. Correct.

14 Q. And then looking on page three of this 2000 history, this

15 is the third offer in compromise -- no, excuse me, the second 02:10:32

16 offer in compromise being rejected?

17 A. Yes.

18 Q. Followed by the third one being reoffered?

19 A. Yes.

20 Q. And then, ultimately, through the audit process, what 02:10:46

21 taxes and penalties were assessed and agreed to?

22 A. There was an additional tax assessed of \$154,516.

23 Accuracy penalty of \$30,903.20 and a late filing penalty of

24 \$43,517.75.

25 Q. And when did that occur? 02:11:16

United States District Court

KRISTY MORGAN - Direct

1	A.	The date is July 11, 2005.	02:11:18
2	Q.	And then there's an entry that is below the same date as	
3		the July 11, do you see the entry that says "renumbered	
4		return"?	
5	A.	Yes.	02:11:30
6	Q.	Tell the jury what that is.	
7	A.	Once an audit is completed, we will take the entire	
8		substitute for return file, correspondence that has come in,	
9		the actual assessment documents and will put them all together	
10		and give the return a new document locator number so that we	02:11:44
11		can pull it back from files if we ever need it. It's just a	
12		package of all of the information from the audit.	
13	Q.	And then right after that renumbered return entry down	
14		there, there is the entry we have become familiar with in which	
15		the third offer in compromise is rejected?	02:12:07
16	A.	Correct.	
17	Q.	And then, turning to page four, some additional tax	
18		penalties for not paying?	
19	A.	Yes.	
20	Q.	And then there's a series of notices and liens and such	02:12:36
21		that are listed as the last seven entries on page four?	
22	A.	That's correct.	
23	Q.	Other than being for the year 2000 as opposed to the	
24		previous years we talked about, is the form and structure and	
25		substance of all of those the same as what we've already	02:12:52

KRISTY MORGAN - Direct

1 presented to the jury? 02:12:55

2 A. Yes, it is.

3 Q. And then on page five, as of July 20 of 2010, when you ran  
4 this report, what was the unpaid taxes, interest and penalties  
5 owing for the 2000 tax year? 02:13:11

6 A. \$343,990.45.

7 Q. Let's do the 2001 tax year. Would you look at Exhibit 15.  
8 Is that the transcript for the 2001 tax year for James and  
9 Jacqueline Parker?

10 A. That's correct. 02:13:36

11 MR. SEXTON: I would offer Exhibit 15 into evidence.

12 MR. MINNS: No objection, Your Honor.

13 THE COURT: It's admitted.

14 (Exhibit Number 15 was admitted into evidence.)

15 BY MR. SEXTON: 02:13:53

16 Q. For the 2001 tax return for that calendar year, when would  
17 that normally be due?

18 A. That would be due April 15, 2002.

19 Q. Now, in this particular case, was there an extension filed  
20 before April 15, 2002? 02:14:05

21 A. Yes. There was two extensions received.

22 Q. And summarize those for the jury.

23 A. The first extension was received and granted an extension  
24 to August 15 of 2002. Then a second extension was approved  
25 until October 15, 2002. 02:14:20

United States District Court

KRISTY MORGAN - Direct

1 Q. When was the tax return for 2001 actually filed? 02:14:28  
2 A. It was received September 5, 2003.  
3 Q. And is that the first entry at the top up here, the first  
4 entry on the transcript?  
5 A. Correct. The very first is the return filed and tax 02:14:43  
6 assessed.  
7 Q. So even with the extensions, this was filed late?  
8 A. Yes. It was not timely filed.  
9 Q. Let's go to Exhibit 3 which is the actual tax return which  
10 is the certified copy you had offered into evidence. 02:14:59  
11 MR. MINNS: No objection.  
12 THE COURT: It's admitted.  
13 (Exhibit Number 3 was admitted into evidence.)  
14 BY MR. SEXTON:  
15 Q. All right. Is this the 2001 return for James and 02:15:18  
16 Jacqueline Parker?  
17 A. Yes, it is.  
18 Q. Still the same post office box that we have seen before on  
19 some of the earlier returns?  
20 A. Yes. 02:15:30  
21 Q. And then looking down in the dependents, is it still the  
22 same two dependents, James Parker and Samuel Parker?  
23 A. Correct.  
24 Q. And then sort of in the middle in the income section, is  
25 there a sideways stamp as to when this was received by the 02:15:41

United States District Court

KRISTY MORGAN - Direct

1	Internal Revenue Service?	02:15:45
2	A. Yes. It shows that it was received in Phoenix, Arizona	
3	September 5, 2003.	
4	Q. Is there any business income shown on line 12?	
5	A. No business income, no.	02:16:00
6	Q. But there is income shown on line 17. What does that line	
7	read?	
8	A. It reads, "Rental real estate, royalties, partnerships, S	
9	corporations, trusts, et cetera," and a Schedule E would	
10	support that.	02:16:19
11	Q. And what's the amount that is indicated?	
12	A. \$21,410.	
13	Q. And then on line 21 which is called "Other Income," is	
14	there a typed-in entry for some entity?	
15	A. Yes. It shows other income from Omega Construction,	02:16:34
16	Incorporated, the amount is \$64,230.	
17	Q. And those total the income he is reporting for 2001?	
18	A. The total income is \$85,640.	
19	Q. And then going to page two of the tax return on line 36,	
20	page four, my apology, line 36, do you see the line for	02:17:03
21	itemized deductions there, line 36?	
22	A. Yes.	
23	Q. How much is indicated?	
24	A. \$37,156.	
25	Q. And after all is said and done, on line 39, what does it	02:17:22

United States District Court

KRISTY MORGAN - Direct

1 show as the taxable income for 2001? 02:17:27  
2 A. \$32,346.  
3 Q. And then there's a tax that is due right below that. What  
4 is the tax that is calculated?  
5 A. Calculated the tax at \$4,849. 02:17:38  
6 Q. And then skipping down, he had to add in some tax for  
7 self-employment. Do you see that on line 53?  
8 A. Yes.  
9 Q. Hold on. Let them catch up so the jury can see it. So  
10 another \$9,000 of self-employment tax was added? 02:17:59  
11 A. Correct.  
12 Q. So that's the total tax was how much?  
13 A. \$13,924.  
14 Q. And then it's signed at the bottom?  
15 A. Yes, signed under penalty of perjury. 02:18:16  
16 Q. Signed by Mr. and Mrs. Parker?  
17 A. Correct.  
18 Q. And then they have a new tax preparer. Who is that?  
19 A. It's listed as Timothy H. Liggett.  
20 Q. And they are signed under penalty of perjury? 02:18:28  
21 A. Yes.  
22 Q. Going to page five for the 2000 return, is this the list  
23 of itemized deductions?  
24 A. Yes. The Schedule A.  
25 Q. So for real estate taxes and home mortgage interest, do 02:18:42

United States District Court



KRISTY MORGAN - Direct

1 they take those on Schedule A? 02:18:51  
2 A. Yes.  
3 MR. MINNS: Pardon me. I thought the government said  
4 2000 and the exhibit that is in front of me is 2001.  
5 MR. SEXTON: If I misspoke, I mean to be in 2001. 02:19:01  
6 THE WITNESS: I have 2001, too.  
7 BY MR. SEXTON:  
8 Q. So we're in tax year 2001?  
9 A. Yes.  
10 Q. On page five of Exhibit 3? 02:19:11  
11 A. Correct.  
12 Q. And so what was the amount of real estate taxes he took as  
13 an itemized deduction?  
14 A. The real estate taxes is \$7,423.  
15 Q. And how much mortgage interest did he take? 02:19:29  
16 A. The mortgage interest is \$26,019.  
17 Q. And then on page six is the explanation for the first  
18 21,410 of income that he reported on the first page. Who does  
19 it indicate it's from?  
20 A. Omega Construction, Incorporated. 02:20:04  
21 Q. And then what column is it put under as far as how it was  
22 earned?  
23 A. It shows that it's a nonpassive income from the Schedule  
24 A-1.  
25 Q. And then on page nine at the very bottom, he's showing the 02:20:44

