

CR-10-00757-PHX-ROS, May 31, 2012

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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5	United States of America,)	
6)	
7	Plaintiff,)	
8	vs.)	
9)	CR10-00757-PHX-ROS
10	James R. Parker,)	
11)	
12	Defendant.)	
13)	May 31, 2012
14)	
15)	
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BEFORE: THE HONORABLE ROSLYN O. SILVER, CHIEF JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - Day 3 Excerpt
(Direct testimony of Paul Wedepohl)

Official Court Reporter:
Elaine Cropper, RDR, CRR, CCP
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United States District Court

CR-10-00757-PHX-ROS, May 31, 2012

A P P E A R A N C E S

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United States District Court

PAUL WEDEPOHL - Direct

P R O C E E D I N G S

(The following excerpt was transcribed.)

PAUL WEDEPOHL,

called as a witness herein by the Government, having been first
duly sworn or affirmed to testify to the truth, was examined
and testified as follows:

COURTROOM DEPUTY: State your name for the record;
spell your last name, please.

THE WITNESS: My name is Paul Wedepohl.
W-E-D-E-P-O-H-L.

COURTROOM DEPUTY: Have a seat right up here, sir.

DIRECT EXAMINATION

BY MR. SEXTON:

Q. Would you introduce yourself to the Court and to the jury?

A. Certainly. My name is Paul Wedepohl. I used to be -- I'm
a retired revenue officer with the Internal Revenue Service.

Q. When did you retire?

A. I retired in September of 2009.

Q. And retired, are you retired-retired, or are you retired
to a new job?

A. My new job is living life. I'm retired-retired.

Q. And when were you a revenue officer for the Internal
Revenue Service?

A. I was a revenue officer from July of 1982 until I retired
in September of 2009.

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1 Q. Did you work in a particular office?

01:53:00

2 A. I worked in several offices around the Valley here,
3 Phoenix offices, Mesa office, Tempe office.

4 Q. Is all of your experience in sort of the greater Phoenix
5 metropolitan area?

01:53:16

6 A. That's correct. Now and then I would travel out of state,
7 but that was the exception rather than the rule. Mostly, I
8 worked around town here.

9 Q. So, overall, you had 27 years of experience with the
10 Internal Revenue Service?

01:53:29

11 A. Yes, sir.

12 Q. Always as a revenue officer?

13 A. Yes, sir.

14 Q. As a revenue officer, would you give the jury sort of the
15 highlights of your training and experience as a revenue
16 officer?

01:53:44

17 A. Absolutely. As I said, I started with the Service in July
18 of 1982 and at that point, I was in a one-year training
19 program. It involved classroom training for a month or two,
20 then on-the-job training and then back to classroom training
21 and so forth. That period lasted for a year.

01:54:03

22 And at that time, I went out and started working
23 collection cases for the Internal Revenue Service.

24 Since then I've had -- it would take me a while to
25 list all of the training that I've had through the years

01:54:24

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1 including many training classes that I was an instructor for
2 classes. Most recent classes I instructed on before I retired
3 involved cases of more technical nature and the higher complex
4 cases and so forth.

01:54:26

5 Q. Now, sometimes in the records, do you use an alias name?

01:54:53

6 A. Yes. My true name, as I indicated, is Paul Wedepohl.

7 However, the Internal Revenue Service at one time -- I don't
8 know if they do now but at one time assigned us what is called
9 pseudonyms, or a name other than our true name, that we would
10 use in the course of our official duties. And so my name that
11 was assigned to me was Paul Chase.

01:55:17

12 Q. And why were you using an alias name in your dealings?

13 A. Sure. The main reason was for safety and security. A
14 great many taxpayers and individuals that we come across in our
15 duty are completely cooperative and willing to, you know,
16 resolve their issues and work with you. However, you do have a
17 few that aren't so willing and cooperative and don't really
18 like you or like the Internal Revenue Service. There was a
19 tendency periodically for some individuals to file personal
20 liens against me or against other revenue officers.

01:55:48

21 For example, in an effort to ruin our personal
22 credit, stop us from maybe obtaining a mortgage for our own
23 personal needs. If you can imagine somebody messing up your
24 credit report with bogus liens and false documents, can create
25 a problem for you personally.

01:56:10

01:56:32

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1 So in an effort to kind of stay away from that, we
2 worked with pseudonyms that were sanctioned by the Internal
3 Revenue Service.

01:56:34

4 Q. While you were a revenue officer, on average, about how
5 many collection files were you working on at any given time?

01:56:50

6 A. Towards the last, I would say, 10 years of my career my
7 maximum inventory could be -- well, my inventory numbers, which
8 are individual cases or entities, ran in the area of 35,
9 between 33, 36 entities at any one time that we worked on. We
10 called that our inventory.

01:57:17

11 Q. Now, your title is a revenue officer. That's distinct
12 from a revenue agent?

13 A. Yes. There's a great distinction between the two.

14 Q. Okay. Would you explain what a revenue agent does and
15 what you, as a revenue officer, are responsible for?

01:57:33

16 A. Sure. A revenue agent is an individual with the Service
17 who does examinations or audits on income tax returns of
18 various types. So a revenue agent will examine, say, for
19 example, a 1040 income tax return that you may file. There may
20 be a need to -- for the service to look at that return. A
21 revenue agent would examine it or audit that return to verify
22 what's on the return is valid. That's what a revenue agent
23 basically did for individuals and businesses.

01:57:55

24 Q. Now, you, as a revenue officer during your career, what
25 was your responsibility within the IRS as a revenue Officer?

01:58:15

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1 A. Sure. My responsibility involved the collection actions 01:58:20
2 on a case, whether it be a case that a revenue agent audited
3 and established that there was a liability owing or whether it
4 was an instance where an individual or business filed a tax
5 return showing a balance owing where no one's paying that 01:58:36
6 balance or for whatever reason didn't pay the balance.

7 That case would come to myself to make contact with
8 the individual or the business to determine, you know, what's
9 going on, what can we do together to work out the problem? And
10 so I worked collection. I would collect money that was due the 01:59:00
11 government and I would collect returns or tax returns that were
12 due to the government but that weren't filed timely.

13 Q. Now, in the process of being a revenue officer, when is it
14 that, in essence, a file is begun and assigned to someone like
15 you in the IRS? When is it that somebody says, "It's time to 01:59:26
16 send this to collections"?

17 A. Well, management would assign us inventory or our case
18 files based on our work load. For example, management always
19 liked revenue officers to have plenty of work to do. They
20 didn't want us sitting around. They wanted us working so they 01:59:48
21 would make sure that we had plenty of work, plenty of cases.
22 When we would close a case, most of the time we would get
23 another one right behind it assigned to us on the computer
24 system.

