

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)	
)	
Plaintiff,)	
vs.)	
)	CR10-00757-PHX-ROS
James R. Parker,)	
)	
Defendant.)	May 29, 2012
)	
)	

BEFORE: THE HONORABLE ROSLYN O. SILVER, CHIEF JUDGE
REPORTER'S EXCERPT TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - Day 1 (Opening Statements)

Official Court Reporter:
Elaine Cropper, RDR, CRR, CCP
Sandra Day O'Connor U.S. Courthouse, Suite 312
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P R O C E E D I N G S

(The following excerpt was transcribed.)

MR. PERKEL: Thank you, Your Honor.

Good afternoon, ladies and gentlemen. This case is about tax evasion. It's about how the defendant, knowing that he had a tax liability, knowing that he owed money to the Internal Revenue Service, willfully chose to evade the payment of that tax by hiding his assets and concealing his sources of income.

02:07:25

In other words, ladies and gentlemen, the defendant, as you will learn, wanted the IRS to believe that he didn't owe anything and he wasn't earning anything. He didn't own any land. He didn't own any homes. He had no business investments. And he wasn't earning anything.

02:07:51

Now, this case is also about making a false statement. You will learn the defendant lied to the IRS about what he owned and what he was earning.

02:08:13

In simple terms, this case is about how the defendant hid his assets, concealed his sources of income, and lied to the Internal Revenue Service to make it look like he couldn't pay a tax liability that he had agreed he owed.

02:08:39

This is not a case about whether or not it was appropriate to take out a deduction or whether or not a business credit was okay or whether or not depreciation expenses on a large piece of machinery were appropriately done

02:09:07

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1 or appropriately calculated. This is not a case about whether 02:09:10
2 or not the defendant should be in one income bracket or another
3 income bracket. This is not a case about whether or not his
4 income should be taxed as income or as capital gains.

5 This is a criminal evasion of payment case. Evasion 02:09:26
6 of payment means not just not paying but taking an affirmative
7 act beyond the payment, taking an affirmative act to hide one's
8 assets, conceal one's sources of income and lie.

9 In simple terms, ladies and gentlemen, this case is
10 about how the defendant hid his assets and lied to conceal and 02:09:51
11 prevent the IRS from collecting a \$1.6 million tax liability.
12 There are eight counts in the indictment.

13 Counts 1 through 4 charge the defendant with evasion
14 of payment, meaning the defendant, knowing that he had a tax
15 liability, knowing that he owed the IRS, willfully chose to 02:10:13
16 evade that payment by hiding his assets and his sources of
17 income. And Counts 5 through 8 of the indictment charge the
18 defendant with making a false statement, meaning that the
19 defendant willfully lied to the IRS about what he owned and
20 what he earned. 02:10:36

21 This case begins, ladies and gentlemen, because the
22 defendant lied about what he earned in 1997 and 1998. This
23 case begins because the defendant underreported his tax
24 liability for 1997 and 1998. This case begins because the
25 defendant didn't give his true picture of what he owed the IRS 02:11:02

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1 in 1997 and 1998. 02:11:07

2 And in May of 2003, the defendant was in U.S. Tax
3 Court because he had underreported his taxes and his income.

4 You will learn that in May of 2003 the defendant, through an
5 attorney, signs two stipulation agreements. Now, a stipulation 02:11:27

6 is really just a fancy word for saying an agreement. In May of

7 2003, the defendant agreed, through his attorney, that the

8 information in his 1997 and 1998 tax returns that he had filed

9 was false. He agreed that the numbers were wrong in May of

10 2003. In simple terms, the defendant said, "You got me," 02:11:55

11 because he agreed that for his 1997 tax year he didn't owe the

12 \$2,089 he reported. He agreed with the IRS calculation which

13 was that he owed approximately \$320,000. Not the \$2,089 they

14 put in his tax return but the \$320,000.

15 In the same month, in May of 2003, the defendant 02:12:26

16 signed a second stipulation and a second agreement as to the

17 1998 tax year. Again, he agrees the \$7900 that I put in my tax

18 return, that's wrong. That is false. I agree I didn't owe

19 \$7900. I agree with what the IRS is saying. I owe

20 approximately \$715,000, not the \$7900, \$715,000. You see, the 02:12:52

21 defendant in May of 2003, was telling the IRS, "You got me.

