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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)	
)	
Plaintiff,)	CR 10-00400-PHX-DGC
)	
vs.)	Phoenix, Arizona
)	April 20, 2011
Janice Sue Taylor,)	
)	
Defendant.)	
)	

BEFORE: THE HONORABLE DAVID G. CAMPBELL, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TRIAL DAY 2 (Pages 233 - 498)

Official Court Reporter:
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Proceedings Reported by Stenographic Court Reporter
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08:31:58 1 P R O C E E D I N G S

2 (The following proceedings took place in open court
3 outside the presence of the jury.)
4

08:31:08 5 THE COURT: Good morning. Okay, I think we're going
6 to continue this morning, Mr. Knapp, with your moving in
7 documents.

8 MR. KNAPP: Yes, Your Honor.

9 Your Honor, going back to the packet that we were
08:31:39 10 discussing yesterday, I think we left off at 159. 159, the
11 relevance of that is it's a commission check that is
12 actually -- it's tied to Exhibit 255 that actually details the
13 commission. That's the escrow file that details the
14 commission. And 159 is the commission check itself negotiated
08:32:11 15 for cashier's checks. And these are cashier's checks. Other
16 case law in this case is one of our alleged affirmative acts
17 of evasion.

18 THE COURT: What is the date of the check?

19 MR. KNAPP: November 3rd, 2005.

08:32:38 20 THE COURT: And what is the supporting affidavit that
21 you're relying on? Stacy Collins?

22 MR. KNAPP: That's correct, Your Honor. Yes.

23 THE COURT: Okay. Ms. Taylor, any objection to
24 Exhibit 159?

08:33:09 25 MS. TAYLOR: No, Your Honor.

08:33:10 1 THE COURT: All right. 159 is admitted.

2 (Exhibit 159 admitted.)

3 THE COURT: Your next exhibit, Mr. Knapp?

4 MR. KNAPP: Your Honor, the next exhibit is

08:33:23 5 Exhibit 160. We move for admission of that based on

6 certification from Eric Stellhorn dated June 4th, 2010. The

7 relevance of that is it's a set of cashier's checks, a subset

8 of two different accounts that have already been -- records of

9 which have already been admitted into evidence. Those are for

08:33:41 10 the National Land Bank account 0957, which is Exhibit 150, and

11 also cashier's checks related to the Peace Pipe account, 0510,

12 which is Exhibit 151. 0957 is National Land Bank account.

13 0510 is the Peace Pipe account.

14 THE COURT: And the relevancy?

08:34:09 15 MR. KNAPP: Again, it's the use of cashier's checks,

16 Your Honor. We allege those are affirmative acts of evasion.

17 THE COURT: What are the --

18 MR. KNAPP: And also show willfulness.

19 THE COURT: What are the dates?

08:34:19 20 MR. KNAPP: Your Honor, that one actually is a

21 collection of cashier's checks. I was asking the case agent

22 this morning whether it includes ones outside the charged

23 years. I don't know. We can exclude those if you think those

24 are irrelevant.

08:34:31 25 THE COURT: Well, if they're affirmative acts and

08:34:33 1 they're outside the relevant years, then they're not relevant.

2 MR. KNAPP: Correct. But it would also be evidence,
3 we would submit, of willfulness, and sort of the pattern of
4 hiding income and assets. But what I can do is I can go back
08:34:45 5 and -- on a quick look, Your Honor, there could be one. So we
6 could pull that out if that's your ruling.

7 THE COURT: All right.

8 Ms. Taylor?

9 MS. TAYLOR: Excuse me, Your Honor. Just a minute,
08:35:04 10 please.

11 MR. KNAPP: Your Honor, the case agent is looking
12 through it right now. Let us note that it looks like --
13 they're hard to read, but it looks like the first two are from
14 2002, so we can pull those out if that's your ruling.

08:35:30 15 MS. TAYLOR: Your Honor, I object to checks entered in
16 before 2'03, the years in question.

17 THE COURT: On relevancy grounds?

18 MS. TAYLOR: Under relevancy and 404 and 401.

19 THE COURT: As to checks before 2003?

08:35:46 20 MS. TAYLOR: Yes, Your Honor.

21 THE COURT: Okay. I'm going to sustain the objections
22 to checks before 2003 but admit Exhibit 160 for any checks in
23 the years 2003 to 2006.

24 MR. KNAPP: And, Your Honor, just so the Court knows,
08:36:18 25 we updated the exhibits that we talked about yesterday. I

08:36:20 1 believe it was 152 and 153 where you also limited the period of
2 the transactions. We've updated the exhibits and shown those
3 to defense yesterday afternoon.

4 THE COURT: All right.

08:36:32 5 MR. KNAPP: The next ones we move into evidence, Your
6 Honor -- and it may be easy just to speak of relevance
7 collectively. Exhibits 215, 216 through 220, 197 through 198,
8 222 through 246, 200 through 211, 212, 214, 247 through 266.
9 Your Honor, these are all escrow records, and I've noted in the
08:37:06 10 list which certifications back those up. We submit those
11 certifications lay the foundation as business records for those
12 exhibits.

13 All of those relate to commissions paid to Sue Taylor
14 or Sue Taylor as National Land Bank. And -- except for two of
08:37:30 15 them. 214 and 215 are escrow records for real estate
16 purchased that we believe was purchased -- that Ms. Taylor had
17 an ownership interest in and she disguised through use of a
18 nominee entity so she's not a paid a commission on those two
19 transactions. The rest of them she was.

08:37:56 20 THE COURT: So these are escrow documents; is that
21 right?

22 MR. KNAPP: Yes, Your Honor.

23 THE COURT: Okay. Give me just a minute to look over
24 the certifications on each of these.

08:38:03 25 Question: You indicate on the supplemental motion

08:39:03 1 for admissibility, which is at Docket 239, that Exhibits 197
2 through 198 are supported by a certificate from Dolly Auvil,
3 A-U-V-I-L --

4 MR. KNAPP: Yes, Your Honor.

08:39:20 5 THE COURT: -- dated April 15, 2011. In the
6 declarations that I have, I have a declaration from her dated
7 April 15th and another one dated April 6, directly behind it.

8 What is the purpose of the April 6 declaration?

9 MR. KNAPP: Your Honor, we got the April 6 declaration
08:39:47 10 and then I was concerned since it didn't exactly parrot the
11 language of the rule, so we got an updated declaration, which
12 is the April 15 declaration. I just included both of them for
13 completeness.

14 THE COURT: Okay.

08:40:59 15 I also have following the declaration of Nicole
16 Saenz, S-A-E-N-Z, a document that is not a certificate. It
17 lists some escrows from the Tallon Group and First American
18 Title Insurance.

19 Is that an attachment to the Saenz declaration?

08:41:34 20 MR. KNAPP: Yes, Your Honor. Halfway through the
21 Saenz declaration, S-A-E-N-Z, it's says, "See attached list of
22 escrow files," and that's the attachment.

23 THE COURT: Okay.

24 All right. Ms. Taylor, your reaction on these
08:41:48 25 documents?

08:41:50 1 MS. TAYLOR: One moment, Your Honor. Please.

2 THE COURT: Um-hmm.

3 MS. TAYLOR: Your Honor --

4 THE COURT: Yes, ma'am.

08:43:03 5 MS. TAYLOR: -- there's been no foundation laid yet
6 that gives any evidence that I had any interest in these
7 properties.

8 THE COURT: Are you referring specifically to Exhibits
9 214 and 215 or to all of the ones Mr. Knapp is moving into
08:43:22 10 evidence?

11 MS. TAYLOR: I thought we were just talking about 214
12 and 215.

13 THE COURT: No. He indicated those were different,
14 but he's moved in a larger number.

08:43:31 15 Did you not get that larger Group? I can give you
16 the list if you want.

17 MS. TAYLOR: The larger group, if it's just concerning
18 commissions, I have no objection.

19 THE COURT: Okay. And on 214 and 215, the objection
08:43:53 20 is that there's no evidence that those transactions are related
21 to you; is that right?

22 MS. TAYLOR: There's been no foundation laid that
23 I'm -- that I have anything to do with those properties.

24 THE COURT: All right. Your response, Mr. Knapp?

08:44:14 25 MR. KNAPP: Your Honor, there will be evidence, we

08:44:17 1 submit, that will show that the defendant had a financial
2 interest in it, that they are putting money in or otherwise
3 connected to the entities purchasing it.

4 THE COURT: I'm sorry, I didn't understand that last
08:44:29 5 statement.

6 MR. KNAPP: There will be evidence, we believe, that
7 will show she had a financial interest in this, either that she
8 put money into it or that it was purchased using an entity name
9 that she is associated with.

08:44:46 10 I don't know if -- I don't know if the easiest thing
11 to do is just to hold off on the relevance finding for now and
12 then just move to introduce it later, Your Honor.

13 THE COURT: Well, I think I should not introduce it
14 until that foundation has been laid.

08:45:02 15 MR. KNAPP: Okay.

16 THE COURT: So what I'm going to do is admit Exhibits
17 216 through 220, 197 and 198, 222 through 246, 200 through 211,
18 212, and 247 through 266. And then we'll come back to 214 and
19 215 after you feel you've laid the foundation.

08:45:36 20 MR. KNAPP: Yes, Your Honor.

21 THE COURT: All right. Mr. Knapp, do you have other
22 matters we need to address?

23 MR. KNAPP: Your Honor, if we do have a couple
24 minutes, I will note that we also intended to move in -- there
08:46:41 25 are two groups of documents that are certified public records,

08:46:45 1 and we notified defendant last week we intend to move them in
2 based on the certificates. Those are public records marked as
3 exhibits -- Government Exhibits 165 through 168, which are DMV
4 records, as well as the Government's Exhibits 268 through 272,
08:47:12 5 which are certified Corporation Commission records.

6 THE COURT: So you're moving those in at this time?

7 MR. KNAPP: Yes, Your Honor.

8 THE COURT: And are you relying on Rule 902(4) as the
9 method by which you're establishing a foundation?

08:47:51 10 MR. KNAPP: Let me pull it up, Your Honor. Let me
11 make sure --

12 THE COURT: Or it might be 902(2). I'm not sure which
13 you're relying on. Actually, it might be 902(1) as well.

14 MR. KNAPP: Yeah, Your Honor, I believe it does come
08:48:16 15 in under 902(1).

16 THE COURT: I couldn't hear that. Under what?

17 MR. KNAPP: I'm sorry. If I may have just a moment,
18 Your Honor.

19 THE COURT: Sure.

08:48:47 20 MR. KNAPP: Your Honor, I'm not sure if that is 902(1)
21 or 902(4). I'd have to look into that. I'm sorry. I'd have
22 to take a look at the certifications again. I guess I can
23 withdraw the motion for now.

24 THE COURT: All right. Anything else the Government
08:49:03 25 wishes to raise this morning?

08:49:12 1 MR. KNAPP: Your Honor, for one of the witnesses
2 today, we wanted to show the witness a subset of bank records
3 that have already been admitted into evidence. What we'd like
4 to do is mark those as 150-A, which is a subset of 150; and
08:49:29 5 151-A, which is a subset of 151. They're just copies taken --
6 a subset, again. Copies taken from the admitted exhibits. We
7 could either have Agent Votaw confirm that fact briefly right
8 here out of the presence of the jury or, if you would like,
9 during his testimony later on in the case we can, you know,
08:49:50 10 have that testimony to shore it up. But we'd like to be able
11 to show the witness just a handful of documents from that --

12 THE COURT: What testimony are you referring to?

13 MR. KNAPP: This is from Gerry Ricke.

14 THE COURT: I don't mean from the witness, but what
08:50:04 15 testimony from the agent? Just that 150-A is a subset of 150?

16 MR. KNAPP: Yes, Your Honor.

17 THE COURT: We probably don't need testimony to that
18 if defense counsel can just look at it and see if it is a
19 subset.

08:50:16 20 MR. KNAPP: Yes, Your Honor.

21 THE COURT: If it is admitted, then we're really --
22 are we only marking 150-A for identification purposes, then, or
23 do you want that to come in as separate exhibit, as a subset?

24 MR. KNAPP: Identification is good enough, Your Honor.

08:50:30 25 THE COURT: Then what we ought to do is at some point

08:50:33 1 have you state on the record what documents are in 150-A so
2 that the record is clear on that issue. Of course, we'll have
3 150-A with the other exhibits. But since it's not coming into
4 evidence, let's make sure you state on the record what it
08:50:48 5 includes.

6 MR. KNAPP: Yes, Your Honor.

7 And then if we wanted to publish something to the
8 jury, would that be permissible since it is also a part of
9 150?

08:50:58 10 THE COURT: It's been admitted, yeah. If it's a
11 subset, yeah, it can be published.

12 MR. KNAPP: Thank you, Your Honor.

13 THE COURT: Do you want to do that now in terms of
14 identifying what is included, or do you want to do that later?

08:51:09 15 MR. KNAPP: We have folders, and we'll give a copy to
16 the defense and the Court and for the original exhibit box.

17 THE COURT: That's fine. Okay.

18 Anything else?

19 MR. KNAPP: One moment, Your Honor. If I may.

08:51:36 20 Nothing else, Your Honor.

21 THE COURT: All right.

22 Ms. Taylor, do you have any matters you wish to take
23 up this morning before the jury comes in?

24 MS. TAYLOR: One moment, Your Honor.

08:52:08 25 THE COURT: Sure.

08:52:08

1 Feel free to confer with Ms. Anderson.

2 MS. TAYLOR: Your Honor, I'd like for it still to be
3 on the record that I still am objecting to the jury. They're
4 not a jury of my peers.

08:53:31

5 THE COURT: All right.
6 Anything else you wish to raise?

7 MS. TAYLOR: That's all.

08:53:43

8 THE COURT: Okay. We will have Lisa bring in the jury
9 at nine o'clock, when they're ready, and then I'll come in and
10 we'll resume with the testimony of, I assume, Ms. Morgan?

11 MR. KNAPP: Yes, Your Honor.

12 THE COURT: Okay. See you in a few minutes.

13 MR. GALATI: Your Honor, might I just briefly?

08:53:55

14 While Mr. Knapp is doing examination of the next
15 couple of witnesses, we may have some witnesses show up, then
16 I -- if I could leave and to speak to them, it would save
17 potential problems --

18 THE COURT: Yeah. If you need to step out while he's
19 doing his work, that's fine with me.

08:54:07

20 MR. GALATI: Thank you.

21 THE COURT: Okay.

22 (Recess taken from 8:54 a.m. to 9:03 a.m. Proceedings
23 resumed in open court with the jury present.)

09:03:29

24 THE COURT: Morning, ladies and gentlemen. Thank you
25 for being with us this morning. We're going to resume with the

09:03:32

1

testimony of Ms. Morgan, where we left off yesterday.

2

Ms. Morgan, if you could return to the witness stand.

3

And, Mr. Knapp, you may proceed.

4

MR. KNAPP: Thank you, Your Honor.

5

KRISTY MORGAN,

6

recalled as a witness herein, after having been previously

7

sworn or affirmed, was examined and testified further as

8

follows:

9

D I R E C T E X A M I N A T I O N (continued)

11:19:09

10

BY MR. KNAPP:

11

Q Ms. Morgan, good morning.

12

A Good morning.

13

Q Do you still work for the IRS?

14

A I do.

09:04:09

15

Q And yesterday afternoon we left off, I was asking you some

16

questions about some IRS transcripts, right?

17

A Yes.

18

Q And is it fair to say that the transcripts we're looking

19

at, these are Government Exhibits 5 and 6, show that Sue

09:04:25

20

Taylor, the defendant, filed tax returns with the IRS in 1997

21

and 1998, right?

22

A That's correct, yes.

23

Q Those -- according to the transcripts, there was additional

24

assessments applied after examination; is that right?

09:04:43

25

A That's correct.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:04:44 1 Q And, again, in case we didn't cover it yesterday, what do
2 you mean by terms like "assessment" and "examination"? Can you
3 just --

4 A That would be additional tax that is assessed based on
09:04:54 5 third-party income information that the IRS receives.

6 Q All right. So for 1997 and 1998, your records show there
7 was a tax return filed with numbers in it, albeit not the ones
8 that IRS concluded were correct?

9 A That's correct, yes.

09:05:17 10 Q Let's take a look at Government's Exhibit 1. What is
11 Government's Exhibit 1?

12 A This is a certified copy of the administrative file for the
13 tax year 1999 for Sue Taylor.

14 Q Okay. Let's skip ahead to page -- what I have as page 8 of
09:06:19 15 the exhibit, and --

16 MS. TAYLOR: Objection, Your Honor.

17 MR. KNAPP: -- this is in evidence.

18 THE COURT: Hold on just a minute, Mr. Knapp.

19 MS. TAYLOR: Objection, Your Honor. This is for 1999,
09:06:27 20 not in the years in question. It is irrelevant. Hearsay.

21 THE COURT: All right. Objection overruled.

22 MR. KNAPP: And this is in evidence. May I publish to
23 the jury?

24 THE COURT: You may.

25

DIRECT EXAMINATION (continued) - KRISTY MORGAN

01:59:57 1

BY MR. KNAPP:

2

Q What are we looking at here?

3

A This is the first page of the 1999 tax return that was filed with the Ogden Center.

09:06:52 5

Q All right. In the income section down here, it has numbers in it, but they're in parenthesis. What does that tell you?

6

7

A That is showing the taxpayer reported losses from a business and also from a partnership.

8

9

Q And you've seen tax returns from business people where they've claimed losses even though they generated some revenue during the course of the year; is that right?

09:07:13 10

11

12

A That's correct.

13

Q That's essentially what this is claiming here?

14

A That's correct, yes.

09:07:36 15

16

Q Let's skip ahead to page -- my numbers don't match up, so bear with me -- I believe page 14. It says, "Amended U.S. Individual Income Tax Return" at the top. What is that?

17

18

A That's when the taxpayer will file an amended tax return and change information that was previously either filed or information that was proposed by the IRS, the Internal Revenue Service.

09:08:09 20

21

22

Q Okay. And in this situation, how was the tax return amended?

23

24

A It's actually reversing all the income that is on -- that was initially reported on the tax return. And then there's

09:08:24 25

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:08:28 1 some explanation on the next page as to why.

2 Q And sticking with this first page, it's essentially
3 reversing all the claimed revenues that resulted in a loss of
4 income to just zeros, correct?

09:08:49 5 A Correct.

6 Q Let's go to Government's Exhibits 14 -- I'm sorry.
7 Government's Exhibit 11 through 14, including 14-A. And this
8 is in evidence.

9 Let's start with Government's Exhibit 11. Do you see
09:09:41 10 that in front of you?

11 A Yes.

12 Q This is the same kind of transcript we looked at yesterday
13 afternoon; is that right?

14 A Correct, yes.

09:09:49 15 Q The transcript we looked at yesterday afternoon showed when
16 the return had been filed and different actions in the case,
17 like additional examination, penalties, things like that,
18 correct?

19 A Yes.

09:09:59 20 Q Okay. This is a shorter transcript, right?

21 A Yeah.

22 Q What does this transcript tell you?

23 A This transcript for 2003 shows that just a substitute for a
24 return was initiated and there was a power of attorney received
09:10:13 25 from the taxpayer.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:10:15 1 Q Does this transcript tell you anything about whether a tax
2 return was filed by the taxpayer for that year?

3 A It shows the taxpayer did not file a tax return.

4 Q At least by the dates listed on here, correct?

09:10:27 5 A Correct.

6 Q What is a substitute for return?

7 A That's when the IRS will initiate a substitute for return
8 because there is income that needed to be reported and the
9 taxpayer needed to file a tax return. That is the start of the
09:10:41 10 audit process.

11 Q And let's look at Government's Exhibit 12. That looks very
12 similar to Government's Exhibit 11; is that right?

13 A Yes.

14 Q Except for it is for Sue Taylor, with a social security
09:11:08 15 number ending in 3002, for tax year 2004, right?

16 A Correct.

17 Q And, again, it says, "At least as of April 7, 2009, there
18 was no" -- I'm sorry. I'm misreading that. It says, "No
19 record of return filed."

09:11:24 20 A That's correct.

21 Q And that is at least as of the date of this transcript,
22 which is -- what's the date that this was --

23 A The date of the transcript is October 15, 2010.

24 Q Okay. So at least as of that date, a tax return had not
09:11:55 25 been logged into the IRS system.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:11:57 1 A Right. I also ordered transcripts and reviewed these with
2 the date of April 13th, and the transcripts had not changed.

3 Q Government's Exhibit 13 is a similar transcript except for
4 tax year 2005, correct?

09:12:18 5 A Correct, yes.

6 Q And, again, when this transcript was run, there had been no
7 tax return logged in; is that right?

8 A No return filed, yes.

9 Q Government's Exhibit 14 is basically the same thing except
09:12:48 10 tax year 2006, correct?

11 A Correct.

12 Q Now, what's 14-A?

13 A 14-A is a transcript for the account for Sue Taylor for tax
14 year 2006. And when I run my transcripts before I come to
09:13:08 15 trial to make sure everything's correct, I found that the
16 taxpayer had indeed filed a tax return. So this is the correct
17 transcript for 2006.

18 Q Okay. I don't have a copy loaded up in the fancy computer
19 system, because you just recently got this; is that right?

09:13:32 20 A Right. I just brought it with me.

21 Q And you brought it with you because you wanted to check
22 things before you testified in court?

23 A Correct.

24 Q So can you tell me based on 14-A -- you said that there was
09:13:44 25 a tax return filed. Was that tax return filed by the due date?

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:13:50 1 A No. It was not.

2 Q Can you see based on Exhibit 14-A approximately when the
3 tax return was filed?

4 A The tax return was actually filed October 4, 2010.

09:14:01 5 Q And that would be approximately three and a half years
6 after the due date?

7 A Correct.

8 Q Can you tell me looking at this transcript, Government's
9 Exhibit 14-A, what kind of income was claimed on the tax
09:14:18 10 return?

11 A According to this transcript, there was no income and no
12 tax reported.

13 Q So this indicates there was a zero return?

14 A All zeros, yes.

09:14:33 15 Q Now, when -- the IRS, when they calculate an individual's
16 tax liability, first place they can look is the taxpayer
17 themselves, right?

18 A Yes, by their return filed.

19 Q And oftentimes the return will include some schedules,
09:14:52 20 maybe some attachments, maybe other proof of income or losses
21 throughout the year; is that right?

22 A That's correct, yes.

23 Q So it can have W-2s or 1099s attached to the taxpayer's
24 return sometimes?

09:15:07 25 A Yes.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:15:07 1 Q What is a W-2? Are you familiar with that?

2 A That's when you have wages from an employer and they're

3 required to issue a W-2 showing the income made during the year

4 and any withholding that was taken out, federal withholding.

09:15:20 5 It can also show some state information, and they issue that to

6 you at the end of every tax year.

7 Q What about the 1099? What are those?

8 A They can report -- on the 1099, there's different things.

9 It can be interest or dividends from a bank. It can be

09:15:36 10 different things as far as -- mortgage interest can even be

11 shown on a 1099.

12 Q Are W-2s and 1099s prepared by the taxpayer or by someone

13 else?

14 A No. They're actually done by the employer or the person

09:15:48 15 issuing the money to the individual.

16 Q The person who paid the money, essentially?

17 A Correct.

18 Q And those are issues -- copies are supposed to be issued to

19 the taxpayer, right?

09:15:57 20 A Yes.

21 Q So the taxpayer can file it with the return?

22 A Right.

23 Q Does the payer of the income, does that person also have to

24 report anything to the IRS?

09:16:07 25 A Yes, they send that information in to the IRS.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:16:10 1 Q Is that information collected?

2 A That's collected in what we call "third-party information,"

3 yes.

4 Q I'm going to ask you to take a look at Government's Exhibit

09:16:21 5 11 through 14. I'm sorry. Government's Exhibits 16 through

6 19. I'm showing on the screen Government's Exhibit 16. What

7 is this?

8 A This is the third-party information that shows what income

9 information was received, and it's for tax year 2003.

09:17:24 10 Q Where do you see that?

11 A At the very top of the print, right below the date of

12 11/17/2010 --

13 Q Um-hmm.

14 A -- there is a tax year, "TY 2003."

09:17:36 15 Q Okay. And who do you know this information -- whose

16 information is this?

17 A This shows the payee, the person receiving the money, is

18 Sue Taylor, and the payer is the International Paper Company.

19 Q And this, what can you -- just based on looking at this

09:17:54 20 form, what kind of information can you tell me about the nature

21 of this payment?

22 A There was a 1099 issued for dividend that was paid to Sue

23 Taylor in the amount of \$5.

24 Q So Mellon Investor Services, that sounds like it could be a

09:18:13 25 bank, a financial institution, correct?

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:18:15 1 A Correct, yes.

2 Q 1099s are issued on behalf of taxpayers when they receive
3 dividends, income, or interest income?

4 A Yes.

09:18:23 5 Q As well as contractors who receive payment for services; is
6 that right?

7 A Right.

8 Q So looking at this, not very much money, \$5, but there was
9 something reported to the IRS and the taxpayer for that year?

09:18:35 10 A Right. That's how this system works, yes.

11 Q And if you look at the next page, another couple dollars
12 reported from AT&T Corp?

13 A Right, a dividend of \$3.

14 Q There are a couple more pages in there in that exhibit
09:18:56 15 where it shows \$14 from Illinois Tool Works, Inc.; is that
16 right?

17 A Yes.

18 Q \$45, capital gains from BellSouth Corporation; is that
19 right?

09:19:10 20 A That's correct, yes.

21 Q Let's look back at the first page where we had
22 International Paper Company.

23 I'm sorry. Before I do that, actually, let's go
24 through -- that's for tax year 2003. We also have similar
09:19:42 25 transcripts for 2004, '5, and '6; is that correct?

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:19:47 1 A That's correct, yes.

2 Q And those are Government's Exhibits 17, 18, 19,
3 respectfully; is that right?

4 A That's correct, yes.

09:19:54 5 Q And do those show similar types of information?

6 A Yes, they do.

7 Q For example, Government's Exhibit 19 shows another \$4 from
8 AT&T for the tax year of 2006; is that right?

9 A Yes.

09:20:56 10 Q And then the following page shows some nonemployment C-O-M
11 for \$6,000 -- \$6,700 in 2006. What does that tell you?

12 A That shows a nonemployee compensation. It shows that the
13 individual was paid by, for instance, a contractor or another
14 individual that they did some work for. So this is income
09:21:36 15 received from -- the entity is Dennis Barney.

16 Q Do you know what N-O-N-E-M-P C-O-M stands for, by chance?

17 A Yes. It actually means "nonemployee compensation."

18 Q Okay. Going back to Government's Exhibit -- now, these are
19 small numbers we're looking at.

09:22:00 20 A Yes.

21 Q And this is just what's reported to the IRS from a third
22 party, is that right?

23 A That's right.

24 Q Well, going back to Government's Exhibit 16 and then
09:22:09 25 comparing that with Government's Exhibit 80 -- first of all,

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:22:44 1 what is Government's Exhibit 80?

2 A 80 is the 2003 tax return that was filed by the taxpayer.

3 Q Now, I thought you told me a moment ago that there wasn't a
4 return that had shown up on that transcript.

09:23:01 5 A The return was filed by the taxpayer, but it was not
6 processed.

7 Q And if we look at -- it's on the right side of your screen,
8 and you have the exhibit in front of you. If we look at the
9 bottom, that shows you when it was at least signed; is that
09:23:24 10 right?

11 A Right.

12 Q This looks to be about October of 2010?

13 A Correct.

14 Q So that would have been, if my math is about right, six and
09:23:36 15 a half years after the due date.

16 A Correct.

17 Q Going back to the first page of that income tax return,
18 this does -- again, on the right hand side, similar to
19 Government's Exhibit 1 we looked at a moment ago, this has
09:23:54 20 zeros for income?

21 A That's correct.

22 Q Now, I mean, you don't know, you standing up there as the
23 IRS custodian, you don't know what Ms. Taylor's income was for
24 that year; is that right?

09:24:07 25 A That's correct. I do not.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:24:09 1 Q That's why they have revenue agents and others who do those
2 sorts of calculations; is that right?

3 A That's correct.

4 Q After reviewing books and records and things like that?

09:24:19 5 A Yes.

6 Q But at least the IRS -- and you have access to certain
7 records reported to the IRS about income earned during that
8 year, right?

9 A That's correct, yes.

09:24:27 10 Q That would include Government's Exhibit 16 through 19 that
11 we just looked at, the information returns, right?

12 A Yes.

13 Q So even if it was only a couple dollars that year, you know
14 it was greater than zero, right?

09:24:38 15 A It is, yes.

16 Q Let's look at page -- as an example, let's look at page --
17 it's page 9 on the computer. Do you see it on the right-hand
18 side of the screen there?

19 A Yes.

09:25:22 20 Q What is this? Do you recognize this kind of form?

21 A Yes. This is the form 1099.

22 Q And it may not be obvious from the screen, but can you see
23 on your paper copy, does it look kind of strange at all around
24 the tax year date?

09:25:37 25 A Yes. The date has been -- or the year has been changed on

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:25:39 1

this form.

2

Q And the numbers, those numbers are different from the ones reported to the IRS, correct?

3

4

A Yes, they're different from what the actual business reported.

09:25:53 5

6

Q Now, again, does the taxpayer -- the taxpayer oftentimes provides the 1099 or the W-2 or whatever to the IRS, their own copies, but does the taxpayer create the 1099 or fill in the numbers?

7

8

9

09:26:08 10

A No. That's not their responsibility.

11

Q What does it look like has happened here if you look at Government's Exhibit 16 and 80?

12

13

A According to what the business reported, there was \$5 worth of dividends. According to this document, it shows zero. So this document has been altered.

14

09:26:26 15

16

Q And if we look at the next page in the Government's Exhibit 80, similar thing for AT&T Corporation. Once again, zeros in it with a strange-looking 2003; is that correct?

17

18

19

A That's correct, yes.

09:26:49 20

21

Q I don't need to show you all of these, but can you take a look at Government's Exhibit 81 and compare it with Government's Exhibit 17, and tell me what you see.

22

23

Let's start with the basics. Government's Exhibit 81 is a tax return for 2004, correct?

24

09:27:31 25

A That's correct, yes.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:27:32 1 Q And, again, you told me that the transcript you had run
2 previously didn't show this tax return having been processed by
3 the IRS; is that right?

4 A I think the 2004 was theirs. The 2006.

09:27:46 5 Q Well, let's take a look at Government's Exhibit 12. And
6 this transcript shows no record of a return filed?

7 A That's correct. I'm sorry. I misspoke.

8 Q Is there sometimes a delay -- why would a tax return not
9 necessarily be processed or show up on the transcript?

09:28:14 10 A Simply because of what's attached to the document. It
11 might need a second review.

12 Q All right. We'll talk about that in a second.

13 Another reason, I imagine, is -- this one, too, was
14 filed just last fall, September of 2010, correct?

09:28:38 15 A That's correct, yes.

16 Q Or at least that's when it was signed.

17 A That's when it was signed, yes.

18 Q The first page has a "received" stamp from the IRS about
19 that time, correct?

09:28:59 20 A That's correct, yes.

21 Q All right. This 2004 return that was filed, again, years
22 late, again, comparing that with Government's Exhibit 17, you
23 know that can't quite be correct, right? Because there's some
24 income at least reported on those third-party returns?

09:29:47 25 A That's correct, yes, there is income.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:29:51 1 Q Government's Exhibit 82 is a tax return filed with the IRS
2 in approximately October of 2010; is that right?

3 A Yes.

4 Q And is this for tax year 2005?

09:30:20 5 A Correct.

6 Q It once again claims zero income?

7 A That's right, yes.

8 Q And, again, this also has the attached 1099s with zeros on
9 them that you can tell from your review of Government's Exhibit
09:30:58 10 18 are not accurate, correct?

11 A That's correct. They've been altered.

12 Q Did you --

13 MR. KNAPP: May I have one moment, Your Honor?

14 THE COURT: Yes.

01:59:57 15 BY MR. KNAPP:

16 Q In preparation for today's hearing, you reviewed the
17 indictment in this matter; is that right?

18 A I did, yes.

19 Q That's just a charging document, right? Allegations from a
09:31:42 20 grand jury, correct?

21 A Correct.

22 Q Do you happen to recall the date of that charging document?

23 A I don't. I don't.

24 Q Okay. Let's move on. Well, let me ask you this: Do you
09:32:04 25 remember when you initially got any requests to look for these

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:32:07 1 records for Ms. Taylor?

2 A It was approximately two years ago.

3 Q All right. Let's move on to the Frivolous Filer
4 Department. You mentioned that earlier. You mentioned it
09:32:44 5 yesterday afternoon.

6 A Yes.

7 Q Tell me again, what is the Frivolous Filer Department?

8 A That is group of specialized individuals and exam that will
9 look at tax returns that will have attachments and different
09:32:56 10 things in it that maybe could not go through processing
11 initially, and they're going to review them to see if they can
12 be processed, if they're correct.

13 Q And what was your -- have you ever had any connection to
14 that?

09:33:07 15 A I worked in the Frivolous Filer for ten years.

16 Q What your title in that department?

17 A Civil penalty coordinator.

18 Q And a civil penalty coordinator suggests to me that there
19 penalties for having frivolous filings with the IRS; is that
09:33:19 20 right?

21 A Yes.

22 Q Those are fines?

23 A Right.

24 Q Are there guidelines for what you would treat as frivolous?

09:33:29 25 A Yes, there is.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:33:31 1 Q Why are there penalties for frivolous filings with the IRS?

2 A Simply because of the fact the returns have to be pulled
3 out of the system. It takes the additional time and taxpayer
4 dollars to review them, assess the penalty. It impedes the
09:33:45 5 system.

6 Q And are there -- has the IRS done anything to try and
7 educate people about some of these frivolous claims?

8 A Yes, I have.

9 Q I mean has the IRS in general?

09:33:57 10 A Yes.

11 Q Are there any publications?

12 A There is a publication called 2105 that is sent out to why
13 you have to pay taxes. There's letters that go to the
14 individuals that file these tax returns explaining what will
09:34:11 15 happen and they're subject to penalty. Also, on IRS.gov
16 there's all kinds of search engines you can go in to find out
17 the Internal Revenue Service's procedures and processes on
18 these types of returns.

19 Q So if somebody has a particular argument about taxes, are
09:34:28 20 there resources available on IRS.gov to figure that out?

21 A Yes. Yes.

22 Q You mentioned correspondence as well; is that right?

23 A Right. To correspond with the individuals.

24 Q All right. Let's look at Government's Exhibit 42 through
09:34:44 25 46. I'm not sure if you have those up there.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:34:46 1 A I do not.

2 MR. KNAPP: May the witness be shown Government's
3 Exhibits 42 through 46.

4 BY MR. KNAPP:

09:34:54 5 Q Take a moment to flip through that, if you will.

6 What is Government's Exhibit 42?

7 A This is tax mod, which is a computer-generated account,
8 which is the tax module from the IRS computer which we can
9 retrieve by using a social security number, and it shows the
09:36:20 10 history on that account for 1997.

11 Q And would this show any sort of correspondence relating to
12 frivolous findings -- frivolous filings?

13 A Yes, it would.

14 Q And do you see anything in Government's Exhibit 42 about
09:36:37 15 correspondence related to frivolous filings?

16 A Yes. The tax examiner is required to go in and document
17 what they're working on and what they do. So the history is on
18 the page 7 of 9 that shows the filings that come in and the
19 actions the tax examiner took.

09:37:02 20 Q Is that what we have up on the screen there, the same page
21 you're looking at?

22 A That's page 7, yes.

23 Q And tell me again --

24 MS. TAYLOR: Your Honor, I object.

09:37:09 25 THE COURT: What's your objection, Ms. Taylor?

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:37:11 1 MS. TAYLOR: These are for records for 1997. They are
2 not in the current years --

3 THE COURT: All right.

4 MS. TAYLOR: -- at issue --

09:37:19 5 THE COURT: This exhibit is already --

6 MS. TAYLOR: -- and relevancy.

7 THE COURT: Okay. I understand the relevancy
8 objection. This exhibit has already been admitted. The
9 objection is overruled.

09:37:25 10 BY MR. KNAPP:

11 Q Now, that's a bunch of code to me. Can you decipher that?

12 A Yes. The actual on -- the number 1, for instance, this tax
13 examiner has identified that some frivolous mail come in. So
14 she would do a history activity item saying "friv mail." That
09:37:47 15 is approximately the date, March 5th, 2003, that this was
16 received. If you go to the bottom on '04, it shows that on
17 August 30th, 2001, a frivolous 1040X was received in Ogden
18 Center. If you go to the next page, which was page 8 of 9,
19 there's actually an entry there dated November 21st of 2001.
09:38:16 20 Page 8.

21 Q There we go. Is that right?

22 A Yes, it is.

23 Q I'm sorry. What are you looking at?

24 A On that, it shows the status at the very top of the page
09:38:44 25 right along with the 3002 that on November 21st, 2001, this

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:38:51 1 individual tax examiner sent out what is called a "Pre-1040X."
2 That is a letter that went to the taxpayer regarding the
3 frivolous 1040X that was sent.

4 Q Now, again, we've talked before, these transcripts show
09:39:12 5 letters going out and sometimes coming in from taxpayers,
6 right?

7 A Correct.

8 Q And, again, I think you said that the IRS does not actually
9 collect the actual letters they send out.

09:39:23 10 A Right. This is how they document this. They'll actually
11 put an entry on the account.

12 Q Are a lot of these computer-generated letters?

13 A Yes, they are.

14 Q I mean, does the IRS have a policy about whether they will
09:39:36 15 respond point by point to a taxpayer's inquiry or
16 correspondence?

17 A In the Frivolous Filer Department, they'll usually send one
18 and they won't send letters again and again.

19 Q Why is it a policy?

09:39:51 20 A Because 90 percent of the time, the individual replies back
21 with the same type of argument, and that's not what their job
22 is, is to argue the legitimacy of the tax return. They have
23 their procedures in place of what to do on this type of tax
24 return.

09:40:08 25 Q Are you just supposed to kind of inform the taxpayer of the

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:40:11 1 IRS position and they can do with that as --

2 A Right. It's their choice as to what they file.

3 Q Now, again, so does this code on the page, does this tell

4 you that -- I think you said a Pre-1040X letter was sent out

09:40:26 5 approximately November of 2001?

6 A That's correct, yes.

7 Q These are computer-generated letters. You don't have the

8 actual letters sent out in the IRS records, right?