25 So they always kept us at a higher end of inventory. 02:00:01

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PAUL WEDEPOHL - Direct

1 We didn't control the work that came to us. It was assigned to 02:00:08
2 us and we would take what was given to us and go from there.
3 Q. Now, in the beginning of the process of an assigned case,
4 when it's given to you, there has been some determination that
5 a tax is due and owing that needs to be collected? 02:00:24
6 A. If it's a case for collection. When I say "collection," I
7 mean to collect money.
8 Q. Right.
9 A. Then, yes, the liability has already been established nine
10 times out of ten. Whether it's a voluntarily filed return by 02:00:38
11 the individual or a return that was set up by the Internal
12 Revenue Service, and maybe even taken to a tax court, for
13 determination. Once the liability was determined, then that
14 case would come to us to collect.
15 Q. So the liability could have been determined by the 02:00:56
16 taxpayer to justify the tax return itself that they filed?
17 A. Correct.
18 Q. By an audit process that there was a determination that
19 wasn't disputed at the end?
20 A. Correct. 02:01:08
21 Q. Or even by some sort of a tax court judgment that
22 finalized that due and owing for a particular tax year?
23 A. Correct.
24 Q. Now, when you begin the collection process, how is it that
25 you reach out to the person who owes the money, the taxpayer, 02:01:25

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1 how do you reach out to them to begin the process of trying to 02:01:29
2 collect it?

3 A. Sure. Well, when we first receive a case, we establish a
4 date to analyze what information we can analyze that we have
5 available to us internally. More importantly, when we receive 02:01:46
6 a case, we set up a date to go out and make contact with the
7 individual taxpayer, whether it be a business or whatever.

8 Since I'm a field revenue officer, my job is to be in
9 the field, is to go out and knock on doors and do my job. We
10 don't operate on the phone necessarily but it's a face-to-face 02:02:08
11 meeting with the tax-paying individual, whether it be that
12 person or a representative they may have retained or whoever we
13 need to contact. We go out and knock on the door and meet with
14 them in person, or we attempt to do that I should say.

15 Q. And in this process, is it generally cooperative or 02:02:29
16 uncooperative?

17 A. Again, I believe in my experience, over 90 percent of the
18 cases I've worked in 27 years have been with cooperative
19 individuals. Actually, believe it or not, some people have
20 said to me, "I am glad to finally see you." They have been 02:02:49
21 dealing with the Ogden Service Center through letters and phone
22 calls and they get a different person on the phone or whatever
23 every time and they become frustrated so, they are happy to see
24 us sometimes. Those individuals are great to work with. They
25 are cooperative. We have a good flow of information and 02:03:06

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1 communication. And, you know, my job, as a revenue officer for 02:03:10
2 the IRS, is to protect the interest of the individual taxpayer
3 as well as the interest of the service.

4 So I go out there to try to help fix this problem but
5 I do it on a face-to-face, in-person basis. 02:03:25

6 Q. Now, you said the flow of information. Do you ask the
7 taxpayer for various pieces of financial information to get a
8 measure of their financial picture?

9 A. Why, sure we do. However, before we even start talking
10 about what records we might need or documents or discussion 02:03:45
11 points, I always ask for the money. "Can you pay the tax that
12 you owe today? Can you pay part of the tax that you owe
13 today?"

14 So, you know, although I am probably going to end up
15 securing information in many cases, I always try -- we always 02:04:03
16 try to get the money or get a partial payment or secure returns
17 that haven't been filed when we make our initial contact.

18 If the individual and business is unable to pay, then
19 we get into a discussion about coming up with the resolution to
20 get it paid based on their financial situation and then enters 02:04:22
21 the issue of needing documents and records and so forth to
22 establish the best resolution of that case.

23 Q. What procedures do you employ if you have an uncooperative
24 taxpayer?

25 A. Well, the revenue officers have made tools, if I can use 02:04:50

PAUL WEDEPOHL - Direct

1 that word, available to us to try to promote compliance. 02:04:53

2 That's what we are trying to do is get somebody back into the
3 system, back into the paying, filing routine so that they are
4 productive in that regard and we move on out of their life. So
5 we do have a lot of different things that we can do. 02:05:16

6 Q. Let me ask it a little bit more specifically. If they are
7 not willing to give you information, what do you do, as a
8 revenue officer, to try to learn about what their assets and
9 liabilities and income are if they are not going to give it to
10 you? How do you go about trying to figure that out ourself? 02:05:32

11 A. Sure. Well, I ask them first if they say they can't pay,
12 then I start asking, you know, "Well, what kind of income do
13 you have? What kind of assets do you have? What are your
14 liabilities? What are your expenses?" And we try to kind of
15 formulate a financial statement to see -- get a picture, a 02:05:51
16 snapshot, of where that individual is in terms of their ability
17 to pay.

18 If they don't willingly provide that information,
19 then we have ways that we can find information through the
20 issuance of a summons where it's a document that we might serve 02:06:08
21 on a bank account to ask for bank records. We always ask the
22 individual to provide us with that information first because
23 it's just easier. But if we need to, we can summons bank
24 accounts. We can summons individuals for testimony.

25 If somebody is not willing to cooperate and maybe we 02:06:28

PAUL WEDEPOHL - Direct

1 know about a bank account somewhere after they have had their 02:06:31
2 due process notices and so forth, we may send what's called a
3 notice of levy, which is a document that basically attaches or
4 garnishes the funds in that account. We could do the same
5 thing with wages. We can even seize assets if we have to, if 02:06:47
6 an individual or business refuses to comply and won't work with
7 us. And we take even further collection action that could
8 include showing up one day with a tow truck and seizing the car
9 or seizing their personal residence or seizing their wages.
10 But of course they have warnings and notice and opportunity 02:07:11
11 through due process procedures to rectify that event from
12 happening by just sitting down and talking to us. That is the
13 name of the game.

14 Q. Besides a summons, are you able to do searches for title
15 records with various recorders' offices within the State of 02:07:29
16 Arizona?

17 A. Yes. We can serve a summons on pretty much any entity
18 that we believe may have some relevant records to our case.
19 For example, the title company. If it looks like somebody's --
20 somebody owns a house or if they are living in a house and 02:07:48
21 we're not sure who owns the house, who bought the house, things
22 like that, then we can serve summonses and secure records from
23 title companies to see the escrow file to see when the house
24 was originally purchased and to try to determine who was
25 involved, where the income came from to buy the house and 02:08:06

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1 things like that. 02:08:08

2 Q. Do you search other public databases like Department of
3 Motor Vehicles, Recorder's Office, the Department of Economic
4 Security to try to get those pieces of information?

5 A. All of those. All of those sources and as many more as 02:08:20
6 you can think of. We have no perimeters or boundaries by which
7 we can reach out and try to secure information.

8 If there's a nexus to our case or a connection to our
9 case that that third party, we believe, has, then one summons
10 that third party for the information. 02:08:40

11 Q. Let's talk about the nexus there. Do you -- obviously
12 there are 50 states in the United States. Do you search the
13 public records in each state when you are looking at an
14 uncooperative taxpayer's information or do you start with the
15 state that they seem to be living in and search that thoroughly 02:08:57
16 and it's hit and miss otherwise?

17 A. Sure. Typically, we search the database in the area or
18 state where the residence is located, where the taxpayer
19 resides I should say, where the individual resides.

20 We can search outside of the State of Arizona. 02:09:16

21 Remember, we're federal. So we can search in Maine or
22 Washington state. But I wish our databases were that
23 accessible to us but, typically, we search the State of
24 Arizona, for example. Unless we have a reason to look in
25 another state, whether it's DMV or their Department of Economic 02:09:36

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1 Security or a bank or someplace else in another state, we don't 02:09:39
2 just search the whole country. It's just prohibitive to do
3 that. We have to have some nexus or reason to go out.