22 You're correct. Your calculations are correct. My numbers

23 were wrong. My numbers were false."

24 You see, after filing his 1997 and 1998 tax returns,

25 the defendant was audited, which means that his income, his 02:13:22

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1 cash flows, they were examined. And that \$320,000 the 02:13:29
2 defendant agreed that he owed in addition to the \$2000 that he
3 had reported, that number just doesn't come from nowhere. You
4 will learn that instead of the 13,000 or \$14,000 that the
5 defendant reported as his taxable income for 1997. So you'll 02:13:51
6 learn that he reported taxable income of about \$13,000 or
7 \$14,000, approximately. You'll learn that, in fact, his
8 correct taxable income was \$800,000, approximately, which led
9 to the \$320,000 tax liability that he agreed with. He agreed
10 with the \$320,000 tax liability which comes from taxable income 02:14:14
11 of approximately \$800,000, not the \$13,000 or \$14,000 that he
12 reported he owed in 1997.

13 And you'll learn that for 1998, instead of the \$8,000
14 that he reported as taxable income for 1998, he actually earned
15 \$1.75 million. You see, the additional \$715,000 that he agreed 02:14:44
16 he owed, that number doesn't come from nowhere as well. That
17 number comes from what your taxable income is. And he agreed
18 with the IRS. He agreed that the \$715,000 additional amount in
19 taxes, that is what I owe and that number, ladies and
20 gentlemen, you'll learn comes from \$1.75 million in taxable 02:15:04
21 income.

22 In simple terms, ladies and gentlemen, the defendant
23 agreed the IRS got it right in May of 2003. He agreed with the
24 total tax liability of about \$1.6 million. That includes the
25 liability, the tax liability. That includes penalties, and 02:15:28

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1 that also includes interest. 02:15:31

2 So after May of 2003, in U.S. Tax Court, where he
3 agrees that he got it wrong and his numbers were false and he
4 had lied, does he pay the IRS? Does he pay the amount that he
5 should pay? No, ladies and gentlemen, he doesn't. He chooses 02:15:52
6 to willfully evade the payment of taxes by hiding his assets
7 and income and he does show primarily by this way: He tries to
8 distance himself on paper from the stuff he owns and his ways
9 of earning money. He tries to make it look like he doesn't own
10 anything; that he has no real estate. He has no property. He 02:16:14
11 has no business investments, no other assets, and he isn't
12 earning anything. He tries to do that by distancing himself on
13 paper.

14 And the way he distances himself on paper is he
15 creates these companies called nominee entities. They are 02:16:30
16 limited liability partnerships. They are limited liability
17 corporations. But you'll learn that nominee entities means in
18 name only. You can call them whatever you want. You can call
19 them shell companies, straw companies, fictional companies.
20 What they are are just alter egos of the defendant himself. It 02:16:50
21 doesn't mean that they are not legally formed companies. What
22 it means is that they are not separate and distinct from the
23 defendant.

24 And you'll learn that every nominee company needs a
25 nominee manager. Nominee manager is a straw manager, someone 02:17:08

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1 who is going to sign some checks, open up some bank accounts, 02:17:14
2 maybe sign some other documents but, in reality, exists as an
3 extension and a puppet of the defendant himself.

4 He uses his own kids. He uses his 25-year-old
5 daughter, his 21-, 22-year-old son by the name of Samuel 02:17:33
6 Parker. He used his 25-year-old daughter. As I said, her name
7 is Rachel Harris. He uses a cattle ranchman in Oklahoma and
8 even an attorney. And while these individuals may have
9 endorsed a few checks and signed some documents it's the
10 defendant and the defendant's money that is behind each of 02:17:56
11 these shell companies.

12 Now, in order to understand this case, you have to
13 really look at three things. You have to look at how the
14 defendant generated cash, how he earned money after the May of
15 2003 court decision where he agreed that he owed \$1.6 million. 02:18:16
16 So you have to look at how he generated cash. You have to look
17 at how he spent that cash, what he bought. And, third, you
18 have to look at what he said to the Internal Revenue Service
19 while he's generating cash and buying assets.