United States District Court

KRISTY MORGAN - Direct

1 different type of income from Omega Construction. 02:20:56  
2 A. Correct.  
3 Q. And so if you add this one up to the one we just talked  
4 about, that is what equals the 80-some thousand on the first  
5 page? 02:21:08  
6 A. Yes.  
7 Q. In looking at the transcript, was the amount of tax of  
8 \$13,924 paid when the tax return was filed? When the tax  
9 return was filed?  
10 A. No. 02:21:37  
11 Q. So the return was filed but the amount that is shown owing  
12 on page four was not remitted at that time?  
13 A. No. It was not.  
14 Q. Now going back to the transcript, the penalties that are  
15 shown on page two -- hold on. Page 15, do you see in the 02:22:13  
16 middle there, there are a series of estimated tax payments,  
17 late filing penalty, failure to pay penalties. Are these all  
18 associated with the lateness and the absence of a payment with  
19 the actual return when it was filed?  
20 A. That's correct. 02:22:33  
21 Q. And then just below that area, the power of attorney is  
22 indicated for this tax year as well?  
23 A. Yes, for 2001.  
24 Q. And then on the bottom of page one for this history is  
25 when we first see an intent to levy collection and due process 02:22:58

KRISTY MORGAN - Direct

1 notice for the unpaid balances on this tax year? 02:23:01

2 A. Yes.

3 Q. And then the tax lien that is on page three?

4 A. That's correct.

5 Q. And this is the Exhibit 36 we've already admitted into 02:23:26

6 evidence which showed 1997, 1998, 2001 now and then 2002 as

7 being four different tax years in which there was a lien placed

8 in Maricopa County?

9 A. That's correct.

10 Q. And then right after that tax lien there, there's an 02:23:47

11 indication that the Collection Division is working to try to

12 collect this unpaid tax amount for 2001.

13 A. Yes, that's correct.

14 Q. Now, there's an indication here just below that that

15 there's a legal suit pending and then just below that, the 02:24:10

16 legal suit no longer pending. Can you tell what was going on

17 with that from this history?

18 A. From this history, it just shows that the taxpayer was

19 trying to schedule something, a hearing or something, a process

20 hearing regarding the amount to solve that. 02:24:32

21 Q. And then it was simply discontinued for some reason

22 thereafter?

23 A. Right. It was not continued. There was no finalization

24 of the tax owed.

25 Q. And then there's the offer in compromise and the offer in 02:24:48

United States District Court

KRISTY MORGAN - Direct

1 compromise rejected for the first offer in compromise. 02:24:50  
2 A. Yes.  
3 Q. And then below that the second offer in compromise and the  
4 second rejection after that.  
5 A. Correct. 02:25:00  
6 Q. On the top of page four, again, the same sort of history  
7 of the third offer in compromise and the third rejection noted  
8 in this 2001 history?  
9 A. Correct.  
10 Q. And then the pending installment? 02:25:22  
11 A. Yes.  
12 Q. And then an additional failure to pay tax shortly  
13 thereafter of additional amounts?  
14 A. Yes, the penalty.  
15 Q. And then we list six statutory notices of various tax 02:25:34  
16 balance due and/or intent to levy other than being a new tax  
17 year and a different amount. Are these the same statutory  
18 notices that are going out to both taxpayers during this  
19 period?  
20 A. That's correct, yes. 02:25:53  
21 Q. Now, when I did handed you this transcript for 2010, what  
22 was the amount due and owing at that time?  
23 A. For the 2001 tax year was \$21,484.26.  
24 Q. More recently, though, did I have you check to see whether  
25 any payments had come in on this one? 02:26:37

United States District Court

KRISTY MORGAN - Direct

1 A. Yes. 02:26:38

2 Q. Would you look at Exhibit 545?

3 Is that a certified record for this tax year?

4 A. Yes, for 2001.

5 MR. SEXTON: I would offer Exhibit 545 into evidence. 02:26:57

6 MR. MINNS: No objection.

7 THE COURT: It's admitted.

8 (Exhibit Number 545 was admitted into evidence.)

9 BY MR. SEXTON:

10 Q. Now, this one looks a little bit hieroglyphics. So let's 02:27:02

11 put page three on. Okay. Help us figure out what tax year is

12 involved in this one. Where did we look on this document?

13 A. Right where it says document name and then it says

14 untitled. There lists right around the below untitled it says

15 30, 2001, 12, that tells me that it is the income tax return, 02:27:33

16 individual income tax return for 2001.

17 Q. And then a couple lines down, do we know what taxpayer is

18 involved here?

19 A. Yes. The names listed, James and Jacqueline Parker.

20 Q. And then going down on this first page, do you see the 02:27:52

21 entry that says 13,324?

22 A. Yes.

23 Q. Is that the amount that we were just looking at as being

24 the amount on the tax return?

25 A. This is not the amounts on the tax return. This is the 02:28:12

KRISTY MORGAN - Direct

1 amount that was assessed by the IRS. 02:28:14

2 Q. Now, that's different than the tax return?

3 A. A little bit different, yes.

4 Q. Look back on Exhibit 3, page four, okay. It's on the

5 screen there. 02:28:33

6 A. Yes.

7 Q. The actual amount reported by the taxpayer was \$13,924.

8 Do you see that?

9 A. Yes.

10 Q. So it's \$600 more on the tax return than what your records 02:28:40

11 show as being owed?

12 A. Correct.

13 Q. Can you explain the difference to the jury?

14 A. Yes. I looked at the account and there was a math error

15 made on this tax return. So the Internal Revenue Service 02:28:51

16 corrected that math error and charged the correct amount of

17 tax. Instead of \$13,924, it was \$13,324.

18 Q. So a \$600 favorable change to the tax liability?

19 A. Yes.

20 Q. And then on the fifth page of this Exhibit 545, does it 02:29:17

21 indicate that last month this was paid?

22 A. Yes, on April 21, 2012, a payment of \$13,324 was received

23 from the taxpayer.

24 Q. Just last month?

25 A. Just last month. 02:29:47

United States District Court

KRISTY MORGAN - Direct

1 Q. So through the 2002 tax year. Exhibit 16, is that the 02:30:01  
2 history transcript for the 2000 tax year?  
3 THE COURT: We are going to take a break now,  
4 Mr. Sexton.  
5 About 20 minutes. Ladies and gentlemen. So 10 02:30:16  
6 minutes of three.  
7 We're in res says.  
8 (Jury departs.)  
9 (Recess at 2:30; resumed at 2:56.)  
10 (Jury enters.) 02:56:59  
11 (Court was called to order by the courtroom deputy.)  
12 THE COURT: All right. Please be seated.  
13 Mr. Sexton?  
14 MR. SEXTON: I don't remember if I moved in  
15 Exhibit 16 or not. I would move in the transcript for 2002, 02:57:10  
16 Exhibit 16, at this time.  
17 THE COURT: Any objection?  
18 MR. MINNS: To Exhibit 16? No, Your Honor.  
19 THE COURT: It's admitted.  
20 (Exhibit Number 16 was admitted into evidence.) 02:57:21  
21 BY MR. SEXTON:  
22 Q. When would the 2002 tax return be due?  
23 A. April 15, 2003.  
24 Q. And was there an extension filed on the 2002 tax return?  
25 A. Yes, there was two. 02:57:42

United States District Court

KRISTY MORGAN - Direct

1 Q. And, ultimately, it was extended until what time? 02:57:46  
2 A. Until August 15, 2003.  
3 Q. Was it filed within that time frame?  
4 A. It was received August 19, 2003.  
5 Q. You said August 19? 02:57:59  
6 A. Yes.  
7 Q. So it was filed just slightly after the extension date?  
8 A. Correct.  
9 Q. Let me see if I might correct you on that. Is there an  
10 entry on 8-15-2003 just down below? 02:58:19  
11 A. Yes, there is.  
12 Q. And does that extend the date to October 15 of 2003?  
13 A. Yes, it does.  
14 Q. Would that make the return timely as to the second  
15 extension? 02:58:35  
16 A. That's correct.  
17 Q. Okay. So it wasn't late after the extensions?  
18 A. It was not.  
19 Q. Would you look at Exhibit 4? Is that the 2002 tax return  
20 that was filed by the taxpayer? 02:58:51  
21 A. Yes.  
22 MR. SEXTON: I would offer Exhibit 4 into evidence.  
23 THE COURT: Any objection?  
24 MR. MINNS: No, Your Honor.  
25 THE COURT: It's admitted. 02:59:08