4 Q. And what about into foreign lands outside the United
5 States, do you have any mechanisms or powers to get records out 02:09:55
6 of the country?

7 A. We have -- we, I say the federal government has a
8 collection treaty with six countries in the whole world, but
9 generally, the answer to that is no. We can't reach out to
10 other countries. And many times, even if we have a collection 02:10:17
11 treaty with the other countries, we still have lots of hurdles
12 and road blocks.

13 It's very difficult to get another country to want to
14 cooperate with Internal Revenue Service.

15 Q. To your knowledge, was there a collection treaty with the 02:10:36
16 country of Belize?

17 A. No, there isn't.

18 Q. Were you assigned the collection matter for James and
19 Jacqueline Parker?

20 A. Yes, I was. 02:10:54

21 Q. Now, do you have in front of you Exhibit 446?

22 A. Yes, I do.

23 Q. Is that an archive history that includes the sort of the
24 collection history associated with the James and Jacqueline
25 Parker taxpayer? 02:11:20

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1 A. Yes. 02:11:23

2 Q. And are many of the inputs in this document inputs that
3 you inputted into the system during your time as a collection
4 officer for this particular file?

5 A. Yes. 02:11:38

6 Q. Would this document help you in recalling the specific
7 things that you did in regards to this collection file?

8 A. I'm sure it would.

9 Q. As needed, you can refresh your recollection to see if it
10 refreshes your recollection as to the next thing you did in 02:11:58
11 that or it refreshes your recollection as to a conversation.
12 But when you need to do that, would you let us know so then you
13 can look at it and then we want you to testify from your
14 recollection. Do you understand that?

15 A. Sure. 02:12:15

16 Q. When were you assigned the collection file for James and
17 Jacqueline Parker? When was that?

18 A. I was assigned that file in January of 2004.

19 Q. And what tax years were you assigned to collect?

20 A. If I could refer to this briefly, please? 02:12:49

21 Q. Yes.

22 A. I was assigned the tax years of -- for 1040 income tax
23 returns for 1997, 1998, 2000, and 2002 -- I'm sorry, and 1999
24 as well.

25 Q. And did you have a particular amount of unpaid balance 02:13:23

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1	that you were pursuing?	02:13:28
2	A. Yes. The unpaid amount was 1,700,000 and some extra	
3	dollar and change. A million seven.	
4	Q. Approximately?	
5	A. Yes, approximately.	02:13:43
6	Q. And when you began to work on this file, did Mr. and	
7	Mrs. Parker have someone working for them at that time under a	
8	power of attorney?	
9	A. Yes. At the time I received the case, there was a power	
10	of attorney representative working on behalf of Mr. and	02:14:00
11	Mrs. Parker.	
12	Q. And who was that?	
13	A. That was a CPA. His last name was Liggett. I don't	
14	recall his first name.	
15	Q. Does the name Timothy Liggett --	02:14:13
16	A. Timothy Liggett, thank you, yes.	
17	Q. When a taxpayer like Mr. and Mrs. Parker have put a power	
18	of attorney on record with the Internal Revenue Service that	
19	they have a representative who can speak on their behalf, are	
20	you allowed, as a revenue officer, to bypass that power of	02:14:37
21	attorney and go directly to the taxpayer?	
22	A. No.	
23	Q. So once a power of attorney is put into a file that is	
24	associated with the tax years to which you are seeking	
25	collection, you have to work with that power of attorney at	02:14:57

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1 that point? 02:15:01

2 A. That's correct.

3 Q. Prior to meeting with Mr. Liggett when the file was
4 assigned to you, did you do some investigation before ever
5 meeting with Mr. Liggett? 02:15:13

6 A. Yes, I did.

7 Q. In that investigation, did you focus on any particular
8 assets that were of interest to you?

9 A. I did some research on a residence in Carefree, Arizona,
10 where -- which was the address for Mr. and Mrs. Parker. 02:15:34

11 Q. Anything else that sort of stuck out in your preliminary
12 research that you wanted to look more closely at?

13 A. Well, yes. I found that the residence in Carefree was not
14 actually titled to Mr. or Mrs. Parker. It was titled to
15 another entity and it always makes me ask why. So that looked 02:16:01
16 odd to some extent.

17 Q. Other than that asset, the Carefree residence, were you
18 aware of any other significant assets from which you thought
19 collection could be possible?

20 A. No. 02:16:24

21 Q. When did you first meet with Mr. Liggett?

22 A. If I could look here real quick, I believe I met with
23 Mr. Liggett on February 3 of 2004.

24 Q. Where did you meet?

25 A. I met Mr. Liggett in his office in Mesa -- no, I'm sorry, 02:16:43

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1 Gilbert. 02:16:48

2 Q. Was it just you and Mr. Liggett or was anybody else with
3 you?

4 A. No. There were others there. Actually, I met Revenue
5 Agent Dave Hunt at Mr. Liggett's office and his group manager, 02:16:58
6 Ollie Johnson, attended also.

7 Q. So there were three representatives from the Internal
8 Revenue Service and then Mr. Liggett?

9 A. Correct.

10 Q. And why were you meeting with Mr. Liggett on this day? 02:17:15

11 A. Because he was the authorized representative for Mr. and
12 Mrs. Parker.

13 Q. Now, sir, I don't want you to speak about what Mr. Hunt or
14 Mr. Johnson may have said in this meeting, but would you please
15 tell the jury what you and Mr. Liggett talked about in this 02:17:38
16 meeting on February 3?

17 A. I sure will. Just as I start out every contact I have
18 with an individual, if it's the first contact I have with them,
19 whether it's the taxpayer individual or the representative, I
20 explain what the collection process is all about. I let them 02:17:58
21 know what type of rights they have to appeal decisions and
22 actions that are maybe taken along the way so that they know
23 who to contact if they think I make a bad decision or won't do
24 something they wanted. So I explain everything along those
25 lines to him. But, then, like I indicated a couple of minutes 02:18:20

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1 ago, I asked for the money. My next question is, okay. 02:18:23
2 There's 1.7 million owed here. Can you pay it? Can you pay
3 part of it and so forth. So that is the direction I took with
4 that interview with Mr. Liggett.
5 Q. When you brought up either full payment or partial 02:18:40
6 payment, did Mr. Liggett respond to your efforts in that
7 regard?
8 A. Yes.
9 Q. What did he say?
10 A. He said that he couldn't pay anything. In fact, I think I 02:18:54
11 remember him saying that ever since 9-11, business for
12 Mr. Parker had dropped off. And he was in a situation where he
13 was not able to pay.
14 There was some discussion brought up about an offer
15 in compromise. I could talk about that if you wish. 02:19:17
16 Q. Before we get to that, did you ask him at all about where
17 Mr. and Mrs. Parker did their banking?
18 A. Yes, I did.
19 Q. And did he respond to you?
20 A. Yes, he did. 02:19:28
21 Q. What did he say to you about Mr. and Mrs. Parker's
22 banking?
23 A. He said didn't know.
24 Q. Did you ask Mr. Liggett at all how he was being paid for
25 his services? 02:19:40