20 If you look at the screen in front of you, you'll see 02:18:43
21 a time chart and there are a number of screens around the
22 courtroom as well but it should be right in front of everybody
23 in the jury box. And you'll see at the top of the time chart
24 May of 2003. You'll see the two tax court stipulations.
25 You'll see on May 6 in 2003 in U.S. Tax Court he agreed to the 02:19:05

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1 \$715,000 tax liabilities. There's \$143,000 in penalties and he 02:19:10
2 also agreed to pay interest.

3 And then the May 14, 2003, tax court speculation, he
4 agreed to a \$320,000 tax liability and \$64,000 in penalties.
5 He agreed that those were the amounts that were correct for his 02:19:27
6 1997 and 1998 tax returns. That is what he owed.

7 So if you look at the time chart starting in August
8 of 2002, going down to 2010, it should be on the left-hand side
9 of your screen. You'll see August of 2002 and you'll see the
10 dates that sort of flow from there, starting going down to July 02:19:47
11 of '03, April of 2004. That is the timeline. It's on the
12 left-hand side of the screen and you'll see that in August of
13 2005, on August 16, 2005, the defendant gets a \$1.5 million
14 interest-only loan against his residence in Carefree, Arizona.
15 In other words, he gets a loan for \$1.5 million and he uses his 02:20:11
16 approximately 6,000 square foot \$1.5 million house in Carefree,
17 Arizona, as collateral to secure the loan. He nets out with
18 \$1.1 million in cash in August of 2005, and you'll learn that
19 he takes that \$1.1 million in cash and he takes it puts it into
20 a company called RSJ Investments, LLC. 02:20:38

21 All right. So in August of 2005 he nets out 1.1
22 million in cash.

23 Now, you might be asking why only 1.1 million if you
24 have a 1.5 million loan? You see, that is not the first loan
25 that he gets against that property. 02:20:57

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1 Now, approximately two years earlier, on July 31,
2 2003, approximately two months after he signs the May 2003 tax
3 court stipulation, he gets a first loan with the same group of
4 investors for \$355,000 against his Carefree residence, against
5 the same home. And so that in 2005 when he gets another loan,
6 he actually just rolls that first loan into the second loan and
7 that's why he nets 1.1 million in cash.

02:21:02

02:21:20

8 But you're also going to learn, ladies and gentlemen,
9 that on August 9, 2002, the defendant transferred that 1.5
10 million residence into a company called Sunlight Financial,
11 LLP. Sunlight Financial Limited Liability Partnership is made
12 up of two partners, his daughter and a trust in the name of his
13 two sons.

02:21:40

14 So in 2002 he takes his home and, for no
15 consideration, meaning no exchange of benefits, meaning no
16 money, he puts that -- he gives that house to a company called
17 Sunlight Financial, LLP.

02:22:02

18 Now, despite having transferred that home to Sunlight
19 Financial, LLP, you will learn that it's the defendant who
20 negotiates both the 2003 and the 2005 loans. It's the
21 defendant who negotiates those loans. It's the defendant that
22 continues to use that residence as his own, and it's the
23 defendant who benefits from the refinancing of that home which
24 results in the \$1.1 million cash flow despite having
25 transferred that home to another company. It's the defendant

02:22:21

02:22:41

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1 who is doing the negotiation and who is getting the benefit of 02:22:43
2 that residence.

3 So that's the first way the defendant generates cash
4 in August of 2005.

5 PANEL MEMBER: Excuse me. I need to use the 02:23:05
6 restroom.

7 THE COURT: Okay. Let's just take a break. About 10
8 minutes? All right. All rise for the jury.

9 (Jury departs.)

10 THE COURT: Okay. Please be seated. You can have a 02:23:47
11 10-minute recess if you like. Otherwise, you can stay in the
12 courtroom.

13 MR. MINNS: Your Honor, on the --

14 THE COURT: You're going to have to get in front of
15 the microphone. 02:24:10

16 MR. MINNS: I apologize. I apologize, Your Honor,
17 for that. It was my understanding that the jurors would be in
18 the order that the Court would ask us if we wanted to shuffle
19 them later before making the decision. My jury consultant
20 advises us not to. 02:24:37

21 THE COURT: Shuffle them?

22 MR. MINNS: Not shuffle. My understanding is these
23 four seats here are the alternates.

24 THE COURT: No. Is there a problem with that?

25 MR. MINNS: The jury consultant told me we would be 02:24:54

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1 better off leaving them as alternates, so I did not agree to 02:24:57
2 all of them being one. I don't think it makes any difference
3 at this point.