9 A No, I do not.

09:40:37 10 Q Are you familiar with that letter?

11 A Yes.

12 Q What, in general terms, would it have said?

13 A Would have went out and said we received this Form 1040X,

14 and they would state what years were on that; and then it says,

09:40:47 15 that this letter is to inform you of the potential consequences

16 of this type of return, that it is subject to a frivolous

17 return penalty of either 500 or 5,000, depending on what time

18 it was sent out. The penalty has now been increased to \$5,000

19 per document. Then it would say you have 45 days to change the

09:41:09 20 position or send in correspondence regarding this and

21 withdrawing the position or the penalty will be assessed.

22 Q All right. And, again, Government's Exhibit 42, is that a

23 transcript of sorts for Sue Taylor for tax year 1997?

24 A That's correct, it is.

09:41:35 25 Q All right. And at the top of that, it says "T-X-M-O-D-A"

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:41:38 1 and then there's a part redacted on my screen but yours has the
2 original. Is that the taxpayer's social security number?

3 A That is.

4 Q And it is ending in 3002?

09:41:48 5 A That's correct.

6 Q Government's Exhibit 43, which is in evidence, what is
7 that?

8 A This is the same information, the tax module for the
9 taxpayer's social security number ending in 3003 for the tax
09:42:08 10 year 1998.

11 Q All right. Just looking at this, does that record also
12 show correspondence went out to the taxpayer --

13 A Yes, it does.

14 Q -- in this case Sue Taylor?

09:42:21 15 A It does.

16 Q And it's similar type of correspondence of Pre-1040X?

17 A Yes, it is.

18 Q And it looks like it was on the same -- same letter as the
19 one dealing with tax year 1997, correct?

09:42:36 20 A Correct.

21 Q So based on these records, the bottom line is after
22 reviewing these records and the ones we've looked at yesterday
23 afternoon and today, can you say whether letters and
24 correspondence have gone out well in advance of 2003 to inform,
09:42:55 25 in this case, Sue Taylor of the IRS's position on her tax

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:43:00 1

liability?

2

A That's correct, it has.

3

Q Whether it is through the course of responding to frivolous findings or levies, notices of levy, intent to levy --

4

09:43:10 5

A Right.

6

Q -- or notice of tax liability?

7

A Yes.

8

Q Okay. You were asked to look for some other records in connection with this case, correct?

9

09:43:19 10

A That's correct.

11

Q I would like the witness to be shown Government's Exhibits 41-A, 47, 50, 52, 21 through 22, and 54. And if I may approach to help out the staff.

12

13

14

MS. TAYLOR: Would you repeat that please? I didn't hear the exhibits.

09:44:00 15

16

THE COURT: I didn't write them down, Ms. Taylor.

17

Mr. Knapp would you repeat that exhibit list for Ms.

18

Taylor, please?

19

MR. KNAPP: Certainly, Your honor. 41-A, 47, 50, 52, 21 through 22, and 54.

09:44:17 20

21

If we may, show the witness Government's Exhibit 55 as well. Which 55 is in evidence; the others are not.

22

23

Your Honor, may we approach briefly?

24

THE COURT: Yes.

09:45:54 25

Members of the jury, if you want to stand up while we

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:46:02 1 talk, feel free.

2 (Bench conference as follows:)

3 MR. KNAPP: I want to let you know what -- some of
4 these records, these are basically certificates of nonexistence
09:46:08 5 of record, so I'm not going to introduce them. I'm going to
6 ask her that she did searches for things. Some of them are
7 lack of records relating to National Land Bank, the brokerage
8 firm. Some of them are lack of records for some of the
9 entities that we'll hear about through the course of the case,
09:46:25 10 tax filings for Burning Bush Ministries, that sort of thing.

11 I wanted to approach because there are also --
12 certificates of lack of record, I think the only ones that I
13 really need to telegraph are also lack of records for Ronald
14 McBride. They're marked exhibits. It's relevant because
09:46:45 15 Ronald McBride is the defendant's boyfriend and Desiree
16 Saunders is her daughter, and they have been used as trustees
17 for many entities. I want to show that it wasn't the case
18 that the income went to them. I want to show the income went
19 to Ms. Taylor. That's the relevance, but because it is a
09:47:04 20 third-party's tax information, I wanted to kind of approach.

21 THE COURT: But the evidence you're going to ask for
22 from the witness is that she searched and could not find
23 records for Mr. McBride?

24 MR. KNAPP: Correct.

09:47:16 25 THE COURT: Okay.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:47:16 1 MR. KNAPP: I just wanted to alert the Court in case
2 there is some concerns about the fact that it's a third-party's
3 tax information that we'll be discussing.

4 THE COURT: Okay.

09:47:24 5 Do you have any thoughts on that, Ms. Taylor? You
6 can confer if you want for a minute.

7 MS. TAYLOR: I would object to it on relevancy,
8 because I don't have any standing for their records, so, I
9 mean, they don't pertain to me, and I don't have any standing
09:48:07 10 on them.

11 THE COURT: Okay. I think I understand. I think your
12 objection is you don't control what they do.

13 MS. TAYLOR: I don't control what they do.

14 THE COURT: Is that what you mean by you don't have
09:48:17 15 any standing?

16 MS. TAYLOR: Um-hmm.

17 THE COURT: I think the evidence is relevant for the
18 jury to understand that the money that the Government is going
19 to allege you had an interest in wasn't taxed through another
09:48:30 20 person. I think that is relevant in the case, and so I will
21 permit you to make that inquiry. But you're not moving
22 documents into evidence, right?

23 MR. KNAPP: No. We've already moved what we need to
24 move in. These are just the certificates of nonexistence that
09:48:44 25 she'll review as she testifies about her own search.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:48:47 1 THE COURT: All right.

2 MS. TAYLOR: Your Honor, what do you mean by that,
3 that it would be relevant for them to enter their evidence in
4 on somebody else that I'm not involved in? When you have no
09:48:57 5 proof that I'm involved in that, so why would they be able to
6 bring their records in?

7 THE COURT: Well, I'm assuming from what you said,
8 Mr. Knapp, that you intend to present evidence that money that
9 you claim is attributable to Ms. Taylor went to Burning Bush
09:49:15 10 Ministries and other entities that Mr. McBride is involved in.

11 MR. KNAPP: Yes, Your Honor.

12 THE COURT: So the relevancy, I think, is they want to
13 show that the money that went to those entities wasn't taxed to
14 you and it wasn't taxed to him so the jury isn't left
09:49:31 15 wondering, well, if it went to that other organization, did
16 they pay tax on it? That's what I understand to be --

17 MR. KNAPP: Yes.

18 THE COURT: -- the relevancy, and I think that is
19 relevant.

09:49:47 20 MS. TAYLOR: So if you donate to your churches or a
21 mission, that makes it relevant?

22 THE COURT: Well, if on cross-examination you want to
23 ask Ms. Morgan if religious organizations pay taxes, you can
24 certainly do that. But I think it is relevant for the
09:50:07 25 Government to establish that the individuals they contend -- I

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:50:12 1 know you're not conceding this, but they contend that were
2 working with you and had control over these other entities did
3 not pay taxes on the money that they claim you earned. I think
4 that is relevant to their case. You certainly can, if you
09:50:26 5 believe it wasn't taxable because it went to a religious
6 organization, you can make those points.

7 MS. TAYLOR: And in their presentation of it, are they
8 just assuming and making it known that it's just assumption and
9 not fact?

09:50:42 10 THE COURT: Well, I think what he's going to do is
11 elicit what he believes to be the fact that the IRS has no
12 record of Mr. McBride paying taxes on this money. I'm assuming
13 we're going to see evidence later that you think connects
14 Mr. McBride and his organizations to Ms. Taylor?

09:50:59 15 MR. KNAPP: Yes, Your Honor.

16 THE COURT: So that is not coming in yet. That will
17 come in at some point, and you certainly can object at that
18 point if you think it is objectionable. But for purposes of
19 what we're doing now at sidebar, my ruling is that his
09:51:13 20 inquiring of Ms. Morgan as to whether or not there are IRS
21 records showing payment of taxes by Mr. McBride is relevant.

22 MS. TAYLOR: Even though he's not on trial?

23 THE COURT: Yes. I think it's still relevant.

24 Okay. Thanks.

09:51:30 25 (Bench conference concludes.)

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:51:39 1 THE COURT: Thanks for your patience.

2 BY MR. KNAPP:

3 Q All right, Ms. Morgan, I asked the staff, the court staff,
4 to give you a big stack of some exhibits. I just want you to
09:51:51 5 look through some of those.

6 I started to ask you -- you were asked to review
7 some -- look for some records, tax records for different
8 entities and individuals in this case. In addition to the
9 defendant, Sue Taylor, correct?

09:52:07 10 A That's correct, yes.

11 THE COURT: Excuse me just one minute, Mr. Knapp.

12 Okay. Go ahead, Mr. Knapp.

13 MR. KNAPP: Thank you, Your Honor.

14 BY MR. KNAPP:

09:52:45 15 Q Let's start with Government's Exhibit 41-A. Were you asked
16 to look for -- were you asked to look for tax records relating
17 to National Land Bank?

18 A Yes, I was.

19 Q And did you find any records of tax filing for National
09:53:13 20 Land Bank in 2003, 2004, 2005, or 2006?

21 A No, I did not.

22 Q What sort of records were you looking for?

23 A We were looking for filing of business tax returns.

24 Q And for a business, you would normally expect to find that?

09:53:28 25 A Yes. Yes.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:53:29 1 Q What kind of information would that contain, a business tax
2 return?

3 A That would show income that they received and actually the
4 business being run. Any allowable deductions would be reported
09:53:40 5 on that tax return, and then in turn it's either information
6 that would flow to the partners, if it is a partnership, or the
7 tax would be computed on the actual tax form if it's a
8 corporation.

9 Q Okay. So the people or person making money from a business
09:53:57 10 like National Land Bank, the income that they would be getting
11 from that business would be reported on those tax forms?

12 A Yes, it would.

13 Q And, again, you found no records of those tax forms for
14 2003 through 2006 for National Land Bank, correct?

09:54:12 15 A For 2002 through '6, no returns, yes.

16 Q If you can take a look at Government's Exhibit 47. Were
17 you asked to look for records relating to some trusts or other
18 entities in addition to this National Land Bank business?

19 A Yes.

09:54:37 20 Q Was one of those CG 40 Hilltop Trust?

21 A That's correct.

22 Q Did you find any information related to CG 40 Hilltop
23 Trust?

24 A Absolutely no information at all.

09:54:57 25 Q What about McBride Musical Ministries? Did you look for

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:55:03 1 records for McBride Musical Ministries during 2003, 2006?

2 A I did.

3 Q What did you find?

4 A Could you tell me which exhibit --

09:55:13 5 Q I'm sorry. Government's Exhibit 50.

6 A 50? Thank you.

7 That there was no tax returns filed for the tax
8 period ending March 31st, 2003, through June 30th, 2006.

9 Q Okay.

09:55:32 10 And just to remove the mystery of this, what you're
11 looking at in Government's Exhibit 50 is a certificate you
12 created, right?

13 A That's correct.

14 Q That was based on your own personal search of the IRS
09:55:46 15 records, right?

16 A That's correct.

17 Q I'm not asking you -- I'm not asking to introduce the
18 certificate; I'm asking you to testify, based on your review of
19 it, of what you found, right?

09:55:55 20 A Yes.

21 Q And you found no records for that?

22 A No records for those years, right.

23 Q Government's Exhibit 54. Were you asked to search for
24 records relating to Herbal Research Institute?

09:56:07 25 A I was, yes.

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:56:09 1 Q And what did you find?

2 A It's Exhibit 54?

3 Q I'm sorry. 52.

4 A 52.

09:56:17 5 For Herbal Research, there was no records for any tax
6 form or any tax period.

7 Q And let's look at Government's Exhibit 54. Were you asked
8 to review records for Burning Bush Ministries?

9 A Yes, I was.

09:56:45 10 Q And for this one, you were supplied a taxpayer
11 identification number, correct?

12 A That's correct.

13 Q Let's look at Government's Exhibit 55 for a moment. I'm
14 putting it up on the screen. This is in evidence. This is
09:57:09 15 another, just, you know, lines of code from the IRS, right?

16 A That's correct.

17 Q But what do you understand this to mean?

18 A This is the business entity module, and it is for the
19 actual tax -- the business, which is Burning Bush Ministries,
09:57:26 20 and it shows when the actual business was established.

21 Q I'm showing you what I've got as page 4 of the exhibits,
22 which says the name, entity information, Burning Bush
23 Ministries, right?

24 A Correct.

09:57:46 25 Q And then you said the established date is when?

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:57:49 1 A The established date is up at the very top, and it is
2 September of 2009. So the digit 200409 means the ninth month
3 of 2004.

4 Q Okay.

09:58:05 5 And now going back to Exhibit 54, were you asked to
6 review -- look for tax filings for that entity?

7 A Yes, I was.

8 Q Did you find any?

9 A Did not find any for that business identification number.

09:58:18 10 Q Exhibit 55, that's the record showing that the entity had
11 been assigned -- there's some information in the IRS system,
12 and it had been assigned an employer identification number,
13 right?

14 A That's correct.

09:58:31 15 Q But yet no tax filings?

16 A Correct.

17 Q How would the employer identification number have been
18 generated, then?

19 A The taxpayer would ask for that. They would file an SS-4
09:58:41 20 with the IRS saying that they're going to start a business
21 under this address and request the business identification
22 number. The IRS would then issue it to them for them to file
23 tax returns.

24 Q Sometimes businesses need EINs, employer identification
09:58:58 25 numbers, to conduct business; is that right?

DIRECT EXAMINATION (continued) - KRISTY MORGAN

09:59:00 1 A That's correct.

2 Q Is it unusual to see an EIN had been applied for and
3 assigned but yet no tax filings?

4 A That happens, but usually they're filing tax returns
09:59:15 5 because they're conducting a business, receiving income, and
6 have deductions they want to claim.

7 Q What is a situation where it can happen legitimately?

8 A That a business would not need to file a tax return?
9 Basically if that business, they ended up not functioning, I
09:59:32 10 guess. That would be one reason.

11 Q Someone could have tried to start a business and then
12 reconsidered after they tried to gather the capital.

13 A Right. It just didn't work out.

14 Q Okay. Let's look at Government's Exhibit 21 and 22. Were
10:00:07 15 you asked to review -- asked to look for records relating to
16 Ronald McBride and a social security number ending in 4718?

17 A Yes, I was.

18 Q Did you find any personal income tax returns filed for
19 Mr. Ronald McBride for the tax years 2003 to 2006?

10:00:30 20 A I did not.

21 MR. KNAPP: May I have a moment, Your Honor?

22 THE COURT: You may.

23 MR. KNAPP: Your Honor, I asked the witness earlier
24 about whether she had reviewed the indictment in this case. I
10:01:03 25 wondered if the Court could take judicial notice of the filing

DIRECT EXAMINATION (continued) - KRISTY MORGAN

10:01:06 1 date of the charges in this case, which are -- well, can I read
2 it off?

3 THE COURT: Well, you want me to take judicial notice
4 of it, or do you want the jury --

10:01:17 5 MR. KNAPP: I guess I want the jury to.

6 THE COURT: All right.

7 Is there a rule of evidence that governs that,
8 Mr. Knapp?

9 MR. KNAPP: If my colleague were here, I'm sure he'd
10 know it.

11 Your Honor --

12 THE COURT: I think it is 201, perhaps.

13 MR. KNAPP: Okay. Yes, Your Honor. And it does seem
14 to fall within 201(b)(2).

10:02:35 15 THE COURT: Advance notice is required under the rule
16 on taking judicial notice.

17 MR. KNAPP: Okay. We can ask later, then.

18 THE COURT: It seems to me you've given the notice.
19 You ought to give the defense an opportunity to think about it
10:02:48 20 and come back to that issue later.

21 MR. KNAPP: Certainly, Your Honor.

22 THE COURT: All right.

23 BY MR. KNAPP:

24 Q And we talked about 1099s earlier. Are you familiar with
10:03:15 25 how 1099s would be issued in the context of real estate agents?

DIRECT EXAMINATION (continued) - KRISTY MORGAN

10:03:21 1 Do you know?

2 A No, I don't.

3 Q And what about proceeds for sale of real estate? Are you
4 familiar with that?

10:03:30 5 A No.

6 Q We also looked at some exhibits that are tax returns. We
7 looked at transcripts related to tax returns, and we looked at
8 tax returns themselves in some cases, right?

9 A Yes.

10:03:45 10 Q Are those tax returns -- well, I guess, when someone signs
11 that, is there any sort of warning as to how serious it is to
12 be accurate?

13 A Well, they sign under penalties of perjury that the return
14 is true and correct.

10:04:05 15 Q Okay.

16 MR. KNAPP: No further questions, Your Honor.

17 THE COURT: All right.

18 Cross-examination?

19 C R O S S - E X A M I N A T I O N

20 BY MS. TAYLOR:

21 Q Hello. My name is Sue Taylor, and I'm the defendant here.
22 And I understand you're Mrs. Robin.

23 A Mrs. Morgan.

24 Q Morgan. Sorry.

10:05:03 25 You don't know me, right?

CROSS-EXAMINATION - KRISTY MORGAN

10:05:06 1 A No, I don't.

2 Q Are these records that you have entered, have you entered
3 them in, all of these records? Have you entered them in
4 personally, yourself?

10:05:17 5 A When you say "personally entered" --

6 Q Have you personally had firsthand knowledge of these
7 records that you've entered into evidence?

8 A I conducted the searches, yes.

9 Q You conducted the searches and you entered them in
10:05:30 10 yourself?

11 A When you say "enter in," I'm not sure I understand.

12 Q Well, for instance, all of the files that we have just gone
13 over, have you actually entered in all of the data personally,
14 yourself?

10:05:47 15 A I've not entered in the processing of the return. I've
16 actually created the certificates and certified them as true
17 and correct. That is information that is maintained in the
18 normal business practice of the IRS.

19 Q You certified them. I understand there is a certification
10:06:06 20 from a Peggy Sanders here.

21 A Yes.

22 Q Is that you?

23 A No.

24 Q Then how did you certify them to be true and correct?

10:06:13 25 A I created the documents. They were reviewed and then Peggy

CROSS-EXAMINATION - KRISTY MORGAN

10:06:17 1 Sanders is my senior supervising investigating analyst. She
2 then reviewed them and signed them as true and correct also.
3 Q And so you put a certification in to her, actually, that
4 they were true and correct?

10:06:32 5 A Yes.

6 Q Okay.

7 Do you have record of that? Why is that not
8 submitted?

9 A That is because the record itself is submitted to her
10 through me.

11 Q It's submitted through you directly to her.

12 A Right.

13 Q So you had firsthand knowledge that all of the stuff you
14 entered was true and correct?

10:06:54 15 A Right. I reviewed the account, yes.

16 Q And how did you arrive that I had any liability?

17 A Based on the information on the transcripts.

18 Q What procedure did you use?

19 A The ordering of the transcripts by the social security
10:07:12 20 number and the tax year.

21 Q Did you have a procedure, a particular procedure you had to
22 follow that -- some kind of a law that you would have to follow
23 that -- what procedure or what law did you use -- well, first
24 of all, in your system, you recognize taxpayers and
10:07:42 25 nontaxpayers, correct?

CROSS-EXAMINATION - KRISTY MORGAN

10:07:44 1 A In the system, it is documented whether someone files a tax
2 return or does not.

3 Q Do you recognize taxpayers and nontaxpayers? Yes or no?

4 A Nontaxpayers? No. I don't know.

10:08:00 5 Q You don't recognize nontaxpayers?

6 A I don't know what you're meaning by nontaxpayers in the
7 system.

8 Q Well, certainly not everybody is a taxpayer.

9 A There's requirements to file income tax returns, and that
10:08:13 10 is what the IRS records, is the filing of income tax returns.

11 Q And what ruling or statute is that based on, that they
12 require?

13 A As far as a ruling -- I'm a fact witness. I don't actually
14 go through the rules and regulations as far as tax law. I
10:08:33 15 explain the normal business practices of the IRS and how the
16 records are kept.

17 Q I understand that, but you just got through saying there
18 are rules, and so what rules or procedures or statutes do you
19 follow to do your job?

10:08:53 20 A We have IRMs. We have procedures we follow as far as how
21 to order a transcript and how to review it and how to prepare
22 the certified document and who signs it.

23 Q Is the IRM law?

24 A The IRM is IRS procedures.

10:09:12 25 Q But it's not statute law?

CROSS-EXAMINATION - KRISTY MORGAN

10:09:16 1 A I don't know.

2 Q In your business, wouldn't you be required to know whether

3 you're following the law or not?

4 A That is done for us by our counsel people as far as the

10:09:36 5 Internal Revenue Manuals. They are reviewed yearly, and we

6 have counsel attorneys that review them and make sure they're

7 correct per the law. That's their job, but not my job.

8 Q So your supervisor could tell you to do something perhaps

9 that was not a statute or was not a bylaw and because your

10:10:07 10 supervisor told you to do it, you would do it?

11 A No. We would follow the Internal Revenue Manual.

12 Q I just asked you if the Internal Revenue Manual was law.

13 A I guess I'm not understanding your question, ma'am.

14 Q I'm sorry. Is the Internal Revenue Manual law, positive

10:10:24 15 law?

16 A That, I don't know. I know that our attorneys review it

17 and make sure it's correct. But that would be a question

18 they'd have to ask -- answer.

19 MS. TAYLOR: Then why don't I have, Your Honor, the

10:10:40 20 person that is her supervisor here to come on stand and tell

21 whether he is quoting the law as it is entered in by Congress

22 to his employees?

23 THE COURT: Well, if you're concerned about what

24 witnesses are here, that's a matter we probably ought to take

10:11:03 25 up during break, Ms. Taylor. The time now is for your

CROSS-EXAMINATION - KRISTY MORGAN

10:11:08 1 cross-examination of this witness.

2 BY MS. TAYLOR:

3 Q Was there any other people that provided information in
4 these documents besides yourself?

10:11:24 5 A There was an analyst that reviewed them for typographical
6 errors. She reviewed the search that I did.

7 Q In your line of business, do you know the difference
8 between income and taxable income?

9 A The taxable income that is computed on a tax return after
10:11:51 10 exemptions and standard deductions are Schedule A.

11 Q Do you know the difference between income and taxable
12 income? Yes or no?

13 A No.

14 Q Then how can you fill out somebody's taxes -- are you an
10:12:11 15 assessment officer?

16 A No.

17 Q Isn't an assessment officer required to fill out any
18 documents by law?

19 A I don't know.

10:12:32 20 Q Do you fill out assessments?

21 A No, I do not.

22 Q You have done some searches on some entities. Do you know,
23 for instance, if some entities are exempt from taxation, such
24 as nonprofit entities and churches? There's many others.

10:13:04 25 A That would be recorded on the account if it was.

CROSS-EXAMINATION - KRISTY MORGAN

10:13:09 1 Q All right. And any of these entities that you checked,
2 were there any nonprofit?

3 A I wasn't asked to search for a nonprofit. I was asked to
4 search for filings.

10:13:20 5 Q So you don't know whether the National Land Bank, the
6 McBride Musical Ministries, Burning Bush Ministries, you don't
7 know -- or the Herbal Research Institute, you do not know
8 whether those are nonprofit or not?

9 A I don't.

10:14:06 10 MS. TAYLOR: All right. I would like to get into
11 Exhibit -- Exhibit 82.

12 Can I put this on the Elmo, Your Honor?

13 THE COURT: Yeah, you can. Is Exhibit 82 in evidence?
14 I believe it is. Yeah, you can go ahead and put that on. Lift
10:14:54 15 that light that's by your left hand up a little higher, if you
16 would. Just lift that up a little bit. That's probably good
17 enough.

18 All right. Now, do you want this published to the
19 jury?

10:15:11 20 MS. TAYLOR: Yes, please.

21 THE COURT: Okay.

22 MS. TAYLOR: They've already seen it, haven't they?

23 THE COURT: I'm not sure if they've seen this page,
24 but Exhibit 82 is in evidence. So you can certainly show them
10:15:23 25 the page.

CROSS-EXAMINATION - KRISTY MORGAN

10:15:35 1 BY MS. TAYLOR:

2 Q Are you familiar with form --

3 THE COURT: That mike -- if you pull it up towards
4 you, there's a mike just in front of you on your left, Ms.

10:15:43 5 Taylor, to the back of the cart. Pull that forward, and then
6 they'll be able to hear you.

7 MS. TAYLOR: I'm sorry.

8 THE COURT: That's all right. You're doing fine.

9 BY MS. TAYLOR:

10:15:55 10 Q This is Exhibit 81, I believe I said. This is page -- is a
11 Form 8275. Are you familiar with that?

12 A A little bit, yes.

13 Q I believe it says up here at the top -- let me pull that
14 down. It says to use this form to file any other disclosures,
10:16:20 15 regulations, or anything to the treasury. It is a disclosure
16 statement.

17 A Correct.

18 Q As you will see on there, this is by -- I did file a late
19 return because one of the charges I have been charged with is
10:16:41 20 for nonfiling, and I did not want to be in noncompliance with
21 the government, so I did file, and I gave my reasons in my
22 filing here. Did you read those?

23 A I looked through them, yes. I reviewed the tax document.

24 Q All right. In Part II, down here, in number 1, "I am
10:17:04 25 giving a verified affidavit of the classes and the categories

CROSS-EXAMINATION - KRISTY MORGAN

10:17:09 1 of taxes listed in Part I that meets the statement requirements
2 of IRC 6011-A. As a private sector, nonfederally privileged
3 subject, I do not collect or receive income created or acquired
4 from a federal source or within the government or IRS has a
10:17:35 5 direct ownership interest."

6 Do you agree with that?

7 A No.

8 Q And why do you not agree with it?

9 A You're asking for my opinion?

10:17:47 10 Q No. I'm asking you what basis of law do you not agree with
11 it on?

12 A This --

13 Q Do you not agree with 6011-A?

14 A I don't know what 6011-A is. I have not read that.

10:18:09 15 Q Have you read any of the IRS codes?

16 A Not in preparation for this trial.

17 Q Have you ever read them?

18 A Yes, I have read the tax code.

19 Q Are you familiar with all of the tax codes?

10:18:22 20 A No. No.

21 Q Wouldn't it be in your line of business to know all the tax
22 codes?

23 A No. Not as custodian of record, as a fact witness, no.

24 Q So you can arbitrarily just put in whatever you want to put
10:18:37 25 in there as people -- as it gets submitted to you without

CROSS-EXAMINATION - KRISTY MORGAN

10:18:42 1 checking the validity of it?

2 A What I would do is pull the information based on a tax year
3 that is requested and a social security number or an EIN, the
4 business entity, the EIN number. And then what the actual
10:18:59 5 master file is actually holding, that information, that would
6 return that information to me. That is what I would actually
7 certify, is whether or not that is true and correct, what
8 records are maintained by the IRS.

9 Q So you go back and you look at the records that are
10:19:16 10 maintained by the IRS in the computer and you don't check on
11 any laws to see if what you are entering or what has been
12 entered is true and correct?

13 A That's not part of my responsibility, no.

14 THE COURT: Ms. Taylor, if you're going to keep
10:19:37 15 reading from that, you can zoom down closer so that the jury
16 can see more clearly. I think there is a button in front of
17 you that will zoom in. And that way the jury can see more
18 clearly what you're pointing to.

19 MS. TAYLOR: Is that better?

10:19:54 20 THE COURT: Yeah.

21 MS. TAYLOR: Okay.

22 BY MS. TAYLOR:

23 Q And Number 2, I have explained, "I do not receive federal
24 wages, welfare, benefits of entitlements. I am not eligible to
10:20:08 25 claim tax benefits of legislative, grace privileges. My

CROSS-EXAMINATION - KRISTY MORGAN

10:20:13 1 verified correcting statements constitute credible evidence of
2 personal, direct, firsthand knowledge of the facts, IRC,
3 Internal Revenue Code, 7491(a)(1). I am not a federally
4 protected class of employee."

10:20:32 5 Number 3, "I am not engaged in Internal Revenue
6 taxable activities, events, commodities, or property. It is
7 not my intent or desire to delay or interfere with Internal
8 Revenue tax laws. I am not eligible for federal unapportioned
9 capitation taxes."

10:20:53 10 Number 5 -- I'm sorry, Number 4, "I have no existing
11 IRS or federal contractual debt, obligations, or liability for
12 Internal Revenue income taxes, use taxes, excise taxes, or
13 other special taxes. I'm not eligible for procedures or
14 administration under 26 U.S.C. 26 CFR and IRC.

10:21:17 15 "I have acted in good faith to state my position of
16 nonfederal and non-Internal Revenue tax liability, nonfederal
17 status and nonfederal taxing, which is adequately disclosed
18 herein with verified facts, credible evidence, rule of law and
19 reasonable basis for my nonfrivolous position, and
10:21:36 20 nonfraudulent filing.

21 "I possess no federal grant or privilege to engage in
22 government-regulated imports, exports, or manufacturing. I do
23 possess, own, maintain, and have access to federal government
24 property" -- I do not. I'm sorry. "I do not possess, own,
10:21:55 25 maintain, or have access to federal government property or

CROSS-EXAMINATION - KRISTY MORGAN

10:21:59 1 government obligations. I am not eligible for IRC, Subtitle E,
2 collection assessments, penalty, interest, offset, seizure,
3 levy, forfeiture, or lien enforcement under 27 CFR."

4 And then on the next page, if you turn it over here to
10:22:28 5 Part IV.

6 MR. KNAPP: Objection. I don't know if this is
7 leading to a question.

8 THE COURT: Well, yeah. Do you have a question that
9 you're going to ask about this, Ms. Taylor?

10:22:43 10 MS. TAYLOR: Yes, I am. I have a question I'm going
11 to ask.

12 THE COURT: And do you need to read all of this in
13 order to ask that question?

14 MS. TAYLOR: I believe so.

10:22:50 15 THE COURT: Would it make sense to have her read it
16 during a break and then ask the question rather than take the
17 time to read it into the record?

18 MS. TAYLOR: No. I would like for the jury to hear
19 it.

10:22:57 20 THE COURT: All right. Go ahead.

21 BY MS. TAYLOR:

22 Q "This is my verified affidavit of material facts and
23 credible evidence regarding reasonable basis for nonfrivolous
24 position and nonfraudulent filing by Janice Sue Taylor."

10:23:12 25 Myself. "The affiant, Janice Sue Taylor," which is me, "being

CROSS-EXAMINATION - KRISTY MORGAN

10:23:16 1 of sound mind and over the age" --

2 I'm sorry. Maybe I didn't have this where you can
3 read that.

4 Can you see that?

10:23:25 5 -- "hereby states on and for the record that this
6 verified affidavit of truth is made of affiant's own free will.
7 Affiant has acted in good faith to state the legal and lawful
8 position of nonfederal tax liability, nonfederal status, and
9 nonfederal standing, which is adequately disclosed herein with
10:23:50 10 verified facts, the rule of law, credible evidence, and
11 reasonable basis for said position.

12 "This is affiant's sworn testimony and reasonable
13 cause standard with verified, credible, relevant evidence
14 pertaining to affiant's qualifications to correct any bad
10:24:10 15 third-party data that was fraudulently reported on information,
16 returns, and income statements, and/or an informal request for
17 return of private property that was nonconsensually and
18 erroneously withheld then wrongfully transmitted to the IRS in
19 anticipation of a tax liability that did not exist. Authority
10:24:36 20 cites following tax statement; otherwise, codes, regulations,
21 delegation orders, and the like are included to clarify the
22 statement application.

23 "Affiant has direct, personal, firsthand knowledge of
24 facts set forth herein as the laws relate to affiant" -- when
10:24:56 25 I'm speaking of affiant, that is meaning me -- "for any given

CROSS-EXAMINATION - KRISTY MORGAN

10:24:59 1 federal tax imposed by federal Internal Revenue laws.

2 "Declarations of material fact are as follows for the
3 years 2'03 to 2'09:

4 "Affiant claims the status of an Article of
10:25:21 5 Confederation on November 15, 1977 [sic], which was one of our
6 founding father's organic laws that was created, Article IV,
7 free inhabitant, not on federal land and not a citizen of the
8 United States."

9 THE COURT: Excuse me, Ms. Taylor. Why don't you ask
10:25:40 10 the question you want to ask her about this material. If she
11 has information she can give you on it, you can certainly
12 pursue that questioning. But if she doesn't, it seems to me
13 these points you are making are points you can make during your
14 direct testimony, if what you want is the jury to understand
10:25:58 15 your position. But for purposes of asking Mrs. Morgan
16 questions, it seems to me we ought to find out if there's any
17 light she can shed on what is you're reading to her.

18 MS. TAYLOR: Well, this does go into the code of
19 federal regulations. I'd like to -- I am -- this is my
10:26:17 20 affidavit, that I have read this and it is as I perceive it,
21 and I want to ask her if she has read the new laws and does she
22 know anything about them; is there anybody in her organization
23 that has come forth with a penalty of perjury or signed any
24 kind of an affidavit that says that they are correct when I am
10:26:39 25 claiming -- I mean, I'm claiming this as the truth.

CROSS-EXAMINATION - KRISTY MORGAN

10:26:42 1 THE COURT: Well, why don't you ask her those
2 questions and see if she's going to be able to shed any light
3 on it. That way, if she can't, we won't need to take time to
4 read the rest of it, and you can present it during your direct
10:26:53 5 testimony.

6 MS. TAYLOR: All right.

7 BY MS. TAYLOR:

8 Q Do you have any reason, Mrs. Morgan, to believe that I have
9 a liability to pay tax?

10:27:09 10 A Every citizen has a liability to pay tax if they have
11 income.

12 Q Would you repeat that, please.

13 A Every individual that has income has the liability to pay,
14 file and pay income taxes.

10:27:24 15 Q And what law are you relying on that?

16 A That's from my personal knowledge at the IRS. As an
17 individual.

18 Q Is your personal knowledge law?

19 A No. That's just my understanding of the tax laws.

10:27:40 20 Q Well, you're entitled to your opinion, but is that law?
21 Can you show --

22 MR. KNAPP: Objection, Your Honor.

23 BY MS. TAYLOR:

24 Q -- can you show me where that is law?

10:27:48 25 MR. KNAPP: Objection, Your Honor. The discussion of

CROSS-EXAMINATION - KRISTY MORGAN

10:27:49 1 tax law is irrelevant to this case.

2 THE COURT: What is the question you're asking?

3 Whether her opinion is law?

4 MS. TAYLOR: No. I said -- she gave me her opinion.

10:28:02 5 THE COURT: Right.

6 MS. TAYLOR: And I said, "Is your opinion based on
7 law?"

8 THE COURT: Why don't you ask it that way. I don't
9 think that's quite the way you phrased it.

10:28:12 10 MS. TAYLOR: I'm sorry. Maybe I didn't say it
11 correctly.

12 BY MS. TAYLOR:

13 Q Is your opinion based on law, Mrs. Morgan?

14 A My opinion is based on my understanding of the tax laws.

10:28:22 15 Q So your opinion is not based on law?

16 A Tax laws.

17 Q I asked you if your opinion was based on law. Yes or no,
18 please.

19 A It's my understanding, the tax law --

10:28:36 20 Q I strike that, Your Honor.

21 THE COURT: Well, I think she needs to be able to
22 answer the question as fairly as she can.

23 If you can't answer a question yes or no that she
24 asks you to answer yes or no, just tell her you can't answer
10:28:48 25 it that way.

CROSS-EXAMINATION - KRISTY MORGAN

10:28:50 1 THE WITNESS: Can you repeat the question, please.

2 BY MS. TAYLOR:

3 Q Is your opinion based on tax law?

4 A I don't know.

10:29:01 5 Q You don't know whether your opinion -- you don't know
6 whether your job is based on tax law, then.

7 A You changed the question. Now you're talking about my job.

8 Q Is your job based on tax law?

9 A My understanding, it is.

10:29:17 10 Q But you don't know for sure?

11 A No.

12 Q And you have -- you have no -- you have no factual evidence
13 to bring forth that what you're doing is based on actual laws
14 that are passed by Congress?

10:29:43 15 A As a fact witness, I bring the transcripts and the fact of
16 filing --

17 Q That's not what I asked.

18 THE COURT: Please don't interrupt her.

19 MS. TAYLOR: Sorry.

10:29:52 20 THE WITNESS: The fact of filings. That's what I
21 bring, is the actual records maintained by the IRS.

22 BY MS. TAYLOR:

23 Q I understand that. But those have to be based on laws.

24 THE COURT: Is that a question?

25

CROSS-EXAMINATION - KRISTY MORGAN

17:59:57 1 BY MS. TAYLOR:

2 Q And you do not have any law you can point to that your job
3 is based on?

4 A No. No. Not as a fact witness.

10:30:26 5 Q So are we a law of men or a law of nations --

6 THE COURT: Well, that's not a question either. Your
7 opportunity, here, Ms. Taylor, is to ask Mrs. Morgan questions,
8 not to argue or to testify.

9 BY MS. TAYLOR:

10:30:37 10 Q Do you believe the tax statutes in Title 26 are -- have an
11 obligation on me?

12 A You're asking for my beliefs. I can't answer that.

13 Q Do you know? Do you know if the tax statutes in Title 26
14 have an obligation on me?

10:30:57 15 A They have an obligation on individuals.

16 THE COURT: All right. We're at 10:30. We're going
17 to take our morning break. We'll take a 15-minute break.
18 Please be ready to return at a quarter to. We'll excuse the
19 jury at this time.

10:31:09 20 (Recess taken from 10:31 a.m. to 10:47 a.m.)

21 Proceedings resumed in open court with the jury panel
22 present.)

23 THE COURT: All right. You may continue, Ms. Taylor.

24 MS. TAYLOR: I only have one more question.
25

CROSS-EXAMINATION - KRISTY MORGAN

10:48:57 1 BY MS. TAYLOR:

2 Q Mrs. Morgan, do you know of any law that says that I cannot

3 file an amended return or any other return, even if it is late?

4 A No.

10:49:13 5 MS. TAYLOR: Okay. That's all, Your Honor.

6 THE COURT: All right. Redirect?

7 R E D I R E C T E X A M I N A T I O N

8 BY MR. KNAPP:

9 Q Good morning again, Ms. Morgan.

10:49:27 10 A Good morning.

11 Q You are -- are you a lawyer?

12 A No.

13 Q Ever been trained as a lawyer?

14 A No.

10:49:33 15 Q Before you worked for the IRS, did you ever work in a legal

16 office?