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1	A. Yes, I did.	02:19:41
2	Q. Did he respond to you?	
3	A. Yes.	
4	Q. What did he tell you?	
5	A. He said that he received payment for his billing from a	02:19:44
6	bank account held by some entity called Sunlight.	
7	Q. Did you inquire about why Sunlight would have a bank	
8	account?	
9	A. I did inquire about that because previously he -- we had	
10	discussed the fact that Sunlight held title to the residence.	02:20:08
11	But Mr. Liggett indicated to me that Sunlight was there for no	
12	other reason than to hold title to the house, that it didn't	
13	operate as an entity, a going concern, and that it didn't have	
14	a checking account.	
15	Q. So when you asked him about the bank account for Sunlight,	02:20:28
16	what was his answer?	
17	A. Then he indicated to me that maybe it wasn't Sunlight but	
18	that he would have to find out. He would need to check with	
19	Mr. Parker or look back because then he wasn't sure.	
20	Q. In this conversation, did you broach with Mr. Liggett	02:20:46
21	whether or not the home could be borrowed against to satisfy	
22	all or part of the tax debt?	
23	A. Yes, I did.	
24	Q. And what was discussed between you and Mr. Liggett in that	
25	regard?	02:21:02

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1 A. Well, it was -- that discussion was wrapped around a 02:21:04
2 larger discussion where I indicated what information I would
3 need to make a collection determination for Mr. Liggett such as
4 financial records and so forth. In that same discussion, I
5 asked Mr. Liggett to ask Mr. Parker to initiate a loan against 02:21:24
6 the house to borrow the money to pay the taxes.

7 Doing my research earlier, I realized that this is a
8 \$2 million house probably and that it appeared there were very
9 little liabilities owed on it. So I asked that they initiate a
10 loan to borrow against the residence, among other things. 02:21:48

11 Q. Did Mr. Liggett commit anything to you at that point one
12 way or the other?

13 A. He agreed to everything I asked for him to do by -- I
14 think I gave him 10 days to get the ball rolling on these items
15 and he agreed to do that. 02:22:09

16 Q. And when you say "the ball rolling," what kind of records
17 did you want him to get to you?

18 A. I needed financial statements. We call them collection
19 information statements whereby somebody will indicate their
20 assets and income, liabilities, and expenses so we can get a 02:22:23
21 picture, a snapshot, of what their financial ability to pay is
22 or is not.

23 Q. Let me stop you. I think this jury is pretty familiar
24 with those documents. Are these the 433-A and 433-B financial
25 statements? 02:22:38

United States District Court

PAUL WEDEPOHL - Direct

1 A. Yes. 02:22:39

2 Q. Sometimes called offers in compromise?

3 A. Yes.

4 Q. You're asking for those records to be completed?

5 A. I'm asking for those records to be completed. 02:22:49

6 Q. Besides having him complete those forms and asking for

7 information, were you asking for any specific records from

8 third parties that would corroborate the information that would

9 be put on those forms?

10 A. I believe I asked him for -- if I could look here again 02:23:03

11 real quick, I think I asked him for some bank statements.

12 I asked him for some sort of possible payment to be

13 remitted along with proof that estimated tax payments were made

14 for the current year because I wanted him to be in compliance

15 so the liability wasn't getting any bigger while we were 02:23:32

16 working together. Those were the main things that I asked him

17 for.

18 Q. And did it indicate in your memory, or in your note there

19 to jog your memory, what date you gave him by which to get back

20 to you with those records? 02:23:51

21 A. Yes. I believe -- if I could look here. It was February

22 11 -- I'm sorry, February 13 or sooner was the deadline for

23 those records and information.

24 Q. Now, in this conversation, what, if anything, was said by

25 you regard to without having a sufficient payment, I will have 02:24:11

PAUL WEDEPOHL - Direct

1 to begin the process of trying to levy against the Carefree 02:24:19
2 home or other assets?

3 A. Well, right. Whenever we ask for information and a
4 deadline is set, we always indicate to the person, taxpayer or
5 representative, what the consequences will be if the 02:24:35
6 information is not submitted by that date so there's no
7 surprises or mystery in what could happen next. Remember,
8 after all, we're asking for cooperation and compliance to do
9 this amenably and amicably.

10 I did indicate that if I did not receive the 02:24:55
11 information by February 13 that I would file a notice of
12 federal tax lien, which is a document, it's a public record
13 filed at the County Recorder's Office in this case, because
14 this is where Mr. Parker and Mrs. Parker reside. We file it in
15 Maricopa County. Then I would pursue other collection avenues 02:25:18
16 as necessary if I didn't receive my information.

17 Q. And did Mr. Liggett in any way respond to you about what
18 he would like you to do in that regard?

19 A. He asked that we hold off on filing the federal tax lien
20 because if Mr. Parker was going to attempt to get a loan on the 02:25:36
21 property, then a federal tax lien may hamper that ability to
22 get a loan. So he asked that we withhold filing the tax lien
23 and I agreed to do that to give him sufficient time to get that
24 loan in the process.

25 Q. And in this conversation, did he indicate at all that 02:25:56

PAUL WEDEPOHL - Direct

1 perhaps one or more others might be assisting him in dealing 02:26:02
2 with these issues?
3 A. Mr. Liggett?
4 Q. Yes.
5 A. Yes. He indicated to me that there -- I don't remember if 02:26:08
6 he said there was going to be or will be another representative
7 involved on behalf of Mr. and Mrs. Parker by the name of Greg
8 Robinson who will handle, I guess, the collection side of this,
9 which is what I do.
10 Q. Do you remember anything else about this conversation? 02:26:32
11 A. If I could look again real quick?
12 Q. Sure.
13 A. That pretty much covers it I think, sir.
14 THE COURT: All right. We're going to take a break.
15 Ladies and gentlemen, we'll see you back here about 02:27:00
16 ten minutes of three. We're in recess.
17 COURTROOM DEPUTY: All rise.
18 (Jury departs.)
19 (Recess at 2:27; resumed at 2:49.)
20 (Jury enters.) 02:49:59
21 (Court was called to order by the courtroom deputy.)
22 THE COURT: Please be seated.
23 This is a reminder, ladies and gentlemen, we are
24 concluding today at 3:30.
25 MR. SEXTON: Ready, Judge? 02:50:17

United States District Court

PAUL WEDEPOHL - Direct

1 THE COURT: Yes. 02:50:19

2 BY MR. SEXTON:

3 Q. Sir, after that meeting with Mr. Liggett, was the February
4 13, 2004, deadline complied with for the information you
5 sought? 02:50:33

6 A. No.

7 Q. As a result of that, did you go ahead with your filing a
8 notice and beginning the process?

9 A. Yes, I did. I requested the filing of the notice of
10 federal tax lien and I also sent out final demand and notice
11 letters via certified mail to both Mr. Parker, Mrs. Parker,
12 with a copy to their representative, Mr. Liggett. 02:50:50