United States District Court



KRISTY MORGAN - Direct

1 (Exhibit Number 4 was admitted into evidence.) 02:59:09  
2 BY MR. SEXTON:  
3 Q. All right. Page three of the 2002 tax return, would you  
4 put that up? This is for Mr. and Mrs. Parker, again, for 2002?  
5 A. Yes, that's correct. 02:59:25  
6 Q. And then looking at the dependents, it still indicates  
7 Samuel and James as dependents of Mr. Parker and Mrs. Parker.  
8 A. Yes.  
9 Q. Looking down at the income, on line 17, does it indicate  
10 something for something called rental, real estate, royalties, 02:59:44  
11 partnerships, S corporations, trusts, et cetera?  
12 A. Yes.  
13 Q. What's the amount indicated?  
14 A. Line 17 shows \$20,606.  
15 Q. And then on line 21 is there an entry for Omega 02:59:57  
16 Construction, other income?  
17 A. That's correct, yes.  
18 Q. How much is there?  
19 A. \$61,818.  
20 Q. And the sum total of income reported for 2002 was what? 03:00:10  
21 A. Return shows \$82,424.  
22 Q. And then going to page four, looking at line 38, let's  
23 have them catch up to us here, do you see the itemized  
24 deductions?  
25 A. Correct, yes. 03:00:42

United States District Court

KRISTY MORGAN - Direct

1	Q. What is the amount of itemized deductions that was taken	03:00:42
2	by the taxpayer on this 2002 return?	
3	A. \$38,078.	
4	Q. Which then brought their taxable income down to what on	
5	line 41?	03:00:55
6	A. Line 41 is \$27,978.	
7	Q. And then between the regular tax and the self-employment	
8	tax, going down to line 61, what is the total taxes that were	
9	calculated for 2002 on this tax return that was submitted?	
10	A. The tax is \$12,331.	03:01:15
11	Q. And then at the bottom, was this signed by Mr. and	
12	Mrs. Parker?	
13	A. Yes.	
14	Q. On what date?	
15	A. August 6, 2003.	03:01:33
16	Q. Under penalty of perjury?	
17	A. Correct.	
18	Q. And who was the tax preparer that's indicated?	
19	A. Timothy Liggett.	
20	Q. Now, on page three -- excuse me, page five, this is the	03:01:41
21	itemized deductions?	
22	A. The Schedule A, yes.	
23	Q. And did they take estate taxes and home mortgage interest	
24	as an itemized deduction on their 2002 return?	
25	A. Yes. Line six, real estate is \$3,020. On line 10,	03:02:01

United States District Court

KRISTY MORGAN - Direct

1	mortgage interest of \$14,268.	03:02:07
2	Q. And then going over to page six on the top part there	
3	where it shows the income --	
4	A. Yes.	
5	Q. -- is this similar to the way it was reported in 2001?	03:02:32
6	A. Correct. With Omega Construction, Incorporated.	
7	Q. And, again, it's shown as a nonpassive income from a	
8	Schedule K-1?	
9	A. Yes.	
10	Q. Of \$20,606 yes?	03:02:51
11	A. Yes.	
12	Q. And then on page eight, this is another attachment to the	
13	2002 tax return?	
14	A. Yes, it is.	
15	Q. Okay. Looking at the top, it says real estate taxes. Do	03:03:17
16	you see that?	
17	A. M'hum.	
18	Q. And then on line 1(a), it says principal residence, do you	
19	see that?	
20	A. Yes.	03:03:29
21	Q. How much was taken on the principal residence?	
22	A. \$2,384.	
23	Q. And then it adds some other real estate property taxes on	
24	line 2(a)?	
25	A. Correct. 636.	03:03:48

United States District Court

KRISTY MORGAN - Direct

1	Q. For a total of?	03:03:50
2	A. \$3,020.	
3	Q. And then below that is the home mortgage interest section	
4	of this form. Who does it indicate as the lender?	
5	A. Stewart Title.	03:04:11
6	Q. Stewart Title?	
7	A. Stewart Title.	
8	Q. And what is the amount of interest that was deducted?	
9	A. \$14,268.	
10	Q. Now, looking back on the transcript, Exhibit 16, was the	03:04:40
11	amount of tax that was calculated on the return actually paid	
12	with the return?	
13	A. No. There was no payment with the tax return.	
14	Q. And is that why, in sort of the middle there, there's a	
15	failure to pay tax and an interest assessed on 9-22-2003 in the	03:05:02
16	middle there?	
17	A. Yes. That's correct.	
18	Q. And looking back at the full page, does this return also	
19	have an indication that a power of attorney was placed on this	
20	one as well for somebody to represent the taxpayer for this tax	03:05:29
21	year?	
22	A. Yes, it is.	
23	Q. And then at the bottom of page two of the transcript	
24	history for 2002, is there, again, a couple of intents to levy	
25	collection and due process notices that are indicated at the	03:05:48

KRISTY MORGAN - Direct

1	bottom?	03:05:50
2	A. Yes.	
3	Q. And those are notices similar to the way you've described	
4	them in the past?	
5	A. Yes, they are.	03:05:56
6	Q. Just simply for the 2002 amounts?	
7	A. Right.	
8	Q. Because they were not paid -- because the tax was not paid	
9	with the tax return as filed?	
10	A. That's correct, yes.	03:06:09
11	Q. And the entry on the top of page three on the history	
12	transcript, that is that same tax thing we've talked about	
13	before?	
14	A. That's correct.	
15	Q. And at this point, the next entry down on 3-10 as it	03:06:37
16	shows, again, the collection section of the Internal Revenue	
17	Service is now working this case to try to collect this tax?	
18	A. That's correct, yes.	
19	Q. And now on 7-30-2004 this has the first offer in	
20	compromise listed that we've already talked about.	03:07:02
21	A. For 2002, yes.	
22	Q. For 2002, yes, and then just below that, skip one, that	
23	shows that it was rejected just like we've already gone	
24	through?	
25	A. Yes.	03:07:16

KRISTY MORGAN - Direct

1 Q. So we're still talking about the same three offers of 03:07:16  
2 compromise and the same installment request each time we go  
3 through one of these histories, because the offer in compromise  
4 and the installment request indicated on them the tax years  
5 they wanted to compromise? 03:07:33  
6 A. Yes.  
7 Q. So for each one of those years, you have to make that  
8 entry onto the history for each one of the tax years that they  
9 wish to compromise?  
10 A. Right, multiple years, multiple entries. 03:07:42  
11 Q. And then just after the rejection of the first offer in  
12 compromise, do you see the entry on 10-29-2004?  
13 A. Yes.  
14 Q. It indicates that an amended tax return was filed. Do you  
15 see that? 03:08:02  
16 A. Yes.  
17 Q. Would you look at Exhibit 5?  
18 Is that the amended tax return for 2002 filed by the  
19 taxpayer?  
20 A. Yes, it is. 03:08:17  
21 MR. SEXTON: I would offer Exhibit 5 into evidence.  
22 MR. MINNS: No objection.  
23 THE COURT: It's admitted.  
24 (Exhibit Number 5 was admitted into evidence.)  
25

KRISTY MORGAN - Direct

1	BY MR. SEXTON:	03:08:27
2	Q. Let's turn to page four, up to the top, that little	
3	X after the 1040 on the left-hand side, is that the symbol for	
4	amended?	
5	A. Yes, it is.	03:08:50
6	Q. So without that X, it would be just a standard 1040 but	
7	the X makes it an amended return?	
8	A. That's correct.	
9	Q. And what tax year are we talking about? Is that just	
10	below in that line?	03:08:59
11	A. Yes, it shows calendars year 2002.	
12	Q. And when was it received? Can you make out the received	
13	stamp on the right-hand side?	
14	A. It shows October 29, 2004.	
15	Q. Now, going down to the body of the adjustments here, kind	03:09:14
16	of through the middle section where the calculations are, why	
17	don't you walk the jury and the Court through sort of the	
18	notion of what the -- how this is displayed here from the	
19	standpoint of what the original return showed, the changes that	
20	they are proposing, and what the amended return would	03:09:42
21	ultimately reflect?	
22	A JUROR: We don't have any screen here.	
23	COURTROOM DEPUTY: Oops. There you go. Sorry about	
24	that.	
25	THE COURT: Thank you.	03:09:55