17 A No.

18 Q You were a librarian, right?

19 A Right.

10:49:41 20 Q How long have you been at the IRS?

21 A Twenty-six years.

22 Q Are you pretty familiar with the IRS position on basic

23 matters related to taxes and, you know, requirements to file,

24 and reports?

10:49:56 25 A Yes.

REDIRECT EXAMINATION - KRISTY MORGAN

10:49:58 1 Q Are you aware of any laws about tax returns having to be
2 accurate?

3 A Yes.

4 Q Those are required to be accurate; is that right?

10:50:08 5 A Yes, they are.

6 Q And, again, that is part of the penalty of perjury you
7 mentioned before?

8 A Correct.

9 Q You were asked about some -- I think you were asked about
10:50:28 10 whether you had made some calculations in this case, tax
11 liability calculations?

12 A Right.

13 Q We discussed yesterday afternoon a document that had --
14 this is for a transcript for 1998 where it noted approximately
10:50:42 15 \$300,000 of gross income for the year.

16 A Correct.

17 Q You didn't do that calculation --

18 A I did not.

19 Q -- right?

10:50:50 20 You're merely telling us, telling the jury and telling
21 me and everyone else what the forms, the official IRS records,
22 say?

23 A That's correct.

24 Q Based on our review of that exhibit, is it fair to say that
10:51:01 25 some other IRS examiner actually came up with that number

REDIRECT EXAMINATION - KRISTY MORGAN

10:51:05 1 after -- after looking through books and records relating to
2 the taxpayer?

3 A That's correct.

4 Q And the taxpayer would have received notice about that
10:51:17 5 process?

6 A Yes, they would.

7 Q Okay.

8 So whether it's the \$5 that we talked about on that
9 information return form or the \$300,000 on the other
10:51:30 10 transcript, those are just numbers that you're telling us that
11 you found in the IRS records, right?

12 A That's correct. Yes.

13 Q Okay. You were also asked about nonprofit organizations.
14 Do nonprofit organizations -- are they required to file tax
10:51:48 15 returns?

16 A They are.

17 Q Even if they don't have tax liability, they are supposed to
18 file them?

19 A Right, there's filing requirements.

10:51:58 20 Q And you were asked about some language in the recently
21 filed 2005 tax return for Sue Taylor marked as Exhibit 82, and
22 I want to show you some of that language.

23 MR. KNAPP: May I publish to the jury? This is in
24 evidence.

10:52:37 25 THE COURT: You may.

REDIRECT EXAMINATION - KRISTY MORGAN

10:52:39 1 MR. KNAPP: Can I get it from the laptop?

2 BY MR. KNAPP:

3 Q Okay. At the top it says, "Disclosure Statement." Have
4 you seen this kind of form before?

10:52:51 5 A Yes.

6 Q What kind of form is this? What is this used for?

7 A Usually it is attached to tax returns. It can be business
8 or individual, and it is basically disclosing additional
9 information about something on the tax return.

10:53:03 10 Q Can you give me an example?

11 A For instance, on your Schedule A, if you're claiming
12 charitable contributions and it is money, usually that is
13 enough for disclosure. If you add into that maybe tickets to a
14 function or something that is charitable, you want to
15 additionally let the IRS know why you're claiming that. To
16 avoid a penalty, you would put that information on this
17 statement.

10:53:20 18 Q At the very top after Disclosure Statement, it says, "Do
19 not use this form to disclose items or positions that are
20 contrary to treasury regulations."

21 In the course of your job, there is talk of the IRC or
22 Internal Revenue Code, right?

23 A Yes.

24 Q There is the IRM, the Internal Revenue Manual?

10:53:49 25 A Yes.

REDIRECT EXAMINATION - KRISTY MORGAN

10:53:50 1 Q There are treasury regulations. There are publications.
2 There are different sources you rely on to either -- to figure
3 out what the tax code really means, right?
4 A Correct.

10:54:01 5 Q Are the positions listed that Ms. Taylor read off earlier,
6 are those consistent with or contrary to, in your experience,
7 the U.S. treasury regulations?
8 A They're contrary to.

9 Q Have you seen these kinds of positions before?
10:54:17 10 A I have.

11 Q I asked you before about your time with the Frivolous Filer
12 Department. That was from 1992 to 2002; is that right?
13 A That's correct.

14 Q Did you see these kinds of claims -- did you see any of
10:54:31 15 these kinds of claims during that period?
16 A Yes. Yes.

17 Q Are these -- well, do you see anything on here that,
18 through your experience at the Frivolous Filer Department,
19 claims to have been deemed frivolous in the past by the IRS?
10:54:52 20 A Yes.

21 Q Can you pick out a couple?
22 A Like on Item Number 2: "I do not receive federal wages."
23 That is an argument we see on frivolous returns. Also things
24 that relate to the fact of whether or not they're citizens of
10:55:07 25 the United States or different statutes they'll put on their

REDIRECT EXAMINATION - KRISTY MORGAN

10:55:14 1 tax returns that state frivolous arguments.

2 Q And these are the kinds of claims that -- well, are these
3 the kinds of claims that can trigger the letter with the
4 frivolous filer penalty?

10:55:26 5 A Absolutely.

6 Q How much is that penalty?

7 A The penalty now is \$5,000.

8 Q What was it back when you were doing it?

9 A When I worked as a penalty coordinator, it was \$500.

10:55:36 10 Q And, again, why is there a penalty for stating someone's
11 position in a tax return?

12 A The cost to the American taxpayer to have to research, look
13 at these documents, pull them out of the system. It costs
14 money to do that.

10:55:48 15 Q I mean, has the IRS provided information, either through
16 publications or another source, about why these claims are
17 wrong?

18 A Yes, it has.

19 Q Can you tell me about anything related to that?

10:55:58 20 A The publication 2105, it states, "Why do I have to pay
21 taxes?" We'll specifically take certain arguments. And
22 they'll also quote the law and quote IRMs that state why this
23 position is incorrect.

24 MS. TAYLOR: I object.

10:56:15 25 THE COURT: What's the objection?

REDIRECT EXAMINATION - KRISTY MORGAN

10:56:17 1 MS. TAYLOR: Irrelevancy. The IRM is not law.

2 THE COURT: Overruled.

3 BY MR. KNAPP:

4 Q Are you familiar with a particular publication that
10:56:26 5 specifically addresses a lot of these kinds of frivolous
6 arguments?

7 A Yes.

8 Q It includes case law?

9 A Pardon me?

10:56:32 10 Q It includes case law?

11 A It does include case law.

12 Q Do you know what the name of that document is?

13 A Not off the top of my head. I can't remember the name of
14 that, no.

10:56:44 15 Q If I may show the witness exhibit -- this is not in
16 evidence. I'm showing on the screen Government's Exhibit 301.
17 This is not in evidence.

18 Does that look familiar to you?

19 A Yes, it does.

10:57:11 20 Q Okay.

21 Does that refresh your recollection about publications
22 the IRS has created?

23 A Yes.

24 Q Okay. Tell me about that.

10:57:19 25 A This is actually The Truth About Frivolous Arguments. It

REDIRECT EXAMINATION - KRISTY MORGAN

10:57:22 1 is a publication that is updated regularly regarding different
2 arguments that are received in the Frivolous Filer Department
3 or at the IRS, and it will, again, tell the taxpayer the
4 research and the position the IRS has regarding those
10:57:39 5 positions.

6 Q And, again, in terms of the history, you started with the
7 Frivolous Filer Department in 1992, right?

8 A Yes, I did.

9 Q Back then were you seeing some of the same kind of claims
10:57:54 10 you've seen in this Government's Exhibit 82?

11 A Yes.

12 Q And has the IRS been rejecting those for the last nearly 20
13 years?

14 A They have. Since 1988, when the Frivolous Filer Department
10:58:10 15 actually come into play.

16 MR. KNAPP: No further questions, Your Honor.

17 THE COURT: All right. Thanks. You can step down,
18 Mrs. Morgan.

19 MS. TAYLOR: Your Honor?

10:58:22 20 THE COURT: Yes, ma'am.

21 MS. TAYLOR: I have -- I would like to address the --
22 her again because they brought up something new.

23 THE COURT: What is that that they brought up new?

24 MS. TAYLOR: They brought up the frivolous tax law. I
10:58:34 25 would like to address that.

REDIRECT EXAMINATION - KRISTY MORGAN

10:58:35 1 THE COURT: We typically don't allow recross,
2 Ms. Taylor, and I think that was in response to what you had
3 sought to bring out on cross-examination. So I'm going to
4 excuse the witness.

10:58:48 5 MS. TAYLOR: Can I recall later, Your Honor?

6 THE COURT: Yeah, you can. Well, we ought to talk
7 about timing, because you're from out of town, right,
8 Ms. Morgan?

9 THE WITNESS: Yes, that's correct, Your Honor.

10:58:58 10 THE COURT: Why don't we talk about that -- will you
11 need to leave right away?

12 THE WITNESS: I'm leaving at six o'clock tomorrow
13 morning.

14 THE COURT: So you're around for a bit.

10:59:05 15 Well, let's talk about that on a break, the timing of
16 that.

17 MR. GALATI: Your Honor, our next witness is Elaine
18 Schroeder.

19 THE COURT: Okay.

10:59:39 20 Ma'am, would you come to the front of the courtroom,
21 please, to be sworn as a witness.

22 THE COURTROOM DEPUTY: Please state your name and
23 spell your last name for the record.

24 THE WITNESS: Elaine Schroeder, S-C-H-R-O-E-D-E-R.

10:59:50 25 MR. GALATI: Ms. Schroeder, good morning.

REDIRECT EXAMINATION - KRISTY MORGAN

10:59:51 1 And may I proceed, Your Honor?

2 THE COURT: You may.

3 **ELAINE FAY SCHROEDER,**

4 called as a witness herein, after having been first duly sworn
5 or affirmed, was examined and testified as follows:

6 D I R E C T E X A M I N A T I O N

7 BY MR. GALATI:

8 Q Ms. Schroeder, if you would pull the microphone close to
9 you and try to speak into it. Thank you.

11:00:29 10 Would you tell the ladies and gentlemen your full
11 name, please.

12 A Elaine Fay Schroeder.

13 Q Ma'am, where do you live?

14 A I live in Casa Grande, Arizona.

11:00:37 15 Q How long have you lived there, in that vicinity?

16 A Thirty-five years, I think.

17 Q What's your occupation?

18 A I'm retired.

19 Q And what are you retired from doing?

11:00:46 20 A House painter.

21 Q And you're widowed, correct?

22 A Yes.

23 Q How long ago did your husband die?

24 A A little over four years ago.

11:00:57 25 Q What was his name?

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:00:58 1 A Robert David Schroeder.

2 Q Were you and Mr. Schroeder married in the year 2004?

3 A Yes.

4 Q You said that you are retired from house painting. Have

11:01:08 5 you also bought and sold real estate during your lifetime?

6 A All my life.

7 Q When you say all your life, from what age?

8 A Well, I bought my first rental property and a home at 16.

9 Q And how many real estate transactions, ballpark figure,

11:01:26 10 have you engaged in in your lifetime?

11 A Around 50 maybe.

12 Q And did you tell me you thought you made money doing this?

13 A Yes.

14 Q Based upon that experience, would you consider yourself a

11:01:43 15 relatively sophisticated real estate investor?

16 A I have written my own contracts, subdivided my own acreage.

17 So, yes, I know quite a bit.

18 Q You sold and bought, yourself --

19 A Yes.

11:01:54 20 Q -- without the aid of an agent?

21 A Right.

22 Q During the year 2004 and previous to that, did you and your

23 husband own 80 acres of land in Pinal County?

24 A Yes.

11:02:11 25 Q Did you own any land around Camelback -- Camelback. Casa

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:02:14 1

Grande Mountain?

2

A Yes.

3

Q In general terms, can you tell the ladies and gentlemen

4

where that is.

11:02:20 5

A It's a little south of the city of Casa Grande. The 80

6

acres we owned was inside of the city limits, but just barely.

7

Q Is it close to Interstate 8 there? Is Interstate 8 close?

8

A Yes, uh-huh.

9

Q And was that developed land or undeveloped land?

11:02:38 10

A Undeveloped.

11

Q Were you holding it as an investment? What purpose?

12

A We bought it as an investment from Burlington Northern

13

Railroad, and when we paid so much, the deed released us 20

14

acres at a time. And then we took that 20 acres and subdivided

11:02:56 15

it into five-acre parcels and sold that. Then we paid off the

16

second 20 and subdivided that into parcels and sold that off.

17

So new homes were being built as we were paying off the land.

18

Q Did there come a point where you wanted to sell 40 acres of

19

it?

11:03:13 20

A My husband became very ill, and we just couldn't put in the

21

roads and the water and everything anymore, so we decided to

22

just sell the whole 40 in one lump sum.

23

Q So it was 40 undeveloped acres?

24

A Yes.

11:03:26 25

Q Was this about late 2004?

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:03:29 1 A Yes.

2 Q Did you get some interest in the property?

3 A Yes.

4 Q Had it been on the market for a long time, do you know?

11:03:38 5 A No. I did not list it through a realtor, because the 10
6 percent commission on half a million dollars would choke a
7 horse, so I decided to sell it myself. I made up my own flyers
8 and put an ad in the paper and had some real nice pictures of
9 the large Saguaro cactus that were on it and passed them out
11:03:58 10 and got several calls and showed it.

11 Q Did you ever get a call from somebody named Sue Taylor?

12 A Yes.

13 Q Did you subsequently meet Sue Taylor after talking to her
14 on the telephone?

11:04:11 15 A Yes.

16 Q Is she present in the courtroom?

17 A It's been too many years. I presume that's her right over
18 there.

19 Q I don't want to you presume. Do you recognize her or don't
11:04:20 20 you?

21 A It's been so many years, I really can't be positive.

22 Q Okay. That's fine.

23 Did the Sue Taylor that called you tell you who she
24 was and why she was calling you?

11:04:31 25 A She called in regard to the ad that I had. I assume she

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:04:35 1 picked up one of my flyers or read it in the paper and called
2 me and said she was interested in purchasing the 40 acres.

3 Q At first when she told you she was interested, did she tell
4 you she was interested for herself or interested for someone
11:04:47 5 else?

6 A I assumed it was for herself because she didn't mention
7 anybody else at that time.

8 Q She just said "I'm interested"?

9 A Yes.

11:04:53 10 Q And did you meet with her once or twice or three times?

11 A Yes, several times. She called me that first time and said
12 she wanted to make an offer. I said fine and to call me back
13 whenever she was ready. And then she called me back the second
14 time and said she wanted to make an offer. And then I think it
11:05:14 15 was the third time that she called she said she was working for
16 a friend, a very rich friend that wanted to buy it. And then
17 at that time, she told me she was a real estate agent.

18 Q And she told you she was working for a friend that was very
19 rich?

11:05:30 20 A Yes.

21 Q Because she was working as a friend -- because she was
22 working for a friend who was very rich, did she say anything to
23 you about whether or not she would earn a commission on this
24 transaction?

11:05:45 25 A Well, she explained to me that she would -- of course, I

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:05:48 1 immediately said, you know, I'm selling it myself because I'm
2 not going to pay a commission, when I found out she was a real
3 estate agent. And she said, "No, you're not going to pay a
4 commission; I will make my commission when my friend subdivides
11:06:02 5 it and sells it off into building lots, and I'll make my
6 commission that way."

7 Q As an aside, sort of a parenthetical, do you know where
8 Tate is in Casa Grande? Tate Road or Tate Street?

9 A No.

11:06:22 10 Q Okay.

11 Did you subsequently meet face-to-face with Sue
12 Taylor?

13 A Yes.

14 Q And did you come to an agreement with regard to Sue
11:06:36 15 Taylor's client buying the property that you had for sale?

16 A She brought me an offer, and we counteroffered that offer,
17 which was accepted.

18 Q What was the sales price?

19 A \$500,000.

11:06:54 20 Q Do you remember -- I know you brought some papers, and I'm
21 going to ask you to refrain from looking at them unless it is
22 absolutely necessary, all right? The papers you brought, are
23 they your own personal --

24 A Yes.

11:07:04 25 Q -- papers regarding the transaction?

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:07:06 1 A Yes.

2 Q I'm going to ask you to do this from memory as best you
3 can.

4 A Okay.

11:07:10 5 Q Do you recall the terms? \$500,000 was the sales price to
6 be paid how? Do you know? Do you have any idea?

7 A It was to be paid once a year with 7 percent interest.

8 Q Was there a lump sum paid up front?

9 A There was -- yeah. Like 150,000, or somewhere in that
11:07:31 10 neighborhood, down payment.

11 Q All right.

12 Did you use a title company for this transaction?

13 A Yes, I did.

14 Q Who was that?

11:07:38 15 A Fidelity Title.

16 Q Who chose that title company?

17 A I did.

18 Q Is there a reason you chose them?

19 A I buy and sell quite a bit of real estate, and I know the
11:07:46 20 people there, they know me, and I trust them, and I do all my
21 transactions through Fidelity Title.

22 Q Thank you.

23 I believe I asked Ms. Richter to have Exhibit 214
24 ready for you.

11:08:00 25 MR. GALATI: Could you please hand it to -- you can

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:08:02 1 give her all three, that's fine. Thank you.

2 Exhibit 214 has not yet been admitted into evidence,

3 Your Honor, so we will not display it.

4 BY MR. GALATI:

11:08:11 5 Q Can you take a look at Exhibit 214 and tell me if you
6 recognize what is there?

7 A Yes. It's a closing sheet on the purchase of the land.

8 Q Is this the property we're talking about?

9 A Yes.

11:08:28 10 Q And on the front page there, does it list you and your
11 husband as the sellers?

12 A Yes.

13 Q And how do you know that it's the transaction we're talking
14 about here?

11:08:38 15 A I have the same copy in my own files.

16 Q Okay.

17 MR. GALATI: And, Your Honor, I would move to admit
18 Exhibit 214.

19 THE COURT: Any objection, Ms. Taylor?

11:08:57 20 MS. TAYLOR: Pardon me?

21 THE COURT: Any objection to 214?

22 MS. TAYLOR: Being admitted?

23 THE COURT: Yes.

24 MS. TAYLOR: I haven't looked at it all. If you'd

11:09:06 25 give me a minute, please?

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:09:07 1

THE COURT: Sure.

2

MS. TAYLOR: I have no objection, Your Honor.

3

THE COURT: 214 is admitted.

4

(Exhibit 214 admitted.)

11:10:06 5

MR. GALATI: Thank you.

6

BY MR. GALATI:

7

Q I would like you to take a look at page 1 --

8

MR. GALATI: May we display it to the jury, Your Honor?

9

11:10:13 10

THE COURT: You may.

11

BY MR. GALATI:

12

Q Up at the top where it lists the name of the borrower and the name of the seller, can you tell the ladies and gentlemen who the borrower was? That is, the buyer.

13

14

11:10:26 15

A The CG Hilltop Trust.

16

Q And prior to the closing, did you know that that is who was going to be buying this piece of property from you?

17

18

A Yes. That's the name that was on the offer.

19

Q All right.

11:10:43 20

And it lists as the seller on the front page Robert Schroeder and Elaine Schroeder; is that correct?

21

22

A Yes.

23

Q And if we would go to -- it's about the fifth page in.

24

It's Bates 10552, at the bottom, bottom half. Is that your signature and the signature of your husband?

11:11:24 25

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:11:27 1 A Yes.

2 Q And then above, at line 51 or 52 of that page --

3 A Yes.

4 Q -- buyer signing for CG Hilltop 40 Trust is whom?

11:11:39 5 A McBride.

6 Q R.J. McBride, trustee?

7 A Yes.

8 Q Did you ever meet R.J. McBride?

9 A No.

11:11:50 10 Q At the closing, were all parties assembled, or did you just
11 go sign the documents --

12 A No. Everybody signed separately.

13 Q The next page of the file, 10553, contains some photocopies
14 of identification and all. Do you see that?

11:12:14 15 A Yes.

16 Q Do you see a driver's license -- what purports to be a
17 driver's license of Ronald James McBride?

18 A Yes.

19 Q Do you know that gentlemen?

11:12:23 20 A He's real familiar to me. I don't know him personally, no,
21 but he's been to my house before.

22 Q And when did that happen?

23 A It was -- I don't remember. It was before this transaction
24 happened. This gentleman came to my house and was interested
11:12:41 25 in purchasing the 40 acres. And he wanted us to put up some

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:12:44 1 money, and if we would do this, he would do that, and we both
2 would make money. He had a hair-brained scheme, and we told
3 him to get lost.

4 Q How long before Sue Taylor called you was that?

11:12:56 5 A I don't know. Probably a couple months.

6 Q The next page on the installment note --

7 A Yes.

8 Q -- do you see that?

9 There are signatures of R.J. McBride, trustee, and you
11:13:17 10 and your husband; is that correct?

11 A Yes.

12 Q And the next page contains a photocopy of a check, 5357.

13 A Yes.

14 Q Do you see that?

11:13:39 15 A Yes.

16 Q It is signed by Ronald J. McBride?

17 A Yes.

18 Q To the title company?

19 A Yes.

11:13:49 20 Q And it is written on an account of McBride Musical
21 Ministries; is that correct?

22 A Yes.

23 Q Do you know what -- was it ever explained to you what
24 McBride Musical Ministries is or was?

11:13:59 25 A No.

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:14:04 1 Q And then there are some documents, going about four more
2 pages, at 10560. I just want to ask you if you ever saw that
3 document? Do you see that it is headlined CG Hilltop 40 Land
4 Trust?

11:14:38 5 A I don't believe so. I don't know. I'd have to go through
6 my records.

7 Q That's fine. I'm not going to ask you about it if it
8 doesn't ring a bell with you right now.

9 A Yes.

11:14:47 10 Q Then there's the affidavit of property value, which is at
11 10565.

12 A Yes.

13 Q First of all, with your experience in real estate
14 transactions and all, do you know what an affidavit of property
11:15:01 15 value is?

16 A Yes.

17 Q What is it?

18 A It shows the county how much to charge her for taxes.

19 Q And does this document here reflect the buyer and the
11:15:17 20 seller as being you and R.J. McBride for the buyer?

21 A Yes.

22 Q And then the next page, at 10566, do you recognize what
23 that is?

24 A No.

11:15:45 25 Q Is it a title document?

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:15:47 1 A Yes. It is from Fidelity Title.

2 Q Does it list as the selling broker National Land Bank, home
3 and land sales, attention Sue Taylor, down there at the bottom?

4 A There you go. Yeah. Uh-huh, yes.

11:16:11 5 Q All right. During -- I would like you to look at
6 Exhibit 274. It is not in evidence yet. But would you look at
7 it.

8 A Yes.

9 Q Do you recognize it?

11:16:31 10 A Yes.

11 Q Can you tell the ladies and gentlemen what it is?

12 A It's a business card that was given to me by Sue Taylor
13 with her phone number on it.

14 MR. GALATI: Your Honor, may we display it to the
11:16:44 15 jury -- may I move to admit it into evidence, please?

16 THE COURT: Any objection?

17 MS. TAYLOR: No, Your Honor, no objection.

18 THE COURT: 274 is admitted, and you may display it.

19 BY MR. GALATI:

11:17:04 20 Q Just a business card, correct?

21 A Yes.

22 Q All right.

23 Would you look at 275.

24 Do you recognize that?

11:17:16 25 A Yes.

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:17:16 1 Q Is it a photograph?

2 A Yes.

3 Q Do you know who took it?

4 A I did.

11:17:20 5 Q When did you take it?

6 A The sign was put up on the property before we closed on the
7 deal, but it was so funny because when you sell a piece of
8 property, you normally say "for sale," not "for sell." And it
9 was kind of funny, so I took a picture of it.

11:17:37 10 Q I didn't mean for you to display it to the jury --

11 A Oh, I'm sorry.

12 MR. GALATI: May I move it into evidence, Your Honor?

13 MS. TAYLOR: Object, Your Honor. Irrelevant. Just
14 telephone numbers on a sign for sale.

11:17:50 15 THE COURT: I think I need to see a copy of this.

16 MR. GALATI: May I, Your Honor?

17 THE COURT: You may.

18 What's the relevancy?

19 MR. GALATI: Your Honor, it's got the phone number
11:18:17 20 that's the same as the defendant's phone number; and secondly,
21 it was put up on the land even before closing, when this
22 witness was told that this was going to be subdivided by the
23 buyer.

24 THE COURT: All right. Objection is overruled.

11:18:33 25 Exhibit 275 is admitted.

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

09:25:03 1 (Exhibit 275 admitted.)

2 MR. GALATI: May we display it, Your Honor?

3 THE COURT: Yes.

4 MS. TAYLOR: I don't know how that number got written
11:18:47 5 on my card. Anybody could have put that on there.

6 THE COURT: Well, you'll have an opportunity to
7 testify about that, Ms. Taylor.

8 BY MR. GALATI:

9 Q Did there come a time when there was an attempt to change
11:19:00 10 the transaction?

11 A Yes.

12 Q Could you tell the ladies and gentlemen about that.

13 A We had a signed contract, and Sue Taylor called me and said
14 that she wanted to change the contract, that the buyer wanted
11:19:18 15 deed releases as he paid off the mortgage, and that she was
16 saying that she wasn't going to get a real estate commission
17 and she wanted a real estate commission. And there was just so
18 many different things she wanted to change, I finally said no.
19 You know, if he doesn't want to buy it, just throw away the
11:19:39 20 contract, tear it up, and we'll start all over, but we're not
21 going to change anything.

22 Q And you wound up not changing anything; is that correct?

23 A Right.

24 Q One last thing I want to ask you about. I think you
11:19:49 25 mention there was a down payment or an initial payment at the

DIRECT EXAMINATION - ELAINE FAY SCHROEDER

11:19:53 1 time of closing and then the arrangement was there would be
2 payments yearly.

3 A Yes.

4 Q What happened?

11:20:00 5 A I received one payment, and the next year in '05, I
6 received the balance in full.

7 Q And was that about \$324,000 --

8 A 322-something, yes.

9 Q And were you happy about that?

11:20:14 10 A No.

11 Q Why not?

12 A Because I didn't want to have to pay the tax on the whole
13 thing. I wanted the monthly -- or the yearly payments because
14 my husband was sick, and we were retiring, and we were looking
11:20:26 15 forward to that income once a year coming in.

16 MS. TAYLOR: Object.

17 THE COURT: What's the objection?

18 MS. TAYLOR: Irrelevant.

19 THE COURT: Overruled.

11:20:39 20 MR. GALATI: I have no further questions, Your Honor.

21 THE COURT: Okay.

22 Cross-examination, Ms. Taylor?

23 C R O S S - E X A M I N A T I O N

24 BY MS. TAYLOR:

11:20:53 25 Q Hi. I only just want to know if you had any proof or any

CROSS-EXAMINATION - ELAINE SCHROEDER

11:21:01 1 facts that prove that I was anything other than acting as a
2 real estate agent in this deal? Do you have any facts that
3 prove I was anything other than the real estate agent?

4 A The first two phone calls you made to me, you told me that
11:21:18 5 you were interested in buying the 40 acres. You never
6 disclosed the fact you were a real estate agent, not until the
7 third phone call.

8 Q Do you get other calls from real estate agents sometimes
9 that do not say that they're real estate agents?

11:21:34 10 A No. It's -- I work with a lot of real estate agents in
11 Casa Grande because I do a lot of their rental cleanup and
12 paintings and stuff, and it is a no-no. You just don't do
13 that. When you call somebody about a property, it is the law
14 you have to disclose that you are an agent; and everybody I
11:21:55 15 have worked with has always done that.

16 Q Well, is it possible that someone could call you inquiring
17 of the property and just getting information about it, that
18 it's available and that it's for sale, and they don't really
19 have a client at the time and then maybe they get a client
11:22:20 20 later and then when they get a client they would come back to
21 you and say I do have a client and I called before about your
22 property?

23 A I've bought and sold -- right now I have eight rental
24 properties. I've bought and sold a lot of properties in Casa
11:22:37 25 Grande, and I worked with --

CROSS-EXAMINATION - ELAINE SCHROEDER

11:22:38 1 Q Excuse me. Excuse me. Excuse me.

2 A -- a lot of different realtors.

3 THE COURT: Please, please don't interrupt her, Ms.
4 Taylor.

11:22:45 5 THE WITNESS: And every single time anybody has called
6 me or I have called them, they always tell me that they're an
7 agent; first and foremost, they always do.

8 BY MS. TAYLOR:

9 Q All right. Maybe agents do that that are -- have clients
11:23:05 10 perhaps, but if a person was just calling and getting
11 information, couldn't they just call you and ask you about your
12 property, whether they had -- I mean, you could call up a
13 store, for instance, and ask them if they have this product and
14 not disclose who you are. You could call up -- I have called
11:23:25 15 up many places and asked them about different things.

16 MR. GALATI: Your Honor, I object. It's not a
17 question, Your Honor.

18 THE COURT: Please place it in the form of a question,
19 Ms. Taylor.

11:23:37 20 MS. TAYLOR: Okay.

21 BY MS. TAYLOR:

22 Q Is it a law, that you know of?

23 A Yes.

24 Q What law would that be?

11:23:44 25 A I don't know, but working with the realtors in my town for

CROSS-EXAMINATION - ELAINE SCHROEDER

11:23:46 1 the past 35 years, I have never had anybody call me to inquire
2 about a property without disclosing the fact that they're an
3 agent. And all my friends that are in the real estate business
4 have all told me that they have to, by law, disclose that fact.

11:24:03 5 I have never had anybody call me and then call me later and
6 disclose they were an agent. They always tell me right up
7 front.

8 Q That is true, I believe, if you are intending on doing a
9 contract with the person. You do have to let them know about
11:24:19 10 it. But my question --

11 MR. GALATI: Your Honor, I object. She's testifying.

12 THE COURT: Please ask a question, Ms. Taylor.

13 BY MS. TAYLOR:

14 Q My question to you is: Do you know of a law, a particular
11:24:34 15 bona fide law that says I cannot call you and ask you about
16 your property without disclosing who I am?

17 A Not without a real estate law book in front of me, no, I
18 cannot tell you.

19 Q Okay. And you said also earlier that you believed a
11:24:54 20 gentleman named Ron McBride had come to your house before I had
21 come to your house?

22 A Yes.

23 Q Would you know or be able to recognize him if you see him
24 today?

11:25:03 25 A Probably not. It's been too many years. This is back in

CROSS-EXAMINATION - ELAINE SCHROEDER

11:25:06 1 '04.

2 Q Can you tell me what he talked about?

3 A He talked about wanting to make a deal on the 40 acres. He
4 talked about if we would put up some money and he would put up
11:25:20 5 some money, and he would subdivide it, and we would both make
6 money on the deal. It just sounded like a scheme to me and my
7 husband, and we just ignored it and told him to leave.

8 Q Is it not true that when I called you that you told me
9 there was many people that had called you and said the same
11:25:41 10 thing, basically, that they wanted to do a deal with you this
11 way or that way?

12 A No. I've never said "many." No.

13 Q Well, you said you had a --

14 A I had --

11:25:50 15 Q Quite a few.

16 A -- that one incident, yes. Not "many."

17 Q Did you tell me about that when I called you?

18 A I don't know if I did or not. I don't remember.

19 Q Okay.

11:26:05 20 MS. TAYLOR: That's all. Thank you.

21 THE COURT: Any redirect?

22 MR. GALATI: No, Your Honor.

23 THE COURT: Okay.

24 Thanks, Ms. Schroeder. You can step down.

11:26:13 25 THE WITNESS: Do you want these up here?

CROSS-EXAMINATION - ELAINE SCHROEDER

11:26:16 1 THE COURT: Yeah, that's fine.

2 MR. GALATI: Michael Mendoza, Your Honor.

3 Your Honor, I'm going to ask this witness about
4 Exhibits 257 and 258, and I believe they have been admitted.

11:26:59 5 THE COURT: All right.

6 Sir, would you come all the way to the front of the
7 courtroom, please, to be sworn as a witness.

8 THE COURTROOM DEPUTY: State your name and spell your
9 last name for the record.

11:27:05 10 THE WITNESS: Mike Mendoza, M-E-N-D-O-Z-A.

11 **MICHAEL MENDOZA,**

12 called as a witness herein, after having been first duly sworn
13 or affirmed, was examined and testified as follows:

14 D I R E C T E X A M I N A T I O N

11:27:11 15 BY MR. GALATI:

16 Q Mr. Mendoza, good afternoon.

17 A Good afternoon.

18 MR. GALATI: Your Honor, may I proceed?

19 THE COURT: Yes.

11:27:34 20 BY MR. GALATI:

21 Q Mr. Mendoza, if you would just pull the microphone close
22 and make sure -- thank you very much.

23 Would you tell the ladies and gentlemen your name.

24 A Mike Mendoza.

11:27:42 25 Q What is your occupation?

DIRECT EXAMINATION - MICHAEL MENDOZA

11:27:43 1 A I'm a realtor. I work for Keller Williams Realty.

2 Q And where is your office located?

3 A In Ahwatukee. 3840 East Ray Road, Phoenix, Arizona.

4 Q How long have you been a real estate agent?

11:27:56 5 A Since June of 1983. About 27 years, 28 years.

6 Q When you identified the entity that employs you, does that

7 imply you're an agent and not a broker?

8 A Right, I'm an agent.

9 Q And the brokerage, again, is?

11:28:11 10 A Keller Williams Sonoran Living Realty.

11 Q Thank you.

12 As a real estate agent, are you involved in the buying

13 and selling of real estate?

14 A Every day.

11:28:23 15 Q Hopefully?

16 A Hopefully.

17 Q And in addition to being an agent and representing people

18 that are interested in buying and selling real estate, do you,

19 yourself, invest in real estate?

11:28:38 20 A Yes.

21 Q And have you been doing that for -- how long a period of

22 time?

23 A Probably the last ten, 15 years.

24 Q At one point were you associated with a gentleman named

11:28:52 25 Jeff Anderson and Greg Herbert?

DIRECT EXAMINATION - MICHAEL MENDOZA

11:28:56 1 A Yes.

2 Q Were they your partners in some real estate investments?

3 A Yes.

4 Q I want to direct your attention to about late 19 -- late

11:29:09 5 2005. Were you and your partners involved in the acquisition

6 of a parcel of land in -- around Casa Grande, Arizona?

7 A Yes.

8 Q Let me ask you about your personal involvement in this. Of

9 the three of you that were -- were the three of you partners?

11:29:27 10 A Yes. We were general partners in the project.

11 Q And was one of you more involved than the others?

12 A Well, I was the realtor. Jeff actually found the land, and

13 then we put the contract together.

14 Q And to the best of your memory about this transaction, was

11:29:46 15 this land that was listed in multiple listings, or did you have

16 any --

17 A I don't really recall that. Jeff found it. I assume there

18 was a sign on the property.

19 Q Did he come to you and your other partner and say he

11:30:01 20 thought it was a good investment or what?

21 A Yeah, yeah, he did.

22 Q All right.

23 Do you recall where the property was located?

24 A Yes. Oh, gosh. Erica Road. It's a 40-acre square parcel

11:30:15 25 of land on Erica Road.

DIRECT EXAMINATION - MICHAEL MENDOZA

11:30:18 1 Q In the Casa Grande area?

2 A In Casa Grande, right.

3 Q Is Exhibit 257 there in front of you?

4 A No, there's nothing here.

11:30:28 5 Q I apologize.

6 MR. GALATI: Thank you, Ms. Richter.

7 257 and 258.

8 Your Honor, I believe that has been admitted.

9 BY MR. GALATI:

11:30:38 10 Q Would you take a look at Exhibit 257 and tell me if you
11 recognize what that exhibit portrays.

12 A That's the final HUD from the title company, Fidelity
13 Title, when we closed the property in November of '05.

14 Q Is this the transaction you and I have been talking about?

11:30:55 15 A Yes.

16 MR. GALATI: Your Honor, may we display the top half
17 of the front page to the jury?

18 THE COURT: You may.

19 BY MR. GALATI:

11:31:07 20 Q I just want to ask you if you would look at that front
21 page, and does it identify who the borrowers or --

22 A The borrowers?

23 Q Yes.

24 A Yes. Myself and my wife.

11:31:19 25 Q Does it say who the sellers are?

DIRECT EXAMINATION - MICHAEL MENDOZA

11:31:21 1 A It says it was CG Hilltop 40 Trust.

2 Q And how is the property location described there?

3 A It's vacant land.

4 Q Casa Grande?

11:31:35 5 A Casa Grande.

6 Q And do you recall the sales price, what you and your

7 partners paid for this piece of land?

8 A \$2.4 million.

9 Q I want to ask you if the name Sue Taylor means anything to

11:31:51 10 you.

11 A Yes. Sue was the other realtor involved in the

12 transaction.

13 Q The realtor representing whom?

14 A The seller.

11:32:03 15 Q Did you deal with her concerning this transaction?

16 A Yes, I did, yes.

17 Q Can you tell the jury about that.

18 A Well, I didn't ever really meet Sue and do it; it was all

19 via fax and e-mail. But we talked on the phone, I'm sure,

11:32:20 20 multiple times about the property.

21 Q And did you know of her before this transaction?

22 A I think we crossed paths before in the past 27 years in the

23 business, but, you know, I don't remember any residential

24 transactions with her.

11:32:36 25 Q All right. But you were familiar with her name before this

DIRECT EXAMINATION - MICHAEL MENDOZA

11:32:40 1 transaction?

2 A A little bit, yeah, uh-huh.

3 Q Could I ask you to take a look at about three pages in. It

4 is 003351. Down -- up near the top.

11:33:00 5 A 00 -- okay. The closing statement?

6 Q Yes. Where it indicates "Seller estimated closing

7 statement." Do you see that?

8 A Um-hmm.

9 Q Does it list seller as R.J. McBride Trust?

11:33:13 10 A Yes, R.J. McBride Trust.

11 Q And buyers as you and Greg Herbert.

12 A And Greg Herbert.

13 Q Down near the bottom, the lower half, do you see where it

14 indicates "McBride Musical Ministries release of funds,

11:33:33 15 \$20,000?

16 A Yes, I do.

17 Q Do you know what McBride Musical Ministries was or is?

18 A No, I don't.

19 Q Do you remember ever discussing that during the

11:33:42 20 transaction?

21 A No.

22 Q And can we go to the next page?

23 A Um-hmm.

24 Q Down near the bottom, there's some signatures.

11:33:55 25 A Yes.