4 May I have a moment, Your Honor?

5 THE COURT: Yes. 02:25:11

6 (Discussion off the record.)

7 MR. MINNS: Your Honor, the consultant said not to
8 worry about it.

9 THE COURT: Okay. All right. So we will worry less
10 about it. 02:25:54

11 (Recess at 2:26; resumed at 2:39.)

12 (Jury enters.)

13 THE COURT: All right. Please be seated.

14 Okay. Mr. Perkel?

15 MR. PERKEL: Thank you, Your Honor. 02:39:55

16 Ladies and gentlemen, before we took our break, we
17 were looking at the first way the defendant generated cash.
18 And in August of 2005 he takes out this loan we discussed and
19 that loan results in a \$1.1 million cash flow. Now, again,
20 just as a reminder, you're going to learn that that loan, the 02:40:18
21 \$1.5 million interest-only loan, the collateral on that loan is
22 secured by his residence. So he takes out this \$1.5 million
23 dollar loan which nets 1.1 million in cash.

24 Now, that's not the only way the defendant generates
25 in cash post the May 2003 tax court decisions, post May 2003 02:40:38

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1 where he agrees that he actually owes more for 1997 and 1998 02:40:43
2 than he had previously paid. And that is in June of 2004 the
3 defendant sells \$6 million worth of land in Belize. June of
4 2004 he negotiates the sale of \$6 million in land in Belize
5 that he owns. And then starting in June of 2004, going all the 02:41:08
6 way to January of 2008, approximately \$3 million comes back
7 into the United States because originally the \$6 million land
8 sale, 6 million goes from the United States to Belize. And
9 then you're going to learn that approximately -- a little more
10 than \$3 million comes back into the United States starting in 02:41:27
11 June of 2004 and then ending in January of 2008. And that on
12 the screen is the light blue column and you'll see starting in
13 June of 2004 more than \$3 million comes back into the United
14 States ending in January of 2008.

15 So, ladies and gentlemen, these are the two cash 02:41:45
16 flows post-May of 2003. So the obvious question is, does the
17 defendant pay the IRS? Does he pay his \$1.6 million tax
18 liability? No, ladies and gentlemen, he doesn't and you're
19 going to learn how he spent that money.

20 Starting in April of 2004 and ending in 2007, the 02:42:11
21 defendant starts a company called Cimarron River Ranch. This
22 is another one of the nominee entities we call it CRR, Cimarron
23 River Ranch LLC. It's, essentially, a pet project of his, a
24 cattle ranch and hunting lodge operation. And you recall the
25 \$3 million that comes back into the United States from the sale 02:42:38

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1 of Belize land. Well, he takes 2.8 million of that \$3 million 02:42:41
2 and puts it into bank accounts associated with Cimarron River
3 Ranch so that \$3 million that comes right back into the United
4 States from Belize, he takes that money and he puts that money
5 into bank accounts. It's wired into bank accounts associated 02:42:57
6 with that nominee entity called Cimarron River Ranch. And he
7 takes about \$1.2 million of it and he invests that money in a
8 cattle operation hunting lodge in Cimarron River County,
9 Oklahoma, in the small town of Kenton, Oklahoma. And he takes
10 \$1.2 million and he buys a couple hundred thousand dollars 02:43:20
11 worth of cattle and he also purchases the right to lease land
12 public land in Cimarron River County to let the cattle graze.
13 You're also going to learn that not only does he
14 spend \$1.2 million on his cattle operation, he actually buys
15 \$500,000 worth of land, approximately, in Cimarron River and he 02:43:40
16 builds a cabin for the business and for his family and he also
17 builds a facade to a western town, a western town that he wants
18 to convert into a hunting lodge. And so between the two
19 operations, both the cattle ranching operation and the hunting
20 lodge and tractors and paying the cattle hand somebody that 02:43:59
21 manages cattle, he spends over \$2 million starting in 2004 to
22 2007 on this pet project of his, this cattle ranch and hunting
23 lodge operation you see. That's not all he spends money on,
24 though.