KRISTY MORGAN - Direct

1 THE WITNESS: On the 1040 X, in column A, the 03:09:57  
2 original amount would be the amounts from the original tax  
3 return.  
4 BY MR. SEXTON:  
5 Q. Let's highlight this. So you're saying this column A here 03:10:05  
6 would be the original amounts here?  
7 A. Right.  
8 Q. So that's the amounts that we just looked at on Exhibit 4?  
9 A. Right. And you can marry up the tax return and find upon  
10 the original tax return the adjusted gross income is \$78,056 03:10:24  
11 and that is the amount on line one in column A.  
12 Q. And so now going to the next column, what is called the  
13 net change, do you see the change in line number two of  
14 \$14,268?  
15 A. Right. That's the change that is made on the, quote, 03:10:48  
16 itemized deductions according to this tax return.  
17 Q. And do you need to refer back to the original to remember  
18 what that was as being removed? Look at Exhibit 4.  
19 A. The initial amount on the Schedule A was the \$38,078 that  
20 was listed. They are changing that, with \$14,268, to a correct 03:11:08  
21 amount, which is in column C, of \$23,810.  
22 Q. Now, look back on Exhibit 4 on page five, is the  
23 adjustment removing the home mortgage interest from the  
24 itemized deductions?  
25 A. Yes, it is. 03:11:39

United States District Court



KRISTY MORGAN - Direct

- 1 Q. Now, going back to Exhibit 5 on page 4, is that removal of 03:11:41  
2 interest the only change to either the income or deductions?  
3 A. Yes.  
4 Q. And by removing that, does that change the nature of the  
5 tax that would be due and owing with that change? 03:12:09  
6 A. Yes. It would increase the tax.  
7 Q. And so how much does it indicate the tax was increased by  
8 removing that interest from the itemized deductions?  
9 A. Line six on column B shows the increase, \$2,138.  
10 Q. And then the third column there, the correct amount would, 03:12:29  
11 therefore, have -- everything would pretty much be the same as  
12 on the original return except the itemized deductions would be  
13 different?  
14 A. Right.  
15 Q. And the total amount that would be due for the year would 03:12:40  
16 be different?  
17 A. Right. That would be assessed on the account.  
18 Q. And then looking at the bottom of this page, is this  
19 signed by James and Jacqueline Parker on 7-31-2004?  
20 A. That's correct, yes. 03:13:04  
21 Q. Under penalty of perjury?  
22 A. Yes.  
23 Q. And is it submitted through a paid preparer of Timothy  
24 Liggett, CPA?  
25 A. Correct. 03:13:14

United States District Court

KRISTY MORGAN - Direct

- 1 Q. And then on page five of this amended return, looking at 03:13:24  
2 the very bottom there, is there an explanation?
- 3 A. Yes. The explanation to changes is in the bottom part of  
4 the amended return.
- 5 Q. Read what was added to the form as to the explanation for 03:13:37  
6 the amendment?
- 7 A. It states, "Mortgage interest deduction of \$14,268  
8 excluded from original return."
- 9 Q. And then looking at page six, is this the 2002 tax return  
10 with the addition of the word handwritten at the top "amended"? 03:14:10  
11 Do you see that up by the 2002?
- 12 A. Yes.
- 13 Q. In looking at that amended return, are the numbers that  
14 are now there consistent with the cover sheet that we just went  
15 through as to the change that was made to the original return? 03:14:35  
16 A. Yes.
- 17 Q. When you look at page eight of the itemized deductions,  
18 looking at the line number 10 --
- 19 MR. SEXTON: Can you enlarge it a little bit?
- 20 Q. Where it says home mortgage interest, it now says zero? 03:15:00  
21 A. Correct.
- 22 Q. Above that, though, on line six, it says real estate  
23 taxes, still \$3,020. Do you see that?
- 24 A. Yes.
- 25 Q. Are you allowed to deduct real estate taxes on a piece of 03:15:24

United States District Court

KRISTY MORGAN - Direct

1 property that you don't own? 03:15:28

2 A. No.

3 Q. Are you allowed to deduct mortgage interest on a piece of

4 property that you don't own and finance?

5 A. No. 03:15:39

6 Q. And then, finally, on page 9, 10, and 11, is that simply

7 another copy of the original 2002 return just with the word

8 "original" written at the top of it?

9 A. Yes, it is.

10 Q. So back to the transcript, Exhibit 16, this transcript was 03:16:22

11 run on -- oh, I'm getting ahead of myself here. Hold on, just

12 to cover on the bottom of page three and the top of page four,

13 for the benefit of the jury, the second offer of compromise is

14 made and rejected on this transcript history?

15 A. Correct. 03:16:57

16 Q. And then on page four, the third offer in compromise is

17 made and rejected as to this tax year as well?

18 A. Correct.

19 Q. And it has an indication as well in the history of the

20 pending installment agreement request? 03:17:12

21 A. Yes, it does.

22 Q. And then concluding on page four, does it list what we've

23 already been discussing, various notices of balance due and

24 intent to levy as it would pertain to the 2002 tax year?

25 A. Yes, it does. 03:17:29

United States District Court

KRISTY MORGAN - Direct

1 Q. And does that kind of run over into page five, that 03:17:35  
2 there's one more entry of that nature on page five of the  
3 history?  
4 A. Yes.  
5 Q. And then, finally, on page six, as of the date you ran 03:17:44  
6 this transcript history on July 20, 2010, what was the amount  
7 that was owing?  
8 A. \$15,112.16.  
9 Q. Like the 2001 tax year, did I ask you to look to see  
10 whether there had been any recent payments made on this tax 03:18:04  
11 year as well?  
12 A. Yes, you did.  
13 Q. And would you look at Exhibit 546?  
14 MR. SEXTON: 546 is a certified record that we would  
15 move into evidence. 03:18:30  
16 MR. MINNS: No objection.  
17 THE COURT: It's admitted.  
18 (Exhibit Number 546 was admitted into evidence.)  
19 BY MR. SEXTON:  
20 Q. Page one, again, at the top, this would indicate that it's 03:18:38  
21 associated -- this record is associated with James and  
22 Jacqueline Parker?  
23 A. That's correct.  
24 Q. And then that number just above it there is a 2002 that  
25 would indicate that this is pertaining to that tax year? 03:19:00

United States District Court

KRISTY MORGAN - Direct

1	A.	That's correct.	03:19:05
2	Q.	And then looking down below, does it indicate on 9-22-2003	
3		the amount of tax that the taxpayer is owing?	
4	A.	Yes, from the tax return. That's \$12,331.	
5	Q.	And that's the original return; correct?	03:19:40
6	A.	That's correct.	
7	Q.	Because if we look at page three of Exhibit 546, page five	
8		of Exhibit 546, at the top there, is that where the amount of	
9		additional tax is being added to the amount to reflect that	
10		amended tax return we went through?	03:20:21
11	A.	Yes. That shows the amended was assessed.	
12	Q.	And that the new amount that was owed just for taxes was	
13		\$14,469?	
14	A.	Correct.	
15	Q.	And just last month was that finally paid?	03:20:36
16	A.	Yes, that payment was received April 21, 2012.	
17	Q.	Even though the tax liability goes all the way back to	
18		2004?	
19	A.	Yes.	
20	Q.	And that is this 2002 and 2001 tax years in which these	03:20:55
21		payments came in -- by the way, did they come in on the same	
22		day? Can you look back on 545, page three?	
23	A.	Yes, both payments were received on the same day.	
24	Q.	So roughly 27,000 and change was paid on 4-21-12?	
25	A.	Correct.	03:21:41

United States District Court

KRISTY MORGAN - Direct

1 Q. And that is just simply the tax that was due and it has 03:21:42  
2 nothing to do with any penalties or interest that have been  
3 unpaid and accruing on that amount?

4 A. That's right. Just tax.

5 MR. SEXTON: And 2003 tax year, Exhibit 17 is the 03:22:11  
6 transcript. We would offer that into evidence at this time.