DIRECT EXAMINATION - MICHAEL MENDOZA

11:33:55 1 Q Is the signature for buyer, is that you?
2 A Yes.
3 Q And seller, is it R.J. McBride, Trustee?
4 A Yes.
11:34:04 5 Q And the next page?
6 A And then Greg Herbert, too --
7 Q Yes.
8 A -- was a buyer.
9 Q Thank you.
11:34:11 10 A Okay.
11 Q And the next page which is -- for the Bates number is 3353.
12 It says "acceptance" in the middle. Do you see that?
13 A Correct.
14 Q Does your signature appear there?
11:34:23 15 A Yes. Along with Greg Herbert's.
16 Q And the acceptance is listing broker, Sue Taylor, National
17 Land Bank; is that correct?
18 A Correct.
19 Q And R.J. McBride signing as trustee --
11:34:39 20 A Yes.
21 Q -- for the seller?
22 A Uh-huh.
23 Q In this transaction, you were acting -- is it correct you
24 were acting as the agent for you and your partners?
11:34:48 25 A Yes.

DIRECT EXAMINATION - MICHAEL MENDOZA

11:34:49 1 Q And did you get commission on this transaction?

2 A No.

3 Q Did Sue Taylor get a commission on this transaction?

4 A Pretty sure she did, yeah. On line 703 of the HUD.

11:35:03 5 Q What does it show?

6 A \$72,000.

7 Q \$72,000.

8 Would you take a look at Exhibit 258.

9 MR. GALATI: I believe that is admitted into evidence,

11:35:22 10 Your Honor.

11 BY MR. GALATI:

12 Q It's the next folder.

13 A Oh.

14 Q 258. I apologize.

11:35:51 15 A Okay.

16 Q Just in general terms, without talking about specifics of
17 this document, do you know what that is?

18 A Looks like a check from Fidelity Title to Burning Bush
19 Ministries for \$72,000.

11:36:04 20 Q And the date on it?

21 A November 7th, 2005.

22 MS. TAYLOR: Objection.

23 THE COURT: Excuse me. There's an objection.

24 Yes, ma'am?

11:36:12 25 MS. TAYLOR: Objection. No personal knowledge.

DIRECT EXAMINATION - MICHAEL MENDOZA

11:36:14 1 THE COURT: Overruled. The document's in evidence.
2 By the way, do you want this displayed to the jury --
3 MR. GALATI: Yes, Your Honor.
4 THE COURT: -- Mr. Galati?
11:36:26 5 MR. GALATI: Thank you.
6 THE COURT: All right.
7 BY MR. GALATI:
8 Q Can we just go to the bottom third.
9 And to your recollection, was McBride Musical
11:36:47 10 Ministries an entity that was either the buyer or the seller or
11 an agent for any party in this transaction?
12 A I have no recollection of that, no.
13 Q And the upper two-thirds of this document, 258, they
14 contain your name as the buyer, you and your wife?
11:37:14 15 A And Greg, yeah -- Charles Herbert, right.
16 Q So this is connected with the same transaction; is that
17 correct?
18 A Correct, yes. Looks like the check numbers match.
19 (Counsel confer.)
11:37:30 20 BY MR. GALATI:
21 Q Mr. Knapp pointed out to me that I misspoke.
22 Burning Bush. I said "McBride Musical Ministries."
23 "Burning Bush" is the entity that's on the check, correct?
24 A Correct. Yeah. I don't have any recollection of Burning
11:37:56 25 Bush Ministries.

DIRECT EXAMINATION - MICHAEL MENDOZA

11:37:58 1 Q Burning Bush in any capacity whatsoever?
2 A No.
3 Q All right.
4 MR. GALATI: Your Honor, may I have one second?
11:38:19 5 THE COURT: Yes.
6 MR. GALATI: Just to locate one document. I
7 apologize.
8 Thank you.
9 BY MR. GALATI:
11:38:49 10 Q Do you see what's on the screen right now?
11 A Yes.
12 Q And did you ever see that document during the course of the
13 proceedings?
14 A No. I have no recollection of seeing that, no.
11:39:04 15 THE COURT: What exhibit is this, Mr. Galati?
16 MR. KNAPP: Your Honor, for the record, this is
17 Exhibit 257, page 30.
18 BY MR. GALATI:
19 Q And it is a letter, a notation -- or an escrow instruction.
11:39:19 20 Does that look like a typical escrow instruction?
21 A Yes. It looks like Sue is assigning her commission to
22 Burning Bush Ministries, and she's probably --
23 Q I don't want you to speculate --
24 A It looks like the day before closing, so she's instructing
11:39:35 25 the title company to do that.

DIRECT EXAMINATION - MICHAEL MENDOZA

11:39:37 1 Q Was that the day before closing?

2 A Yes, because we closed on 11/4.

3 MR. GALATI: Thank you very much.

4 THE COURT: Cross-examination, Ms. Taylor?

11:19:09 5 C R O S S - E X A M I N A T I O N

6 BY MS. TAYLOR:

7 Q Hi, Mr. Mendoza. I don't believe we've ever met.

8 A No, I don't think so.

9 Q Just talked.

11:40:01 10 Is it your -- you said that you didn't get a
11 commission in this?

12 A Correct.

13 Q And it's typical for people that are in real estate from
14 time to time not to take commissions; is that true or not?

11:40:23 15 A I guess it would depend on the situation, right.

16 Q Right.

17 To your knowledge, do you have any belief that I was
18 involved or an owner or principal of this property?

19 A No.

11:40:47 20 MS. TAYLOR: I think that's all.

21 THE COURT: Okay.

22 Thanks. You can step down.

23 MR. GALATI: Your Honor, may --

24 THE COURT: Oh, redirect. Okay. I'm sorry.

25

REDIRECT EXAMINATION - MICHAEL MENDOZA

11:19:09 1 R E D I R E C T E X A M I N A T I O N

2 BY MR. GALATI:

3 Q You said it's not atypical to not take a commission. It

4 may happen now and again, correct?

11:41:03 5 A Yeah, from time to time. But, I mean, that's how we make

6 our money, getting paid commission.

7 Q If you are the owner of the property, is that one of those

8 circumstances under which you might not take the commission?

9 A If I was the owner of a property and I was selling my own

11:41:17 10 property?

11 Q If you were the buyer.

12 A If I was the buyer of the property?

13 Q You were the actual buyer.

14 A Not necessarily. This situation, that's the way we handled

11:41:26 15 it because of the agreement we had with the other people.

16 MR. GALATI: All right. Thank you.

17 THE COURT: All right. Thanks. You can step down.

18 MR. GALATI: Your Honor, our next witness is going to

19 be Cheryl Bradley. And, Your Honor, based upon previous

11:41:58 20 discussions we've had with the Court, she's going to be called

21 now as a fact witness.

22 THE COURT: That's fine.

23 MR. GALATI: May I approach Ms. Richter, Your Honor?

24 THE COURT: You may.

11:42:48 25 All right. Ms. Bradley, would you come to the front

REDIRECT EXAMINATION - MICHAEL MENDOZA

11:42:50 1 of the courtroom, please, to be sworn as a witness.

2 THE COURTROOM DEPUTY: Please state and spell your
3 name for the record.

4 THE WITNESS: Cheryl Bradley, C-H-E-R-Y-L; last name
11:43:03 5 is B-R-A-D-L-E-Y.

6 MR. GALATI: And, Ms. Bradley, would you pull the
7 microphone close, please. Thank you.

8 May I proceed, Your Honor?

9 THE COURT: You may.

10 **CHERYL BRADLEY,**

11 called as a witness herein, after having been first duly sworn
12 or affirmed, was examined and testified as follows:

13 D I R E C T E X A M I N A T I O N

14 BY MR. GALATI:

11:43:30 15 Q Ms. Bradley, tell the ladies and gentlemen your full name,
16 please.

17 A Cheryl Bradley.

18 Q What is your occupation?

19 A I'm a revenue agent for the Internal Revenue Service.

11:43:39 20 Q Do you work here in Phoenix?

21 A Yes.

22 Q How long have you been a revenue agent with the Internal
23 Revenue Service?

24 A Twenty-three and a half years.

11:43:46 25 Q What does a revenue agent for the Internal Revenue Service

DIRECT EXAMINATION - CHERYL BRADLEY

11:43:49 1 do?

2 A We examine tax returns.

3 Q And examine them for what purpose?

4 A To determine if they're correct.

11:43:57 5 Q To determine correct tax liability?

6 A Yes.

7 Q And how long have you been doing that?

8 A Twenty-three and a half years.

9 Q Are you -- are you assigned right now to any special unit

11:44:10 10 or division?

11 A Yes.

12 Q And what might that be?

13 A It is called a Special Enforcement Program.

14 Q And have you had a lot of involvement with small

11:44:22 15 business-type audits and examinations?

16 A Yes.

17 Q And do you concentrate on that area?

18 A I audit just about anything.

19 Q And can you tell the ladies and gentlemen what Special

11:44:41 20 Enforcement Program is.

21 A It's just where I work closely with the criminal

22 investigators and with you for trial purposes, and I also

23 examine tax returns besides that.

24 Q Can you give the ladies and gentlemen any idea of how many

11:44:59 25 tax returns you have examined during your career?

DIRECT EXAMINATION - CHERYL BRADLEY

11:45:03 1 A Well, I was computing it. It turns out to be about 75 a
2 year.

3 Q Seventy-five per year?

4 A Yeah --

11:45:10 5 Q Over --

6 A -- on average.

7 Q Over 23 years?

8 A Over 23 years, yes.

9 Q And are those the number of audits you conduct?

11:45:17 10 A Those are the numbers of tax returns I've audited.

11 Q Thank you.

12 I want to ask you if in late 2003 you were doing the
13 kind of work you just described?

14 A Yes.

11:45:29 15 Q And did a taxpayer or the returns of a taxpayer named Sue
16 Taylor come to your attention?

17 A Yes.

18 Q And how was that? How did it land on your desk, so to
19 speak?

11:45:42 20 A My manager assigned it to me.

21 Q And what were you assigned to do, to the best of your
22 recollection?

23 A To determine the substantially correct tax.

24 Q And why were you going to do that?

11:45:54 25 A Because it was assigned to me.

DIRECT EXAMINATION - CHERYL BRADLEY

11:45:56 1 Q All right.

2 What was there about the return --

3 A Oh, I see.

4 Q -- that would cause the IRS to want to do an examination

11:46:05 5 and audit?

6 A Well, it had all zeros on it.

7 Q And when you say "it," do you recall what return we're

8 talking about specifically?

9 A 2001, I believe.

11:46:18 10 Q Is that where you were going to start, was 2001?

11 A Yes, um-hmm.

12 MS. TAYLOR: Objection, Your Honor. There's not a

13 question. Irrelevant.

14 THE COURT: Relevancy. Objection overruled.

11:46:31 15 BY MR. GALATI:

16 Q Do you recall the first things you did to do your work with

17 regard to the 2001 tax return?

18 A Well, it probably would have been the thing I do all the

19 time, is I check the transcripts when I'm given a case to

11:46:44 20 examine, and I check the transcripts to see if all the returns

21 are filed to date.

22 Q And did you do that?

23 A Yes.

24 Q Did there come a time when you asked to meet with the

11:46:58 25 taxpayer?

DIRECT EXAMINATION - CHERYL BRADLEY

11:46:59 1 A Yes.

2 Q And what, if anything, did you do preparatory to meeting
3 with the taxpayer?

4 A Well, I would have done a little bit of research as far as
11:47:09 5 the transcripts on the return. I also would have looked to see
6 what information returns might have been reported. I would
7 have done some searches, asset searches, those kinds of things.

8 Q So you had some base of information about the taxpayer
9 before you met with the taxpayer?

11:47:27 10 A Yes.

11 Q And how is it that a taxpayer is -- how do you come to meet
12 with a taxpayer? What do you send them to get them to come in?

13 A I notify them of the audit, so I just do a little bit of
14 work and then I notify them their return was assigned to me for
11:47:43 15 examination; and in there I request they call me so we can
16 schedule an interview.

17 Q And when you say "in there" --

18 A In the letter.

19 Q You send them a letter?

11:47:52 20 A Yes.

21 Q Do you send them a summons? Do you send them a subpoena?

22 A No. It's a letter.

23 Q And are they free to come or not come?

24 A Yes.

11:48:03 25 Q Did you meet with Sue Taylor on the 12th of February of

DIRECT EXAMINATION - CHERYL BRADLEY

11:48:07 1 2004?

2 A Yes.

3 Q Where did that take place?

4 A That was at my office in Mesa.

11:48:13 5 Q And was anyone else present during the course of that
6 proceeding?

7 A Yes. Ms. Taylor had a witness by the name of Steve
8 Hernandez. And one of my coworkers joined us a little bit into
9 the interview, named Joslyn Samara.

11:48:32 10 Q Thank you.
11 Did you -- how long did it take? Do you recall?

12 A Maybe an hour or so.

13 Q And was a transcript prepared of the interview?

14 A Yes.

11:48:46 15 Q So have you reviewed that to refresh your memory as to what
16 was said?

17 A Yes.

18 Q And did you talk to Ms. -- well, first of all, let me ask
19 this: Is Sue Taylor in the courtroom, the lady you met with?

11:49:02 20 A Yes.

21 Q Can you tell us where she is?

22 A Yes. She's sitting at the table over there.

23 MR. GALATI: Your Honor, may the record reflect
24 identification?

11:49:09 25 THE COURT: Yes.

DIRECT EXAMINATION - CHERYL BRADLEY

11:49:09 1 BY MR. GALATI:

2 Q Did you discuss IRS publications with her?

3 A Yes.

4 Q What did you discuss?

11:49:14 5 A We're required to give certain publications with letters
6 that we issue, and because they go in a letter, they probably
7 don't get read, so we just go over them during the interview to
8 make sure they understand everything that's in there.

9 Q What did you tell her?

11:49:30 10 A We give them the privacy act notice, and we also give them
11 a publication that tells them what the audit process is.

12 Q You said that she had someone with her named Steve
13 Hernandez.

14 A Yes.

11:49:43 15 Q Do you know who that was?

16 A No.

17 Q Any objection to the taxpayer having somebody else with
18 them to witness or to be there?

19 A No. I asked her if it was okay if we discussed everything
11:49:53 20 in front of him, and she said it was okay.

21 Q That is because of privacy concerns?

22 A Yes.

23 Q And as long as it is okay with the taxpayer, it is okay
24 with the IRS?

11:50:02 25 A Well, if they want them to hear everything, I don't object.

DIRECT EXAMINATION - CHERYL BRADLEY

11:50:07 1 Q Okay.

2 Did you -- excuse me. Did Sue Taylor ask you why you

3 were calling her in there?

4 A Well, yes, we had some discussion prior to her coming in.

11:50:25 5 Q Did she want you to show her anything?

6 A Say that again. I didn't hear you.

7 Q Did she want you to show her anything?

8 A Oh. She wanted me to show -- well, first off, my

9 credentials, she wanted to see those. Then she wanted me to

11:50:39 10 show her where she owed income or what her income was.

11 Q Did you show her your credentials?

12 A Yes.

13 Q What did you say to her with regard to her request that you

14 show her where she had income?

11:50:51 15 A I told her the examination had just started, that I hadn't

16 got that far yet, that doing the interview was part of that

17 process.

18 Q Did she tell you her name is Sue Taylor?

19 A Yes.

11:51:04 20 Q Did you ask her if she goes by Janice?

21 A I asked her if she went by any other name, and she said no.

22 Q Did she tell you what her address was?

23 A Yes.

24 Q Do you remember what it is?

11:51:14 25 A She gave me 20 North Gilbert.

DIRECT EXAMINATION - CHERYL BRADLEY

11:51:16 1 Q Did you ask her if she had gone through an audit process
2 previously?

3 A Yes.

4 Q What did she tell you?

11:51:22 5 A She said she had.

6 Q Did she say which year; do you recall?

7 A I believe it was '97 and '98.

8 Q Did she say what the status of that was?

9 A I believe she said it was in the collection process.

11:51:42 10 Q Did you ask her if she had filed the 2001 return that you
11 were examining?

12 A No. It had already been filed, and we had it there and we
13 did talk about it. I showed it to her, and we talked about it,
14 but since I already had it, I didn't feel the need to ask her
11:52:00 15 if she had filed it.

16 Q Did you ask her what her occupation was?

17 A Yes.

18 Q What did she tell you?

19 A She said she ran an herb store and she sold land.

11:52:10 20 Q Did she tell you how much land she sold?

21 A No.

22 Q Did she tell you she sold it occasionally?

23 A Yes.

24 Q Did you ask her if she had any tax shelters or trusts?

11:52:22 25 A Yes.

DIRECT EXAMINATION - CHERYL BRADLEY

11:52:23 1 Q What did she say?
2 A She didn't answer the question.
3 Q Did you ask her if she knew of any errors in the 2001 tax
4 return?
11:52:42 5 A Yes.
6 Q What did she say?
7 A She said there weren't any.
8 Q Did you ask her if she owned a home?
9 A Yes.
11:52:50 10 Q What did she say?
11 A She said she didn't, that she owned a motor home.
12 Q Did you ask her if she had a real estate license?
13 A Yes.
14 Q What did she say?
11:52:59 15 A She said she did.
16 Q Did you ask her if she had any -- did she tell you whether
17 or not she had any assets?
18 A She said she had no assets except what she was wearing.
19 Q In attempting to determine whether this taxpayer had income
11:53:25 20 or assets, did you ask her where she banked?
21 A Yes.
22 Q What did she tell you?
23 A She said that was for me to find out.
24 Q Did you attempt to determine whether or not she was a
11:53:44 25 single taxpayer or a single head of household taxpayer or a

DIRECT EXAMINATION - CHERYL BRADLEY

11:53:47 1 married taxpayer?

2 A Yes.

3 Q And what did you ask her, and what did she say?

4 A Just before the interview concluded, I asked her if I did
11:53:56 5 find any taxable income, what her filing status was; and she
6 said single. And I clarified because she used head of
7 household before, so I wanted to clarify what that was; and she
8 said, yes, it would have been head of household and her mother
9 would have been the exemption that she had.

11:54:17 10 Q I wanted to ask you if you mentioned -- if you mentioned
11 these entities to her. When I get done with the list, I'm
12 going to ask you a question concerning it, all right?

13 A Okay.

14 Q Did you mention these entities: Helm Circle or Helm Circle
11:54:28 15 Trust; Sumac Irrevocable Trust, that's S-U-M-A-C; Property
16 Resources; AJ 438 Land Trust; Higley Citrus Trust; P and H,
17 LLC; Noble and Master, LLC; Trumanco, T-R-U-M-A-N-C-O, LLC;
18 Speck Trust, that's S-P-E-C-K; National Land Bank; AJ 525
19 Trust; Riggs 194 Trust; Summer Irrevocable Trust; Spring Linda
11:55:12 20 Land Trust; Meadowbrook Trust; Peace Pipe, LLC; CachinaplX,
21 C-A-C-H-I-N-A-P-L-X Trust; Herbal Research Institute; Miroal,
22 LLC, that's M-I-R-O-A-L; and Workplace Trust?

23 I'm asking you, first of all, did you mention those
24 entities to her and list them for her?

11:55:42 25 A Yes.

DIRECT EXAMINATION - CHERYL BRADLEY

11:55:43 1 Q Did you ask her -- let me get these -- give me one second.
2 Did you ask her: "Do you help set up any trusts?"
3 A Yes.
4 Q Did she tell you she thought that was irrelevant?
11:56:01 5 A I believe she said no.
6 Q Did you say to her: "There's a lot of trusts in here"?
7 A Yes.
8 Q Did she answer, "No, none of them are my trusts"?
9 A Yes, she did.
11:56:18 10 Q You have Exhibit 83 and 84 in front of you. Will you take
11 a look at 83 first.
12 I'm sorry. Maybe they're not there yet. I apologize.
13 Do you recognize what Exhibit 83 is?
14 A Yes.
11:56:53 15 Q Can you just describe what it is? Is it a letter?
16 A It's a letter from Compass Bank.
17 Q Look at 83.
18 A Yeah. It's a letter to Compass Bank signed by Sue Taylor.
19 Q Did a copy of that come to you?
11:57:13 20 A Yes.
21 Q And this is -- correct me if I'm wrong, this is the first
22 page of a sheaf of documents that came to you; is that correct?
23 A Yes.
24 Q Were you one of the people that were cc'd on this?
11:57:23 25 A Yes.

DIRECT EXAMINATION - CHERYL BRADLEY

11:57:24 1 Q And is that your understanding as to why it came to you?

2 A Yes.

3 Q Would you take a look at Exhibit 84. What is that?

4 A It's the same letter, but it went to the Bank of America,
11:57:42 5 and it's signed by Sue Taylor.

6 Q What are the dates on these letters?

7 A The one to Bank of America is January 3 of 2005, and the
8 letter to Compass Bank is also January 3 of 2005.

9 Q All right. Let me ask you this: During the course of your
11:58:00 10 audit and perhaps subsequent to the interview you had with Sue
11 Taylor in February of 2004, did you issue administrative
12 summonses to banks or bank accounts or bank records pertaining
13 to Sue Taylor?

14 A Yes.

11:58:15 15 Q And was Compass Bank and was Bank of -- was Compass Bank
16 one of them?

17 A Yes.

18 Q Was Bank of America one of them?

19 A Yes.

11:58:24 20 Q And did those entities contact you after getting these
21 letters?

22 A One of them, they had their legal department contact me.

23 Q Do you remember which one that was?

24 A I believe it was Bank of America.

11:58:44 25 MR. GALATI: Your Honor, I move to admit 83 and 84.

DIRECT EXAMINATION - CHERYL BRADLEY

11:58:51 1 THE COURT: Any objection, Ms. Taylor, to 83 and 84?

2 MS. TAYLOR: One moment.

3 No, Your Honor.

4 THE COURT: Those exhibits will be admitted.

09:25:03 5 (Exhibits 83 and 84 admitted.)

6 MR. GALATI: May we display one of them to the jury,

7 Your Honor?

8 THE COURT: You may.

9 MR. GALATI: 83.

11:59:18 10 Your Honor, I have about two more minutes of
11 questioning, so perhaps we can get done before the break.

12 BY MR. GALATI:

13 Q Would you take a look at Exhibit 83 there, Ms. Bradley.

14 Can you tell the ladies and gentlemen what it is and why it

11:59:38 15 concerned you when you got it?

16 A Well, it was a letter that Sue Taylor had sent to the bank
17 saying that she was concerned about the information they were
18 going to be turning over because of the summons that I gave and
19 that she didn't think they should do that because she said it
11:59:57 20 was unlawful for them to do so.

21 Q And at least one of the banks contacted you as to what they
22 should be doing?

23 A Yes.

24 Q All right. And would you look at Exhibit 161?

12:00:07 25 THE COURT: Is this supposed to be displayed,

DIRECT EXAMINATION - CHERYL BRADLEY

12:00:11 1 Mr. Galati?

2 MR. GALATI: Yes. I thought it was. I apologize.

3 THE COURT: Okay.

4 MR. GALATI: I apologize.

12:00:16 5 THE COURT: That's all right.

6 BY MR. GALATI:

7 Q Did you do anything in response to getting 83 and 84?

8 A Yes.

9 Q What did you do?

12:00:37 10 A I returned the phone calls of the banks or their legal
11 department to let them know it was not a petition -- it wasn't
12 a proper petition to quash the summons. Because I assumed
13 that's what it was, is what her intent was on these.

14 Q And I want you to look at Exhibit 161. This is the last
12:00:58 15 thing I'm going to ask you about. Do you have 161 there?

16 A No. 83 and 84.

17 Q I'm sorry.

18 Do you recognize 161?

19 A Yes.

12:01:16 20 Q And what is that?

21 A It's a letter that I wrote to Ms. Taylor.

22 Q Was it in any way connected to the two documents we just
23 looked at?

24 A Yes. It was in response to those to tell her that I wasn't
12:01:29 25 sure what she meant by her letter that she had sent and that --

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12:01:33 1 MS. TAYLOR: Objection, Your Honor. This is not in
2 evidence.

3 THE COURT: She's just describing it, but you're
4 right, she shouldn't be talking about its contents until it is
12:01:43 5 in evidence.

6 MR. GALATI: May I move 161 into evidence, Your Honor?

7 THE COURT: Do you object to 161, Ms. Taylor.

8 MS. TAYLOR: I object.

9 THE COURT: And the basis?

12:01:53 10 MS. TAYLOR: Relevance.

11 THE COURT: Overruled.

12 161 is admitted.

13 (Exhibit 161 admitted.)

14 MR. GALATI: May we display it, Your Honor?

12:01:59 15 THE COURT: Yes.

16 BY MR. GALATI:

17 Q If we can just concentrate on the upper half.

18 In this letter, what did you explain to Ms. Taylor?

19 A Well, I was explaining to her that based on the letter that
12:02:21 20 she had written, that if it was a petition to quash, that it
21 was done improperly; so I wanted to explain to her the proper
22 way to do it. And on the other hand, if she was just sending
23 it to send it, I wanted her to know I wasn't required to
24 respond to the types of arguments she had presented in there.

12:02:42 25 Q And you reference a bunch of publications that explain the

DIRECT EXAMINATION - CHERYL BRADLEY

12:02:47 1 IRS's --

2 A Yes.

3 Q -- position on these things?

4 A Yes.

12:02:50 5 Q The last paragraph before your signature, is that where you
6 would explain to her how you would do it correctly, if that's
7 what she was trying to do was --

8 A Yes.

9 Q -- quash the summons?

12:02:59 10 A Yes.

11 Q Is that something you routinely explain to a taxpayer, how
12 they can correctly go about doing that sort of thing?

13 A Well, if they're -- misunderstood what I sent out to them,
14 yes, I would explain it to them again.

12:03:19 15 MR. GALATI: I don't have any further questions, Your
16 Honor.

17 THE COURT: Okay. We're going to go ahead and break
18 for lunch at this point. We will resume at one o'clock and
19 resume with the cross-examination at that time.

12:03:31 20 (Recess taken from 12:03 a.m. to 1:01 p.m.)

21 Proceedings resumed in open court outside the presence of the
22 jury.)

23 THE COURT: Please be seated.

24 Counsel and Ms. Taylor, when Lisa went to get the
13:01:37 25 jury, Juror Number 2 indicated to Lisa that she was in the

13:01:41 1 restroom in a stall when Ms. Taylor came in with somebody and
2 started talking and didn't know she was in the stall, and she
3 heard Ms. Taylor say something. She didn't tell Lisa what it
4 is she heard. But she thought she ought to report it to Lisa
13:02:00 5 because she overheard some comments by Ms. Taylor.

6 It seems to me we ought to call in Juror Number 2 and
7 just ask her what she heard and see if it causes concern to
8 anybody in terms of prejudicing the case. What do you all
9 think about that?

13:02:12 10 MR. GALATI: We agree, Your Honor.

11 THE COURT: Ms. Taylor?

12 MS. TAYLOR: Yes, Your Honor.

13 THE COURT: Okay. You agree?

14 MS. TAYLOR: We didn't know she was --

13:02:23 15 THE COURT: I know you didn't. But I think we ought
16 to find out what she heard just to make sure it won't prejudice
17 you or the Government in some way. You agree?

18 MS. TAYLOR: Yes.

19 THE COURT: Okay.

13:02:33 20 We'll have Juror 2 brought in.

21 (Juror Number 2 entered the courtroom.)

22 THE COURT: Please be seated.

23 Juror 2, thanks for coming in.

24 Lisa reported to me that you had indicated to her
13:03:30 25 that you were in the restroom and overheard some comments by

13:03:35 1 the defendant. We appreciate you bringing that to my
2 attention. We thought we ought to just find out generally
3 what it is you heard so we can determine whether it's an issue
4 we need to deal with in any way.

13:03:46 5 JUROR: It was pretty much just general talk about the
6 government and having to pay taxes and not really -- not that
7 we should have to because they didn't spend it in the right
8 way.

9 THE COURT: Okay.

13:03:58 10 JUROR: So it was comments between -- I'm not sure if
11 she was saying it or -- because I was obviously in the stall.

12 THE COURT: Right.

13 JUROR: But it was basically whoever was saying it,
14 and I believe it to be the defendant, her voice, was that we
13:04:10 15 shouldn't have to pay the taxes because it was spent out of the
16 country anyway or something like that. I was kind of like
17 trying not to listen, but that was the gist of it.

18 THE COURT: Okay.

19 Any other details you recall?

13:04:24 20 JUROR: No.

21 THE COURT: Have you mentioned this to any of the
22 other jurors?

23 JUROR: Absolutely not.

24 THE COURT: Okay.

13:04:30 25 Thank you very much for bringing it to our attention.

13:04:34 1 We'll go ahead and excuse you, and we'll talk to the parties
2 about whether there is anything we need to do with that
3 information.

4 JUROR: I'm sorry.

13:04:40 5 THE COURT: No. No. Thank you. I appreciate you
6 bringing it to our attention.

7 JUROR: I just go?

8 THE COURT: Yeah, just go back to the jury room, and
9 we'll come get you in a minute.

13:04:49 10 (Juror Number 2 exited the courtroom.)

11 THE COURT: Please be seated.

12 All right. Counsel for the Government, do you have
13 concerns in light of what you've heard?

14 MR. GALATI: No, Your Honor.

13:05:03 15 THE COURT: Ms. Taylor, do you?

16 MS. TAYLOR: I think maybe she should be excused due
17 to the fact that she might, you know, interpret something that
18 one of us said as derogatory or influence her or some way or
19 another. I think she should be excused. We didn't know she
13:05:23 20 was in there. Sorry about that, but, you know, being as we
21 were talking, I think she should be excused --

22 THE COURT REPORTER: I'm sorry, I can't hear you.

23 THE COURT: She didn't hear the last statement you
24 made, Ms. Taylor.

13:05:33 25 MS. TAYLOR: We didn't know she was in there, but

13:05:35 1 being as she was and she heard us talking, she might be
2 prejudiced to -- one way or the other. I don't know. I think
3 she should be excused.

4 THE COURT: Well, I'll tell you my reaction, and I'm
13:05:49 5 going to invite the Government's response to this. If what
6 Juror 2 thinks she heard was Ms. Taylor saying "I shouldn't
7 have to pay money to the government because they misuse the
8 funds and they spend it overseas," that sounds as though
9 Ms. Taylor is saying, "I shouldn't have to pay money, not
13:06:04 10 because I believe the tax laws don't apply to me, but because
11 the government misuses my money." And that, of course, would
12 be inconsistent with what I think is the defense that
13 Ms. Taylor is presenting, which is, "it wasn't a willful
14 violation, I didn't believe I had to pay taxes."

13:06:21 15 So it seems to me that the statements made could be
16 prejudicial to the defendant in the eyes of this jury, even if
17 we instructed this juror not to talk to others. Is that part
18 of your concern, Ms. Taylor?

19 MS. TAYLOR: Yes. Plus, you know -- excuse me. Yes,
13:06:46 20 that's my concern.

21 THE COURT: What do counsel for the Government think?
22 I mean, I suppose there's a couple of ways we could deal with
23 it if it is a concern. One is we could instruct Juror 2 to
24 disregard it and not to take it into account. The alternative
13:07:03 25 is to excuse Juror 2. In any event, of course, we would tell

13:07:05 1 her not to mention it to the other jurors.

2 MS. TAYLOR: Once she's heard it, how is that going
3 to -- you can't erase that out of your mind.

4 MR. GALATI: Your Honor, I certainly favor the latter,
13:07:19 5 which is to tell her to ignore the statements. We anticipate
6 that a witness will testify that this defendant has said
7 similar things, and we're going to put that kind of testimony
8 on. And secondly, I would anticipate Ms. Taylor is going to be
9 asked that question on cross-examination.

13:07:43 10 THE COURT: Well, even if that's true, I'm not sure
11 that ameliorates the harm, because we still have this juror
12 having heard something that wasn't in evidence and that no
13 other juror has heard.

14 MR. GALATI: Yes, Your Honor.

13:08:00 15 However you decide this, I hope the defendant will be
16 instructed not to talk out loud in the restroom again.

17 THE COURT: I think Ms. Taylor will recognize that
18 issue going forward.

19 My view is we should excuse Juror 2. It is
13:08:13 20 unfortunate, but I do think that the statements that she
21 believes she heard could prove prejudicial to Ms. Taylor, and
22 I do think that it would be difficult for her to disregard
23 them in her thinking. So I'm going to go ahead and excuse
24 Juror 2.

13:08:29 25 Lisa, would you ask Juror 2 to come back in -- well,

13:08:32 1 let's talk for just another minute before we do. After I
2 excuse her, I think I need to explain to the jury that she has
3 been excused.

4 I think the way I would do that is simply to say that
13:08:49 5 I have excused Juror 2, I have made that decision because she
6 overheard something in the courthouse. It wasn't her fault,
7 but she overheard something that could somehow be prejudicial
8 in this case, and rather than taking that risk, I'll just
9 excuse her. So she doesn't -- the other jurors don't know
13:09:10 10 where it was heard or from whom, but I think they ought to
11 know why she's being removed from the jury.

12 Is there any objection to that?

13 MR. GALATI: No, Your Honor.

14 MS. TAYLOR: No, Your Honor.

13:09:20 15 THE COURT: Okay. Would you bring in Juror 2, please,
16 Lisa.

17 (Juror Number 2 entered the courtroom.)

18 THE COURT: Please be seated.

19 Juror 2, thanks for coming back in. I have decided
13:10:17 20 that I should excuse you from the jury.

21 JUROR: Okay.

22 THE COURT: Now, I want to tell you, you didn't do
23 anything wrong; in fact, you did what was right by calling it
24 to our attention, so please don't feel badly. Don't feel like
13:10:29 25 you've messed up. You didn't at all. You did exactly what you

13:10:32 1 should do. But as I indicated when I gave the instructions to
2 all of the jury, it's going to be important that all of the
3 jurors are making their decision only on the basis of the same
4 evidence that has been presented to everybody and not something
13:10:46 5 outside. And for that reason, because they haven't heard what
6 you heard and it wasn't evidence, we think the best course to
7 ensure a fair trial for everybody is to excuse you.

8 We seated 14 jurors. We only need 12 to deliberate;
9 we pick two alternates. Now we'll pick one at the end. But
13:11:07 10 it's for just this reason, because sometimes things happen at
11 trial where we have to excuse a juror, and we want to make
12 sure we can go on with the case. So please don't feel badly
13 about this, and thank you very much for the time that you have
14 spent on the case. We'll go ahead and excuse you.

13:11:23 15 Do you have your things from the jury room?

16 JUROR: I just have -- my book is still in there.

17 THE COURT: Yeah. Okay.

18 Why don't you go ahead, go back. I'm going to
19 explain to the jury I excused you through no fault of your
13:11:34 20 own. I'm going to tell them you overheard something in the
21 courthouse and you did what you should have done and called it
22 to our attention, and that's why we excused you, so they will
23 know why you were excused. Okay? Thank you very much for
24 your time.

13:11:45 25 JUROR: Okay. Good. Thank you. That's it, then?

13:11:48 1 THE COURT: Yes. You are done. Thanks.

2 JUROR: Okay. Thank you.

3 (Juror Number 2 exited the courtroom.)

4 THE COURT: While she is out, let me just say,
13:12:10 5 Ms. Taylor -- I think you recognize this -- it will be really
6 important that you be careful not to be talking outside of the
7 courtroom in any kind of a hearable voice about any issues
8 related to this case, because we just don't ever know when
9 there is a juror in the vicinity. I think lawyers get trained
13:12:29 10 to do that. You're not a lawyer and you haven't had that
11 experience, but if could just make sure you're really careful
12 about that going forward, we'll avoid having this problem
13 again.

14 MS. TAYLOR: Yes, sir.

13:12:45 15 MR. GALATI: May Ms. Bradley take the stand now, Your
16 Honor?

17 THE COURT: Sure.

18 (The jury entered the courtroom at 1:13 p.m.)

19 THE COURT: Please be seated.

13:13:17 20 Welcome back, members of the jury. Thank you for
21 being here.

22 As you can see, Juror 2 has been excused. I wanted
23 to just explain to you that Juror 2 overheard something in the
24 courthouse and did exactly what I'd asked her to do, which is
13:13:34 25 she let Lisa know she had overheard it. We talked to her, and

13:13:37 1 I decided after hearing from her that it was best that we
2 excuse her from the jury. For the reason I explained to you
3 before. It is really important that every member of the jury
4 have the same information when you're making a decision, and
13:13:51 5 because she had overheard this, through no fault of her own, I
6 thought it best to go ahead and excuse her. So that's why
7 she's been excused.

8 I didn't tell you this yesterday, but we seated 14 of
9 you. We ultimately will only need 12 to deliberate. What we
13:14:06 10 would normally do if all 14 were here at the end of the trial
11 is we just draw two numbers out of a box, and those two would
12 be excused as alternates. Now we'll only draw one out.

13 But we do it for just this reason. Sometimes
14 unexpected things happen and we lose jurors, and if that
13:14:23 15 happens, we've got enough folks to go on. So Juror 2 did
16 everything right. But in order to ensure a fair trial for
17 everybody, I thought it best to go ahead and excuse her.

18 All right. Let's go ahead and have Ms. Bradley
19 return to the stand.

13:14:38 20 And I think, Ms. Taylor, we're ready for your
21 cross-examination.

22 C R O S S - E X A M I N A T I O N

23 BY MS. TAYLOR:

24 Q Hi, Ms. Bradley.

13:15:04 25 A Hello.

CROSS-EXAMINATION - CHERYL BRADLEY

13:15:12 1 Q You made a statement that -- you said it was your duty or
2 the IRS agent's duty to determine the tax liability is correct.
3 Can you tell me how you go about or what law you use to
4 determine a person's tax liability?

13:15:33 5 A Yes. I use the Internal Revenue Code. It is Title 26.

6 Q And what particular section do you use?

7 A Whichever one I need to for the particular type of item I'm
8 looking at.

9 Q Well, I'm 'pecifically talking about liability in the code
13:15:51 10 right now. Do you -- can you tell me which code section you
11 would use that speaks 'pecifically of liability of a person?

12 A A specific one? There's lots of them that talk about
13 liability.

14 Q For income tax purposes only. I know there's lots of them
13:16:15 15 that talk about tobacco and guns and tires and excises, but for
16 income tax purposes 'pecifically.

17 A I'm not sure I understand your question.

18 Q Which code statute do you rely on that determines a
19 person's tax liability for income tax?

13:16:47 20 A It's not going to be just one. The code is made up of
21 different parts. Some deal with certain types of income. Some
22 deal with other types. Some deal with expenses. Some deal
23 with credits. So I don't know how to answer the question. It
24 is too broad.