13 Q. Do you have Exhibit 450 in front of you?

14 A. Yes.

15 MR. SEXTON: That's in evidence, I believe, Your
16 Honor. 02:51:17

17 THE COURT: Okay.

18 BY MR. SEXTON:

19 Q. Hold on one second. This is in evidence, sir. Is this
20 something that you generated to be sent and filed? 02:51:49

21 A. Yes.

22 Q. And what was the date you did this?

23 A. The date was February 12, 2004.

24 Q. And explain to the jury what this was for.

25 A. This is a notice that is sent to the individual or 02:52:05

PAUL WEDEPOHL - Direct

1 business called the final notice, notice of intent to levy and 02:52:10
2 notice of your right to hearing. This is the Internal Revenue
3 Service's last and final notice that is sent out after all
4 efforts have failed to notify the individual that the liability
5 is still due and owing and, basically, because it's not been 02:52:27
6 resolved, that the next actions will be -- may be enforcement
7 action, which when I say enforcement action, that means
8 attachment of bank accounts, seizure of vehicles, seizure of
9 property, that sort of thing. It also, lastly, explains to the
10 individual that the letter is addressed to that if they don't 02:52:51
11 agree with this being the next action or don't agree that they
12 should pay or whatever they don't agree with, that they have an
13 opportunity to request an appeal through another office to
14 determine whether this action would be appropriate or whether I
15 should rescind this notice and give the individual more 02:53:11
16 opportunity to do whatever they need to do.
17 Q. And this is, on the next page, page four, is this from you
18 specifically?
19 A. Yes, it is.
20 Q. And is it directed to Mr. and Mrs. Parker specifically? 02:53:29
21 A. Yes, it is.
22 Q. And when you say certified mail, is it certified mail to
23 them collectively or individually?
24 A. No. We send a separate envelope with this letter and the
25 publications that it indicates which basically involve their 02:53:48

United States District Court

PAUL WEDEPOHL - Direct

1 rights to respond. 02:53:54

2 We send a separate letter, package, to the
3 individual, in this case, Mr. Parker, and I sent a separate one
4 to Mrs. Parker, both at their home address.

5 Q. And are those separately attached beyond your letter as 02:54:10
6 far as the certified receipts?

7 A. Yes.

8 Q. And then on page four, do you see just below your name, is
9 this the period -- periods that you were basically given a file
10 for purposes of collection? 02:54:34

11 A. You kind of lost me. Page four?

12 Q. It's actually the lowest number at the bottom. If you
13 look at the screen, it's right there on the screen for you,
14 sir.

15 A. I'm sorry. 02:54:50

16 Q. Maybe that's easier. It's from the same document.

17 A. Yes, right.

18 Q. Are those the four tax years that were basically given to
19 you for collection purposes?

20 A. Correct. 02:54:58

21 Q. And now the amount -- I thought you said originally 1.7.
22 Now it's closer to 1.9.

23 A. Correct.

24 Q. And those are the amounts you are seeking to collect
25 around the time that this letter is going out? 02:55:09

United States District Court

PAUL WEDEPOHL - Direct

1 A. Yes. 02:55:11

2 Q. And at this time farther back in the exhibit on page
3 seven, because there's a power of attorney with Mr. Liggett, is
4 this something that you also sent to him as well to alert him
5 to your actions? 02:55:32

6 A. That's correct.

7 Q. And this is on February 12 of 2004?

8 A. Yes, sir.

9 Q. And then on February 13 of 2004, did you go ahead and
10 record a tax lien in Exhibit 36? 02:55:51

11 A. Yes, I did.

12 Q. Okay. Take a look at that.

13 MR. SEXTON: That is in evidence as well. That's in
14 evidence, Your Honor.

15 THE COURT: Okay. 02:56:04

16 BY MR. SEXTON:

17 Q. Is that the tax lien that you -- you will come up on page
18 three in a second. You'll see it's the next page.

19 A. Yes, it is.

20 Q. Okay. And this is something that you generated? 02:56:19

21 A. Yes, I did.

22 Q. What is your goal in having this notice of federal tax
23 lien filed?

24 A. Well, the objective of the notice of federal tax lien is
25 to -- again, it's a public recorded document to put the public 02:56:36

PAUL WEDEPOHL - Direct

1 on notice, anybody that cares to look to see if there's any 02:56:42
2 recordings, that the Parkers owe income taxes for the years
3 listed and the amount indicated.

4 And the reason -- did you want me to say why we file
5 it? 02:56:58

6 Q. Yes.

7 A. All right. The reason that is filed, not only to put the
8 public on notice, but it's to let possibly creditors that may
9 be down the road or contacted in the future perhaps for a loan
10 or something like that, that there's an outstanding tax 02:57:12
11 liability against these individuals that has been recorded.

12 And that usually will prevent other loans from
13 occurring because if a loan made in the face of this tax lien
14 by another creditor, then they become junior in priority as far
15 as the claim to the assets this lien attaches. So they may not 02:57:38
16 want to make that loan. But this is simply a public record to
17 let the world know that we've got this issue here to deal with.

18 Q. And you're directing this tax lien as it applies to James
19 R. and Jacqueline Parker?

20 A. That's correct. 02:58:02

21 Q. You're not -- well, this is a straight lien in that sense.
22 Would you explain to them what a nominee lien is and how and
23 when that is filed?

24 A. Sure. Well, let me start with what is a nominee, if I
25 could, and I'll be real quick. A nominee simply, for example, 02:58:25

PAUL WEDEPOHL - Direct

1 if I have a vehicle and I titled it to my neighbor for whatever 02:58:28
2 reason but I still owned the vehicle, drove it and everything
3 else, then that neighbor is my nominee in terms of holding
4 title to the vehicle. It's still my vehicle. I take care of
5 it. I maintain it, I gas it up, I drive it, I wash it, but the 02:58:48
6 name is in his name and he's then my nominee in name only. But
7 the asset is still my asset.

8 So this lien here is simply a notice of lien that
9 attaches to the Parkers' assets or any assets in the name of
10 the Parkers. 02:59:08

11 Q. And then look at Exhibit 451.

12 MR. SEXTON: Is that in evidence?

13 COURTROOM DEPUTY: It is not, Counsel.

14 BY MR. PERKEL:

15 Q. And is this another notice that you had generated a few 02:59:48
16 days after that that was sent to Mr. Liggett?

17 A. Yes, it is.

18 Q. Is this a true and accurate copy? I don't know if it's
19 certified. I can't tell from my record here but we would offer
20 it into evidence. 03:00:04

21 MS. ARNETT: No objection.

22 THE COURT: It's admitted.

23 (Exhibit Number 451 was admitted into evidence.)