7 MR. MINNS: I'm sorry. It's already in evidence.

8 THE COURT: It is and this is one that to which the  
9 limiting instruction applies.

10 MR. SEXTON: The reason I keep offering it, Your 03:22:35  
11 Honor, is it was unclear whether or not earlier it was meant to  
12 be offered at that time and stipulated. So I'm just making  
13 sure.

14 THE COURT: Okay. That's fine.

15 (Exhibit Number 17 was admitted into evidence.) 03:22:53

16 BY MR. SEXTON:

17 Q. So what tax period is this pertaining to?

18 A. This is for the 2003 tax period.

19 Q. And when would the 2003 tax return be normally due?

20 A. April 15, 2004. 03:23:14

21 Q. And was an extension granted and applied for?

22 A. It was.

23 Q. And the extension extended it to what time?

24 A. August 15, 2004.

25 Q. And was a tax return actually filed timely before that 03:23:27

KRISTY MORGAN - Direct

1 date? 03:23:30

2 A. It was.

3 Q. What date was it filed?

4 A. June 30, 2004.

5 Q. Would you look at Exhibit 6? Is that the tax return that 03:23:39

6 was filed at or about that date?

7 A. That is, yes.

8 MR. SEXTON: I would offer Exhibit 6 into evidence.

9 MR. MINNS: I think 6 is already in evidence.

10 THE COURT: It is. And, ladies and gentlemen, that 03:23:59

11 is an exhibit to which the limiting instruction applies.

12 (Exhibit Number 6 was admitted into evidence.)

13 BY MR. SEXTON:

14 Q. Page three of that return, does it still indicate as

15 dependents Samuel and James Parker in 2003? 03:24:22

16 A. It does.

17 Q. And in the middle just below there, when does it indicate

18 this was stamp filed?

19 A. This was received June 30, 2004, in Phoenix, Arizona.

20 Q. Now, for 2003, on line 17, what does it know show for this 03:24:45

21 partnerships, S corporations and trusts on line 17?

22 A. It shows an amount of \$44,557.

23 Q. And then line 21, what does it indicate?

24 A. It shows other income from Omega Construction,

25 Incorporated, of \$133,670. 03:25:09

United States District Court

KRISTY MORGAN - Direct

1 Q. And this is and 2003? 03:25:29

2 A. 2003, correct.

3 Q. Let's look back at Exhibit 104. One of the offers in

4 compromise. Let me find the page. Hold on one second.

5 So now let's look at page 12 on Exhibit 104. 03:25:50

6 Up to the top, this is that 433-B form for the first

7 offer in compromise?

8 A. Yes.

9 Q. And it's indicating that for the following period -- what

10 does it indicate at the very top as to the time frame of this 03:26:17

11 reporting?

12 A. It shows the time frame up to May 31, 2004.

13 Q. When did it start for the period, when?

14 A. Fiscal period is January '01.

15 Q. To? 03:26:37

16 A. May 31, 2004.

17 Q. And for Omega Construction, for that period, what was the

18 gross monthly income receipts for Omega?

19 A. It shows zero.

20 Q. Now going back to the tax return for 2003 within this time 03:26:53

21 frame, what is it indicating on line 21 is other income from

22 Omega Construction?

23 A. \$133,670.

24 Q. And so line 17 and line 21 equal to what on line 22 as to

25 total income? 03:27:20

United States District Court



KRISTY MORGAN - Direct

1 A. \$178,227. 03:27:21

2 Q. Then on page four of the Exhibit 6, 2003 tax return,  
3 ultimately, you get down to, on line 40, a taxable income of  
4 how much?

5 A. Taxable income is \$141,990. 03:27:47

6 Q. Let's let them catch up here. On line 40, \$141,990 is  
7 taxable income?

8 A. Correct.

9 Q. And then through a combination of taxes on line 60, what  
10 is the total tax that is due with this tax return? 03:28:10

11 A. Total tax per the tax return is \$44,306.

12 Q. And then at the bottom of this tax return on page four, is  
13 it signed by James and Jacqueline Parker?

14 A. Yes, it is.

15 Q. On what date? 03:28:31

16 A. June 30, 2004.

17 Q. Under penalty of perjury?

18 A. Correct.

19 Q. And is there a paid preparer listed there?

20 A. Yes. Timothy H. Liggett. 03:28:41

21 Q. Now, let's look at the itemized deductions on page five.  
22 Looking at line six, for 2003, are there any real estate taxes  
23 there?

24 A. No. The entry is zero.

25 Q. And for line 10, is there any home mortgage interest 03:29:08

United States District Court

KRISTY MORGAN - Direct

1 reported? 03:29:12

2 A. No. The line entry is zero.

3 Q. And then on page six, does it indicate what the source is

4 of that \$44,557 is on page one of the 1040?

5 A. It shows the Omega Construction, Incorporated, is the 03:29:35

6 source of income.

7 Q. So as to page three, both of those entries of income

8 adding up to \$178,000 are associated with Omega Construction?

9 A. Correct.

10 Q. Do you see the bottom half of that bottom thing where it 03:30:14

11 says line two, schedule SE, do you see that?

12 A. Yes.

13 Q. Do you see the amount there?

14 A. On line one?

15 Q. And/or 10. 03:30:30

16 A. Yes. Same amount, \$133,670.

17 Q. Do you see where it says on line one from the Schedule

18 C Form 1040, do you see that?

19 A. Yes.

20 Q. Do you see a Schedule C anywhere on this tax return? 03:30:53

21 A. No. There is not and there's not an entry on line 12 for

22 a Schedule C either.

23 Q. So as to this 133,670, do we have any indication in this

24 tax return as to what the gross receipts were for this business

25 or the deductible expenses that were taken to derive this 03:31:22

United States District Court

KRISTY MORGAN - Direct

1	number?	03:31:26
2	A. No.	
3	Q. On page four of the tax return, Exhibit 6, on the amount	
4	that was owed with this tax return on line 72, just above the	
5	signatures, what's the amount there?	03:31:53
6	A. \$44,306.	
7	Q. Was this paid with the return?	
8	A. It was not.	
9	Q. And now looking at the transcript on page two in the	
10	middle there, is that why there's some failure to pay and tax	03:32:22
11	penalties that are preliminarily assessed?	
12	A. That's correct.	
13	Q. And with this return, is there also a power of attorney in	
14	which some representative speaks for the taxpayers on this one	
15	as well?	03:32:40
16	A. Yes. For 2003 there is a POA entry.	
17	Q. And to quickly go through this, are the same offers in	
18	compromise offered and rejected on pages two and three of this	
19	transcript history?	
20	A. Yes.	03:32:59
21	Q. As well as the pending installment agreement?	
22	A. That's correct, yes.	
23	Q. And for this amount of unpaid taxes for 2003, are there	
24	tax liens, collection notices, balance due, intents to levy	
25	that are sent on several occasions to the taxpayers?	03:33:21

United States District Court

KRISTY MORGAN - Direct

1 A. Yes, there is? 03:33:24

2 Q. Of the type that we've already discussed?

3 A. Yes.

4 Q. Except it pertains to 2003?

5 A. Correct. 03:33:32

6 Q. So I'm clear, each tax year, when you send out a notice of

7 intent to levy or a notice of tax due, is its own letter. So

8 we have been talking about 20, 30, 40 letters for the years in

9 question we've already talked about?

10 A. Yes, that's correct. 03:33:55

11 Q. And then on page four of the transcript, as of July 20,

12 2010, what was the balance for taxes, interest and penalties

13 due on the 2003 tax return?

14 A. The 2003 amount owed is \$46,201.72.

15 Q. Has there been any indication in your review of the 03:34:21

16 records that there has been a recent payment of any sort in

17 regard to the 2003 tax year?

18 A. No, there has not.

19 Q. Let's go on to the 2004 tax year.

20 MR. SEXTON: Exhibit 18 is the transcript. We would 03:34:42

21 offer into evidence.

22 THE COURT: Yes. It has already been admitted.

23 And, ladies and gentlemen, to this particular

24 exhibit, the limiting instruction applies.

25 (Exhibit Number 18 was admitted into evidence.) 03:34:53

United States District Court

KRISTY MORGAN - Direct

1 BY MR. SEXTON: 03:35:06

2 Q. When would this return normally be filed for 2004?

3 A. 2004 is due April 15 of 2005.

4 Q. And was it filed on time?

5 A. It was. 03:35:15

6 Q. Take a look at Exhibit 7. Is that the tax return that was

7 filed?