13:17:05 25 Q You don't recall any particular section that actually says

CROSS-EXAMINATION - CHERYL BRADLEY

13:17:12 1 a person's liability -- any person liable for any income tax?

2 A Oh, liable for income tax. I believe it is Section 6011.

3 Q And doesn't that section say "any person liable"?

4 A I believe so.

13:17:42 5 Q So how have you made a determination that I am a person
6 liable?

7 A I haven't determined that yet. So I don't know how to
8 answer that question.

9 Q Who is your superior?

13:18:04 10 A My immediate supervisor is Debbie Carlson.

11 Q How would you spell her last name?

12 A C-A-R-L-S-O-N.

13 Q Has she made the determination that I am a person liable?

14 MR. GALATI: Your Honor, I object. It's irrelevant.

13:18:25 15 THE COURT: Sustained.

16 BY MS. TAYLOR:

17 Q And you wouldn't know -- you wouldn't know whether she or
18 you had made that determination?

19 A I wouldn't know if she -- well, that's not her job to
13:18:45 20 determine that.

21 Q Well, doesn't somebody in the IRS have to determine the
22 people that are liable for income tax?

23 A Yes.

24 Q And who does determine that?

13:19:00 25 A The revenue agent determines that.

CROSS-EXAMINATION - CHERYL BRADLEY

13:19:03 1 Q And who is the revenue agent?

2 A Well, we have lots of them. I'm one.

3 Q And how did you determine it?

4 A I haven't determined it in your case yet. Not all the
13:19:19 5 evidence is in. I haven't determined it yet.

6 Q Then why am I here? I haven't been --

7 MR. GALATI: Your Honor, I object. We're not in a
8 civil audit setting; this is a criminal prosecution.

9 THE COURT: Sustained.

13:19:34 10 BY MS. TAYLOR:

11 Q If -- if you're coming after me and charging me with income
12 tax, whether it be evasion or whether it be any kind of
13 personal income tax that I should be liable to pay, then it
14 seems to me that you should have personal, factual knowledge of
15 what law would make me liable for that tax.

16 THE COURT: You need to ask a question, Ms. Taylor.

17 MS. TAYLOR: Okay. I wish I was an attorney.

18 BY MS. TAYLOR:

19 Q So you have not determined that I'm a person liable for
13:20:33 20 income tax.

21 A Not at this point.

22 Q What authority do you have to come after a person that has
23 not been determined liable for an income tax, to pay income
24 tax?

13:20:59 25 MR. GALATI: Your Honor, I object. The question is

CROSS-EXAMINATION - CHERYL BRADLEY

13:21:00 1 vague and irrelevant.

2 THE COURT: Sustained.

3 MS. TAYLOR: That means I can go on?

4 THE COURT: Well, when I sustain an objection,
13:21:10 5 Ms. Taylor, that means that the witness does not have to answer
6 the question. It means that I'm agreeing with the objection of
7 relevancy. So it means you can move on to another question.
8 You can certainly go on, yeah. And if you want --

9 MS. TAYLOR: I just meant if I could go on.

13:21:25 10 THE COURT: Yeah, and if you want to talk at sidebar,
11 if you have a question for me at some point, we can do that.
12 But, yeah, you can go on with your questioning. I just
13 sustained the objection to that question.

14 MS. TAYLOR: Okay.

13:21:45 15 BY MS. TAYLOR:

16 Q So Debbie Carlson, you said, assigned this audit to you?

17 A No. She was not my manager at the time.

18 Q Who assigned this audit to you?

19 A Rosanne Perricelli.

13:21:56 20 Q How would you spell that?

21 A R-O-S-A-N-N-E, P-E-R-R-I-C-E-L-L-I.

22 Q P-E-R-R-I-C?

23 A C-E-L-L-I. Yes.

24 Q E-L-L-I. Rosanne, did you say?

13:22:17 25 A Um-hmm, yes.

CROSS-EXAMINATION - CHERYL BRADLEY

13:22:21 1 Q And has she made any determination on my part that I'm a
2 person liable?

3 A She's my supervisor. She doesn't do that.

4 Q Nobody in your company decides that? Nobody in your
13:22:38 5 organization?

6 A Like I said before, the revenue agent determines that.

7 Q And I'm sorry, I didn't get the name of the revenue agent.

8 A Revenue agents determine that.

9 Q More than one, you mean?

13:22:55 10 A It is our job to determine who is liable for tax.

11 Q Okay. So you're the revenue agent, and you haven't decided
12 it yet. You haven't decided whether I am liable or not.

13 How can you audit me without knowing whether I'm
14 liable or not?

13:23:16 15 A I audit you to determine if you are liable for tax.

16 Q Okay. In our conversations previously, I had written, and
17 I don't have my letter here with me today of exactly what I
18 wrote you, unless perhaps one of the other -- the prosecutor
19 has it or something. But I notice that in your answer to me in
13:23:56 20 Exhibit 83, I have asked you some questions. And I have asked
21 questions before, and you're very vague in answering. Can you
22 tell me why the IRS will not answer you directly when you ask
23 them a question?

24 A Who in the IRS are you asking about?

13:24:27 25 Q Like you. I had wrote you, I guess, and asked you the same

CROSS-EXAMINATION - CHERYL BRADLEY

13:24:32 1 questions I'm asking you -- asking you to show me the law that
2 makes me liable, and nobody has ever done that.

3 A When did you write to me on that?

4 Q I'll have to get back with that, those letters. I do have
13:24:44 5 them. I just didn't bring them today.

6 But instead of getting back each time I had written --

7 MR. GALATI: Your Honor, I object. She's testifying.

8 THE COURT: A question, please, Ms. Taylor.

9 BY MS. TAYLOR:

13:25:07 10 Q Well, for instance, in writing you letters and asking you
11 questions, instead you send back letters that says, here's a
12 publication 1, publication 5, publication this, publication
13 that. You never answer directly the question.

14 MR. GALATI: Your Honor, I object. It
13:25:27 15 mischaracterizes the exhibit.

16 THE COURT: You need to ask a question, Ms. Taylor,
17 please.

18 BY MS. TAYLOR:

19 Q Okay. Are you versed in the code? Are you familiar with
13:25:39 20 all of the Internal Revenue Codes?

21 A I'm familiar with it, but I do have to look things up now
22 and then.

23 Q I would imagine. There's about 10 million pages.

24 Are you familiar -- is your expertise mostly in income
13:25:57 25 tax, or is it in, say, for instance, firearms, guns?

CROSS-EXAMINATION - CHERYL BRADLEY

13:26:03 1 A No, I don't do anything with firearms and guns.

2 Q Then your expertise is mainly just in income tax law?

3 A Yes.

4 Q All right.

13:26:14 5 And you know all of the laws there are about income
6 tax laws and who they apply to? And what kind of class they
7 are?

8 A Like I said, sometimes I have to look them up.

9 Q Can you tell me what a 1040 form is for, basically, what
13:26:32 10 class that falls under?

11 A That is an individual income tax return form.

12 Q And what class does it fall under?

13 A I don't know what you mean by "class."

14 Q Well, they have different classes that all of the forms
13:26:44 15 fall under. You don't know which class it falls under?

16 A No.

17 Q Okay. So if somebody was to tell you what class it fell
18 under --

19 A I --

13:27:02 20 Q -- would you --

21 A Finish your question, please.

22 Q Would you know?

23 A I have never heard it referred to as a class.

24 Q I believe 1040 is a gift tax.

13:27:17 25 A No. Form 1040 is an individual income tax form.

CROSS-EXAMINATION - CHERYL BRADLEY

13:27:22 1 Q And where would you find that in the code?
2 A You won't find it in the code, because it says you file the
3 return of income in the code.
4 Q Actually, there's a provision for all of the codes that are
13:27:37 5 supposed to be filed, and 1040 is not listed as one.
6 MR. GALATI: Your Honor --
7 THE COURT: You need to ask a question, Ms. Taylor.
8 BY MS. TAYLOR:
9 Q Is 1040 listed as one?
13:27:50 10 A Where is it listed as one? I don't understand the
11 question.
12 Q In the code, it lists quite a few different forms you can
13 use to file, and in that listing the 1040 is not listed. Are
14 you familiar with that?
13:28:07 15 A In the code itself, it does not list the forms. It says
16 you have to file a return of income.
17 Q Okay.
18 So by my filing any kind of a statement, that would be
19 considered a return?
13:28:26 20 A If we can determine it was your intent to file a return of
21 income, yes.
22 Q How do you handle questions that are asked to you about
23 which form to use?
24 A If somebody asks me what form they should file, it depends
13:28:55 25 on what reason they need to file that I would answer them with

CROSS-EXAMINATION - CHERYL BRADLEY

13:28:58 1 what form they would use.

2 Q Do you tell everybody that they have to file a 1040 form
3 for income tax?

4 A No, because they may be representing a trust, and they
13:29:10 5 would file something else.

6 Q Okay. But for regular people that are just filing their
7 income tax, personal income tax, do you tell everybody that
8 that is the form they're supposed to use?

9 A Yes, that's the form we want them to use.

13:29:35 10 Q And is there any law or statute that says that's the form
11 they're supposed to use?

12 MR. GALATI: Asked and answered, Your Honor.

13 THE COURT: Sustained.

14 BY MS. TAYLOR:

13:30:05 15 Q So all of this information that is being put into the
16 computer in -- that you're handling, are you personally
17 entering that, or is that entered by somebody else?

18 A What information are you speaking of?

19 Q Any information you handle.

13:30:24 20 You said you are -- are you an assessment officer?

21 A Well, we don't have assessment officers. I don't know what
22 you mean by the question.

23 Q So you don't have assessment officers?

24 A Well, I'm not sure what you mean by that. We have revenue
13:30:39 25 agents, and we have revenue officers.

CROSS-EXAMINATION - CHERYL BRADLEY

13:30:43 1 Q But you no longer have assessment officers?
2 A I've never heard that term used.
3 Q And you've read the code all the way throughout and you
4 never heard that term?
13:30:53 5 A No, I probably have not read the code throughout, because
6 there's sections in there that I don't deal with very often.
7 Q You never read the code that says assessment officers are
8 the ones that are supposed to assess you?
9 A I've never heard that term before.
13:31:16 10 Q All right, back to the question of you entering the
11 information and doing your ques- -- your putting in your input
12 and stuff. I'm assuming that you do that on the computer. Are
13 you the one that factually enters all of that in your
14 examination -- is it an examination you're doing of me, then,
13:31:40 15 or is it an audit? Is it an examination? It's not an
16 assessment, you said, so what do you call it that you're
17 performing on my benefit?
18 A An examination.
19 Q An examination?
13:31:55 20 A Um-hmm.
21 Q So the examination that you're doing, is that all from your
22 personal, factual knowledge that you are entering into the
23 computer, I presume?
24 A Yes, it would be evidence that I collect.
13:32:09 25 Q It's evidence that you collect from other sources? It's

CROSS-EXAMINATION - CHERYL BRADLEY

13:32:12 1 not your personal, factual knowledge?

2 A I don't understand that question.

3 Q Do you have firsthand knowledge of what you're entering
4 into the computer on my behalf?

13:32:26 5 A Yes. If I get a check and I enter it into the computer, I
6 know that it's a check and I enter it.

7 Q It may be a check, but do you know -- do you have firsthand
8 knowledge of that check? I mean, anybody can send you in
9 anything. Would you enter it?

13:32:47 10 A It would depend on whether or not it was pertinent to the
11 examination.

12 Q Wait a minute. If somebody did not like me, sent in a 1099
13 on me, it looked perfect, would you enter it?

14 A Would I enter it? No. First I would find -- determine if
15 it was true.

16 Q How do you go about determining that?

17 A I would go to the person who sent it and ask them to show
18 me supporting documents to show that it was true.

19 Q And have you gone to everybody in my case and asked for
13:33:29 20 supporting documents on everything that you've entered?

21 A I have -- well, I entered information on your case from
22 bank statements.

23 Q Is it not possible that bank statements could be incorrect
24 at some times? Somebody can make mistakes? Did you not
13:33:54 25 gather -- talk to and get -- I asked if you had firsthand

CROSS-EXAMINATION - CHERYL BRADLEY

13:34:00 1 knowledge from those people.

2 A Well, when I summoned bank records and I receive them, they
3 certify that it is the records that they keep in the ordinary
4 course of business, and therefore I assume that they're correct
13:34:14 5 to the best of their ability.

6 Q And therefore they're just assumptions. You haven't
7 given -- you haven't received actual firsthand knowledge of any
8 of these documents that you're entering?

9 A I'm not sure I understand what you mean by "firsthand
13:34:30 10 knowledge."

11 Q Well, I asked you if somebody sent in a 1099 on me and it
12 was a company, any company that was a legitimate company, and
13 they sent it in on me, would you record that without checking
14 to see if was it true or not?

13:34:54 15 THE COURT: What's the question, Ms. Taylor?

16 MS. TAYLOR: And she said, no, she would go check and
17 see, so I'm asking her if she has verified all of the
18 information that she has entered in my case. Not necessarily
19 just the bank statements.

13:35:13 20 THE COURT: Okay. You can ask her that question. The
21 point isn't for you to argue your point; it is for you to ask
22 her to get whatever evidence she can provide.

23 MS. TAYLOR: I'm sorry. I'm not trying to be
24 argumentative. I'm just trying to explain it the best I know
13:35:25 25 how. I'm not an attorney here.

CROSS-EXAMINATION - CHERYL BRADLEY

13:35:27 1 THE COURT: Okay. So what is your question?

2 BY MS. TAYLOR:

3 Q Did you get firsthand knowledge from the entries that you
4 entered in to my case?

13:35:40 5 A I still don't understand what you mean by "firsthand
6 knowledge."

7 Q Firsthand knowledge would be that you would have to
8 actually be there and see it. You would have to actually be
9 there and see the entries. It's not something that would be
10 passed down to you and then you would just record it.

13:35:56 11 A When you receive a check from the bank -- so I summon
12 records from the bank, and they give me this list of checks,
13 and they show me pictures of checks. That's what I enter in,
14 is the information I draw from the pictures of those checks.

13:36:25 15 Q And are you saying that those are all correct and you have
16 firsthand knowledge that those are all correct?

17 MR. GALATI: Your Honor, I object. This is gone over
18 and over.

19 THE COURT: We have covered a lot of this ground
13:36:42 20 already. Let me ask you this, Ms. Taylor. Are you trying to
21 find out if she was present at the bank when the check was
22 deposited or present when the check was written by the person
23 who wrote the check? Is that the firsthand knowledge you're
24 referring to?

13:36:58 25 MS. TAYLOR: Part of it, yes.

CROSS-EXAMINATION - CHERYL BRADLEY

13:37:00 1

THE COURT: Okay.

2

3

4

And I think she established she doesn't have that kind of firsthand knowledge. What else is it you're trying to get at?

13:37:07 5

6

MS. TAYLOR: Well, if she doesn't have firsthand knowledge, then she's not -- she's -- it's hearsay.

7

8

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13:37:22 10

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THE COURT: Well, that's an argument you can make at some point. But you're here to ask questions at this point. You'll have a chance to argue eventually. But what you need to do is ask a question of this witness that gets additional relevant evidence. So if you have more questions, you ought to ask them. But let's not keep going over firsthand knowledge. I think you've got what you need to make the argument you're apparently intending to make.

13:37:38 15

16

17

18

MS. TAYLOR: Okay.

Let me see if I have anything else. If I could turn this over to an attorney, I'd be just happy.

Excuse me just a minute.

19

BY MS. TAYLOR:

13:38:22 20

21

22

Q Oh. The only other thing I had to ask was, I had written these letters to the bank asking -- telling them that these were my private documents.

23

24

13:38:51 25

Do you know of any law that forbids a person to privacy, to have private records? And to -- do you know of any law that says a person doesn't have privacy to their bank

CROSS-EXAMINATION - CHERYL BRADLEY

13:38:57 1 records?

2 A No.

3 Q Is it a crime to have privacy in your bank records?

4 A I don't know. I don't understand your question.

13:39:14 5 Q Would it be a crime to ask the bank or tell the bank that
6 these are your private records and you do not want them to be
7 sent out to anybody or for anybody to have access to them?

8 A I don't believe so.

9 Q Okay. Thank you very much.

13:39:35 10 THE COURT: Redirect?

11 MR. GALATI: Just very briefly, Your Honor.

12 R E D I R E C T E X A M I N A T I O N

13 BY MR. GALATI:

14 Q Ms. Bradley, you had a discussion with Ms. Taylor
15 concerning your determination of liability, correct?

16 A Yes.

17 Q I'm not sure I understood or you understood what liability
18 is being spoken of. Who is it that determines whether or not
19 there is a tax due and owing after an audit?

13:40:04 20 A The examiner.

21 Q You?

22 A Yes.

23 Q Was that your purpose in doing the examination that you
24 spoke of?

13:40:11 25 A Yes.

REDIRECT EXAMINATION - CHERYL BRADLEY

13:40:13 1 Q Liability. Do you have any role -- do you make any
2 decisions concerning criminal liability for violation of the --
3 for criminal violation of the Internal Revenue Code?

4 A No.

13:40:27 5 Q Did you make any kind of determination about that in this
6 case?

7 A No.

8 Q Is that what this jury is for?

9 A I believe so.

13:40:37 10 Q Whose responsibility is it to report income to the Internal
11 Revenue Service?

12 A The individual or corporation or whatever other entity it
13 is.

14 Q The taxpayer?

13:40:49 15 A Yes.

16 Q And there was discussions here concerning 1099s and all
17 that. What's the general term for people that report to the
18 IRS or entities that report to the IRS money that they have
19 paid to other people?

13:41:07 20 A They refer to those as information returns.

21 Q And do employers or -- employers, do they supply those to
22 the IRS?

23 A Yes. Usually an employer will use a Form W-2.

24 Q And is that how the IRS -- one of the ways the IRS measures
13:41:26 25 a tax return against what employers say they paid employees,

REDIRECT EXAMINATION - CHERYL BRADLEY

13:41:31 1 for example?

2 A Yes.

3 Q Is that one of the tools you used in determining whether or

4 not a tax is due and owing?

13:41:36 5 A Yes.

6 Q When you said to Ms. Taylor that you haven't made any -- I

7 think you said final determinations, but any determination yet

8 in this case, what determination were you speaking of?

9 A I thought it was within the proceeding. That hasn't been

13:41:52 10 determined yet because not all of the information has been

11 entered into evidence.

12 Q When you say "the proceeding," you mean this trial?

13 A Yes.

14 Q Are you referring to the fact that you're going to be

13:42:03 15 testifying later concerning your determination as to what tax

16 liability there is and what tax may be due and owing for each

17 year?

18 A Yes.

19 Q And you're going to consider what you hear in this trial in

13:42:14 20 addition to other things you have done up to this point?

21 A Yes.

22 Q All right.

23 MR. GALATI: I have no further questions, Your Honor.

24 THE COURT: All right.

13:42:24 25 Thanks. Can you step down.

REDIRECT EXAMINATION - CHERYL BRADLEY

13:42:26 1 MR. GALATI: Your Honor, may Ms. Bradley now remain as
2 the summary expert witness?

3 THE COURT: Yes.

4 MR. GALATI: Thank you.

13:42:32 5 Our next witness, Your Honor, is Gerald Ricke.
6 Gerald with a "G."

7 May I approach Ms. Richter, Your Honor?

8 THE COURT: You may.

9 Sir, would you come to the front of the courtroom,
13:43:13 10 please, to be sworn as a witness.

11 THE COURTROOM DEPUTY: Please state your name and
12 spell your last name for the record.

13 THE WITNESS: Gerald J. Ricke, R-I-C-K-E.

14 MR. GALATI: Mr. Ricke, good afternoon.

13:44:15 15 THE WITNESS: Hi.

16 MR. GALATI: May I proceed, Your Honor?

17 THE COURT: You may.

18 MR. GALATI: Mr. Ricke, will you pull the microphone
19 close to you so everyone can hear? Thanks very much. Be
13:44:22 20 comfortable.

21 **GERALD J. RICKE,**

22 called as a witness herein, after having been first duly sworn
23 or affirmed, was examined and testified as follows:

24

25

DIRECT EXAMINATION - GERALD J. RICKE

1 DIRECT EXAMINATION

2 BY MR. GALATI:

3 Q Mr. Ricke, would you tell the ladies and gentlemen your
4 full name.

13:44:28 5 A My name is Gerald J. Ricke.

6 Q And you spell Gerald with a "G," correct?

7 A That's correct.

8 Q And Ricke is R-I-C-K-E?

9 A Yes.

13:44:36 10 Q And, Mr. Ricke, what city do you live in?

11 A I live in Gilbert.

12 Q How long have you been in Arizona?

13 A Since 1959.

14 Q What is your occupation?

13:44:44 15 A I'm a real estate developer.

16 Q How long have you been in that business?

17 A Since '71.

18 Q And have you concentrated in any particular area of Arizona
19 or the Valley?

13:44:57 20 A Mainly Gilbert.

21 Q And I want to ask you: Do you know Sue Taylor?

22 A Yes.

23 Q Is she in the courtroom?

24 A Yes.

13:45:11 25 Q Can you point her out?

DIRECT EXAMINATION - GERALD J. RICKE

13:45:12 1 A Right there.

2 Q Do you know Ron McBride?

3 A Yes.

4 Q Is he in the courtroom?

13:45:19 5 A Yes. He's right there.

6 Q The gentleman with the mustache that's sitting there?

7 A Yes.

8 MR. GALATI: May the record reflect identification of

9 Ms. Taylor, Your Honor?

13:45:31 10 THE COURT: Yes.

11 BY MR. GALATI:

12 Q How long have you known Sue Taylor?

13 A Probably 15, 20, 25 years.

14 Q And was there a period of time when you and Ms. Taylor were

13:45:52 15 what I call boyfriend and girlfriend?

16 A Yes.

17 Q Can you give us an approximate date that that was the case?

18 A It was probably, let's see. Nine years ago until -- well,

19 nine years ago is when it was over and then probably ten, 15

13:46:12 20 years before that we was --

21 Q Together?

22 A Together.

23 Q Your relationship was close?

24 A Pardon?

13:46:21 25 Q You had a close relationship with her?

DIRECT EXAMINATION - GERALD J. RICKE

13:46:23 1 A Yes.

2 Q Did you actually live with her for a period of time?

3 A Yes.

4 Q Did you build a house together?

13:46:29 5 A Yes.

6 Q When you met Ms. Taylor, what business were you in? Were

7 you in the real estate development business at that time?

8 A Yes. Yes.

9 Q What was she doing when you met her?

13:46:41 10 A She had a restaurant.

11 Q Was she doing any real estate work at that point?

12 A No.

13 Q Did there come a time when she went to real estate school

14 while you and she were together?

13:46:57 15 A Yes.

16 Q And did she become a licensed real estate agent?

17 A Yes.

18 Q And subsequently a broker?

19 A Yes.

13:47:04 20 Q Does the entity National Land Bank mean anything to you?

21 A That was her real estate company.

22 Q That was her real estate company?

23 A Yes.

24 Q A brokerage?

13:47:17 25 A I -- yes.

DIRECT EXAMINATION - GERALD J. RICKE

13:47:19 1 Q Do you know where it was located?

2 A It was located at 20 North Gilbert Road.

3 Q Have you been to that location?

4 A Yes.

13:47:27 5 Q On how many occasions, do you think?

6 A Well, quite a few at one time.

7 Q Okay. And during the course of the time that you and

8 she -- you and Sue Taylor were together, did Sue Taylor ever do

9 real estate work for you in your office or home?

13:47:48 10 A No.

11 Q I want to ask you about a couple of other people. Do you

12 know who -- did you have any partners in some of your ventures?

13 A Yes.

14 Q And can you tell me the name of some of them? Was Ray

13:48:05 15 Olson one of them?

16 A Yes.

17 Q And who else?

18 A Dennis Barney.

19 Q Dennis Barney. B-A-R-N-E-Y?

13:48:13 20 A Yes.

21 Q And were they developers, as were you?

22 A Yes. We were all partners.

23 Q Is Mr. Barney still alive?

24 A No.

13:48:24 25 Q Has he recently deceased?

DIRECT EXAMINATION - GERALD J. RICKE

13:48:27 1 A Probably three years ago.

2 Q I want to ask you about a couple of ventures. Could you
3 take a look at -- I believe -- I'm not sure you have it yet. I
4 want to hand you Exhibit 265. I believe this is a document you
13:48:53 5 and I were looking at a little while ago. And I know the print
6 is small on some of these things.

7 MR. GALATI: Your Honor, 265 is in evidence. May we
8 display the first page to the jury?

9 THE COURT: When did 265 come in to evidence?

13:49:13 10 MR. GALATI: I thought this morning.

11 THE COURT: My notes show we went 247 through 261 and
12 268 through 272. I don't show us having covered 265.

13 My notes are wrong. Lisa tells me it was through
14 266. So that is in evidence.

13:49:33 15 MR. GALATI: That's what I have, Your Honor.

16 THE COURT: Yes. Then it may be displayed.

17 MR. GALATI: Mr. Ricke, can you see it?

18 THE COURT: Lisa, would you display it --

19 THE WITNESS: Yeah, I can now.

13:49:44 20 BY MR. GALATI:

21 Q I would like to direct your attention to the top of the
22 front page of that exhibit. See where it says "master
23 statement"? On the front page.

24 A Okay. Yeah. Yeah, I do.

13:50:05 25 Q There it says -- I just want to ask you if this is a -- if

DIRECT EXAMINATION - GERALD J. RICKE

13:50:08 1 this is a real estate transaction that you were involved with.
2 It indicates here that the buyers of this were Sun State Ranch
3 Estates Land Trust and Eloy Kota and E.T. Lee Living Trust and
4 Circle R Investments, LLC.

13:50:27 5 A That's correct.

6 Q Are you at least part of Circle R Investments, LLC?

7 A Yes, at that time.

8 Q And the property being referred to here is 11 mile Corner
9 and Sunscape in Casa Grande.

13:50:42 10 A That's correct.

11 Q So were you part of this real estate transaction as
12 depicted in this escrow file?

13 A Yes, I was.

14 Q And what was your -- you were one of the buyers?

13:50:56 15 A I was one of the partners with Eloy Kotalik and Lee
16 (phonetic).

17 Q And Circle R, is that you and -- did you tell me your
18 children?

19 A Yes.

13:51:12 20 Q What kind of a -- what was being acquired here, to the best
21 of your recollection?

22 A It was property.

23 Q Was it raw land?

24 A It was raw land and then -- basically, most of it was raw
13:51:22 25 land.

DIRECT EXAMINATION - GERALD J. RICKE

13:51:26 1 Q Do you remember how much money had you invested in this
2 transaction?

3 A We paid a little over 5 million.

4 Q And I would like you to take a look at the third page. If
13:51:38 5 you go two more pages down where it says Certification of
6 Trustees is the third page. The Bates number is 3466 down at
7 the bottom. Do you see that?

8 A I see that. The trust. I don't see 3466.

9 Q Way down in the right-hand corner. I want to make sure
13:52:00 10 we're on the same page. Can you look at the screen right to
11 your right.

12 A Oh, right here.

13 Q Yeah.

14 Do you see that?

13:52:08 15 A Yeah.

16 Q Do you see where it says "names of trustor, R.J. McBride
17 and Desiree Saunders"?

18 A Yes, I do.

19 Q Do you know who Desiree Saunders is?

13:52:22 20 A Yes, I do.

21 Q Who is that?

22 A That's Sue's daughter.

23 Q Sue Taylor's daughter.

24 A That's correct.

13:52:29 25 Q And a little further down that page, Desiree Saunders signs

DIRECT EXAMINATION - GERALD J. RICKE

13:52:32 1 as trustee on the 30th of June of 2006; is that correct?

2 A Yes.

3 Q Can you go one more page. Down in the right-hand corner of
4 the page, it says, 3467. Do you see that? And it says, Legal
13:52:50 5 Approval at the top.

6 A Yes. Yes, I see it.

7 Q Is this also signed by Desiree Saunders?

8 A Yes.

9 Q Is that your signature there for Circle R?

13:53:00 10 A Yes, it is.

11 Q The next page, 3468. Down at the corner is 3468, it's
12 called Warranty Deed. Do you see that one?

13 A Yes, I do.

14 Q Does that indicate that R.J. McBride and Desiree Saunders
13:53:23 15 are trustees for 11 Mile Corner Land Trust?

16 A Yes, I see that. I don't see Desiree's name.

17 Q About one third of the way down the page, perhaps a quarter
18 of the way down the page. "Grantors do hereby convey to
19 R.J. McBride and Desiree E. Saunders." Do you see that?

13:53:51 20 A Yes.

21 Q At 3469, which is the next page, Affidavit of Property
22 Value. Do you see that?

23 A 3469.

24 Q Down in the right corner. Perhaps it's on the screen next
13:54:05 25 to you.

DIRECT EXAMINATION - GERALD J. RICKE

13:54:06 1 A Yes, I see it.

2 Q In the right-hand column, about one third of the way, it

3 says, Sales price \$5,54,940. Do you see that?

4 A Yes, I do.

13:54:20 5 Q Do you recollect that is about the sales price of this

6 piece of property?

7 A To my knowledge it is.

8 Q It indicates over on the left-hand column, the buyer was

9 Circle R.

13:54:29 10 A That's correct.

11 Q That's you and your children?

12 A Yes.

13 Q The next page, which is 3470, the title of it is, Synopsis

14 of Trust. Under the Sunset Ranch Estates Land Trust synopsis.

13:54:53 15 A Yes.

16 Q Does it indicate the trustees are R.J. McBride, Desiree

17 Saunders, and Everett Lee.

18 A Yes.

19 Q Is Everett Lee your friend?

13:55:03 20 A Yes.

21 Q Did he have something to do with getting you into this

22 deal?

23 A Yes, he did.

24 Q Did he bring it to you, basically?

13:55:11 25 A Yeah. Him and Eloy was kind of running around, and they

DIRECT EXAMINATION - GERALD J. RICKE

13:55:16 1 said they had this good deal, so I joined them in it.

2 Q Can you look a couple pages further at 3472, which should
3 be two more pages, I believe. Perhaps three more pages.

4 A Okay.

13:55:34 5 Q At the top it says, "Correct spelling of seller's last
6 name." Do you see that?

7 A I see that.

8 Q Do you see down about halfway where it says who the selling
9 broker is in this case? I mean in this transaction. I

13:55:48 10 apologize. Does it say, "Selling broker, National Land Bank,
11 LLC, Attention Sue Taylor"?

12 A Okay. Yes. Yes, it does.

13 Q I want to ask you if you can go to 3475, which is about two
14 pages more. Two more pages.

13:56:26 15 Again, does it indicate, "Selling broker, National
16 Land Bank, LLC. Sue Taylor." Do you see that?

17 A Let's see.

18 THE COURT: What page are you on?

19 MR. GALATI: 3475, Your Honor.

13:57:01 20 THE COURT: That's the number down in the lower
21 right-hand corner?

22 MR. GALATI: Yes, it is.

23 THE WITNESS: Where would it be?

24 MR. GALATI: Might I show the witness, Your Honor?

13:57:13 25 THE COURT: Yeah.

DIRECT EXAMINATION - GERALD J. RICKE

13:57:16 1 THE WITNESS: I see it on here.

2 BY MR. GALATI:

3 Q You can refer to the screen. Do you see it on the screen?

4 A Yes, I do.

13:57:31 5 Q And if we could bring up 3490, which is toward the back.

6 Perhaps it will be on the screen.

7 A Oh. Check?

8 Q Do you see it on the screen?

9 A Yes.

13:58:03 10 Q And can you read on the top, is that a commission check?

11 A I would think so. I don't know so for a fact.

12 Q If you look above the check, does it say total commission

13 \$151,648.20?

14 A Yes it -- yes, it does.

13:58:26 15 Q And is that to National Land Bank, LLC?

16 A Yes.

17 Q All right.

18 I would like to ask you also about Circle G and

19 Ocotillo. Can you tell -- do you know what that is?

13:58:57 20 A Yes.

21 Q Can you tell the ladies and gentlemen what that is.

22 A That's a development we did in Gilbert.

23 Q And approximately when was that?

24 A Probably eight years ago.

13:59:16 25 Q And --

DIRECT EXAMINATION - GERALD J. RICKE

13:59:17 1 MS. TAYLOR: Objection, Your Honor. That's
2 irrelevant. It was a long time ago.

3 THE COURT: Overruled.

4 BY MR. GALATI:

13:59:26 5 Q I would like to ask you to take a look at Exhibit 188.
6 It's in a folder there. Do you see that?

7 THE COURT: Lisa, is 188 --

8 THE WITNESS: I got it.

9 THE COURT: -- on the witness stand? Okay.

13:59:55 10 BY MR. GALATI:

11 Q Do you recognize what Exhibit 188 is, Mr. Ricke?

12 A Yes, I do.

13 Q What is it?

14 A It's a development we did.

14:00:03 15 Q Is it a diagram of the lots?

16 A Yes, it is.

17 Q Of the Circle G at Ocotillo?

18 A Yes, it is.

19 Q What was Sue Taylor's association with this development?

14:00:12 20 A She was the real estate -- she was the real estate agent.

21 Q And was she the exclusive agent for the seller?

22 A Yes.

23 Q And as such, were you or your partners the people that paid
24 her commissions that she earned on sales?

14:00:36 25 A Well, the title company basically paid her.

DIRECT EXAMINATION - GERALD J. RICKE

14:00:41 1 Q All right.

2 In this development, to the best of your knowledge,

3 did Sue Taylor buy any of the lots?

4 A As I remember, she bought two.

14:00:55 5 Q Do you remember which ones they were?

6 A No, I don't.

7 Q All right.

8 This, what you're looking at, is it something that was

9 prepared to aid in the sale of the lots?

14:01:10 10 A Rephrase that question.

11 Q Was the document that you're looking at, the diagram, was

12 that prepared so people that are interested could see what the

13 development looks like?

14 A Yes.

14:01:21 15 Q All right.

16 MR. GALATI: I move to admit 188, Your Honor.

17 THE COURT: Any objection, Ms. Taylor?

18 MS. TAYLOR: No, Your Honor.

19 MR. GALATI: May we show the jury?

14:01:33 20 THE COURT: 188 is admitted.

21 You may.

22 MR. GALATI: I apologize.

23 (Exhibit 188 admitted.)

24 BY MR. GALATI:

25 Q Mr. Ricke, taking a look at it, it's on the screen now for

DIRECT EXAMINATION - GERALD J. RICKE

14:01:40 1 the jurors, at the top it says, National Land Bank, LLC. It's
2 got 20 North Gilbert, Gilbert, Arizona. Phone: Sue Taylor,
3 with that phone number. Why is that on there?

4 A Because she was the real estate agent that was selling the
14:01:55 5 lots.

6 Q Would you take a look at exhibit -- take a look at
7 Exhibit 150-A. Would you look at that.

8 A Would this be it? It must have fell out.

9 Q Yes. I'm not sure I can see it.

14:02:28 10 A Is that it? It must have fell out. Okay.

11 Q Could you just thumb through those.

12 Do you recognize what those might be?

13 A I think they were a commission check.

14 Q Written by whom to whom?

14:03:26 15 A Written to National Band -- written to National Land Bank
16 from T.S. Barney and Gerald Ricke.

17 Q That is your partner and you?

18 A Yes.

19 Q And were these checks written to National Land Bank and Sue
14:03:47 20 Taylor for real estate agent services, commissions earned?

21 A Yes.

22 Q And do you know what development or what project of these
23 may have been -- these commissions may have been earned from?

24 A There was a piece of ground Larry Miller had bought from
14:04:07 25 us.

DIRECT EXAMINATION - GERALD J. RICKE

14:04:08 1 Q Where was that located?

2 A It was on Hunt Highway and Thompson Road.

3 Q And if there are checks written from you or your partners

4 during that period of time depicted there to National Land

14:04:22 5 Bank, would they have been for anything other than real estate

6 commissions?

7 A No.

8 Q Would you take a look at Exhibit 151-A, which is a single

9 check, correct?

14:04:46 10 A Okay.

11 Q Would that be the same, a commission check? Written by

12 you?

13 A I believe so.

14 Q Thank you.

14:04:58 15 One last area of inquiry, Mr. Ricke. If I recall

16 correctly, I think you said you were together with Ms. Taylor

17 15 or -- did you say 10 or 15 or 20 years?

18 A 10 or 15, probably.

19 Q Did there come a time when you and she traveled to Las

14:05:19 20 Vegas and the Caribbean to attend tax seminars?

21 A Just to the Caribbean.

22 Q To the Caribbean?

23 A Yes, I believe.

24 Q Did you go with her?

14:05:30 25 A Yes, one time.

DIRECT EXAMINATION - GERALD J. RICKE

14:05:32 1 Q And do you remember where in the Caribbean this was?

2 A No, I don't.

3 Q Do you remember -- I'm sorry. Were you about to say
4 something?

14:05:45 5 A The deal in Vegas was --

6 Q Hold on a second. Let's just do one at a time.

7 You said you went to the Caribbean.

8 A Yes.

9 Q Do you have any idea when it might have been?

14:05:56 10 A No, no idea.

11 Q All right. And did you attend meetings with Ms. Taylor
12 where speakers were talking about taxes?

13 A Yes.

14 Q And was she with you when this happened?

14:06:11 15 A Yes.

16 Q After you were at one of the sessions with her, did you
17 voice your opinion about what you were told?

18 A Yes.

19 Q What did you tell her?

14:06:22 20 A I told her she's crazy if she don't pay taxes.

21 Q Was there something that a speaker said during that
22 proceeding that you were at and she was at that caused you to
23 make a certain statement to her?

24 A Well, the guy who was teaching the seminar said "We got

14:06:43 25 people that sometimes put their money in Caribbean islands, and

DIRECT EXAMINATION - GERALD J. RICKE

14:06:49 1 they hide it so good, they can't find it themselves."

2 Q Did the speaker say he had hidden his own money, buried it
3 so deeply he couldn't find it himself?

4 A Yes.

14:07:00 5 Q What did that cause you to say to Ms. Taylor?

6 A I said we need to pay our taxes. I mean, they don't put
7 roads and stuff in without paying taxes.

8 Q Did you tell her what he just said was illegal as hell?

9 A Yes.

14:07:13 10 Q Was that your quote?