24 BY MR. SEXTON:

25 Q. Let's put up page two. 03:00:10

PAUL WEDEPOHL - Direct

- 1 So on the 12th you filed the final notice and the 03:00:20
2 notice of intent to levy. On the 13th of February you filed a
3 notice of federal tax lien with the Recorder's Office. Now,
4 what is this one that you are doing on February 17, just a few
5 days later? 03:00:32
- 6 A. On February 15, I mailed this letter to Mr. Liggett as
7 representative for the Parkers to indicate to him that,
8 basically, the same information we relayed to the Parkers in
9 those letters was that we had filed a federal tax lien and this
10 is a notification of their rights to appeal that filing. 03:00:52
- 11 Q. And then on the second page or page three, in that second
12 paragraph at the top there --
- 13 A. Yes.
- 14 Q. -- do you have authority, if payment is made, to make a
15 release of the federal tax lien? 03:01:26
- 16 A. Yes.
- 17 Q. And is that something that you are indicating on that
18 line?
- 19 A. Yes.
- 20 Q. After you made these various filings or notices, what's 03:01:47
21 the next substantive conversation you had with the power of
22 attorney representative for Mr. and Mrs. Parker?
- 23 A. After these letters were sent?
- 24 Q. Yes.
- 25 A. If I could look to my -- to the history notes here. 03:02:02

United States District Court

PAUL WEDEPOHL - Direct

1	Q. If it helps you, perhaps look at pages 18 and 19 of your	03:02:05
2	collection history.	
3	A. So your question is, what is the next action that I took?	
4	Q. More is what was the next conversation that you had with	
5	somebody that was associated with representing the Parkers?	03:02:29
6	A. Well, my next conversation was a call from Mr. Liggett.	
7	He had indicated to me that Greg Robinson was going to be the	
8	primary person to represent the Parkers in terms of the	
9	collection issues.	
10	Q. And did you subsequently have a conversation with	03:02:52
11	Mr. Robinson?	
12	A. I did.	
13	Q. What day are we talking about?	
14	A. On February 23, I talked to Mr. Robinson.	
15	Q. Was it a face-to-face or a telephone conversation?	03:03:03
16	A. It was a telephone conversation.	
17	Q. Was it just the two of you on the telephone?	
18	A. Yes.	
19	Q. What did you and he talk about in that regard?	
20	A. Well, aside from my initial explanation of rights and the	03:03:17
21	collection process and so forth, which I'm required to explain	
22	in each first contact with a person or representative, I talked	
23	to him about securing the funds to pay the taxes. Mr. Robinson	
24	wanted to talk about an installment agreement.	
25	Q. Did he indicate the amount of the installment?	03:03:46

United States District Court

PAUL WEDEPOHL - Direct

1 A. Yes, he did. 03:03:51

2 Q. What was the amount that he was indicating to you at this
3 time?

4 A. Mr. Robinson offered for the Parkers to pay \$1500 a month.

5 Q. How did you respond, if at all, to that? 03:04:04

6 A. Well, what I told him was, basically, I didn't know
7 whether 1500 was an appropriate amount or \$15,000 a month or
8 maybe to pay anything. But without financial statements,
9 collection information statements to assist in that analysis
10 and determination, I couldn't grant an installment agreement of 03:04:25
11 1500.

12 Additionally, there were still some unfiled tax
13 returns and without those returns being filed, we cannot enter
14 into an agreement.

15 Q. When you say financial information, again, are we 03:04:44
16 referring to the 433-A and 433-B that the jury has been looking
17 at?

18 A. Yes.

19 Q. And was there any discussion at this time, besides an
20 installment agreement, about any possible offers in compromise 03:05:00
21 being forthcoming?

22 A. Yes. Mr. Robinson indicated that the Parkers were going
23 to file an offer in compromise once all of the -- well, he
24 indicated that they were going to file ultimately an offer in
25 compromise. 03:05:20

PAUL WEDEPOHL - Direct

1 Q. Did Mr. Robinson in any way convey to you the financial 03:05:23
2 situation of the Parkers at this time during this telephone
3 call?

4 A. Mr. Robinson indicated to me that -- in so many words, the
5 taxpayers were unable to pay anything, that there was a 03:05:39
6 business in Belize, and he indicated that it was virtually
7 nonexistent at that time and that he would have -- and
8 Mr. Parker had a construction company here in the area and the
9 business for that was slow and gave me the impression that
10 there was no income from any source. 03:06:04

11 Q. As to the business in Belize, was there any indication by
12 Mr. Robinson as to the cause of why the business wasn't
13 functioning very well in Belize.

14 A. Yes. He indicated to me that because of September 11, I
15 presume September 11 attacks on this country, were still 03:06:20
16 impacting business in Belize?

17 Q. And as to the 433-A and 433-B information that you are
18 requesting, did Mr. Robinson indicate to you at all any trouble
19 that he thought he might have in getting that information?

20 A. He indicated that he had difficulty getting the 03:06:49
21 information from -- indicated he had difficulty getting good
22 financial information.

23 Q. And from the standpoint of the discussions about an
24 installment agreement or subsequent offers in compromise, how
25 did you leave it with him? How did you give him the impression 03:07:08

PAUL WEDEPOHL - Direct

1 that you would consider it or did you reject it at that time? 03:07:13
2 A. Well, I indicated to him that, you know -- I always tell
3 people -- I told Mr. Robinson, "I will take anything you will
4 give me at any point." We mutually set a deadline for
5 Mr. Robinson to provide me with financial statements, of the 03:07:27
6 Forms 433-A and 433-B as well as some bank statements to help
7 me substantiate no income I guess, which is what they were
8 indicating that he had. And that I asked him to bring his
9 current year taxes current and I warned him if he didn't do
10 those things that, again, I may take seizure, enforcement 03:07:52
11 collection action, levy assets, that kind of thing.
12 Q. After this telephone conversation, what was the next
13 communication that arose in your collection process?
14 A. With Mr. Robinson or with anybody?
15 Q. Let's try with Mr. Robinson. 03:08:18
16 A. Okay. I received another call from Mr. Robinson the next
17 day, on February 24.
18 Q. And what was that about?
19 A. Mr. Robinson just called to let me know that he'd, quote,
20 lit a fire under the Parkers to get the financial information 03:08:36
21 and that he's also lit a fire under Mr. Liggett to help get
22 those audits wrapped up that were still in process.
23 Q. And then on roughly March 10 did you receive a letter from
24 Mr. Robinson regarding a collection due process hearing?
25 A. I did. I received a fax from Mr. Robinson on March 10 03:09:04

United States District Court

PAUL WEDEPOHL - Direct

1 that had a letter dated that same day from Mr. Robinson 03:09:09
2 indicating that he was submitting a collection due process
3 request. And that was in response to my letter. I sent the
4 final demand letter that I sent certified earlier to him.
5 Q. And look at Exhibit 452. Is that the letter and 03:09:26
6 attachments that you received?
7 A. Yes, it is.
8 MR. SEXTON: I would offer Exhibit 452 into evidence.
9 MS. ARNETT: No objection, Your Honor.
10 THE COURT: It's admitted. 03:09:45
11 (Exhibit Number 452 was admitted into evidence.)
12 BY MR. SEXTON:
13 Q. You received this around March 10 of 2004?
14 A. Yes.
15 Q. And it's from Mr. Robinson? 03:10:02
16 A. Correct.
17 Q. And copied on the letter is who?
18 A. It looks like copies were sent to James and Jacqueline
19 Parker and Timothy Liggett, CPA.
20 Q. And if you would, would you read the first full paragraph 03:10:15
21 that is in the letter?
22 A. Certainly. "Please find enclosed Form 12153 requesting
23 appeals consideration of the pending enforced collection
24 regarding James and Jacqueline Parker. Any enforced collection
25 should be withheld as an installment agreement has been 03:10:33

United States District Court

PAUL WEDEPOHL - Direct

1 requested." 03:10:37

2 Q. And is the next page sort of the official request for a

3 collection due process hearing?