8 A. Yes, it is.

9 MR. SEXTON: It probably is in evidence already but I

10 wanted to make sure. I will offer it again. 03:35:38

11 THE COURT: Did you say Exhibit 7?

12 MR. SEXTON: Yes, I'm sorry.

13 THE COURT: That is admitted also and the limiting

14 instruction applies.

15 (Exhibit Number 7 was admitted into evidence.) 03:35:52

16 MR. SEXTON: This is the 2004 tax return for James

17 and Jacqueline Parker.

18 THE WITNESS: Correct.

19 BY MR. SEXTON:

20 Q. Looking at the dependents, the two previous dependents 03:36:09

21 that we have been seeing in the previous tax years, are they

22 listed there still?

23 A. No, they are not.

24 Q. Is this the first tax year in which Samuel and James

25 Parker, Jr., were not listed? 03:36:24

KRISTY MORGAN - Direct

1 A. That's correct. 03:36:31

2 Q. And then in the income section, instead of using line 17,  
3 or line 21, we have line 12 for business income. Do you see  
4 that?

5 A. Yes. 03:36:47

6 Q. And what's the amount?

7 A. The Schedule C business amount is \$31,442.

8 Q. Is that the total income reported for 2004?

9 A. Yes, it is.

10 Q. And then ultimately, on page four, what does line 42 show 03:37:02  
11 as the amount that is taxable income?

12 A. Taxable income is \$13,320.

13 Q. And then on line 62, how much income tax and  
14 self-employment tax was charged or assessed on this one?

15 A. According to the return, \$5,776. 03:37:37

16 Q. And can you explain why the amount that is owed would be  
17 different than that?

18 A. If you look on line 75, the preparer computed an estimated  
19 tax penalty of \$166 is owed which is added in to the \$5,776.  
20 The total amount owed of \$5,942. 03:38:12

21 Q. And was this tax return signed by Mr. and Mrs. Parker on  
22 3-24 of 2005?

23 A. Yes, it is.

24 Q. Under penalty of perjury?

25 A. That is correct. 03:38:26

United States District Court

KRISTY MORGAN - Direct

1 Q. And their tax preparer was still Mr. Liggett? 03:38:26  
2 A. Yes.  
3 Q. And then page five, is this the -- they call it a Schedule  
4 C, D, Z. Do you see that in the upper left-hand corner?  
5 A. Yes. 03:38:58  
6 Q. Sometimes it's called a Schedule C and sometimes it's  
7 called a Schedule EZ. EZ stands for what?  
8 A. It's a simplified form of the Schedule C. If you don't  
9 have, you know, as many deductions, you would file this  
10 simplified form to show your net profit. 03:39:15  
11 Q. And on page five, under, in part one under Subsection A  
12 there, do you see where it says, "Principal business"?  
13 A. Yes.  
14 Q. It says, "Construction/real estate." Do you see that?  
15 A. Yes. 03:39:37  
16 Q. It doesn't list the business name underneath that, does  
17 it?  
18 A. No, it does not.  
19 Q. And then just below that, part two, it says what the  
20 profits are for this business? 03:39:48  
21 A. Yes.  
22 Q. What's it say?  
23 A. It shows the total net profit of \$31,442.  
24 Q. And this was the amount shown on the first page of the  
25 1040 for the only income that was reported for 2004? 03:40:07

United States District Court

KRISTY MORGAN - Direct

1	A. Yes.	03:40:09
2	Q. And then the next page under Gross Receipts, it does list	
3	the name of an entity. What entity does it name?	
4	A. It shows Omega Construction.	
5	Q. And it has gross receipts of -- what?	03:40:26
6	A. \$31,442.	
7	Q. And anywhere is there listed on these expenses that Omega	
8	had in order to deduct those from gross receipts to come up	
9	with what net income would be for Omega?	
10	A. No.	03:40:43
11	Q. Was the \$5,942 of tax due on the 2004 return paid with the	
12	return?	
13	A. No, it was not.	
14	Q. Were additional penalties and interest assessed because of	
15	that?	03:41:15
16	A. Yes.	
17	Q. So looking at the transcript, 18, page two, in the middle	
18	there are the assessments?	
19	A. Yes.	
20	Q. And then as to this tax return, are there a series of	03:41:36
21	liens and notices that were filed and submitted to the taxpayer	
22	associated with the 2004 failure to pay?	
23	A. Yes, for the 2004, there was notice was sent.	
24	Q. And as of -- on page three, as of July 20, 2010, for 2004	
25	tax year, what was the unpaid and what remained the unpaid	03:42:05

United States District Court



KRISTY MORGAN - Direct

1 balance of taxes, interest and penalties for that year? 03:42:09  
2 A. \$6,042.64.  
3 Q. And has there been some sort of recent payment on this tax  
4 return, to your knowledge?  
5 A. No. 03:42:23  
6 Q. 2005 tax year, Exhibit 19.  
7 MR. SEXTON: If it hasn't already been admitted, I  
8 would move Exhibit 19 into evidence.  
9 THE COURT: It's admitted and this is one for which  
10 the limiting instruction applies. 03:42:47  
11 (Exhibit Number 19 was admitted into evidence.)  
12 BY MR. SEXTON:  
13 Q. When would the 2005 tax return be due?  
14 A. April 13, 2006.  
15 Q. And was an extension granted for this return? 03:43:01  
16 A. There was extension granted, yes.  
17 Q. And was the tax return for 2005 filed within that  
18 extension period?  
19 A. Yes, it was.  
20 Q. Look at Exhibit 8. Is that the tax return for 2005? 03:43:18  
21 A. Yes, it is.  
22 MR. SEXTON: If it hasn't been admitted, we would  
23 offer it at this time.  
24 THE COURT: Exhibit 8 did you say?  
25 MR. SEXTON: Exhibit 8. 03:43:38

United States District Court

KRISTY MORGAN - Direct

1 THE COURT: It is also one for which the limiting 03:43:41  
2 instruction applies. It's admitted.  
3 (Exhibit Number 8 was admitted into evidence.)  
4 BY MR. SEXTON:  
5 Q. Page three of Exhibit 8, 2005 tax return for James and 03:43:56  
6 Jacqueline Parker.  
7 A. Correct.  
8 Q. No dependents listed in the exemptions area that is sort  
9 of in the middle of the page?  
10 A. Right. No dependents. 03:44:12  
11 Q. Now, for income, line 12 indicates what?  
12 A. It shows a business income of \$52,310.  
13 Q. And then line 17 reflects what?  
14 A. An income amount of \$5,177 from rental real estate,  
15 royalties, partnerships, S corporations or trusts. 03:44:40  
16 Q. So what's the total combined reported income for Mr. and  
17 Mrs. Parker for 2005?  
18 A. The total income is \$57,487.  
19 Q. And then going over to page four, looking at line 43, what  
20 is the bottom line taxable income that has been reported? 03:45:02  
21 A. \$37,391.  
22 Q. And then with tax and self-employment tax on line 63, what  
23 is the total tax that was calculated?  
24 A. \$12,267?  
25 Q. And then did the tax preparer also prepare an estimated 03:45:29

United States District Court

KRISTY MORGAN - Direct

1 tax penalty on line 76 to be added to the total amount due with 03:45:36  
2 the tax return?

3 A. Yes, they did.

4 Q. So the total due on the 2005 tax return was how much?

5 A. \$12,524. 03:45:47

6 Q. Tax return just below this area was signed by Mr. and  
7 Mrs. Parker on or about 6-14 of 2006?

8 A. Yes, it was.

9 Q. And Mr. Liggett is, again, indicated as the paid preparer?

10 A. That's correct. 03:46:06

11 Q. And were the Parkers' signatures signed under penalty of  
12 perjury?

13 A. Yes, they were.

14 Q. Page five, this is that Schedule C-EZ again?

15 A. Yes. 03:46:32

16 Q. It shows construction real estate. Do you see that in the  
17 part one up above?

18 A. Yes.

19 Q. Let's catch up here and then it has a net profit of -- it  
20 says the gross receipts were \$52,000 and the net profits were 03:46:46  
21 52,310?