11 A Yes.

12 Q At some point, did she voice to you the opinion that she
13 shouldn't have to pay taxes because the government spends too
14 much money?

14:07:27 15 A Well, I don't know about that. She used to say that it
16 says in the Constitution that you do not have to pay taxes.

17 Q You don't recall a statement about spending too much money?

18 A I can't recall.

19 Q All right. That's fine.

14:07:48 20 And did you go to -- you started to mention Las Vegas.
21 Did you go to a similar meeting in Las Vegas?

22 A No. What I meant about Las Vegas was --

23 Q Hold on. I don't want you to talk about it unless it is
24 relevant to what we're talking about.

14:08:03 25 A Okay.

DIRECT EXAMINATION - GERALD J. RICKE

14:08:04 1 Q Thank you.
2 MR. GALATI: May I have one second, Your Honor?
3 THE COURT: Yes.
4 MR. GALATI: That's all I have, Mr. Ricke. Thank you
14:08:37 5 very much.
6 THE COURT: Hold on just a minute.
7 Cross-examination.
8 Ms. Taylor, do you have any cross-examination
9 questions?

11:19:09 10 C R O S S - E X A M I N A T I O N

11 BY MS. TAYLOR:
12 Q Hi, Jerry.
13 A Hi.
14 Q Jerry, you mentioned I had boughten two lots from you in
14:09:08 15 Ocotillo. Do you have any factual, evidential proof of that?
16 A I don't believe I do.
17 Q Was that just your opinion?
18 A I guess so, yes.
19 Q Wasn't it, in fact, somebody else that bought those two
14:09:33 20 lots?
21 A Was if I was dealing with somebody else, yes.
22 MS. TAYLOR: Okay. That's all the questions I have.
23 THE WITNESS: Okay. Thanks.
24 THE COURT: Okay.
14:09:47 25 Any redirect?

CROSS-EXAMINATION - GERALD J. RICKE

14:09:48 1 MR. GALATI: No, Your Honor.

2 THE COURT: All right.

3 Thanks. You can step down.

4 MR. KNAPP: Your Honor, the United States calls Jerry

14:10:38 5 Carter.

6 THE COURT: All right.

7 Sir, would you please come to the front of the
8 courtroom to be sworn as a witness.

9 THE COURTROOM DEPUTY: Please state and spell your
14:11:01 10 name for the record.

11 THE WITNESS: Jerry Carter, J-E-R-R-Y, C-A-R-T-E-R.

12 MR. KNAPP: May I begin, Your Honor?

13 THE COURT: You may.

14 **JERRY CARTER,**

15 called as a witness herein, after having been first duly sworn
16 or affirmed, was examined and testified as follows:

17 D I R E C T E X A M I N A T I O N

18 BY MR. KNAPP:

19 Q Mr. Carter, good afternoon. How are you doing?

14:11:40 20 A I'm doing great.

21 Q Can you introduce yourself to the jury, please.

22 A I'm Jerry Carter. I'm an Internal Revenue Service --
23 revenue officer with the IRS.

24 Q What I want to do is start off with a little bit of your
14:11:50 25 background and also see if I can have you explain some of the

DIRECT EXAMINATION - JERRY CARTER

14:11:53 1 general matters related to the IRS, because some people don't
2 know how the IRS is structured.

3 So let's start with you. How long have you been a
4 revenue officer?

14:12:03 5 A I've been a revenue officer for almost 29 years.

6 Q What does a revenue officer do, in a nutshell?

7 A In a nutshell, a revenue officer is hired to assist
8 taxpayers comply with the Internal Revenue Code regarding the
9 filing and paying of taxes.

14:12:18 10 Q And one of your duties, is that collections?

11 A Yes. Part of our job is collecting the money. I'm
12 assigned cases where taxpayers have failed to either file and
13 pay their taxes.

14 Q Let's begin with the background. There are revenue agents
15 and revenue officers within the IRS. What is the distinction?

16 A I'm a revenue officer. Normally what happens, the taxpayer
17 or revenue agent will propose an assessment of taxes.

18 Q This is actually assuming there's an audit; is that right?

19 A Yes. Either the taxpayer voluntarily files a return, the
14:12:51 20 return is assessed, and there's a balance due.

21 If a revenue agent proposes an assessment, then
22 there's what we call an SFR assessment or an exam assessment.
23 Either way, the case can be assigned to someone like myself,
24 who is revenue officer. My job is to go out and collect money
14:13:07 25 for the delinquent returns.

DIRECT EXAMINATION - JERRY CARTER

14:13:10 1 Q So the revenue agent deals with the calculation, the
2 assessment of tax, and the revenue officer deals with the
3 collection of the debt; is that right?

4 A That is correct.

14:13:21 5 Q Are there internal review mechanisms in case someone wants
6 to dispute the IRS's calculation or assessment of the tax?
7 Let's start with that.

8 A Absolutely. For the assessment of the tax, the --
9 whoever -- if the taxpayer itself files a return, the taxpayer
14:13:43 10 can always appeal any type of findings, any type of interest,
11 penalties that are assessed with the tax.

12 If the Internal Revenue Service imposes a assessment
13 on behalf of the taxpayer, the taxpayer has numerous appeal
14 rights to appeal the assessment that the revenue agent is
14:14:03 15 proposing. They can go to the appeals. If they are unhappy
16 with the appeals decision, they can go to the United States
17 Tax Court. If they're unhappy -- the taxpayer is unhappy with
18 the United States Tax Court determination, then they can go to
19 the United States Ninth Circuit Court of Appeals, try their
14:14:20 20 luck there. If they're not happy with that opinion, they
21 always have the opportunity to pursue it at the Supreme Court.

22 Q And this is just -- we're just talking now about the
23 calculation, the assessment of tax, right?

24 A That's just the examination side.

14:14:31 25 Q What about the collection side? What do you start out with

DIRECT EXAMINATION - JERRY CARTER

14:14:34 1 on the collection side? How do you try and collect a debt?

2 A As a revenue officer, I'm usually assigned a case, and it
3 will tell me the name of the taxpayer and the number of years
4 taxes were owed, a couple years, and how much money they owe
14:14:46 5 for each year. My job is to determine how the taxes were
6 assessed. Did the taxpayer voluntarily file the returns? Did
7 the service prepare the returns for the taxpayer because the
8 taxpayer failed to?

9 And there's all kind of mechanisms, different
10 functions within the IRS that will propose assessments, such
11 as revenue agents. There's also computer programs that will
12 come up with assessments and mail the letters to the taxpayer.
13 My job, I'll get a case assigned to me to collect unfiled
14 returns, unfiled money; and then one of the first things we do
14:15:17 15 is we send letters to the taxpayer explaining what years they
16 owe money for and how much, and then I'm required by law to
17 give them all their appeal rights. And there are numerous
18 appeal rights for a taxpayer to pursue during the collection
19 process.

14:15:30 20 Q And, again, is this an internal appeal right or to a tax
21 court or to a federal court? Do you know? If you don't
22 know the answer --

23 A I do know. Starting at the very beginning, before the IRS
24 or revenue officer, like myself, would start to collect the
14:15:44 25 money, we're required to send what's called a letter 1058. The

DIRECT EXAMINATION - JERRY CARTER

14:15:48 1 taxpayer gets the letter 1058. It will tell the taxpayer how
2 much you owe and what years you owe it for.

3 If the taxpayer doesn't think the IRS should start
4 collecting money, the taxpayer can file a claim to the
14:16:00 5 internal appeals office of the IRS. It's called the Office of
6 Appeals. It is an independent office of the IRS. And they
7 can file a claim there, and an independent settlement officer
8 will take a look at the case to see if collections should be
9 pursued.

14:16:15 10 If appeals issues a determination saying the
11 collection should be pursued, then the taxpayer has a right to
12 continue her appeal by going to the U.S. Tax Court or even the
13 U.S. District Court. If the taxpayer appeals to U.S. District
14 Court or U.S. Tax Court and those courts issue a determination
14:16:31 15 against the taxpayer and the taxpayer doesn't like it, they
16 can appeal it to the Ninth Circuit Court of Appeals, which, of
17 course, is in San Francisco. If the taxpayer doesn't like the
18 determination of the Ninth Circuit Court of Appeals, then the
19 taxpayer always has a right to appeal to the United States
14:16:46 20 Supreme Court. And that is just one set of appeals.

21 Any time a taxpayer is going to be levied or after
22 we're levied, any time we're going to seize property or after
23 we seize property, the taxpayer has access to the collection
24 appeals process, saying almost the same thing. The taxpayer
14:17:00 25 can meet with the collection employees, and if they're unhappy

DIRECT EXAMINATION - JERRY CARTER

14:17:05 1 with the collection employees and the collection employee's
2 manager, they can go to appeals again and pursue the case that
3 way. There's numerous avenues for appeal.

4 There's also other organizations within the IRS.
14:17:14 5 They're actually independent of the IRS, such as the taxpayer
6 advocate service who actually does not report to the
7 commission of the IRS and only reports to Congress.

8 So there's tons -- there's lots of avenues for
9 taxpayers to pursue appeals to any type of action
10 collection -- action either exam takes or revenue agent takes
11 or collection revenue officer like myself would take.

12 Q Okay. Now, did you personally work on a collection matter
13 relating to Sue Taylor?

14 A Yes, I did.

14:17:45 15 Q And when did you -- were you assigned -- when were you
16 assigned that?

17 A October 2003.

18 Q Do you remember what tax years you were collecting on?

19 A I was trying to collect tax years -- about \$275,000 for tax
14:17:58 20 years '97 and 1998.

21 Q But you didn't receive this task until 2003; is that right?

22 A I received -- the case was assigned to me in October of
23 2003.

24 Q Now, based on your -- you were on the collection side, so
14:18:11 25 you were not involved in the assessment, the calculation of

DIRECT EXAMINATION - JERRY CARTER

14:18:14 1 tax; is that right?

2 A That is correct.

3 Q So that had already been done sort of before it came to
4 your desk; is that right?

14:18:20 5 A Yes.

6 Q Do you -- nevertheless, do you know through your
7 participation in the collections of the debt whether Ms. Taylor
8 actually pursued any of the appeal mechanisms you're talking
9 about for the assessment side?

14:18:36 10 A For the years I was dealing with at the time I received the
11 case was 1997, 1998. The year 1997, I'm not aware of what
12 appeals the taxpayer may have taken regarding what the --
13 examination side.

14 Q And, again, to be clear, I don't want you to testify about
14:18:52 15 things you may have read, but things you have seen.

16 A Right. I do know that for the collection case, for the
17 year that was assigned to me in 1997, the taxpayer had appealed
18 the collection actions that the government was going to take,
19 and she was actually in the Ninth Circuit Court of Appeals. So
14:19:08 20 the taxpayer had appealed the proposed collection actions we
21 were going to take in the 1997 year to appeals, U.S. Tax Court,
22 and was in the Ninth Circuit Court of Appeals appealing the
23 actions collections was going to take. As far as 1998, that
24 was an appeals office, the Office of Appeals.

14:19:27 25 Q And do you know whether there was any, on assessment

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14:19:32 1 side -- did you ever see her in tax court?

2 A I did. I saw Sue Taylor in tax court when she was
3 appealing the, I believe it was the '99, 2000 proposed
4 assessment.

14:19:47 5 Q Now, let's get back to it. You are a revenue officer.

6 Your job is to collect debts after they have been calculated by
7 somebody else within the IRS.

8 A Yes.

9 Q And, again, what's the first step in collecting tax debts?

14:20:00 10 A First step is we notify the taxpayer of their rights, which
11 is what I discussed earlier. Then we send an appointment
12 letter to the taxpayer. We go visit the taxpayer to try to set
13 up a meeting to secure financial information from the taxpayer
14 to determine how we're going to pay the tax liability.

14:20:16 15 Q At some point, can you levy assets?

16 A Yes.

17 Q What does that mean?

18 A Well, there's two types. We serve a levy. Levy can mean
19 we levy a bank and attach all the money in the taxpayer's bank
14:20:30 20 account or we can levy a piece of property, which means seize a
21 piece of property. We can also seize cars, seize accounts
22 receivables. So we'll actually levy anything.

23 Q So, again, when you first get a file, when somebody first
24 gets a file, do they go straight to trying to levy the assets,
14:20:47 25 or do they try and find other ways to collect the debt first?

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14:20:52 1 A No, the -- very seldom does the IRS or someone like myself
2 actually have to go out and levy property and levy wages and
3 income. Usually what the taxpayer does, the taxpayer fills
4 out -- I'll make a visit to the taxpayer's house. I'll ask the
14:21:05 5 taxpayer, you know, please write me a check for the money you
6 owe. They'll say, no, I can't afford it, you know, I just got
7 laid off or I'm having financial problems. I say, fine. Then
8 we'll fill out a -- let's fill out a financial statement, see
9 how we can deal with this.

14:21:17 10 So sometimes we make a determination that the
11 taxpayer really can't pay anything towards a liability, and
12 we'll take a look at their income, take a look at their assets
13 and decide, you're right, you can't pay anything. Other
14 times, we'll take a look at their income, take a look at their
14:21:27 15 assets and say, oh, you can pay \$250 a month to pay off this
16 liability.

17 Q Okay. You inherited the collection case for Sue Taylor in
18 2003. At that point, had somebody else already begun starting
19 the process of reaching out to the taxpayer?

14:21:45 20 A Yes.

21 Q So when you got the case, what state was it in?

22 A The revenue officer prior to me had already attempted
23 contact with the taxpayer and the taxpayer's power of attorney,
24 and they were not providing any information.

14:21:57 25 Q So what did you do?

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14:22:00 1 A Because I was not allowed to do any type of collection
2 work, such as levies or liens, I started looking for assets
3 that the government may want to secure to pay off the \$275,000.
4 The reason I couldn't start any collection action is because
14:22:13 5 there was -- I had two years I was trying to collect on and
6 both of them were in appeals process, so I wasn't allowed to
7 actually pursue collection.

8 Q So you're just trying to get things in place for when that
9 appeals process has run its course?

14:22:25 10 A Right. I was looking for assets that the government could
11 secure to pay off the liabilities that were assessed and
12 probably were going to be assessed down the road. I was
13 looking for bank accounts, real estate, offshore bank accounts,
14 income, retirement accounts.

14:22:43 15 Q Did you have any difficulty finding out what property
16 Ms. Taylor owned?

17 A Yes, I did.

18 Q Why did you have difficulty?

19 A Most people, when they own a house or they own property,
14:22:52 20 they put their property in their name. Or it's easy to tie a
21 piece of property to the individual. In this case, the
22 properties that the service was aware of that she owned, they
23 were -- the properties had been transferred from her name into
24 other entities and then subsequent transfers, and sometimes
14:23:09 25 properties were bought by nominees so the property was never in

DIRECT EXAMINATION - JERRY CARTER

14:23:12 1 Sue Taylor's name.

2 Q And let's start with there are -- there are two properties
3 in particular that you ultimately tried to track down whether
4 Ms. Taylor had an ownership interest in, right?

14:23:28 5 A Yes.

6 Q Is one of those 20 North Gilbert?

7 A Yes, it is.

8 Q Tell me about that. How did you begin the process of
9 figuring out whether this was owned by her?

14:23:39 10 A Trying to find an asset to secure to pay off the taxes, it
11 was -- I had been to Sue Taylor's office. The address is 20
12 North Gilbert Road. We wanted to file a federal tax lien that
13 would attach to the property. Normally if a taxpayer owes
14 money, we file a Notice of Federal Tax Lien. It attaches to
14:23:59 15 all the taxpayer's property income, kind of like a deed of
16 trust just attaches to everything.

17 In this case, I did file the Notice of Federal Tax
18 Lien, so did the prior revenue officer, to attach all the
19 taxpayer's assets. The Notice of Federal Tax Lien would not
14:24:14 20 attach to the property at 20 North Gilbert Road because, even
21 though Sue Taylor had owned the property since 1981, in 1995
22 she transferred it to a nominee -- what we call a nominee. In
23 this case, she transferred it to a entity named Miroal, LLC,
24 in 1995.

14:24:30 25 Q And, again, you weren't there standing in front of someone

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14:24:33 1 at the county recorder's office, so you don't know who filled
2 out the forms, but you've seen different names appear in the
3 documents; is that right?

4 A That's true. Looking at the quitclaim deeds or the
14:24:44 5 warranty deeds transferring Sue Taylor's property in 1995 from
6 her own name, Sue Taylor, to Miroal, LLC, the document was
7 actually -- had a signature that said Sue Taylor, Janice Sue
8 Taylor. I can't actually prove it was her that signed it. And
9 she transferred it to Miroal, LLC. A check at the Arizona
14:25:04 10 Corporation Commission shows Sue Taylor is a member of Miroal,
11 LLC, so she actually transferred it from herself to another
12 entity that she was an owner of.

13 Q When you first started on the case and tried to -- started
14 looking at 20 North Gilbert, who was the nominal owner of the
14:25:26 15 property at that point?

16 A When I first started looking at the property, it was in the
17 name of Herbal Land Trust, Desiree Saunders, trustee, the
18 taxpayer's daughter.

19 Q Did you know that was the taxpayer's daughter?

14:25:36 20 A Yes.

21 Q What did you do to try and figure out -- did you try and
22 get any information from the nominal owner, from Ms. Saunders?

23 A I served several summons to her. I served two summons to
24 Desiree Saunders, because the property transferred several
14:25:51 25 times. It went from Sue Taylor in '95 to Miroal, and then from

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14:25:56 1 Miroal in 2000 -- the year 2000 it was transferred from Miroal
2 to Workplace Trust. And then in 2003, it was transferred from
3 Workplace Trust to Herbal Land Trust. And Desiree Saunders was
4 the trustee, again, for Workplace Trust and for Herbal Land
14:26:16 5 Trust.

6 So to find out some information about the property, I
7 did serve two summons to Desiree Saunders, who is Sue Taylor's
8 daughter, regarding the transfer of the property, regarding
9 the ownership, and if any compensation was paid. Desiree
14:26:32 10 Saunders did acknowledge receiving the summons, which is like
11 a subpoena, but she failed to come into our office.

12 Q Did she provide you any information?

13 A No. She never came in.

14 Q Is that unusual in your experience?

14:26:46 15 A It is very unusual for people if they own a property, that
16 they're questioned or they're served a summons regarding
17 property, to ignore it. Most people, if they receive a summons
18 in the mail and the IRS is looking into it, a piece of property
19 they own, usually they would gladly explain their ownership or
14:27:02 20 how they got the property or how they sold the property.

21 In this case, Desiree Saunders, who had transferred
22 from one entity to another entity, sent me a couple letters
23 saying she received the summons, but refused to come in.

24 Q How did you -- what did you do next? Did you ultimately
14:27:20 25 figure out whether, in your opinion, Ms. Taylor had an

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14:27:27 1 ownership interest in this property?

2 A The fact that Sue Taylor had been in the property since
3 1981 and was still in the property when I was looking at it in
4 2004. I also summonsed the Town of Gilbert for records. I
14:27:42 5 summonsed the Town of Gilbert for the sewer and water records,
6 and the Town of Gilbert responded that the sewer and water that
7 was in service was in the name of Sue Taylor.

8 I also summonsed APS, Arizona Public Service electric
9 utility company, regarding the service of electricity to the
14:27:59 10 building, and APS responded that Sue Taylor was the person
11 whose name was on the bills and paying for the electricity at
12 20 North Gilbert Road.

13 I also secured copies of property checks down from
14 the Maricopa County recorder. As you know, people have to pay
14:28:18 15 property taxes on their property once or twice a year. So I
16 secured all the checks that were used to pay the property
17 taxes for 20 North Gilbert Road, and during the transfer,
18 all -- during the whole time from, say, '95 to 2003, when it
19 went from Sue Taylor to Miroal, LLC, to Workplace Trust to
14:28:38 20 Herbal Land Trust, Sue Taylor was still signing the majority
21 of the tax -- checks to pay the property taxes for the
22 property.

23 Q And was at least one of these a cashier's check?

24 A There was a cashier's check. A cashier's check was used to
14:28:55 25 pay the property tax for the property. Because it was a

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14:28:59 1 cashier's check, I didn't know who actually bought the check,
2 so I actually summonsed Meridian Bank. And I got the
3 information from Meridian Bank, and it showed that Sue Taylor's
4 name was on the signature card that purchased the cashier's
14:29:13 5 check to pay for the property taxes. So I had an abundance of
6 evidence that Sue Taylor was still enjoying the property.

7 Even though she had transferred it to numerous
8 entities over the years, she was still using it. She still
9 had her name on the front door saying "Sue Taylor, Real Estate
14:29:33 10 Broker." She was paying the property taxes, electricity,
11 water, sewer. And there was no other reason to think anybody
12 else owned the property.

13 I summonsed Herbal Land Trust, Workplace Trust, and
14 Miroal, LLCs. They never responded to explain the transfer of
14:29:51 15 the property. There is absolutely no evidence any
16 compensation was ever paid as the property went from entity to
17 entity to entity. So there was no reason to believe anybody
18 owned the property other than Sue Taylor, who was still using
19 the property as she had since 1981.

14:30:06 20 Q Again, part of your job is to find assets, right?

21 A Yes.

22 Q Was this an unusually difficult process?

23 A Yes, it was. It was very time consuming. A lot of
24 summonses were served. As I said, most people, when they own
14:30:18 25 property, put it in their name and it is easily identifiable.

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14:30:21 1 Even if they put it in an LLC, they would be a member of an
2 LLC. It is usually pretty easy to find out who owns a piece of
3 property. In this case, it was obvious the taxpayer was trying
4 to --

14:30:32 5 Q Well, I don't want you to draw any conclusions.

6 Now --

7 THE COURT: Mr. Knapp, it is 2:30. Why don't we take
8 a break. We will break for 15 minutes and resume at 2:45.
9 We'll excuse the jury.

14:31:13 10 (Recess taken from 2:31 p.m. to 2:48 p.m. Proceedings
11 resumed in open court with the jury present.)

12 THE COURT: Thank you. Please be seated.

13 Let's go ahead and continue with the testimony, if we
14 can.

14:48:28 15 BY MR. KNAPP:

16 Q Afternoon, Mr. Carter. Picking up where I left off, I
17 think we were talking about your efforts to figure out the
18 ownership of 20 North Gilbert Road. We mentioned a term
19 "nominee entity." Or "nominee." What does that mean?

14:49:03 20 A Nominee is a third person, another party, another
21 individual, sometimes a trust, that a person will put their
22 title of their property into. If someone transfers their title
23 of their house to another individual or another entity such as
24 a trust, that is a nominee.

14:49:22 25 Q Okay. And did you have, in addition to 20 North Gilbert,

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14:49:25 1 was there another property you looked at to try and figure out
2 whether Sue Taylor, the defendant, had any ownership interest
3 in it?

4 A There was another property that I took a look at to
14:49:36 5 determine -- to see if I could show that Sue Taylor actually
6 owned the property, and that was the house that she used to
7 live in at 24433 South Higley Road.

8 Q And was this one difficult to figure out?

9 A Yes, it was.

14:49:51 10 Q How difficult?

11 A It was very difficult. The house was purchased and never
12 put in a taxpayer's name. It was difficult to both find the
13 property and then show that Ms. Taylor actually owned the
14 property.

14:50:07 15 Q And who was the nominal owner of the property when you
16 started looking into it?

17 A In this case, the property at -- we'll call it a residence
18 or I'll keep having to say the address is 24433 South Higley --

19 MS. TAYLOR: Objection, Your Honor.

14:50:22 20 THE WITNESS: -- Gilbert Road --

21 THE COURT: Hold on just a minute. There's an
22 objection.

23 MS. TAYLOR: Objection, Your Honor. There's been no
24 evidence to that effect, that I own that. There's been no
14:50:33 25 evidence presented. It's all irrelevant.

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14:50:37 1 THE COURT: I'm going to overrule on relevancy
2 grounds. You can certainly cross-examine on that issue of
3 ownership. But I think that is what Mr. Knapp is getting at,
4 and I think it is relevant.

14:50:49 5 BY MR. KNAPP:

6 Q Sorry. Please continue.

7 MS. TAYLOR: Assumption.

8 THE WITNESS: Okay. So the property, and I'll call it
9 her residence, because that was her residence -- I believe that
14:50:57 10 was her residence at the time. I determined that the taxpayer
11 actually lived in the property. And when you look up the
12 property on the county recorder to see who owns it, it is owned
13 by Higley Citrus Trust, number D2, John Menta is trustee.

14 When you look at the documents for the purchase of
14:51:15 15 the property, as you know, when you and I buy houses, there is
16 a warranty deed or a quitclaim deed or deed of some type. It
17 will say, "the conveying party to" to whoever is buying a
18 house. Like if I buy a house, it will say to, you know, this
19 entity conveys property to Jerry Carter.

14:51:28 20 In this case, the property was purchased from a
21 Jessica Inch, who is a unrelated third-party person, and the
22 property, the house, where Sue Taylor was living in, that she
23 eventually lived in, was purchased by Desiree Saunders, who is
24 Ms. Taylor's daughter.

14:51:44 25 And that was just vacant land in '96, so when I call

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14:51:49 1 it a house, it was really just vacant land. It was actually a
2 large parcel that they subdivided that she paid approximately
3 \$57,000 for. But it went from an unrelated third party and
4 purchased by the daughter, Desiree Saunders.

14:52:06 5 BY MR. KNAPP:

6 Q How did you go about trying to figure out whether
7 Ms. Taylor had any ownership interest in that property?

8 A The purchase -- the vacant property was purchased in 1996.
9 In 1997 they found -- they filed a document with the Maricopa
10 County recorder regarding the well on the property, and the
11 address on the document filed pertaining to the well on the
12 property we're talking about had Sue Taylor's address of 20
13 North Gilbert Road, and that was her business address. So it
14 was logical the address on the document, if it had Sue Taylor's
15 address on it, then the documents related to Sue Taylor.

16 Also, in 1998 they filed another document regarding
17 the well on the property that we're talking about, and Sue
18 Taylor actually signed the document showing that she had some
19 type of legal ownership of the real estate.

14:53:01 20 Q Okay. In case I didn't cover this already, in approximate
21 terms, what year were you working on the 20 North Gilbert
22 property and what year were you working on the Higley Road
23 property?

24 A For what tax liabilities or what years of --

14:53:18 25 Q What calendar year, not tax year.

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14:53:20 1 A I was working on the first property, 20 North Gilbert
2 property, in the year 2004. I was working -- I was doing my
3 investigation of the nominee lien for the residence she was
4 living in in 2005.

14:53:34 5 Q And just like with the 20 North Gilbert property, did you
6 try and get some information from Desiree Saunders since her
7 name was popping up on the title?

8 A Yes, I did. As Desiree Saunders was the person who
9 originally bought the property in 1996 who transferred it to a
10 trust in -- I'm sorry. She bought the property -- yeah, 1996.
11 She transferred the property in 1997 to a trust and then filed
12 a trust document in the year 2005.

13 I summonsed Desiree Saunders, and I also summonsed
14 John Menta, who was the trustee for the Higley Citrus Trust.

14:54:13 15 John Menta, I actually talked to him down the road.
16 He was a homeless person living on the property of 20 North
17 Gilbert Road, and he claimed to have no interest or actually
18 had no idea about the property in any form or fashion.

19 Ms. Taylor's daughter, Desiree Saunders, acknowledged
14:54:29 20 receiving the summons regarding the movement of the property
21 from Desiree Saunders to Higley Citrus Trust, but she refused
22 to come in to provide documents or testimony regarding the
23 property she owned or transferred.

24 Q During the course of looking through these records, did you
14:54:45 25 see any reference to Burning Bush Ministries?

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14:54:49 1 A After the government filed the nominee lien -- I'm sorry, I
2 may be incorrect.

3 An entity called Burning Brush [sic] Ministries did
4 file a UCC-1 against the -- against Ms. Taylor's house
14:55:04 5 claiming that the Higley Citrus Trust --

6 MS. TAYLOR: Objection, Your Honor.

7 THE COURT: Yes, ma'am?

8 MS. TAYLOR: He's calling the house my house. It's
9 not. It's irrelevant.

14:55:18 10 THE COURT: Overruled on relevancy grounds.

11 Again, you can cross-examine on this issue.

12 BY MR. KNAPP:

13 Q Go ahead.

14 A There was a UCC-1 filed at the Maricopa County recorder
14:55:28 15 claiming that Burning Bush Ministries had a secured debt
16 against the -- Ms. Taylor's house for \$400,000. I did some
17 research. We were unable to find any evidence there was an
18 entity called Burning Bush. It wasn't recorded at the county
19 recorder, secretary of state, Arizona Corporation Commission,
14:55:46 20 the IRS had no record of a Burning Bush Ministries. We sent
21 certified letters to Burning Bush Ministries asking for them
22 to -- about the property they supposedly had a lien on, and
23 they failed to respond.

24 Q And UCC-1, that's some sort of debt?

14:56:05 25 A It's a claim. Usually it's not legitimate for filing

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14:56:08 1 against a piece of real estate, but some people who try to
2 cloud the title of property will file a UCC-1 on a piece of
3 real estate in an attempt to cloud the true ownership of the
4 property, of real estate.

14:56:24 5 Q Let's talk about that. In your experience, how long have
6 you worked in the collections business?

7 A Coming up on 29 years.

8 Q In your experience, have you come across situations where
9 people try -- where people place what appear to be fake liens
10 on their own properties?

11 A Yes. We call them friendly liens. A taxpayer, in an
12 attempt to show creditors that they have no equity in their
13 house, will file a fake deed of trust saying that they owe
14 500 -- they owe the bank \$500,000, when in reality the house
14:56:56 15 will be free and clear. It is common tactic of some
16 individuals.

17 Q And based on your experience would this Burning Bush
18 Ministries document recorded, was that consistent with your
19 experience of a friendly lien?

14:57:07 20 A There's no doubt in my mind that was a friendly lien.

21 Q How did you ultimately figure out if, you know, if Desiree
22 Saunders wasn't giving you records and it was hard to figure
23 out who this property is passing between, how did you
24 ultimately tie it to Ms. Taylor, in your opinion?

14:57:32 25 A There's an abundance of evidence showing that Ms. Taylor

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14:57:34 1 still had the benefit and use of the property from the time the
2 property was purchased in 1996. Again, was bought as a piece
3 of vacant land.

4 Sue Taylor -- I summonsed the Salt River Project,
14:57:49 5 which is, as you know, an electricity company, utility company
6 for parts of Arizona. And SRP sent me the electricity
7 application for that specific piece of property, which was a
8 house by then, and the application was filled out in 1997, had
9 Sue Taylor's name on it, National Land Bank, which was her
14:58:07 10 business. It had her address at 20 North Gilbert Road. It
11 had her social security number on the application for
12 electrical service. So it showed Sue Taylor applied for
13 electrical service in 1997 for this property; and, again,
14 we're in 2005.

14:58:19 15 In addition, I talked to -- there's one party named
16 Gerald Ricke, who I interviewed because he had sent in checks
17 to pay the property taxes, and he told me that he was the --
18 Q Let me just stop you there for a moment. What else did you
19 find? Moving past Mr. Ricke, what else did you find?

14:58:49 20 A There was checks. Again --

21 Q Let me -- did you come away from the meeting with Mr. Ricke
22 feeling like he had any ownership interest in the property?

23 A I had no reason to believe Gerald Ricke had any ownership
24 property in the house.

14:59:02 25 Q Okay.

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What else did you look for?

A I served a summons down to the Maricopa County Treasurer's Office to get copies of checks that someone would have paid for the property taxes on the house and received the checks back, and it was clear that Sue Taylor had signed her name to checks paying for the property taxes for the years 2000, 2001, 2003.

Q And, again, some of these records were in the form of cashier's checks?

A There were cashier's checks where when I summonsed the original documents, Sue Taylor's name or one of her -- a name "Suzi McBride" was on the signature card. And the check, the -- kind of complicated. The bank account, someone paid the property taxes with a cashier's check, so I summonsed the bank for the documents from the bank that supported the purchase of the cashier's check. When I got the information back from the bank, it gave me the name of the account. It showed me the names on the signature card, which were, I believe, Desiree Saunders and Sue McBride. And, of course, the check -- one of the checks from the account purchased the cashier's check that paid the property taxes.

Also, from that same bank account, there was a check that was made out to the Arizona Department of Vehicles, and it had a vehicle license plate on it where you would write -- on the memo section you would write the plate number you're trying to pay the vehicle tags for. I went down to the

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15:00:31 1 Arizona Motor Vehicle Department and got record of the vehicle
2 that was listed on the check, and it was Sue Taylor's
3 Escalade.

4 Q How long is this process of digging up all these utility
15:00:46 5 records and property tax payments and bank accounts and DMV
6 records?

7 A Well over a year. Maybe two years.

8 Q What ultimately happened to this property, the Higley Road
9 property?

15:00:58 10 A On the Higley property, the property she used to live in?

11 Q Yes.

12 A I'd like to point out that Ms. Taylor also sent me a letter
13 stating she did live in the property.

14 Q She said she did?

15:01:08 15 A She did. She eventually sent me a letter saying she did at
16 one time live in the property, which, again, gave me reason to
17 believe she still owned the property.

18 Eventually I was able to file what is called, again,
19 a nominee lien on the property. What that does, the nominee
15:01:23 20 lien reads, "Higley Citrus Trust as a nominee of Sue Taylor."
21 What we're saying is that the lien attaches to this property
22 even though it is not in Sue Taylor's name. And the reason we
23 can say this property is Sue Taylor's even though it is not in
24 her name is because she continues to have the full benefit and
15:01:41 25 use of the property. She pays the property taxes on it. She

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15:01:43 1 pays the utility property taxes on it. She lives in it.
2 There's no evidence anybody else lives in it. So the
3 government is ready to fight that issue in court if anyone
4 ever wants to fight that issue.

15:01:57 5 Q Do you remember approximately what month and year you
6 placed that lien?

7 A Near the end of 2005.

8 Q Could it have been January of 2006?

9 A It could have been. I don't remember the exact day I filed
15:02:07 10 it. I filed the lien manually myself.

11 Q Somewhere around there. And had you placed nominee liens
12 before in your job as a revenue officer?

13 A Yes.

14 Q Was there any reaction to the placing of the nominee lien
15:02:25 15 here? Did you get any communication from the nominees, Desiree
16 Saunders or Mr. Menta?

17 A On the Higley property, the house Ms. Taylor used to live
18 in, I did not receive any legitimate type of claims. The
19 taxpayers, even the nominees in this case -- in this case,
15:02:43 20 Desiree Saunders, John Menta, Higley Citrus Trust -- they have
21 appeal rights. They can appeal my actions. In this case, they
22 did not take -- they did not try to appeal the nominee lien.

23 Q And in your experience, if that had truly been their own
24 property rather than Ms. Taylor's --

15:03:07 25 THE COURT REPORTER: Excuse me, can you say that

DIRECT EXAMINATION - JERRY CARTER

15:03:07 1 again.

2 BY MR. KNAPP:

3 Q In your experience, if that had truly been their own
4 property rather than Ms. Taylor's, what would you have expect
15:03:08 5 to have happen?

6 A If John Menta -- if Desiree Saunders truly owned the
7 property --

8 MS. TAYLOR: Objection, Your Honor. Speculation.

9 THE COURT: Overruled.

15:03:21 10 THE WITNESS: In my experience, if someone owns
11 property and the IRS files a lien saying you don't own the
12 property, that the IRS is going take the property, that person
13 would be concerned and call the IRS up. My name and phone
14 number is actually on the lien.

15:03:35 15 BY MR. KNAPP:

16 Q And that didn't happen here?

17 A No. They never contacted me directly.

18 Q Okay.

19 MR. KNAPP: I have no further questions, Your Honor.

15:03:44 20 THE COURT: Cross-examination, Ms. Taylor?

21 C R O S S - E X A M I N A T I O N

22 BY MS. TAYLOR:

23 Q Hello. You stated your name was Jerry Carter?

24 A Yes, it is.

15:04:07 25 Q Is it Jerry Carter or Jerry Young?

CROSS-EXAMINATION - JERRY CARTER

15:04:08 1 A Jerry Carter is my real name. Jerry Young is a pseudonym
2 that the government gave me.

3 Q And do you go by any other names?

4 A My real name since I was born is Jerry Carter. I have a
15:04:20 5 middle name.

6 Q And your main job is in collections? Is that it?

7 A Yes, it is. It is.

8 Q Did you --

9 MS. TAYLOR: Oh, excuse me just a minute, Your Honor.
15:04:41 10 I have to get something.

11 THE COURT: That's fine.

12 BY MS. TAYLOR:

13 Q First of all, you said you were working on this case in
14 2'05?

15:05:12 15 A I was working this case in 2005, yes, ma'am.

16 Q Did you not receive a statement that I sent to the director
17 of international operations as Exhibit 505?

18 THE COURT: Would you like him to see that exhibit,
19 Ms. Taylor?

15:05:31 20 MS. TAYLOR: Yes, please.

21 THE COURT: You need to ask Lisa to put that in front
22 of him.

23 MS. TAYLOR: Okay.

24 BY MS. TAYLOR:

15:05:59 25 Q Were you ever working with a David J. Villaverde also?

CROSS-EXAMINATION - JERRY CARTER

15:06:03 1 A I know there's an appeals settlement officer named David
2 Villaverde.

3 Q Did you receive this letter or have you had any prior
4 knowledge of this letter that was sent to the director of
15:06:17 5 international operations and David villa Verde?

6 A I'm not sure if I have ever seen this letter before. It is
7 certainly possible you sent it to me, but I can't possibly
8 remember all of the letters I received from you over the last
9 six, seven years. Eight years.

15:06:39 10 Q I'm sure I did.

11 This is a letter to the statement in lieu of return
12 for tax years 1997 through 19 -- through 2'05. Pursuant to 26
13 U.S.C. 611, 612, 6103, and 6213(g) and 7203. Was a letter
14 written in statement in lieu of return for tax years. Firm
15:07:09 15 offer to settle or pay.

16 THE COURT: Ms. Taylor, you need to ask questions
17 rather than read the document. Is there a question?

18 MS. TAYLOR: Okay.

19 BY MS. TAYLOR:

15:07:18 20 Q In this letter I ask --

21 MR. KNAPP: Objection. Hearsay. The document's not
22 in evidence. I think she's going to just read it off.

23 THE COURT: Yeah. I think what you need to do -- are
24 you trying to get the document in evidence?

15:07:28 25 MS. TAYLOR: Yes.

CROSS-EXAMINATION - JERRY CARTER

15:07:28 1 THE COURT: If so, you need to ask them questions that
2 you think will make it admissible. But until it is in
3 evidence, you can't be reading what is in the document.