4 A. Yes, it is.

5 Q. Explain to the jury what a collection due process hearing 03:10:55

6 is.

7 A. Okay. A collection due process hearing is an

8 administrative procedure that the Internal Revenue Service put

9 into place to give the individual who has the liability that

10 we're dealing with one last opportunity should they decide to 03:11:11

11 take advantage of it to appeal their position or their side of

12 the case to an independent party within the Internal Revenue

13 Service.

14 In other words, this is in response to my final

15 demand indicating that I was going to start taking action to 03:11:27

16 collect, seizing, levying, that kind of thing. This is to ask,

17 "Wait a minute, Mr. Wedepohl, we don't want you to do that. We

18 want to go to appeals and talk to somebody else about it

19 because we don't agree with you doing this." And they have a

20 right to do that and that's fine. 03:11:44

21 Q. And looking at the first line under the heading of the

22 Request for Collection Due Process, in essence, your actions in

23 mid-February triggered their right to request this hearing?

24 A. Yes.

25 Q. And then the next page is an attachment to that request. 03:12:10

United States District Court

PAUL WEDEPOHL - Direct

1	Do you see that?	03:12:15
2	A. Yes.	
3	Q. Would you read that full paragraph, after it's enlarged	
4	here, for the jury?	
5	A. Certainly. "We respectfully request the withholding of	03:12:30
6	any enforce the collection. An installment agreement of \$1500	
7	per month has been requested. This amount is in relation to	
8	the income of the taxpayers for the past two years. The tax	
9	assessment amounts are large and the taxpayers have no ability	
10	to pay. Once the additional years audit is completed, we will	03:12:47
11	file an offer in compromise. This offer will be filed as a	
12	'doubt to collectability' even though we could file as 'doubt	
13	as to liability' as the audits are not correct. However, the	
14	taxpayers have found it too expensive to continue fighting the	
15	audit through Court."	03:13:11
16	Q. And then just below that is a received stamp of March 11,	
17	2004, from the IRS?	
18	A. Correct.	
19	Q. And then the next page is the power of attorney	
20	designation that now expands to include two representatives on	03:13:28
21	behalf of the taxpayers, Mr. Robinson and Mr. Liggett?	
22	A. That's correct.	
23	Q. Now, when a collection due process hearing is requested,	
24	does that require you to stand down as a collection officer	
25	until somebody else makes some kind of decision about this?	03:14:01

United States District Court

PAUL WEDEPOHL - Direct

1 A. Absolutely. We are precluded from taking any collection 03:14:05
2 action while this appeal is pending.

3 Q. Are you precluded from working the file from an
4 investigative standpoint as opposed to doing some affirmative
5 collection efforts? 03:14:22

6 A. No, we are not.

7 Q. So are you allowed to continued to investigate for assets
8 and income? You are just simply not allowed to perhaps act on
9 anything you might find?

10 A. That's correct, yes. 03:14:33

11 Q. And what was done here, them asking for that, is perfectly
12 legal?

13 A. Asking for an appeal?

14 Q. Yes.

15 A. Oh, absolutely. 03:14:48

16 Q. Though even though it's legal, you didn't like it? Is
17 that fair enough?

18 A. Well, I don't know that I would say I didn't like it. It
19 slows me down. It stops me from resolving the case or taking
20 meaningful actions to collect the tax. 03:15:10

21 Q. You didn't like it, did you?

22 A. It didn't make my day.

23 Q. Well, as a result of that, you actually thought it was an
24 improper delaying action and you filed something with the
25 Office of Professional Responsibility to bring this to the 03:15:33

United States District Court

PAUL WEDEPOHL - Direct

1 attention of them as to what Greg Robinson filed? 03:15:36

2 A. Yes, I did.

3 Q. Why did you do that?

4 A. Well, as a revenue officer, my job isn't only to collect
5 tax or collect returns. It's kind of a wide encompassing 03:15:54

6 position inasmuch as if we, revenue officers, during the course
7 of working on cases, come across a situation where there may be
8 some -- in our opinion or in our view, some unnecessary delays
9 or some unreasonable delays in terms of resolving the case or
10 things being done, albeit they are legal to do, to stop the 03:16:22
11 Service and slow the Service down, I felt that these, some of
12 these delays may be frivolous and just for the point of staving
13 collection while something else happened. I don't know.

14 But in this instance, because I felt that maybe these
15 were frivolous or inappropriate, I made a referral to the 03:16:46
16 Office of Professional Responsibility Office in Washington,
17 D.C., letting them know, basically, my circumstances in this
18 case in the event they may have something else going on back
19 there with Mr. Robinson or whatever that I don't know about and
20 wouldn't need to know about. I was just doing my job to 03:17:09
21 provide them with input, as I was trained to do, when we come
22 across a situation that looks possibly inappropriate.

23 They then determine where to go from there in terms
24 of that issue. I'm out. I'm done.

25 Q. Bottom line is, you wanted him investigated? 03:17:26

United States District Court

PAUL WEDEPOHL - Direct

1 A. Yes. 03:17:30

2 Q. But as far as what happens with that investigation, that
3 is beyond your power?

4 A. Beyond my power. In fact, I never know.

5 Q. In addition, it does not change in any fashion his right 03:17:41
6 to remain as the power of attorney representing Mr. and
7 Mrs. Parker in their dealings with you and others with the IRS?

8 A. You are correct. He's still the authorized
9 representative.

10 Q. Would you look at Exhibit 453, sir? 03:17:57

11 A. Yes, sir.

12 Q. Is that the memorandum referral by you to the office of
13 professional responsibility referring Greg Robinson for review
14 by that office?

15 A. Yes, it is. 03:18:32

16 MR. SEXTON: I would offer Exhibit 453 into evidence.

17 MS. ARNETT: I have no objection to the memo coming
18 in but it's not complete. There are letters referenced in the
19 memo that aren't attached, so I would like the whole thing to
20 come in. 03:18:47

21 MR. SEXTON: What number is yours?

22 MS. ARNETT: 453. It only goes to page four.

23 MR. SEXTON: Don't you have a full copy marked?

24 MS. ARNETT: Of 453?

25 MR. SEXTON: The one you were showing me this 03:18:59

United States District Court

PAUL WEDEPOHL - Direct

1 morning. 03:19:00

2 MS. ARNETT: Oh. 1010. That's our exhibit, yes.

3 MR. SEXTON: Do you mind if I move that one in?

4 MS. ARNETT: Okay.

5 MR. SEXTON: I don't need it. I'll refer to it. 03:19:07

6 Can the witness be brought Defense Exhibit 1010?

7 I don't think the parties have any disagreement,

8 Judge. We would offer 1010.

9 MS. ARNETT: No objection.

10 THE COURT: It's admitted. 03:19:41

11 (Exhibit Number 1010 was admitted into evidence.)