22 A. Yes.

23 Q. When it says the business, up above or in the upper  
24 left-hand corner?

25 A. They show the principal business as construction, real 03:47:05

United States District Court

KRISTY MORGAN - Direct

1 estate. 03:47:08

2 Q. It doesn't indicate a business name in the line just below

3 that, does it?

4 A. It does not.

5 Q. And, actually, nowhere on this Schedule C-EZ is there any 03:47:25

6 indication as to what company that is associated with?

7 A. No. It does not list a company name.

8 Q. And then the next page, page six, shows that other income

9 that was shown on the first page of \$5,177. Do you see that?

10 A. Yes. 03:47:59

11 Q. And this is under this part two which is a category called

12 income and loss from partnerships and S corporations. Do you

13 see that?

14 A. Yes, at the top.

15 Q. And what does it list in the line A there as to the entity 03:48:13

16 that \$5,177 came from?

17 A. This is from Omega Construction, Incorporated.

18 Q. Was this tax that was indicated on this return paid with

19 the return?

20 A. No, it was not. 03:48:50

21 Q. Back to the transcript, Exhibit 19, page two. Were

22 penalties and other things assessed because of that?

23 A. Yes. There was penalties assessed.

24 Q. And then also with this return, were certain liens and

25 other notices sent in regards to the failure to pay the 2005 03:49:13

KRISTY MORGAN - Direct

1 tax due and owing with interest and penalties? 03:49:19  
2 A. Yes. Notices were received.  
3 Q. And then on page three of Exhibit 19, as of the date of  
4 July 20, 2010, when you ran this transcript, what was the  
5 amount due and owing for 2005? 03:49:38  
6 A. \$13,04.28.  
7 Q. And has there been any recent payment last month as to the  
8 2005 tax year?  
9 A. No. There was not.  
10 Q. 2006 tax year -- 03:50:03  
11 THE COURT: We're going to take a ten-minute break.  
12 All right. We're in recess.  
13 COURTROOM DEPUTY: All rise.  
14 (Jury departs.)  
15 (Recess at 3:50; resumed at 4:09.) 03:50:11  
16 (Jury enters.)  
17 (Court was called to order by the courtroom deputy.)  
18 THE COURT: Please be seated.  
19 Okay. Mr. Sexton?  
20 BY MR. SEXTON: 04:09:51  
21 Q. Let's go to Exhibit 20 for the 2006 tax year and the  
22 transcript.  
23 MR. SEXTON: If it hasn't been admitted already,  
24 Judge, we would offer Exhibit 20.  
25 THE COURT: And it has been. 04:10:08

United States District Court



KRISTY MORGAN - Direct

1 A. \$56,000. 04:11:25

2 Q. And is there something associated with line 11 -- 17 as  
3 far as some sort of partnership or other thing?

4 A. Yes. \$5,667.

5 Q. So what was the total amount of income reported on the 04:11:40  
6 2006 tax return as filed?

7 A. The total income is \$61,667.

8 Q. And then on page four, what was the taxable income after  
9 various other changes that ultimately ends up on line 43, what  
10 was the taxable income? 04:12:07

11 A. Line 43 is \$40,810.

12 Q. And income tax and self-employment tax on line 63 comes to  
13 what amount?

14 A. \$13,282.

15 Q. And then there's a little credit down there for \$40 for a 04:12:29  
16 federal telephone excise tax paid?

17 A. Yes.

18 Q. And then in line 77, is there a little bit of an estimated  
19 tax penalty?

20 A. Yes, there. 04:12:46

21 Q. So what's the bottom line tax for the 2006 tax year?

22 A. It shows \$13,871.

23 Q. And was it signed by Mr. and Mrs. Parker just below that  
24 on April 15, 2007?

25 A. Yes, it was. 04:13:00

United States District Court

KRISTY MORGAN - Direct

1	Q. Under penalty of perjury?	04:13:01
2	A. Yes.	
3	Q. And was there tax preparer for this return Timothy	
4	Liggett?	
5	A. Yes, it was.	04:13:13
6	Q. The page five, the next page, in the middle of it, in the	
7	middle section, the business is listed as what?	
8	A. Construction/real estate.	
9	Q. Is there any indication what the business name was?	
10	A. No indication on this form.	04:13:42
11	Q. What is that number to the right? That little 531390?	
12	A. That is a code that will tell the workers at the IRS that	
13	are processing the returns what type of business it is.	
14	Q. And is there an employer -- do you see right beneath that	
15	do you see the ID number request?	04:14:04
16	A. Yes.	
17	Q. Do you often shorthand that as EEIN?	
18	A. Right.	
19	Q. Is there anyone listed there?	
20	A. There's not a number listed there, no.	04:14:16
21	Q. So for this \$56,000 of profit that is listed on this page,	
22	is there any indication what the source of that money is?	
23	A. No.	
24	Q. And then on the next page, page six, the top half, this is	
25	that little amount from the front page of \$5,667.	04:14:51

United States District Court



KRISTY MORGAN - Direct

1 A. Yes. 04:14:57

2 Q. And it is from what source?

3 A. It shows Omega Construction, Incorporated.

4 Q. And then the next column over, do you see where it says

5 enter a P for partnership or an S for corporation. Do you see 04:15:12

6 that?

7 A. Yes.

8 Q. And then keep going to the right. Is there now an

9 identification number for Omega listed there?

10 A. Yes, there is an employee identification number? 04:15:22

11 Q. And so as to that page five, \$56,000, round amount, is

12 there any indication of what the gross receipts or expenses

13 were that came to what is referred to as line three as the net

14 profit on the previous page?

15 A. No. Let's back up so that the jury can see it. Page 04:15:56

16 five, excuse me. Highlight that middle section so the jury can

17 see it a little better, would you, please?

18 Q. That \$56,000 there goes from gross receipts down to net

19 profit. Are there any expenses associated with that?

20 A. Not on this form, no. 04:16:24

21 Q. So of the tax for 2006 of \$13,871, according to the

22 transcript, was this paid with the return?

23 A. Yes. The payment came in with the tax return.

24 Q. So let's go to page -- Exhibit 20, page two. Do you see

25 the line there that says on 4-20-2007 there? 04:17:06

United States District Court

KRISTY MORGAN - Direct

1 A. Yes. 04:17:10

2 Q. In fact, let's highlight that section for the jury.

3 There's a line entry that says payment with return?

4 A. Yes.

5 Q. And so it's paying the full amount? 04:17:22

6 A. Yes, it is.

7 Q. And that includes not only -- that includes an estimated

8 tax penalty as well, doesn't it?

9 A. Yes, it does.

10 Q. So ultimately, when you ran this transcript on July 20 of 04:17:35

11 2010, turn to page three of Exhibit 20, up at the top, nothing

12 is owing on this 2006 tax return. It was paid off?

13 A. Yes. It was paid in full.

14 Q. Exhibit 21 is the 2007 tax year.

15 MR. SEXTON: If it hasn't been admitted, we would 04:18:17

16 offer Exhibit 21 into evidence.

17 THE COURT: It's admitted in a limiting instruction

18 and that applies.

19 (Exhibit Number 21 was admitted into evidence.)

20 BY MR. SEXTON: 04:18:32

21 Q. So this is the history transcript for the 2007 tax year?

22 A. Yes, it is.

23 Q. And was the tax return filed in a timely fax by April 15

24 of 2008?

25 A. Yes, it was. 04:18:43

United States District Court

KRISTY MORGAN - Direct

1 Q. Would you look at Exhibit 10. Is that the tax return for 04:18:44  
2 2007?

3 A. Yes, it is.

4 MR. SEXTON: If it hasn't been admitted, we would  
5 offer it at this time. 04:19:00

6 THE COURT: It is admitted and the limiting  
7 instruction applies.

8 (Exhibit Number 10 was admitted into evidence.)

9 BY MR. SEXTON:

10 Q. Looking down to the income section, like the last couple 04:19:10  
11 of tax returns, do we have a line 12 business income of  
12 \$41,000, round amount?

13 A. Yes.

14 Q. And then there's, like, a \$64 on line 17?

15 A. Yes. 04:19:28

16 Q. That's what adds up to the total income of \$41,064?

17 A. Correct.

18 Q. And then on page four of this tax return, the bottom line,  
19 is that on line 63, kind of right in the middle. Let's go down  
20 to the bottom, the bottom line is that if you add lines 63 to 04:20:00  
21 the little estimated tax penalty in the box of 369, it comes to  
22 a total tax for this tax year of how much?