4 MS. TAYLOR: Okay.

15:07:37 5 THE COURT: Because it's not in evidence.

6 MS. TAYLOR: I thought I put it into evidence already.

7 THE COURT: No. You need to move that it be admitted
8 into evidence, and I don't think you have moved it into
9 evidence.

15:07:46 10 MS. TAYLOR: Do I move that now?

11 THE COURT: You can, yes. And then I'll see if
12 there's an objection from the government, just as we do when
13 they've been moving documents in.

14 MS. TAYLOR: Okay. I move for this to be in evidence.

15:07:57 15 THE COURT: Any objection?

16 MR. KNAPP: Your Honor, hearsay. And also I don't
17 think the proper foundation's been laid of authenticity.

18 THE COURT: Do you understand the hearsay objection,
19 Ms. Taylor?

15:08:09 20 MS. TAYLOR: I do. But don't you already have this
21 into your evidence file?

22 THE COURT: Ms. Taylor, you need to talk to me.

23 MS. TAYLOR: I'm sorry.

24 THE COURT: Do you think this is already in evidence?

15:08:20 25 MS. TAYLOR: I think they have it in their evidence

CROSS-EXAMINATION - JERRY CARTER

15:08:21 1 file.

2 THE COURT: You mean marked as an exhibit in this
3 trial?

4 MS. TAYLOR: Don't they, Susan?

15:08:28 5 THE COURT: You can go and talk to Ms. Anderson,
6 that's fine.

7 MS. TAYLOR: I apologize, Your Honor. It was in their
8 evidence -- or in their paperwork that they have, but they may
9 have not entered it in yet either.

15:09:27 10 THE COURT: Okay.

11 MS. TAYLOR: So I don't know that for sure.

12 THE COURT: Okay.

13 Are you still moving it in evidence?

14 MS. TAYLOR: I would like to move it into evidence,
15 yes.

16 THE COURT: Okay.

17 Your objection is hearsay, Mr. Knapp?

18 Ms. Taylor, a document if it's being offered for the
19 truth of the matter asserted, in other words, if your purpose
15:09:49 20 of putting it into evidence is to show that what is said in
21 the letter is true, then it's hearsay; and it can only come in
22 if the requirements for the business record exception have
23 been established, and you haven't established that.

24 If you're not putting it in to assert the things in
15:10:07 25 the document are true, but simply to assert that he got the

CROSS-EXAMINATION - JERRY CARTER

15:10:12 1 letter, then it's not hearsay. So I need to ask you what your
2 purpose is in placing Exhibit 505 in evidence?

3 MS. TAYLOR: Well, I'm putting it in evidence because
4 the IRS did get it. I'm not sure if Jerry -- Jerry Carter
15:10:31 5 should have gotten it. I sent it to him --

6 THE COURT: Okay. What do you want --

7 MS. TAYLOR: -- I don't know whether he'll deny that
8 or not.

9 THE COURT: So are you just trying to establish that
10 the document was received? Is that the purpose --

11 MS. TAYLOR: Right. Um-hmm.

12 THE COURT: Okay.

13 Is there any objection to it coming in for that
14 purpose, Mr. Knapp?

15:10:47 15 MR. KNAPP: I guess I don't -- the relevance for that.
16 I mean, I believe the witness already testified he doesn't
17 recall receiving it. And also I don't know how it's relevant
18 to the case.

19 THE COURT: Well, do you want to try any other
15:11:01 20 questions of Mr. Carter as to whether or not he received the
21 document?

22 The point is that if he doesn't remember receiving
23 it, then the relevancy of it coming in -- it doesn't show on
24 it that he received it, so the relevancy of the document
15:11:20 25 coming in is doubtful.

CROSS-EXAMINATION - JERRY CARTER

15:11:21 1 MS. TAYLOR: I didn't bring my green cards. I did
2 send it, and I have green cards, but I didn't bring them with
3 me. So I can ask him, and if he doesn't want to admit it, I
4 can bring the green cards and --

15:11:33 5 THE COURT: Why don't you ask him again if he has any
6 memory of getting this letter.

7 BY MS. TAYLOR:

8 Q Do you have any memory, Mr. Carter, of receiving this?

9 A No, I do not have any specific memory of receiving this
15:11:42 10 letter. You did send me lots of letters, lots of certified
11 mail, but I do not remember receiving this particular piece of
12 paper.

13 MS. TAYLOR: All right. So --

14 THE COURT: So I'm going to sustain the objection.

15:11:56 15 MS. TAYLOR: So what do I do about getting it entered
16 as far as bringing green cards tomorrow?

17 THE COURT: Why don't you talk to Ms. Anderson about
18 that.

19 MS. TAYLOR: Okay. All right.

15:12:05 20 Will that be perjury if I bring in a green card
21 tomorrow and he said he didn't get it?

22 THE COURT: Let's go on with the next question,
23 Ms. Taylor.

24 BY MS. TAYLOR:

15:12:25 25 Q So you said that -- were you involved in the part of

CROSS-EXAMINATION - JERRY CARTER

15:12:33 1 liening the property on 2000 -- on 20 North Gilbert?

2 A Yes, I was.

3 Q Did you receive any kind of a commission or a kickback from
4 that sale?

15:12:47 5 A No, ma'am.

6 Q Can you tell me -- I know it is your opinion, but do you
7 have any factual evidence to prove, other than your opinions,
8 that that property belonged to me after it was transferred
9 over? From the first transfer over into Workplace?

15:13:16 10 A The fact you were signing property tax payments for it; you
11 were paying the electricity, water, garbage; the fact that you
12 refused to answer -- respond to summonses that were personally
13 served to you; the fact your name was on the door. You owned
14 the property in your name from 1981 to '95 until you started
15:13:42 15 the subsequent transfers to entities that did not exist in any
16 form or fashion.

17 Q Okay. Okay.

18 Do you have any factual evidence that a person
19 cannot -- are there not renters all over the whole world that
15:14:02 20 rent property that does not belong to them?

21 A I believe there are.

22 Q And is their utilities and water and stuff in their names,
23 or are they in a property owner's names?

24 A It could go both ways. It could be in the property owner's
15:14:16 25 name or the renter's.

CROSS-EXAMINATION - JERRY CARTER

15:14:17 1 Q That is correct.

2 If my business happened to still be operating in that
3 location, would it not be logical that it would be -- it would
4 be an obligation on my part to pay the utilities if I'm still
15:14:43 5 operating or renting an office? Did you ever check to see if
6 there was any rentals, any agreements that I could stay on at
7 that property until the owner sold it?

8 A But you were the owner.

9 Q Who says I was the owner?

15:15:03 10 A I found no evidence of anyone else owning the property but
11 you.

12 Q I beg to differ. I don't see any factual evidence. Just
13 because property is put in a trust -- I don't see any factual
14 evidence with my name on anything. In fact --

15:15:27 15 THE COURT: You need to ask a question, Ms. Taylor.

16 MS. TAYLOR: Okay.

17 BY MS. TAYLOR:

18 Q What factual evidence did you have that showed my name on
19 any of the trust documents or any of the transfers of the
15:15:38 20 property from the time that I transferred it?

21 A Your name was on the transfer when you transferred it in
22 '95. You transferred it from Sue Taylor to Miroal, LLC, which
23 you are a member of. Then you transferred it -- someone
24 transferred it again in the year 2000 from Miroal to Workplace
15:15:57 25 Trust. Your sister, Dolpha Larsen, for the trustee for that.

CROSS-EXAMINATION - JERRY CARTER

15:16:03 1 Then it was transferred again from Workplace Trust to Herbal
2 Land -- Herbal Land Trust. And your daughter, Desiree
3 Saunders, was the trustee of both the Workplace Trust and
4 Herbal Land Trust.

15:16:18 5 Q Is that any factual evidence that it belongs to me?

6 A It's not factual evidence that anybody else owns it
7 other --

8 Q It is only your opinion, correct?

9 A It is certainly my opinion you own the property, yes,
15:16:33 10 ma'am.

11 Q Well, opinions are not facts.

12 THE COURT: You need to ask a question, Ms. Taylor.

13 BY MS. TAYLOR:

14 Q Are opinions facts?

15:16:41 15 A The case I built --

16 Q I'm sorry. I said: Are opinions facts?

17 A I don't know how to answer that. The Internal Revenue
18 Service of the United States Government has determined it will
19 gladly --

15:16:54 20 Q Excuse me. I didn't ask that --

21 A -- defend that --

22 Q -- I asked you a question. Yes or no? Are opinions facts?

23 A In this case, I will say it's a fact that you own that
24 property.

15:17:05 25 Q And you based that on your own personal knowledge?

CROSS-EXAMINATION - JERRY CARTER

15:17:09 1 A Yes, ma'am. On my years of experience and the information
2 I have ascertained, including testimony from other people.

3 Q You base that on your own personal knowledge that it is a
4 fact?

15:17:21 5 A I have found no reason for it not to be owned by you, so
6 therefore it must be owned by you.

7 Q That's an opinion, is it not?

8 A Ma'am, I think it's semantics.

9 Q No. It is either facts or evidence or opinions. Facts
15:17:39 10 with evidence --

11 THE COURT: Ms. Taylor --

12 MS. TAYLOR: -- and opinions.

13 THE COURT: Ms. Taylor, you need to ask questions.

14 BY MS. TAYLOR:

15:17:49 15 Q Is that a factual, evidential document or -- a
16 factual evidence that you can prove?

17 A I believe it is a factual --

18 Q I didn't say "believe" --

19 A It is a fact --

15:18:03 20 THE COURT: Ms. Taylor, let him answer the question.

21 THE WITNESS: The United States Government sold that
22 property as belonging to you in the year 2006.

23 BY MS. TAYLOR:

24 Q The United States Government -- whose name was on that
15:18:17 25 property when the United States Government sold it?

CROSS-EXAMINATION - JERRY CARTER

15:18:19 1 A My name was on it as an employee of the United States
2 Government.

3 Q Who was on the title?

4 A Title for what?

15:18:25 5 Q The title of the property.

6 A You mean the person who bought your property at sale?

7 Q Who was on the title of the property when it was sold?

8 A You mean Herbal Land Trust?

9 Q The 20 North Gilbert property, whose name was on the title?

15:18:41 10 A Herbal Land Trust.

11 Q Okay.

12 Am I Herbal Land Trust?

13 A As you know, you have a real estate license. You are a
14 broker in the state of Arizona, or you were until --

15:18:53 15 Q That's not the question I asked you.

16 MS. TAYLOR: I'm sorry, Your Honor. I'm asking him a
17 question, a simple question.

18 THE COURT: What's your question, Ms. Taylor?

19 THE WITNESS: I asked him if I was Herbal Land Trust,
15:19:00 20 if he had any evidence I was Herbal Land Trust.

21 THE COURT: All right. You can answer that question.

22 THE WITNESS: In the state of Arizona, a trust cannot
23 own property. Only the individual trustee or beneficiaries can
24 have interest in property. You can transfer real estate to a
15:19:14 25 trust, but the trust is not literally owned -- a trust cannot

CROSS-EXAMINATION - JERRY CARTER

15:19:18 1 be owned -- land cannot be owned by a nonentity. So in all
2 cases, the trustee actually is the owner of record, even though
3 it's titled to a trust. If it's not the trustee, then it would
4 fall to the --

15:19:32 5 BY MS. TAYLOR:

6 Q Is my name on the trust anywhere as trustee, as
7 beneficiary, as any kind of interest?

8 A I don't -- I don't believe so at this second, no.

9 Q When that property was sold, it was not in my name; is that
10 correct?

11 A No. It was sold in -- Herbal Land Trust was the title on
12 it, but there was a lien attached to the property in your name.

13 Q And when it was sold, the lien and the attachment that was
14 on it was only the interest that Janice Sue Taylor had in the
15 property.

16 What interest did I have in that property?

17 A 100 percent interest in the property.

18 Q What factual evidence do you have to back that statement
19 up?

15:20:18 20 A The fact -- it would be all the factors I listed earlier:
21 You paying the property taxes, the utilities --

22 Q Excuse me. Excuse me, Mr. Carter.

23 THE COURT: No. No. Excuse me, Ms. Taylor. You
24 asked the question, so let him answer.

15:20:31 25 MS. TAYLOR: All right.

CROSS-EXAMINATION - JERRY CARTER

15:20:31 1 THE WITNESS: It would be contacts with other people I
2 spoke to that said you own the property, the fact you owned the
3 property beforehand, the fact I found no evidence of anybody
4 else that could have owned the property, the fact that other
15:20:42 5 people that were the trustees failed to come forward when they
6 were summonsed, including yourself. I served a summons on you
7 regarding the property and you acknowledged receiving the
8 property, but refused to provide any documents or testimony
9 regarding the property at 20 North Gilbert Road.

15:20:56 10 BY MS. TAYLOR:

11 Q Weren't you aware that the owner of that property even took
12 it to court at one time and tried to argue against them taking
13 the sale of the property? Were you not aware of that?

14 A I know that the -- the buyer of the property filed a quiet
15:21:21 15 title suit to clear the title of the suit because it had been
16 transferred from so many individuals to, then, other names that
17 it's kind of -- the title was very clouded due to all of the
18 transfers to nonentities. So it's normal for a buyer at a IRS
19 sale to file suit to quiet title. In other words, to get clear
15:21:42 20 title to the property. I'm well aware of that suit.

21 Q Well, do you think that that property -- that buyer would
22 have gone to all the trouble of taking it to court if he didn't
23 own it?

24 A He did own it, but title companies like to see a clear
15:21:58 25 title when they're issuing title insurance on something. So

CROSS-EXAMINATION - JERRY CARTER

15:22:03 1 often when the taxpayer -- the individual that bought that
2 property knew he would be filing a quiet title suit, because
3 you had clouded the title by transferring it from entity to
4 entity to entity with no clear -- with no clear succession of
15:22:19 5 trustees or, you know, there's no consideration paid. None of
6 these transferred ever went through any type of escrow or title
7 company. So all the transfers were suspect.

8 Q Is it a law that all property that is transferred has to go
9 through a title company?

15:22:36 10 A No. It is not a law.

11 Q Isn't it true that some people do not use title companies
12 simply because they do not like the fees that they have to pay?

13 A No, that's not true. Most people use a title company
14 because it is pretty much very difficult to secure title
15:22:55 15 insurance on property if it doesn't go through a title company.
16 Which is another reason why I believe you still owned the
17 property.

18 The fact it went from all these entities and they
19 never went through a title company shows that it really was
15:23:08 20 not an arm's-length transaction. There was no true sale
21 property; there was no compensation paid. There was never any
22 proof of any compensation paid as the property went from you
23 to Miroal, LLC, to Workplace Trust or to Herbal Land Trust.

24 Q Do you have any facts to back that statement up? Is that
15:23:27 25 just your opinion?

CROSS-EXAMINATION - JERRY CARTER

15:23:28 1 A It's my opinion no compensation was paid because I couldn't
2 find any -- because I specifically asked you information about
3 that property in the year 2009, and you refused to answer
4 questions about it.

15:23:41 5 Q I believe I did answer questions about it. I believe that
6 it's on record.

7 And you just got through saying that the person that
8 owned the property wasn't me, because you just got through
9 saying the person that owned the property took it to quiet
10 title; did they not?

11 A Right. The person who purchased --

12 Q That was not me, right?

13 A Right. When --

14 Q So how can I --

15:24:04 15 THE COURT: Let him finish the answer, please,
16 Ms. Taylor.

17 THE WITNESS: I filed the nominee lien on the property
18 which said Herbal Land Trust as nominee of Sue Taylor, which
19 means that Sue Taylor had owned the property, continues to own
20 the property, has full use and benefit of the property. We
21 seized and sold the property. We seized it in March of '06 and
22 sold it in 2006. This individual bought it at a sale for
23 \$63,000. Again, in June of 2006, he filed quiet title suit to
24 clear the title. It is a common practice for people who buy
15:24:38 25 property at distressed sales, which is how I would define the

CROSS-EXAMINATION - JERRY CARTER

15:24:41 1 sale of your property.

2 BY MS. TAYLOR:

3 Q I'm not talking about that sale, Mr. Carter. I'm talking
4 about the person that bought it in January. There was another
15:24:50 5 individual that bought it in January from my daughter and that
6 person took it to quiet title also.

7 A Is that the Chris Tiefcoski (phonetic) gentleman?

8 Q I believe so.

9 A Okay. I talked to Chris Tiefcoski. He again -- one of the
15:25:12 10 visits to the property at 20 North Gilbert Road, he was
11 actually living out of his car in your parking lot. He said he
12 was a homeless gentleman and that he was interested in buying
13 the property. And I explained to him the IRS had already filed
14 a nominee lien against the property and would be selling it in
15:25:27 15 the coming months and he was welcome to purchase it then. And,
16 actually, this gentleman, Chris Tiefcoski -- and I apologize
17 for not saying his name -- he did show up at the sale and was
18 trying to disrupt the sale by handing out flyers saying that he
19 actually had purchased the property and that the IRS couldn't
15:25:47 20 actually sell the property. There was no reason for me to
21 believe he had actually purchased the property.

22 Q What time was it that you talked to him?

23 A The day of the sale?

24 Q No. Previous. Do you remember?

15:26:01 25 A It could have been the day I seized the property. I'm not

CROSS-EXAMINATION - JERRY CARTER

15:26:04 1 sure. It could have been a subsequent day after I seized it.
2 I do not remember which day. There is official record of when
3 I talked to him and John Menta. I talked to both of them at
4 the property the same day. They both explained -- well, Chris
15:26:15 5 Tiefcoski explained he was a homeless person. John Menta said
6 they were a homeless person living in their cars in the back of
7 the property at 20 North Gilbert Road. I think John Tiefcoski
8 said he was actually renting patio space from you to live on.

9 Q And you don't recall exactly the day the property was
10 seized?

11 A Not exactly. I believe it was March in 2006.

12 Q Well, if I'm not mistaken, Tiefcoski, I believe is his
13 name, purchased that property in January. And he went -- you
14 were not aware that he went to quiet title to try and get that
15 cleared up?

16 A I'm not aware of any actions he did regarding a quiet
17 title. If he did purchase it, he failed to record any
18 documents at the county recorder. Knowing what I know about
19 him, it is -- I don't believe it is possible he had the means
20 to purchase any type of real property.

21 Q That is an opinion, again?

22 A It is my opinion as he told me he was living in a car in
23 your parking lot. And I had no reason --

24 Q Do you believe everything everybody tells you?

15:27:31 25 A When I met him and saw his living conditions, I believed he

CROSS-EXAMINATION - JERRY CARTER

15:27:33 1 was living in his car on the patio in the business property at
2 20 North Gilbert Road, along with John Menta, the trustee of
3 the other property we're talking about.

4 Q Do you believe that everybody tells you the truth about
15:27:45 5 everything when you meet them? Do you believe that people,
6 when they encounter the IRS agents, aren't they a little leery
7 of telling them anything most of the time?

8 A Most people are very honest and up front with dealing with
9 the IRS.

10 Q Do you believe that is because of fear, or do you believe
11 that is because of some kind of retribution, that you might
12 come on down on them for something?

13 MR. KNAPP: Objection. Calls for speculation and
14 relevance.

15:28:17 15 THE COURT: Overruled.

16 BY MS. TAYLOR:

17 Q Well, with all your opinions.

18 THE COURT: Are you withdrawing the question?

19 MS. TAYLOR: Huh?

15:28:27 20 THE COURT: Are you withdrawing the question?

21 MS. TAYLOR: No.

22 THE COURT: Okay. You can answer.

23 THE WITNESS: I believe -- I've been a revenue
24 officer, again, for almost 29 years. I've dealt literally with
15:28:37 25 thousands of taxpayers who have gotten behind on their taxes.

CROSS-EXAMINATION - JERRY CARTER

15:28:41 1 Most taxpayers, high majority of them, are eager to take care
2 of their problems. They answer truthfully. They file their
3 returns. Sometimes after getting contacted by someone like
4 myself. Very seldom have taxpayers actually -- I found ever
15:29:01 5 lied to me.

6 BY MS. TAYLOR:

7 Q Do you really believe anybody would pay taxes unless they
8 were forced to?

9 A I pay my taxes, and I'm not forced to.

15:29:10 10 Q I didn't ask you that. I said: Do you really believe that
11 if it was not forced upon everybody to pay taxes, or they would
12 become -- have some retribution against them, that they would
13 pay it? If a person -- otherwise, if a person had a choice to
14 pay taxes or not pay taxes, which one do you think they would
15:29:34 15 choose?

16 A Probably most people would rather not pay taxes if they had
17 a choice. But it is the law.

18 Q Which law is it?

19 A It's clearly spelled out in the Internal Revenue Code, the
15:29:45 20 individuals must file tax returns and depending on the income
21 they have.

22 Q What code makes a person liable for income tax?

23 MR. KNAPP: Objection. Relevance.

24 THE COURT: Sustained.

25

CROSS-EXAMINATION - JERRY CARTER

15:30:01 1 BY MS. TAYLOR:

2 Q Is all money that a person receives income?

3 MR. KNAPP: Objection -- no, I withdraw it.

4 THE WITNESS: I am a revenue officer, and I would not
15:30:20 5 even pretend to know the Internal Revenue Code, but in general,
6 all money, all remuneration is income.

7 BY MS. TAYLOR:

8 Q You mean a person can give you money as a gift or they can
9 give you money in any other form and no matter what kind of
15:30:37 10 form of money that you receive, it's income?

11 A Again, I'm not an expert on this matter. It is possible
12 people can give gifts to people; however, they have to file
13 gift tax returns. I believe that is limited to \$12,000 per
14 person. But, again, I'm not an expert on the income tax law.

15:30:55 15 I'm a revenue officer. My job is more or less -- my area of
16 expertise is on collection process. Not income tax law.

17 Q Okay. You stated that a person can live on property as
18 rentals as such and not own the property; is that correct?

19 A Yes, ma'am.

15:31:28 20 Q The Higley 2 property that you are talking about, do you
21 have factual evidence that I own that property and -- one
22 question. That I own that property?

23 A I have -- I have the evidence that you paid a property tax
24 payments for it, you filled out the application for electricity
15:31:57 25 service on the house in 1997 and were living it in from 1997 to

CROSS-EXAMINATION - JERRY CARTER

15:32:03 1 2005. I have testimony from one of the witnesses in this trial
2 who I personally spoke to, and he stated you owned the
3 property, that you built a house on it. I actually summoned
4 you for information, and you refused to answer questions
15:32:17 5 regarding the property. Did I mention, again, you signed a
6 property tax payment, checks to it. That, in fact, I found no
7 other evidence anybody else owned the property. I believe you
8 owned the property at 24433 South Higley Road.

9 Q You believe I own that today?

15:32:37 10 A Yes, ma'am. I do believe you own that property today. In
11 fact, I believe so --

12 Q But that is just your belief?

13 A I'm willing to go to court to defend that nominee lien I
14 filed and so is the United States Government. The government
15:32:52 15 is prepared to defend that nominee lien I filed saying Sue --
16 Herbal Land Trust as the nominee of Sue Taylor. Before I am
17 allowed to file a nominee lien, I must get approval I met a
18 level of proof that the property is owned by the person I
19 believe it is; and in both cases, I was able to convince our
15:33:12 20 attorneys that Sue Taylor was the property -- the owner of
21 these two properties.

22 Q Can you walk me through the process, the legal process, of
23 what it takes for you to file a lien and have it be perfected
24 as far as the law tells you that you have to do? What process
15:33:35 25 is it that you have to go through?

CROSS-EXAMINATION - JERRY CARTER

15:33:38 1 A How it works is if an individual files a tax return, the
2 United States Government, the IRS, will assess the tax return,
3 will send out a notice to the taxpayer giving them ten days to
4 respond. After the ten days, if the taxpayer doesn't pay the
15:33:54 5 money, then the IRS has the absolute permission, authority to
6 file a Notice of Federal Tax Lien to protect its interest in
7 the taxpayer's property.

8 Q Before you sell it, do you have to not take it to court to
9 get that perfected?

15:34:11 10 A No, ma'am. Seizing and selling real estate is an
11 administrative process. There's no attorneys involved.

12 Q Now, would you tell me, when you say you work for the
13 Internal Revenue, what branch are you working for them under
14 the United States of America?

15:34:33 15 A I work in the Department of Treasury, which is part of the
16 executive branch.

17 Q So you're under the executive branch under the United
18 States of America?

19 A I believe so. I haven't thought about it that far.

15:34:49 20 Q Okay.

21 Did you receive -- did you receive documents from my
22 daughter, Desiree, rebutting that I owned that land and
23 requesting that you take it out of the tax lien?

24 A I do remember receiving documents from Desiree Saunders
15:35:35 25 asking myself or the IRS to release the tax liens or remove the

CROSS-EXAMINATION - JERRY CARTER

15:35:42 1 property from the tax liens. I can't remember which property.
2 She could have said on both properties.

3 Actually, what happens is, when I filed the nominee
4 liens on both properties -- actually, when the IRS filed the
15:35:55 5 liens, the normal, regular liens against the property, in
6 general, we gave and use appeal rights. When I filed the
7 nominee liens on the 20 North Gilbert Road property and on the
8 property at your house on Higley, I personally --

9 MS. TAYLOR: I object to that. It is not my property.
10 I don't want you to refer to that anymore --

11 THE COURT: Excuse me. He can testify to what he
12 believes is the truth.

13 MS. TAYLOR: Well, let it be known it's just his
14 belief, then.

15 THE COURT: Well, you'll have an opportunity to say
16 that during your testimony. You're here to ask questions.

17 MS. TAYLOR: All right.

18 THE WITNESS: So both -- in both instances, after I
19 filed the nominee lien on both properties, I mailed a letter
15:36:35 20 3177, which really is the appeal rights that the nominee has.
21 So I sent something -- I sent a letter, letter 3177, to Herbal
22 Land Trust, attention Desiree Saunders, and I also sent a
23 letter addressed to the other trust, Higley Citrus Trust,
24 number D-2, addressed to Desiree Saunders, giving her her
15:36:55 25 appeal rights regarding the nominee lien I filed. She did not

CROSS-EXAMINATION - JERRY CARTER

15:36:59 1 avail herself of the appeal rights.

2 BY MS. TAYLOR:

3 Q Mr. Carter, didn't you just say earlier you had received
4 nothing from anybody? Nobody had written you any letters
15:37:09 5 concerning this property?

6 A No. What I said was I served summons to Desiree Saunders,
7 John Menta, you, and all three of you failed to respond.

8 Q Well, didn't you just now agree that you got those letters,
9 that somebody did respond?

15:37:25 10 A No. A response to summons -- and you know this very
11 well -- is the person who receives the summons is supposed to
12 come in and provide documents and testimony. In neither of the
13 cases, John Menta, your daughter, Desiree Saunders, nor you
14 appeared before the IRS to answer questions or provide any
15:37:44 15 documents on anything.

16 Q We're not talking just directly about summonses; we're
17 talking about them answering you back when you put the lien on
18 the property. Did not they write you back? And you just
19 admitted they wrote you back and yet you turned around and said
15:38:02 20 that you had never heard from them, that they never rebutted it
21 at all.

22 MR. KNAPP: Objection. Misstates the testimony.

23 THE COURT: Overruled. He can respond.

24 THE WITNESS: The documents that I received, and I
15:38:17 25 really don't remember what they said, but if I look at my

CROSS-EXAMINATION - JERRY CARTER

15:38:21 1 history, they're probably going to be kind of nonsensical;
2 meaning they did not make any sense regarding the process.

3 BY MS. TAYLOR:

4 Q "Nonsensical" to you would mean that they didn't mention
15:38:35 5 the property? I don't understand nonsensical. Nonsensical
6 would mean what to you?

7 A Well, probably arguments that weren't based in law. As you
8 know, the liabilities we're trying to collect have already been
9 approved by numerous courts, and submission of letters doesn't
15:38:53 10 override what the Ninth Circuit Court has said or tax court
11 says or what a U.S. District Court says. So the fact that I
12 get a letter that says stuff in it, unless it follows some type
13 of procedure, like you're trying to ask for an appeal of the
14 process.

15:39:09 15 I can assure you the letters did not ask for an
16 appeal of the process, because both the nominees in both
17 instances, including yourself as the taxpayer, you still have
18 appeal rights during all this process, and you never availed
19 yourself of some of the processes. You did avail yourself of
15:39:28 20 the -- one of the process when -- after we sold the property
21 at 20 North Gilbert Road, you asked for the collection appeals
22 process, and you had that opportunity.

23 Q Well, I know for myself, I have written you many, many
24 letters, that you write back saying it's not nonresponsive.

15:39:44 25 You never answer or give any laws to what authority you have to

CROSS-EXAMINATION - JERRY CARTER

15:39:48 1 do what you're doing. You just write back as responsive, it is
2 frivolous. Whatever. We're taking your property.

3 MR. KNAPP: Objection. Move to strike. It's
4 testimony, not a question.

15:39:58 5 THE COURT: Yes. Is that a question?

6 MS. TAYLOR: Well, I got to frame it better, I guess.

7 BY MS. TAYLOR:

8 Q In these letters that my daughter wrote back to you, you
9 don't remember what they were said -- what was said in them,
10 but I know that she was writing back and letting you know that
11 you needed to remove the lien, that it was not in my name --

12 MR. KNAPP: Objection.

13 THE COURT: Sustained.

14 That's not a question, Ms. Taylor. You need to ask
15 questions.

16 MS. TAYLOR: Oh. Okay.

17 BY MS. TAYLOR:

18 Q Did you ever go through the process of -- you filed these
19 liens. Did you ever go through the process of getting a
20 judicial -- a judicial court order, as required, before you
21 come in and take somebody's property?

22 A No, ma'am. The seizure of the 20 North Gilbert property
23 was what we call administrative procedure and sale. There's no
24 courts involved. We do not need a judge's signature, a court's
15:41:12 25 approval. There are no attorneys involved. It's an internal

CROSS-EXAMINATION - JERRY CARTER

15:41:16 1 process. It's done administratively.

2 Q Why is it possible that an administrative process has the
3 authority to come in and take somebody's property without
4 having it -- having it go to court when a normal person can't
15:41:35 5 do that?

6 MR. KNAPP: Objection. Relevance.

7 THE COURT: Sustained.

8 MS. TAYLOR: Can I --

9 THE COURT: No, I sustained the objection to that
10 question.

11 BY MS. TAYLOR:

12 Q So an administrative agency has the right to come in and
13 take anybody's property at any time that they want to once they
14 have done whatever books that they have, that they -- wait a
15:42:18 15 minute.

16 An administrative agency, as the IRS -- I'm just going
17 to say the IRS -- has the right to come in and take a person's
18 property on opinions without going to court; is that correct?

19 A I wouldn't -- I don't accept your premise in the question.

15:42:39 20 There are lots of review processes in this, from this, at all
21 the numerous levels of management. Also, the taxpayer,
22 yourself, has numerous appeal rights. You even filed what's
23 called a CAP, a collection appeal process. After we seized the
24 property, you appeared in the IRS office in Tempe and met with
15:42:59 25 my supervisor and discussed the property. But I was not there,

CROSS-EXAMINATION - JERRY CARTER

15:43:04 1 so I really can't tell you. I only know what happened because
2 I read the history of the meeting, but I was not there at the
3 time.

4 Q That's correct. I did go in there and meet with them and
15:43:14 5 tell them I did not own the property any longer and I didn't
6 know why they were taking this property from somebody else;
7 they needed to talk to them.

8 THE COURT: You need to ask a question, Ms. Taylor.

9 MS. TAYLOR: Okay.

15:43:28 10 BY MS. TAYLOR:

11 Q Who is your immediate supervisor?

12 A Today?

13 Q Um-hmm.

14 A Victoria Booze (phonetic).

15:43:34 15 Q Victoria Booth? Sounds like a movie star.

16 THE COURT: Do you have another question, Ms. Taylor?

17 BY MS. TAYLOR:

18 Q I just want to reiterate that you have said today here that
19 it is your opinion that because a person pays utilities, taxes,
15:44:05 20 and as such, that you believe that I own that -- those
21 properties that you have mentioned today. Even the 20 North
22 Gilbert?

23 A Yes, ma'am.

24 Q Wait a minute. 20 North Gilbert was sold in a tax sale.

15:44:25 25 THE COURT: Is there a question?

CROSS-EXAMINATION - JERRY CARTER

15:44:27 1 BY MS. TAYLOR:

2 Q Do I still own that? Is it still mine?

3 A I thought you were saying -- the property was yours when
4 the IRS seized and sold it. It was your property. Now it is
15:44:37 5 owned by the individual who purchased it in the sale in June of
6 2006.

7 Q Okay.

8 So you believe that I don't own the 20 North Gilbert
9 property any longer?

15:44:49 10 A That is correct.

11 Q But because I paid taxes on it until you seized it, I owned
12 it? Because I paid taxes and utilities on it, I owned it?

13 A You paid taxes on it. You paid utilities on it. You had
14 owned it since 1981. You were the only person using the
15:45:09 15 building. Nobody else was there. You signed the property tax
16 payments. And, plus, I found no evidence that anybody else
17 owned it. There was just no reason to think any other
18 individual owned it other than you.

19 Q What factual evidence did you have that there was never
15:45:28 20 anybody else there besides me? Did you inspect the property?
21 Did you go in? Did you talk to anybody?

22 A I've never gone into the business myself. I know the
23 revenue officer prior to me had been in the business. And he
24 saw -- he didn't see anybody else working out of there other
15:45:48 25 than yourself.

CROSS-EXAMINATION - JERRY CARTER

15:45:50 1 Q How many times had he been in there?

2 A I believe just once.

3 Q So all of this is just opinions?

4 A It's my opinion.

15:46:01 5 Q And you believe that I still own the Higley house today
6 also?

7 MR. KNAPP: Objection. This is cumulative.

8 THE COURT: I think is. I think you've covered this
9 ground pretty thoroughly, Ms. Taylor.

15:46:15 10 MS. TAYLOR: Okay. Sorry.

11 I'm sorry. I'm dancing around a dead horse in the
12 ground sometimes.

13 BY MS. TAYLOR:

14 Q You never did answer, I don't think; maybe you did. You
15 believe that all income is taxable?

16 A Again, I'm not an expert on income tax law, but in general,
17 all income would be taxable.

18 Q Do you believe there are taxpayers and nontaxpayers?

19 A I'm not sure I understand the question.

15:47:02 20 Q Do you believe there are people out there, citizens out
21 there, some of them are taxpayers and some of them are not?

22 A I believe anyone who is required to file a tax return would
23 be a taxpayer. There are some people who do not make enough
24 income where they would not be required to file a tax return.

15:47:23 25 Q And what factual evidence did you say, or did you not say

CROSS-EXAMINATION - JERRY CARTER

15:47:28 1 that you believe that I am a taxpayer?

2 A That you are a taxpayer?

3 Q Yes.

4 A Back in 2003, I was assigned the collection case to collect
15:47:40 5 your 1997 and 1998 liabilities, and those liabilities have
6 already been affirmed by the United States Supreme -- I'm
7 sorry, U.S. Court of Appeals Ninth Circuit and then a tax court
8 at a lower level. I do not have authority to -- not to say
9 those taxes are not due. Collection cannot say those taxes are
10 not owed. If the tax court or Ninth Circuit Court says those
11 taxes are owed, then the service should try to collect those
12 moneys.

13 Q So does that qualify me or make any a taxpayer today? Or
14 does that make me a taxpayer all of my whole entire life?

15:48:29 15 A I don't know about your whole life. I know you had taxable
16 income for subsequent years of 1998, 1999, 2000. But, again,
17 I'm not a revenue agent; I'm a revenue officer. I'm more
18 involved in the collection of the taxes due, not in the audit
19 procedures.

15:48:49 20 Q So your calling me a taxpayer is just a friendly, termly
21 tag?

22 A In the IRS, we call everyone a taxpayer. Couple times
23 during my testimony today, I called you a taxpayer when maybe I
24 should have called you Sue Taylor, Ms. Taylor. Taxpayer is
15:49:07 25 what we call the people we deal with.

CROSS-EXAMINATION - JERRY CARTER

15:49:09 1 Q Everybody.

2 A Everybody.

3 Q Yeah. All right. Thank you.

4 THE COURT: Any redirect?

15:49:16 5 MR. KNAPP: No, Your Honor. Thank you.

6 THE COURT: Okay.

7 Thanks. You can step down, Mr. Carter.

8 MR. GALATI: Your Honor, our next witness is Dolpha

9 Larsen.

15:49:35 10 Ms. Richter, may I show her 185.

11 THE COURT: Ma'am, would you please come to the front

12 of the courtroom to be sworn as a witness.

13 All the way around to the front, if you would,

14 please.

15:50:01 15 THE COURTROOM DEPUTY: Please state your name for the

16 record.

17 THE WITNESS: My name is Dolpha Larsen, D-O-L-P-H-A,

18 L-A-R-S-E-N.

19 THE COURT: Ma'am, would you pull that mike -- that

15:50:35 20 mike will slide. If you can pull it right over in front of

21 you, we'll be able to hear you. Thank you.

22 MR. GALATI: May I proceed, Your Honor?

23 THE COURT: You may.

24

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DIRECT EXAMINATION - DOLPHA K. LARSEN

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DOLPHA K. LARSEN,

called as a witness herein, after having been first duly sworn or affirmed, was examined and testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. GALATI:

Q Will you please tell the ladies and gentlemen of the jury your full name?

A Dolpha K. Larsen.

Q What's your occupation?

A Housewife.

Q What city do you live in?

A Queen Creek.

Q Queen Creek? Here in the Valley?

A Yes.

Q And how long have you been in the Valley?

A I think --

Q Long time?

A I think since '86.

Q All right.

And do you know Sue Taylor?

A Yes.

Q Who is Sue Taylor?

A My sister.

Q And is she in the courtroom?

A Yes.

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:51:23 1 Q Can you point her out.

2 A She's sitting right there.

3 MR. GALATI: Your Honor, may the record reflect
4 identification?

15:51:29 5 THE COURT: Yes.

6 BY MR. GALATI:

7 Q Do you know Gerry Ricke?

8 A Yes.

9 Q Who is he?

15:51:38 10 A He's a friend.

11 Q Do you know Robert Martin?

12 A Yes.

13 Q Who is he?

14 A He's a friend.

15:51:43 15 Q Is he a certified public accountant?

16 A Yes.

17 Q Who is Avis Johnson?

18 A My mother.

19 Q Is she also Ms. Taylor's mother?

15:51:55 20 A Yes.