12 MR. SEXTON: But I would also offer, as a subpart of

13 it, Exhibit 453.

14 THE COURT: They are identical, I take it?

15 MS. ARNETT: Yes, Your Honor. 453 is the first three 03:19:51

16 pages of 1010.

17 THE COURT: Okay. It's admitted.

18 MR. SEXTON: I do that, Judge, simply because I've

19 got it tooled up for my Sanctions here.

20 BY MR. SEXTON: 03:20:07

21 Q. Is 1010 sort of the complete package that you sent over to

22 OPR with the attachment with your referral?

23 A. Yes.

24 Q. Since I don't have that on the computer system, let's go

25 back to 453, if you would, the three-page memorandum that sort 03:20:19

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1 of sets the page for the attachments; okay? 03:20:22

2 A. Yes.

3 Q. All right. Let's put that on the screen, page two for the
4 jury.

5 Let's focus on the first three paragraphs. First 03:20:41
6 off, the subject matter of it up there is?

7 PANEL MEMBER: We don't have it here.

8 COURTROOM DEPUTY: I'm sorry?

9 BY MR. SEXTON:

10 Q. It's you referring this to the Office of Professional 03:20:58
11 Responsibility regarding who? What is the subject matter?

12 A. Referral of Gregory A. Robinson.

13 Q. Okay. Why don't you read for the jury the first three
14 paragraphs of your memorandum to shorthand OPR?

15 A. "This memorandum is submitted to provide you with 03:21:16
16 additional information pertaining to the OPR referral dated
17 December 5, 2003, on Gregory A. Robinson.

18 "The information communicated to you in this
19 memorandum relates to taxpayers James and Jacqueline Parker,"
20 and then their social security numbers are indicated. "The 03:21:34

21 taxpayers have outstanding Form 1040 income tax liabilities
22 exceeding \$1.7 million. Additionally, they have not filed

23 their 1040 returns for 1999 and 2000. These years are
24 presently assigned to the Examination function, where

25 substitute returns are being prepared/audited. Mr. Parker has 03:21:52

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1 been identified by the Examination function as being involved
2 in Abusive Tax Avoidance Transactions schemes. He evidently
3 sells or develops land in the country of Belize.

03:21:56

4 "The basis of this memorandum is to advise you that
5 on March 10, 2004, Mr. Robinson submitted a Form 12153, Request
6 for a Collection Due Process (CDP) hearing. A copy of
7 Mr. Robinson's request is attached to this memorandum. The
8 following information reflects that Mr. Robinson has submitted
9 yet another frivolous CDP, which coupled with other actions
10 intended to cloud the title of the taxpayer's residence,
11 reflect his intent to delay and hinder collection of the
12 taxpayer's liabilities."

03:22:12

03:22:34

13 "On February 9, 2004, I received a letter from Greg
14 Robinson" --

15 Q. You can stop there.

03:22:48

16 A. Okay.

17 Q. And go to page three at the bottom three paragraphs. That
18 first paragraph indicates -- the phrase is "yet another
19 instance that demonstrates his intent to circumvent the
20 system."

03:23:26

21 Do you have some bad history with Mr. Robinson at
22 this point that goes well beyond Mr. and Mrs. Parker's file?

23 A. I don't know what you mean by "bad history," but I have
24 historical experience with Mr. Robinson involving possibly
25 other cases -- well, involving other cases where there have

03:23:47

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1 been similar problems. 03:23:51

2 Q. If I may, the way this is written is that this particular

3 request for a collection due process hearing appears to be the

4 straw that finally broke the camel's back. Is that what it was

5 with you? 03:24:06

6 A. Yes. You could say that, yes.

7 Q. And to this day, do you have any personal knowledge of

8 what became of this OPR investigation?

9 A. I have no idea, no idea.

10 Q. After you -- first off, does he know you made this 03:24:35

11 referral in any fashion?

12 A. I didn't tell him.

13 Q. I mean -- I guess, to your knowledge --

14 A. I don't know.

15 Q. -- was this communicated to him? 03:24:47

16 A. Not to my knowledge.

17 Q. So after you made this referral to the Office of

18 Professional Responsibility, what's the next time that you and

19 he talked? And I would refer you to your archive history on

20 page 21 and see if that helps you locate it faster. 03:25:10

21 A. Yes. I spoke to Mr. Robinson on March 12 of 2004.

22 Q. Just the two of you?

23 A. Yes, just he and I.

24 Q. Telephone conversation, face-to-face?

25 A. He called me on the telephone. 03:25:36

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1 Q. Okay. Now if you would, sir, would you tell the jury what 03:25:38
2 you and he talked about -- did you say March 12?
3 A. March 12.
4 Q. What did you and he talk about?
5 A. We talked about the collection due process request that he 03:25:48
6 had submitted and I indicated to him that I would like to
7 resolve it, resolve this whole issue without having to have
8 appeals get involved, maybe save everybody some time and
9 everything else.
10 Q. What else? 03:26:12
11 A. So we talked about working with that. He advised me again
12 that he wanted an installment agreement until the audits were
13 completed and I indicated that that may be feasible. I may be
14 able to do just that; but, again, I needed financial
15 statements, 433-A and B, to substantiate what, if any, amount 03:26:31
16 could be worked out.
17 Q. So at this point you still hadn't received either of those
18 two filled out for your use?
19 A. Correct.
20 Q. And did Mr. Robinson tell you what delays or any reason 03:26:49
21 why he hasn't gotten that information to you at this point?
22 A. If I could look here. I don't remember him telling me
23 anything other than he was going to try to get the financial
24 information within 30 days and that's where we left it.
25 Q. Was there any discussion about the Parkers' lack of a bank 03:27:19

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1 account? 03:27:29
2 A. Yes, there was.
3 Q. And what was discussed in that regard?
4 A. The discussion about that involved when we were talking
5 about the financial statements, again, and Mr. Robinson 03:27:37
6 indicated that Mr. Parker did not have a personal bank account.
7 He said that they operated with -- paid their expenses through
8 a bank account held by Omega Construction and that all of
9 Mr. Parker's personal expenses were paid through Omega
10 Construction. 03:28:00
11 Q. Do you encounter --
12 THE COURT: Let me stop you here. We're at 3:30.
13 Ladies and gentlemen, we'll see you next week. We're
14 in June now, June 5, at 8:30.
15 Have a nice weekend. 03:28:15
16 We're in recess.
17 (Jury departs.)
18 (End of excerpted portion.)
19 * * * * *
20
21
22
23
24
25

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C E R T I F I C A T E

03:28:20

I, ELAINE M. CROPPER, do hereby certify that I am
duly appointed and qualified to act as Official Court Reporter
for the United States District Court for the District of
Arizona.

03:28:20

I FURTHER CERTIFY that the foregoing pages constitute
a full, true, and accurate transcript of all of that portion of
the proceedings contained herein, had in the above-entitled
cause on the date specified therein, and that said transcript
was prepared under my direction and control, and to the best of
my ability.

03:28:20

DATED at Phoenix, Arizona, this 1st day of June,
2012.

03:28:20

s/Elaine M. Cropper

03:28:20

Elaine M. Cropper, RDR, CRR, CCP

United States District Court