23 A. \$8,481.

24 Q. And still on the screen you can see that you have -- this  
25 was signed by James and Jacqueline Parker? 04:20:24

United States District Court

KRISTY MORGAN - Direct

1 A. Correct. 04:20:26

2 Q. Under penalty of perjury?

3 A. Yes.

4 Q. On 4-14 of '08?

5 A. Correct. 04:20:33

6 Q. And just below their signature, is it indicated that

7 Mr. Liggett is still the paid preparer for this return?

8 A. That's correct.

9 Q. Page five of the return, this \$41,000 in the middle, do

10 you see the \$41 of gross receipts and then net profit? 04:21:02

11 A. Yes.

12 Q. Is there any indication of the source of this money other

13 than it says it's the principal place of business of

14 construction and real estate?

15 A. No. That is all it states. 04:21:16

16 Q. So we have no business name?

17 A. No business name.

18 Q. No employer ID number?

19 A. No employee ID number.

20 Q. And then on page six in the middles there, start where 04:21:34

21 Omega Construction is and go down to the \$64. Go farther down.

22 So another \$64 only is associated with Omega

23 Construction that was added to the income on the first page?

24 A. That's correct.

25 Q. And an ID number was actually put in for Omega? 04:22:04

United States District Court

KRISTY MORGAN - Direct

1 A. Yes. There's an employer identification number. 04:22:07

2 Q. And this is indicated as being some sort of a passive  
3 income coming from Omega to the taxpayers?

4 A. Yes.

5 Q. Was the \$8,481 paid when this tax return was filed? 04:22:35

6 A. Yes. The payment was included with the tax return.

7 Q. Let's go to Exhibit 21, page two.

8 Can you walk the jury through the numbers there that  
9 are sort of in the middle of the document as to the payment  
10 there? 04:23:07

11 A. Yes. The return was filed on April 15, 2008. \$8,112  
12 assessed. The payment also come in April 17 of 2008 when it  
13 posted to the account. The payment is \$8,481. The estimated  
14 tax penalty was \$369. There's also a refundable credit on the  
15 account of \$1,200. And that credit was transferred to the 1997 04:23:32  
16 tax year because there was a balance owed on the 1997.

17 Q. So that little bit of \$1200 went down to pay down, from  
18 the IRS standpoint, the amounts that were owed from '97 that  
19 we've already gone through?

20 A. Yes. That's standard business practice. 04:24:00

21 Q. And then on page three of Exhibit 21 for 2007, is there  
22 anything owing on that tax year?

23 A. No, there's not.

24 MR. SEXTON: The 2008 tax year, Exhibit 22 we would  
25 offer into evidence if it hasn't already been admitted. 04:24:28

KRISTY MORGAN - Direct

1 THE COURT: Exhibit 22 is admitted and the limiting 04:24:32  
2 instruction applies.

3 (Exhibit Number 22 was admitted into evidence.)

4 MR. SEXTON: Go to page two of Exhibit 22 and  
5 highlight the entry. 04:24:49

6 BY MR. SEXTON:

7 Q. Would you explain to the jury what is reflected on this  
8 history for the 2008 tax return for Mr. and Mrs. Parker?

9 A. It shows that April 15, 2009, an extension was granted  
10 until October 15 of 2009. But as of the date of the 04:25:00  
11 transcript, which is July 20, 2010, no record and tax return  
12 has been filed with the IRS.

13 Q. And so there is no tax return on 2008 for the taxpayers?

14 A. That's correct.

15 Q. Let's go to the 2009 tax year, Exhibit 23 is the 04:25:33  
16 transcript history for that.

17 If it hasn't been admitted, we would offer it.

18 THE COURT: It has been admitted and the limiting  
19 instruction applies.

20 (Exhibit Number 23 was admitted into evidence.) 04:25:51

21 BY MR. SEXTON:

22 Q. A short history here. Would you summarize what it says to  
23 the jury?

24 A. For 2009 tax period, for James and Jacqueline Parker,  
25 there's no record of the tax return filed. 04:26:00

KRISTY MORGAN - Direct

1 Q. Would you look at Exhibit 207? 04:26:32

2 A. I have that.

3 Q. Let me catch up to you.

4 MR. SEXTON: Give me a moment to collect myself.

5 THE COURT: Well, let me ask counsel to collect 04:27:20  
6 themselves over at the sidebar. I've got questions.

7 (At sidebar.)

8 THE COURT: One of the jurors, I think it's juror  
9 number eight in the back, asked if he could have a list of the  
10 charges and likely it's because there's been a lot of evidence 04:27:41  
11 concerning different tax returns. So, you know, the indictment  
12 has not been offered and admitted and -- unless counsel  
13 stipulate, I don't admit the indictment.

14 However, if you choose, and there must be an  
15 agreement, otherwise, the jury has to figure out for itself, I 04:28:05  
16 can instruct the jury as to what the defendant has been charged  
17 with.

18 So you don't have to make that decision now. We can  
19 decide that tomorrow.

20 The other thing is, juror number 11, who is the third 04:28:19  
21 one over, he has a doctor's appointment tomorrow and needs to  
22 leave at 3:30.

23 The question is whether or not -- we could compact  
24 and compress the day tomorrow because we'll lose an hour, or we  
25 don't have to do that. We can just go the regular time 04:28:55

United States District Court

KRISTY MORGAN - Direct

1 although we have taken a lot of breaks because the jury asked 04:29:00  
2 if they could put energy drinks in their water.  
3 MR. SEXTON: Is that a reflection on me?  
4 THE COURT: So I told them it was okay. It's the  
5 numbers. It's the numbers. So that's an issue. Or we can 04:29:15  
6 excuse the juror. So what would you like to do? I have to  
7 make that decision right now. The other one we'll make later.  
8 MR. MINNS: Which juror is it, Your Honor?  
9 THE COURT: He's the front row, the second one over  
10 but -- actually, first chair is -- someone is not sitting in 04:29:34  
11 that one. She's been excused. So he's, essentially, the third  
12 juror over. He's a young man. He's the young man who also had  
13 to go to the bathroom during --  
14 MR. SEXTON: During his opening.  
15 MR. MINNS: I am so sympathetic for that, I can't 04:29:56  
16 tell you.  
17 MR. SEXTON: We would oppose losing another juror on  
18 the third day, so we would have no problem recessing at 3:30.  
19 THE COURT: And Mr. Minns?  
20 MR. MINNS: I have no problem either, Your Honor. 04:30:08  
21 THE COURT: All right.  
22 (End sidebar.)  
23 THE COURT: Ladies and gentlemen, you get to go home.  
24 We'll see you tomorrow. We are going because one of our jurors  
25 has an appointment and we are going to conclude tomorrow at 04:30:20

United States District Court



KRISTY MORGAN - Direct

1 3:30. In the morning, I'll decide whether or not we're going 04:30:24  
2 to compress the day to make up for that hour.

3 Someone also asked about whether or not you could  
4 have a -- the jury could have a list of the charges. That is a  
5 decision I am going to make overnight after I've had an 04:30:41  
6 opportunity to consult with counsel.

7 Okay. Have a nice evening. We are adjourned for the  
8 day.

9 COURTROOM DEPUTY: All rise.  
10 (Whereupon, these proceedings recessed at 4:31 p.m.) 04:31:37

11 \* \* \* \* \*

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KRISTY MORGAN - Direct

C E R T I F I C A T E

04:31:37

I, ELAINE M. CROPPER, do hereby certify that I am  
duly appointed and qualified to act as Official Court Reporter  
for the United States District Court for the District of  
Arizona.

04:31:37

I FURTHER CERTIFY that the foregoing pages constitute  
a full, true, and accurate transcript of all of that portion of  
the proceedings contained herein, had in the above-entitled  
cause on the date specified therein, and that said transcript  
was prepared under my direction and control, and to the best of  
my ability.

04:31:37

DATED at Phoenix, Arizona, this 14th day of August,  
2012.

04:31:37

s/Elaine M. Cropper

04:31:37

Elaine M. Cropper, RDR, CRR, CCP

United States District Court