21 Q The witness that just left testified that you were the
22 trustee of the Workplace Trust regarding 20 North Gilbert Road
23 in Gilbert, Arizona. Do you have any familiarity with that?

24 A Familiarity in what respect?

15:52:21 25 Q Do you know what I'm talking about?

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:52:26 1 A I know where 20 North Gilbert Road is.

2 Q Do you know what the Workplace Trust is?

3 A Yes.

4 Q Have you ever been -- have you ever seen documents that say

15:52:36 5 you're the trustee of the Workplace Trust?

6 A Yes.

7 Q All right. Let's talk about that for a second. I'm going

8 to take you back to about the year 2000.

9 A Okay.

15:52:46 10 Q Did there come a time when you and Sue Taylor and perhaps

11 other folks were together socially when Sue Taylor asked you if

12 you would be the trustee on certain entities of hers?

13 A Yes.

14 Q What can you tell us? Can you recount that for us the best

15:53:03 15 you can recall? Do you remember where you were?

16 A At a restaurant for lunch.

17 Q Do you remember who was present?

18 A Gerry and my sister Robbin and Sue.

19 Q Gerry Ricke?

15:53:18 20 A Gerry Ricke --

21 Q And your sister Robbin --

22 A -- and my sister Robbin and --

23 Q What's Robin's last name?

24 A Barbour.

15:53:23 25 Q And Sue Taylor was present?

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:53:24 1 A Yes.

2 Q What did Sue Taylor ask of you or what did she present to
3 you?

4 A She presented some papers to me and asked me to sign to be
15:53:32 5 the trustee on the paperwork.

6 Q Did she say what the papers represented? I mean, being the
7 trustee of what?

8 A I looked at them, and they were land -- they were different
9 pieces of property.

15:53:49 10 Q And did you agree to be the trustee on these?

11 A No.

12 Q Was there a reason why you decided you didn't want to do
13 that?

14 A Because it wasn't like a will or where I would be the
15:54:04 15 person in charge upon her death, that type of thing.

16 Q When she first raised the subject with you, did you think
17 perhaps that's what she was talking about?

18 A Yeah, uh-huh.

19 Q When you looked at the documents, did you conclude that was
15:54:19 20 not what she was talking about?

21 A Yes.

22 Q So what did you tell her?

23 A No.

24 Q Sometime later, were you and your mother at 20 North
15:54:31 25 Gilbert?

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:54:32 1 A Yes.

2 Q What is located at 20 North Gilbert?

3 A Her land office and a small shop.

4 Q When you say "her," who are you referring to?

15:54:44 5 A Sue Taylor's land shop -- real estate office and herb
6 store.

7 Q Does National Land Bank mean anything to you?

8 A Yes.

9 Q What is that?

15:54:56 10 A That was the name of her real estate company.

11 Q And why were you and your mother at 20 North Gilbert on the
12 occasion to which I'm referring?

13 A I don't really know. We just stopped in there for
14 something. I'm not sure what.

15:55:17 15 Q Did you stay in the car?

16 A Yes.

17 Q And what did your mother do?

18 A She went inside to pick up something.

19 Q And did she come out with something?

15:55:26 20 A Yes.

21 Q Did she give you what she came out with?

22 A Yes.

23 Q What was it that she gave you?

24 A It was a piece of mail.

15:55:34 25 Q Addressed to whom?

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:55:35 1 A Address to me.

2 Q At what address?

3 A 20 North Gilbert.

4 Q Do you recall who the mail was from?

15:55:42 5 A I believe it was from a government -- from Apache Junction.

6 Some kind of government paper.

7 Q Apache Junction city government or something like that?

8 A Yeah.

9 Q Did you open it and read it?

15:56:00 10 A Yes.

11 Q What did it refer to?

12 A That a property that I was trustee of had some kind of --

13 something they didn't like about it and it needed to be

14 corrected.

15:56:16 15 Q And when you read that, what did you think?

16 A I was puzzled, because I didn't own any property in Apache

17 Junction.

18 Q Were you the trustee on any property in Apache Junction?

19 A Not to my knowledge I was not.

15:56:32 20 Q Did you ever agree to be?

21 A No.

22 Q Did you ever sign any documents saying you would be?

23 A No.

24 Q Now, you brought -- you've got a folder there that's red,

15:56:44 25 correct?

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:56:45 1 A Yes.

2 Q You've got a bunch of documents in there?

3 A Yes.

4 Q I'm not going to refer to them. I'm going to ask you to

15:56:50 5 the best of your memory if you can testify.

6 A Okay.

7 Q Do those documents pertain to what we're talking about

8 right now?

9 A Yes, um-hmm.

15:56:57 10 Q What did you do after you discovered what you just told us

11 about?

12 A I went to the county assessor's office and asked them if

13 there were any properties in my name, or my name on any

14 properties.

15:57:10 15 Q As trustee or otherwise?

16 A Yes, um-hmm.

17 Q What did you learn?

18 A I learned that there were five.

19 Q And had you knowingly become a trustee on any of those five

15:57:27 20 properties?

21 A No.

22 Q Did you get copies of the records that showed any kind of

23 transfers of title to a trustee?

24 A Quitclaim, yes.

15:57:39 25 Q Did you get a quitclaim deed for each of these five

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:57:41 1 properties?

2 A Yes.

3 Q And whose name appeared on each of them as the person
4 conveying the trust to you as trustee?

15:57:50 5 A Sue Taylor.

6 Q Would you look at Exhibit 185 that's in front of you.
7 Would you look through those. What I would ask you to do is
8 can you take a look at the names of the trusts that are listed
9 on those quitclaim deeds.

15:58:30 10 A Okay.

11 Q And do those correspond to the ones you found --

12 A Yes.

13 Q -- when you did your search?

14 A Yes.

15:58:36 15 Q And from memory can you tell me the names of the trusts
16 that you were listed as a trustee of?

17 A From memory?

18 Q And if not, will those refresh your memory as to what they
19 are?

15:58:49 20 A Yes. Miroal, LLC, Workplace Trust -- oh.

21 Q Workplace Irrevocable Pure Trust?

22 A Yeah. Meadowbrook Trust.

23 THE COURT: A little louder, if you would. If you
24 would just talk into the mike. We're having a little trouble
15:59:08 25 hearing you.

DIRECT EXAMINATION - DOLPHA K. LARSEN

15:59:09 1 THE WITNESS: Pepper Tree Trust.
2 BY MR. GALATI:
3 Q Elm Circle?
4 A Elm Circle Trust.
15:59:18 5 Q Were there five that you found?
6 A Yes.
7 Q On each of them was Sue Taylor listed as a member?
8 A Yes.
9 Q Or somehow signed the quitclaim deed?
15:59:30 10 A Yes.
11 Q What did you do after you learned that your name was on
12 these purported trusts?
13 A I sent a letter out saying that I refuse to serve, and I
14 had it -- I put it in the recorder's, recorder or something
15:59:49 15 like that.
16 Q Did you record it at the county recorder?
17 A Yes.
18 Q Saying that you've got nothing to do with these trusts?
19 A Right.
15:59:56 20 Q Did you consult with your husband about this, Ms. --
21 A Yes.
22 Q Is your husband an attorney?
23 A Yes.
24 Q Did you talk to Sue Taylor about this after you found out
16:00:13 25 this stuff?

DIRECT EXAMINATION - DOLPHA K. LARSEN

16:00:14 1 A Yes.

2 Q What did you say to her?

3 A I was like how -- how -- what -- how did these get in my
4 name? How do you put my name on these things?

16:00:26 5 Q What did she say to you?

6 A She said you can put property in anybody's name you want
7 to.

8 Q And did she say that's what she did?

9 A She didn't say that, but --

16:00:37 10 Q When you said she said "you can," did she say "I can" or
11 "you can"?

12 A I guess she was just saying it as, you can put property in
13 anybody's name you wish to.

14 Q And that was her explanation for your inquiry as to why
15 your name was on those trusts?

16:00:51 15 A Um-hmm.

16 Q Did you say yes?

17 A Yes.

18 Q Do you know Ron McBride?

19 A Yes.

16:01:02 20 Q Is he in the courtroom today?

21 A Yes.

22 Q Can you point him out.

23 A He's sitting back there on the right side.

16:01:09 24 Q The gentleman with a mustache?

25

DIRECT EXAMINATION - DOLPHA K. LARSEN

16:01:11 1 A Yes.

2 Q Did you ever attend a wedding ceremony between Sue Taylor
3 and Ron McBride?

4 A Yes.

16:01:17 5 Q Where was that? Where did it happen?

6 A The Boys Ranch in Queen Creek.

7 Q And how long ago was that? Do you have any recollection?

8 A No.

9 Q More than a year?

16:01:31 10 A Oh, yeah.

11 MR. GALATI: Your Honor, may I have a second to look
12 at my notes?

13 THE COURT: Yes.

14 MR. GALATI: Thank you.

16:01:56 15 BY MR. GALATI:

16 Q Did you ever do any sort of work in Sue Taylor's office?

17 A I don't believe so.

18 Q Are you aware of any situations where Sue Taylor would have
19 had access to your social security number?

16:02:23 20 A Oh, yes. I had gotten my real estate license, and I had
21 put it with her intending to work with her, but I didn't
22 actually work with her.

23 Q Approximately when was that?

24 A I did it two different times.

16:02:41 25 Q Can you give us an estimate as to when? Which years or

DIRECT EXAMINATION - DOLPHA K. LARSEN

16:02:45 1 anything like that?

2 A I'm sorry, I can't.

3 Q All right.

4 As a result of what you testified about concerning
16:02:59 5 these trusts and your name being on these quitclaim deeds, has
6 that affected your relationship with Sue Taylor?

7 A Yeah.

8 Q Have you had much contact with her since these things
9 happened?

16:03:12 10 A No.

11 Q And from looking at the dates, do you recall the dates that
12 are on those quitclaim deeds?

13 A They're around 2000. Yeah, October 2000.

14 Q And when -- and when you -- did you take a look at the
16:03:41 15 documents that you had received in the mail from Apache
16 Junction? Do you have a recollection as to when that was?
17 Approximately.

18 A Maybe 2002. I don't know. I don't have a -- can I look?

19 Q If it will refresh your memory.

16:04:08 20 A Yeah, 2002. 2002.

21 Q Thank you.

22 To your knowledge, has Sue Taylor ever used the name
23 Suzi McBride? To your knowledge.

24 A I don't have any idea.

16:04:30 25 Q But you attended a wedding ceremony?

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16:04:33 1 A Yes.

2 MR. GALATI: I have nothing further, Your Honor.

3 THE COURT: All right. Thank you.

4 Cross-examination?

11:19:09 5 C R O S S - E X A M I N A T I O N

6 BY MS. TAYLOR:

7 Q Hi, Dolpha.

8 A Hi.

9 Q Dolpha, do you remember us having a conversation years ago
16:05:00 10 when we were talking about all of these trusts, and do you
11 remember me telling you that I was getting up in age and that I
12 was not feeling the spry chick that I used to be and that it
13 was time that if anything would happen to me, that I needed
14 somebody and you were probably the only one I had?

16:05:30 15 A Yes.

16 Q And at that time, did I not ask you to be like an executor
17 or trustee over anything of my affairs?

18 A Yes.

19 Q I'm sorry about this, Dolpha, but it is just very
16:05:52 20 emotional. I don't want to be cross-examining you.

21 Is it not true that you did agree to step in and be
22 trustee and you were trustee for like in October for one month
23 and then you resigned?

24 A No.

16:06:18 25 Q Dolpha, I remind you you're under penalty of perjury.

CROSS-EXAMINATION - DOLPHA K. LARSEN

16:06:23 1 MR. GALATI: Your Honor, I object.

2 THE COURT: You need to ask questions, Ms. Taylor.

3 BY MS. TAYLOR:

4 Q Do you want to rethink that?

16:06:30 5 A No.

6 MS. TAYLOR: Your Honor, I'd like to have this witness
7 come back tomorrow. I thought I brought those papers with me
8 today, but I don't have them.

9 THE COURT: What papers are you referring to?

16:06:46 10 MS. TAYLOR: I have papers where my sister did
11 actually agree to be my trustee and to -- to be trustee and to
12 help should anything happen.

13 THE COURT: Have those been marked as exhibits?

14 MS. TAYLOR: I will bring them tomorrow. She was only
16:07:01 15 for one month.

16 THE COURT: All right. Hold on just a minute.

17 Is there an objection to that from the Government?

18 MR. GALATI: Yes, Your Honor. The witness has been
19 here all day long.

16:07:10 20 THE COURT: I think you need to do your
21 cross-examination now, Ms. Taylor.

22 MS. TAYLOR: Well, the only thing I can say is she's
23 denying it.

24 THE COURT: Well, if you have other -- it's clear she
16:07:22 25 denied it. If you have other questions you want to ask of her,

CROSS-EXAMINATION - DOLPHA K. LARSEN

16:07:25 1 you can do that. Again, you'll have an opportunity to testify,
2 yourself, in the case, but what you need to do now is
3 cross-examine the witness who is on the stand --

4 MS. TAYLOR: Right.

16:07:36 5 THE COURT: -- if you have additional questions.

6 BY MS. TAYLOR:

7 Q You don't remember signing, Dolpha, that --

8 A I signed some papers resigning after you told me that if I
9 didn't want to be a trustee, that I needed to sign these
16:07:52 10 papers, and I did sign those papers. But I had never agreed to
11 be the trustee.

12 Q Well, how -- how could you sign some papers to not be a
13 trustee if you hadn't signed previous papers to be the trustee?

14 A Because I trusted you and didn't realize that I didn't need
16:08:24 15 to sign those papers.

16 Q Which papers are you talking about?

17 A I didn't need to sign a resignation or a paper saying I
18 didn't need to be trustee. You told me that I did, so I signed
19 them to end that. I didn't realize that -- I didn't realize
16:08:48 20 that it wasn't something that was just filings or something of
21 that sort. I had --

22 Q I realize that this was too big of a job for you and too
23 much, and we talked about that, did we not?

24 MR. GALATI: Your Honor, I object. She needs to ask a
16:09:11 25 question.

CROSS-EXAMINATION - DOLPHA K. LARSEN

16:09:12 1 THE COURT: She did.

2 You can respond.

3 THE WITNESS: I -- all I remember saying is I don't --
4 I won't do this, I don't want to do this, and you said, "If you
16:09:23 5 don't want to do that, then you need to sign these papers."

6 And I signed those papers.

7 BY MS. TAYLOR:

8 Q Yes. But you don't remember signing the papers that you
9 would be the trustee?

16:09:35 10 A I never signed papers saying I would be trustee. Never.

11 Q I have those papers, Dolpha.

12 THE COURT: You need to ask questions, Ms. Taylor.

13 THE WITNESS: I'm sorry. I don't -- I never signed
14 those papers.

16:09:51 15 BY MS. TAYLOR:

16 Q Wasn't our conversation about you going to be helping me,
17 like should anything -- help me. I mean, you were the only one
18 that I had and you agreed to -- did you not agree to say, yes,
19 if something happens to you, Sue, I'll be here to help you out
16:10:17 20 with --

21 A In the case of your passing away from this earth as -- in
22 that case, if you made me whatever it is you make a person for
23 the will, the trust, whatever, yes. If you passed away. But
24 not while you were living. No.

16:10:42 25 Q Well, you couldn't sign those papers if I was dead.

CROSS-EXAMINATION - DOLPHA K. LARSEN

16:10:45 1 A I didn't sign any papers.

2 THE COURT: Okay. Let's just ask questions,
3 Ms. Taylor.

4 MS. TAYLOR: Okay.

16:10:53 5 BY MS. TAYLOR:

6 Q All right. But you do remember signing resignation papers?

7 A Yes.

8 MS. TAYLOR: That's all I have at this time. But I
9 would like to call her back at another time.

16:11:06 10 THE COURT: All right. That's the end of the
11 cross-examination. We'll talk at the end of the day about
12 calling her back.

13 Mr. Galati, any redirect?

14 MR. GALATI: Your Honor, I would like to offer 185.

16:11:19 15 THE COURT: Is there an objection to Exhibit 185,
16 Ms. Taylor?

17 MS. TAYLOR: Let me look at it, please.

18 THE COURT: You can confer with Ms. Anderson, if you
19 would like to.

16:12:43 20 MS. TAYLOR: Your Honor, I object on these on
21 foundation and authiten -- authenticity. I don't know how to
22 say that word.

23 THE COURT: Objection sustained.

24 All right. Ma'am, you can step down.

16:12:57 25 THE WITNESS: Thank you.

CROSS-EXAMINATION - DOLPHA K. LARSEN

16:12:57 1 THE COURT: You can take the water with you, if you'd
2 like.

3 MR. GALATI: Your Honor, Robbin Barbour.

4 THE COURT: Ma'am, would you come all the way to the
16:13:38 5 front of the courtroom, please, to be sworn as a witness.

6 THE COURTROOM DEPUTY: Please state and spell your
7 name for the record.

8 THE WITNESS: Robbin Barbour, R-O-B-B-I-N,
9 B-A-R-B-O-U-R.

16:14:15 10 MR. GALATI: May I proceed, Your Honor?

11 THE COURT: You may.

12 MR. GALATI: Thank you.

13 **ROBBIN BARBOUR,**

14 called as a witness herein, after having been first duly sworn
15 or affirmed, was examined and testified as follows:

16 D I R E C T E X A M I N A T I O N

17 BY MR. GALATI:

18 Q Ms. Barbour, if you would just speak into the microphone,
19 all right? It is very flexible. You can move it close to you
16:14:25 20 without making yourself uncomfortable.

21 A Okay.

22 Q Thank you.

23 Would you tell the ladies and gentlemen your name,
24 please.

16:14:30 25 A Robbin Barbour.

DIRECT EXAMINATION - ROBBIN BARBOUR

16:14:31 1 Q And would you just spell your last name.
2 A B-A-R-B-O-U-R.
3 Q Ms. Barbour, where do you live? Which city?
4 A Mesa, Arizona.
16:14:40 5 Q And what's your occupation?
6 A I am a licensed real estate agent, which is slow right now,
7 so I'm working with my daughter at her boutique.
8 Q Is that in the east valley also?
9 A It's in Mesa.
16:14:53 10 Q Yes.
11 And you know Sue Taylor?
12 A I do.
13 Q Who is Sue Taylor?
14 A She's my sister.
16:14:58 15 Q And is she present?
16 A Yes.
17 Q Could you point her out?
18 A She's right here.
19 MR. GALATI: Your Honor, may the record reflect
16:15:05 20 identification?
21 THE COURT: Yes.
22 BY MR. GALATI:
23 Q And I want to ask you a few things about your experience
24 with your sister. First of all, let me ask this: Did you move
16:15:21 25 back to the Valley in the late '90s from somewhere else?

DIRECT EXAMINATION - ROBBIN BARBOUR

16:15:24 1 A I did?

2 Q Where did you move back here from?

3 A Alabama.

4 Q And how long had you been in Alabama?

16:15:30 5 A Twenty years.

6 Q And who -- what's the name of your mother?

7 A Avis Johnson.

8 Q Is she also Sue Taylor's mother?

9 A Yes.

16:15:43 10 Q What is the difference in age between you and Sue Taylor?

11 A Eighteen years.

12 Q For the record, are you the senior or the junior?

13 A I'm the junior.

14 Q And when you moved back to Arizona, do you recall what year

16:15:58 15 and month it was approximately?

16 A I was a school teacher, so I was out of -- school let out

17 in May, and I came out in May of '99.

18 Q Had you been a school teacher in Alabama for quite a while?

19 A Thirteen years.

16:16:11 20 Q What did you teach there?

21 A Elementary. Third-grade education.

22 Q When you moved back to Arizona, did you have children with

23 you?

24 A Yes.

16:16:21 25 Q Were you married at the time?

DIRECT EXAMINATION - ROBBIN BARBOUR

16:16:23 1 A I was married and to be divorced. My ex-husband and I were
2 separating, and I came here to relocate because my family was
3 here.

4 Q And did you decide to go to real estate school at some
16:16:37 5 point?

6 A I did. I spoke with my sister. She said to me, you know,
7 why don't you try real estate, It pays better than teaching
8 school. And so I did.

9 Q And your sister is Sue Taylor?

16:16:50 10 A Sue Taylor, um-hmm.

11 Q Is Dolpha Larsen also your sister?

12 A She is my sister.

13 Q Did you go to real estate school and get a real estate
14 license?

16:16:58 15 A Yes, I did.

16 Q Once you did that, did you associate with any brokerage or
17 work with any real estate --

18 A I did. I hung my lice- -- I received my license in
19 September of '99, and I hung my license with my sister Sue, who
16:17:13 20 was my broker.

21 Q And where was the office located?

22 A 20 North Gilbert Road.

23 Q Does National Land Bank mean anything to you?

24 A Yes. That's the name of the brokerage.

16:17:28 25 Q What was the nature of the business during the time you

DIRECT EXAMINATION - ROBBIN BARBOUR

16:17:30 1 were -- let me back up. How long did you actually remain in
2 the employ of or associated with your sister at 20 North
3 Gilbert?

4 A Almost a year.

16:17:42 5 Q And so did you get a handle on what type of business was
6 going on there?

7 A Yes.

8 Q Could you describe it.

9 A It was land brokerage. It was, for the most part, doing
16:17:55 10 parcels of land for builders. For future homesites.

11 Q Locating undeveloped land for builders and people like
12 that?

13 A Developers, um-hmm.

14 Q Developers?

16:18:05 15 What kind of work did you do there during that period
16 of time?

17 A Primarily at the beginning, I would look up properties on
18 the maps, aerial maps to locate properties that were raw land
19 versus a subdivision or a commercial area. I would find those
16:18:23 20 properties and then I would look up on the microfiche to find
21 ownership of the property and then try to contact the owners
22 and see if they would be interested in selling their property.

23 Q Does Circle G mean anything to you?

24 A Circle G, yes.

16:18:41 25 Q What is Circle G?

DIRECT EXAMINATION - ROBBIN BARBOUR

16:18:43 1 A They're a developer of homesites.

2 Q Gerry Ricke, is he one --

3 A Gerry Ricke is one of the entities, yes.

4 Q Gerry Ricke is a persons, correct?

16:18:55 5 A Gerry Ricke is one of the entities of Circle G, yes.

6 There's three partners. Or there were.

7 Q Did you personally know Gerry Ricke?

8 A Yes, I did.

9 Q And during the time you were working with your sister Sue

16:19:07 10 Taylor, were she and Gerry Ricke boyfriend and girlfriend?

11 A Yes, they were.

12 Q And did there come a time that you moved your real estate

13 license somewhere else?

14 A Yes, I did. As I finished real estate school and, I don't

16:19:28 15 know, about nine, ten months, I think, after I was employed by

16 her, I was asked -- I was approached by a gentleman when I was

17 working in Queen Creek on a project, and he asked me if I would

18 be interested in coming to work kind of under him as his

19 assistant. And I wanted to learn more, and I said yes, and so

16:19:49 20 I moved my license to West USA Realty.

21 Q Just a couple other family-type questions. Who is Desiree

22 Saunders?

23 A She is my niece. She's Sue Taylor's oldest daughter.

24 Q And do you know her?

16:20:07 25 A Yes.

DIRECT EXAMINATION - ROBBIN BARBOUR

16:20:07 1 Q Is Desiree Saunders relatively close in age to you?

2 A She is, uh-huh.

3 Q When you moved back to the Valley, were you pretty chummy
4 with her?

16:20:15 5 A She didn't live here when I first moved here. Then she
6 returned here from up north, and we reunited and we hung out
7 some. She works a very stringent schedule, different to mine.
8 She worked nights, and I was working days, and I also was
9 reconstructing my life here with my children. So we hung out,
16:20:35 10 but not often, often.

11 Q What was her occupation the last you knew?

12 A She was working at Fry's Grocery, at the night shift, and
13 I'm not sure what she did there. She was a clerk or --

14 Q Does she have children?

16:20:50 15 A She does.

16 Q How many?

17 A Five.

18 Q Does the name Brian Bosac (phonetic) mean anything to you?

19 A Brian Bosac is Desiree's oldest daughter's husband and
16:21:05 20 children's father.

21 Q And do you know if she has an in-law also named Pierc,
22 P-I-E-R-C?

23 A I don't know a Pierc.

24 Q That's fine.

16:21:19 25 Did you ever attend a marriage ceremony, a wedding

DIRECT EXAMINATION - ROBBIN BARBOUR

16:21:22 1 ceremony, where Sue Taylor and Ron McBride in this ceremony
2 married each other?

3 A I did.

4 Q Where did that take place?

16:21:30 5 A At the Boys Ranch in Queen Creek.

6 Q Do you know how long ago that was?

7 A I'm sorry, I don't recall. I could guess.

8 Q I don't want you to guess.

9 But let me ask this: When's the last time you had any
16:21:42 10 kind of a -- I'll call it a close association with Sue Taylor?

11 A Prior -- probably then, right around that time.

12 Q And if you try to put a date on when you really stopped
13 being close with her, does that help you?

14 A It was about the time that she was marrying or -- Ron.

16:22:04 15 Q Do you have an estimate as to when that was?

16 A I think it was around '05, but I really don't --

17 Q Thank you.

18 A -- I kind of put it out of my head.

19 Q Thank you.

16:22:13 20 Prior to Sue Taylor and Ron McBride getting married,
21 had you ever been to Ron McBride's house?

22 A I did go to his house with my sister.

23 Q How many times have you been there?

24 A Once.

16:22:34 25 Q Did you associate with Ron McBride much at all before the

DIRECT EXAMINATION - ROBBIN BARBOUR

16:22:36 1 marriage or up until the time of the marriage?

2 A Never.

3 Q What I want to ask is this: If he had been described as a
4 wealthy person, is that -- does that comport with what you know
16:22:49 5 about him?

6 A That would not be my impression from visiting his house.

7 Q All right.

8 Do you know what he did for a living up until that
9 time?

16:23:00 10 A I was told he's a handyman.

11 Q Do you know what Burning Bush Ministries is or Burning Bush
12 is?

13 A I don't know exactly what it is. I heard talk of a
14 ministry.

16:23:16 15 MS. TAYLOR: Objection, Your Honor. Hearsay.

16 THE COURT: Sustained.

17 BY MR. GALATI:

18 Q I was about to ask you: Did you hear that from Sue Taylor?

19 A I heard the name Burning Bush from Sue.

16:23:29 20 Q What about McBride Musical Ministries? Did Sue Taylor ever
21 tell you what that was or refer to it?

22 MS. TAYLOR: Objection, Your Honor. Hearsay.

23 THE COURT: Overruled.

24 THE WITNESS: I know of McBride Ministries from Sue
16:23:42 25 also, yes, and that I've seen -- my other family members as

DIRECT EXAMINATION - ROBBIN BARBOUR

16:23:45 1 well, and I have seen their motor home with the name "McBride
2 Ministries" on it, with them in it.

3 BY MR. GALATI:

4 Q Did you ever have a discussion with Sue Taylor concerning
16:23:57 5 the filing of income taxes? Yes or no?

6 A Yes.

7 Q Did she tell you that it was against the law not to file
8 income taxes?

9 A The conversation was more about filing taxes, and she said
16:24:18 10 that you have to file your tax, it's not that you don't -- then
11 you decide what you owe, basically. It's not against the law
12 to not pay the tax; it's against the law to not file them.

13 Q What did you tell her about that?

14 A I said, "Well, that's interesting, because I thought
16:24:41 15 everybody had to file and pay their taxes."

16 Q I want to ask you, without going into any detail, did you
17 have a falling-out with Sue Taylor?

18 A Yeah. We had a difference of opinion.

19 Q Did you ever turn over to the IRS any information
16:25:05 20 concerning her?

21 A The IRS contacted me and asked me many questions. Yes.

22 Q And does the name Abe Reyes mean anything to you?

23 A I believe that was the first person.

24 Q And when you spoke to that person at some point thereafter,
16:25:28 25 did you let them know that you would be interested in any

DIRECT EXAMINATION - ROBBIN BARBOUR

16:25:31 1 reward that might be forthcoming for your cooperation?

2 A They asked if the reason for the contact was for a reward,
3 and I think I jokingly, thinking it was maybe a joke, said,
4 "Well, sure." So, yes, the answer would be yes.

16:25:48 5 Q And when all that was going on, without going into any
6 details, was there a lawsuit going on that you were a party of
7 and Sue Taylor was a party of?

8 A There was litigation going on which was why the IRS was
9 contacted.

16:26:01 10 Q And was that over a piece of property called Peace Pipe?

11 A Yes.

12 MR. GALATI: I don't have anything further, Your
13 Honor.

14 THE COURT: Cross-examination, Ms. Taylor?

16:26:14 15 MS. TAYLOR: One moment, please.

16 THE COURT: All right.

17 We only have about three minutes before we're going
18 to break, Ms. Taylor, at 4:30.

19 MS. TAYLOR: Would you like to break first?

16:26:59 20 THE COURT: No. You can go ahead and start.

21 C R O S S - E X A M I N A T I O N

22 BY MS. TAYLOR:

23 Q Robbin, isn't it true that you and I have grave
24 disagreements and, actually, you don't like me?

16:27:22 25 A It's not true that I don't like you. I love you. I

CROSS-EXAMINATION - ROBBIN BARBOUR

16:27:25 1 disagree with the things you do.

2 Q For a person to love a person, isn't it true they have a
3 little bit more contact with them, so I believe that -- that's
4 not a question.

16:27:47 5 If you love a person, you have more contact with them
6 than what you have had with me for -- wouldn't that be true?

7 A I disagree.

8 Q You're saying you love me and yet you can call up the IRS
9 and ask for a reward to turn me in?

16:28:07 10 A I didn't call up the IRS and ask for a reward. They asked
11 me if I wanted a reward.

12 Q That's not what their record shows.

13 THE COURT: You need to ask a question, Ms. Taylor.

14 BY MS. TAYLOR:

16:28:27 15 Q You said you attended a wedding of Ron and I. Do you have
16 evidence we were actually married?

17 A Do I answer yes or no? Do I ask a question? What kind of
18 evidence? The evidence would be the action, the act of
19 matro -- the ceremony, the pastor, the music, the vows.

16:28:49 20 Q Do you have any actual evidence that there was an actual
21 license signed, submitted to the state?

22 A Well, of course not. I'm not the pastor or the bride or
23 the groom. I was a guest.

24 Q Do you have any evidence of who the preacher was?

16:29:07 25 A I do --

CROSS-EXAMINATION - ROBBIN BARBOUR

16:29:09 1 Q What was his name?
2 A -- know who was preacher was.
3 Q What was his name?
4 A Pastor Dave from our mother's church.
16:29:17 5 Q And you're positive of that?
6 A No, I'm not positive. I'm not positive, because I didn't
7 pay attention to who it was; but I'm pretty certain that it was
8 Pastor Dave from our mother's church.
9 Q So your relationship -- would you call your relationship
16:29:35 10 and I -- your relationship with me, would you call that a
11 loving sisterly relationship?
12 A I wouldn't call it anything. We're no closer or further
13 apart now than we were when I didn't live in the state. So I
14 don't know what you're referring to as "loving."
16:30:02 15 Q Well, you just made the remark that you love me.
16 A Well, of course I love you.
17 Q You love me because you're my sister. I just asked you if
18 our relationship is a loving relationship.
19 MR. GALATI: Your Honor, it's been asked and answered.
16:30:14 20 THE WITNESS: Define "loving" so that I can answer it
21 appropriately.
22 My version of love is I care about you and I'm
23 concerned about you. That's how I love you. Do I pick up the
24 phone and call you or meet with you or hang out with you,
16:30:32 25 if -- I don't know what you're referring to as "loving."

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16:30:38 1 THE COURT: We're at 4:30. We're going to break.

2 MS. TAYLOR: Okay.

3 THE COURT: Members of the jury, we're going to break
4 for the day. We will plan to resume at nine o'clock. Please
16:30:47 5 remember not to discuss the case or do any investigation on
6 your own. We'll plan to see you tomorrow morning. Thank you.

7 (The jury exited the courtroom at 4:31 p.m.)

8 THE COURT: Please be seated.

9 All right. Mr. Galati or Mr. Knapp, tell me where
16:31:35 10 you are in terms of time.

11 MR. KNAPP: Your Honor, we're ahead of schedule. We
12 have on our list, and this list doesn't have -- I guess the
13 bottom line is, I have seven witnesses left on my list in
14 addition to Ms. Barbour, but as with some of the witnesses
16:31:57 15 we've been through, some of them are short.

16 THE COURT: So how much time do you think you're going
17 to take?

18 MR. KNAPP: I still think we'll finish on Friday. It
19 just depends how long some of the witnesses will be.

16:32:09 20 THE COURT: I show five witnesses who have not been
21 called.

22 MR. KNAPP: Your Honor, we have Azenith Larson; Gary
23 Kehias; Patrick Gleason; and then a custodian from the
24 Department of Revenue, the State Department of Revenue, Kathy
16:32:31 25 Lilly; and then David Votaw, the case agent; Cheryl Bradley to

CROSS-EXAMINATION - ROBBIN BARBOUR

16:32:36 1 be recalled on the expert summary witness; and then Janice
2 Weaver.

3 THE COURT: And do you think you may get through that
4 tomorrow?

16:32:46 5 MR. KNAPP: All of them?

6 THE COURT: Yes.

7 MR. KNAPP: I doubt it, Your Honor. I don't think
8 we'd get through all of them tomorrow.

9 THE COURT: All right.

16:32:54 10 I think what I'd like to do is plan to -- let me
11 check my calendar, briefly.

12 I think what I'd like to do is get together at 8:30
13 tomorrow morning to talk about jury instructions. I handed
14 out those proposed jury instructions at the final pretrial
16:33:59 15 conference, and I'd like to get your comments or objections on
16 those tomorrow morning. So if you could be prepared to give
17 me your thoughts on those, we'll cover the jury instructions
18 then, and that way we'll have those finalized.

19 Does the Government have additional matters you want
16:34:17 20 to raise before we break?

21 MR. GALATI: Yes, Your Honor.

22 THE COURT: Go ahead.

23 MR. GALATI: I asked -- I asked Ms. Taylor if she
24 really wanted Robbin Barbour back in the morning with an eye
16:34:30 25 toward letting her go if she didn't. Ms. Taylor just told me

CROSS-EXAMINATION - ROBBIN BARBOUR

16:34:30 1 that it's okay if she be excused as witness.

2 THE COURT: Is that all right, Ms. Taylor?

3 MS. TAYLOR: She can be excused, yes.

4 THE COURT: Okay. We'll excuse Ms. Barbour.

16:34:39 5 MR. GALATI: And then also, Ms. Morgan from the IRS,
6 from Utah, that was here, she's still here. She's supposed to
7 leave at six in the morning. I thought we were leaving it for
8 later as to whether or not she needed to hang around any
9 longer.

16:34:54 10 MR. KNAPP: And, Your Honor, Ms. Taylor and I spoke at
11 a break, and she said she has no interest anymore in recalling
12 her, so I told her to stay with her flight. So we just wanted
13 to let the Court know.

14 THE COURT: All right.

16:35:08 15 So you're okay with her going back to Utah?

16 MS. TAYLOR: Yes, sir.

17 THE COURT: Okay.

18 MR. GALATI: And I think it was also left hanging as
19 to Dolpha Larsen. Ms. Taylor said she wanted to recall her. I
16:35:12 20 didn't know if she meant in her case or what.

21 THE COURT: Yeah. Do you still want to recall Dolpha
22 Larsen?

23 MS. TAYLOR: Yes, I do, Your Honor.

24 THE COURT: Okay. You'll need to do that during your
16:35:21 25 case, because the cross-examination of her during the

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16:35:23 1 Government's case is finished. You can talk to Ms. Anderson
2 about how to do that.

3 I don't know if you want to coordinate that contact
4 or not, Mr. Galati, but --

16:35:31 5 MR. GALATI: Certainly, we will.

6 THE COURT: -- that is probably easier than having
7 them subpoena her.

8 But you can call her again during your case, which
9 doesn't sound like it will start tomorrow. The Government
10 thinks it will go through tomorrow with its witnesses. But as
11 soon as it does, as soon as the Government rests, Ms. Taylor,
12 you're going to need to be ready to go with your defense case.
13 All right?

14 MS. TAYLOR: Are we going to be here on Good Friday?

16:36:01 15 THE COURT: Yes. We are.

16 Anything else from the Government?

17 MR. GALATI: No, Your Honor.

18 THE COURT: Okay.

19 Do you have anything you want to raise before we
16:36:10 20 break for the day, Ms. Taylor?

21 MS. TAYLOR: Yes.

22 Well, I can't find --

23 THE COURT: Ms. Taylor, pull the mike over, would you.
24 We're having a little trouble hearing you.

16:36:39 25 MS. TAYLOR: I can't find it right now, Your Honor,

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16:36:41 1 but I will address it in the morning, if that's okay.

2 THE COURT: That's fine.

3 MS. TAYLOR: I just want to leave with the objection
4 that this is not a jury of my peers.

16:36:48 5 THE COURT: All right. I understand that objection.

6 MR. KNAPP: Your Honor, I just realized one other
7 thing I wanted to mention is, if we could take up a little
8 time, I had made a motion earlier for admission of some public
9 records, and I consulted the rules. We can talk about that now
10 or maybe tomorrow.

11 THE COURT: Why don't we talk about that in the
12 morning, because we've got folks waiting for another hearing
13 today.

14 MR. KNAPP: Certainly.

16:37:10 15 THE COURT: Okay. For those of you who are here for
16 the 4:30, sorry about the delay. We need to take about a
17 ten-minute break for the benefit of the court reporter, and
18 then we will take up that case management conference.

19 (End of transcript.)

16:37:20 20 * * * * *

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C E R T I F I C A T E

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2
3 I, PATRICIA LYONS, do hereby certify that I am duly
4 appointed and qualified to act as Official Court Reporter for
16:37:20 5 the United States District Court for the District of Arizona.
6

7 I FURTHER CERTIFY that the foregoing pages constitute
8 a full, true, and accurate transcript of all of that portion
9 of the proceedings contained herein, had in the above-entitled
16:37:20 10 cause on the date specified therein, and that said transcript
11 was prepared under my direction and control, and to the best
12 of my ability.
13

14 DATED at Phoenix, Arizona, this 23rd day of July,
16:37:20 15 2011.
16
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19

16:37:20 20 s/ Patricia Lyons, RMR, CRR
21 Official Court Reporter
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