25 You're going to learn that on July 16, 2004, he 02:44:25

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1 purchases a \$306,000 Rolls Royce. Now, that's approximately a
2 month after he sells the \$6 million worth of Belizean
3 beachfront property in the country of Belize, which is in
4 Central America, after he sells \$6 million worth of land,
5 approximately 590 acres of land, he buys a \$306,000 Rolls Royce
6 and puts that Rolls Royce in the name of Cimarron River Ranch.

02:44:27

02:44:49

7 Now, although the car is titled in the name of yet
8 another nominee entity, the cattle ranching operation, you're
9 going to learn that he purchases the car and that the money
10 that is used to purchase the car comes directly from Belize,
11 wired directly to a bank account associated with that
12 dealership.

02:45:11

13 You're going to learn that the insurance for the car,
14 for the Rolls Royce, the insurance records reflect that the
15 defendant is the primary driver of that car.

02:45:27

16 And then just about six months later, in December of
17 2004, he purchases another vehicle, a \$36,000 Ford truck and,
18 again, money used to purchase that truck, where does it come
19 from? Money wired directly from Belize. And this, again, is
20 only six months after he sells that \$6 million worth of land in
21 Belize for \$6 million.

02:45:49

22 And now you're going to learn that in August of 2005
23 he purchases yet another asset, he purchases another million
24 dollar home in Amarillo, Texas.

25 Now, you're going to learn that Amarillo, Texas, is

02:46:10

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1 about three hours south of Kenton, Oklahoma where he has his
2 cattle ranching operation and you're going to learn that he
3 purchases that house in August of 2005.

02:46:13

4 Now, do you remember the \$1.5 million interest only
5 loan on his Carefree residence? Do you remember how he netted
6 out 1.1 million in cash from that 1.5 million refinance? Well,
7 he takes the 1.1 million and he puts it into a company called
8 RSJ Investments. We discussed it earlier. It's another
9 nominee entity. And then money from RSJ Investments, he takes
10 that money and he purchases the million dollar residence in
11 Amarillo, Texas. At the same time that he's purchasing this
12 house, he buys \$72,000 worth of furniture from the owners of
13 that residence and then one month later, September of 2005, he
14 purchases yet another residence. You're going to learn this is
15 perhaps his fourth residence, so you have the home in Carefree,
16 Arizona, 1.5 million residence that he actually refinances; you
17 have the log cabin or the cabin in Kenton, Oklahoma, that
18 you'll learn about that he builds for the business and his
19 family; and then he buys the third home in Amarillo, Texas, for
20 \$1 million. And in September of 2005 he purchases another home
21 for \$204,000 and, guess again, where the money comes for that
22 home. The money from that home comes directly from Belize,
23 money wired from Belize.

02:46:26

02:46:49

02:47:07

02:47:26

24 Now, the bottom line is, ladies and gentlemen, is
25 that the defendant had the cash and had the assets to pay a tax

02:47:50

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1 liability that he agreed with. He had the money to pay it
2 back.

02:47:55

3 Does he pay it back, ladies and gentlemen? No. He
4 chooses to evade the payment of his taxes and he chooses to lie
5 and the brings us to the next section of the time chart.

02:48:13

6 Well, let me just back up. Before we talk about his
7 lies to the IRS, you should also know and you'll learn, ladies
8 and gentlemen, that in order to support that \$1.5 million
9 interest only loan on the Carefree residence, he has to spend
10 hundreds of thousands of dollars because you're going to learn
11 that that loan was a loan at 9 percent compounding monthly
12 interest only, meaning no principal. Interest only loan on
13 \$1.5 million is about \$150,000 a year. And so starting in
14 September of 2005, very shortly after he refinances that home,
15 he spends hundreds of thousands of dollars making interest
16 payments on that loan.

02:48:32

02:48:54

17 He does that really in two ways. He uses both. He
18 uses two different nominee businesses. He uses the Cimarron
19 River Ranch business. He takes money from Belize, flows it
20 into a bank account with Cimarron River Ranch and then takes
21 money from that account and pays the interest on that loan.

02:49:11

22 He now sets up a fourth nominee entity, a fourth
23 shell company called RCQ, Resorts Consulting Quorum, and money
24 from Belize flows into Resorts Consulting Quorum and he
25 continues to pay the interest on that \$1.5 million interest

02:49:35

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1 only loan. 02:49:40

2 Now, jumping back to where we were a few minutes ago
3 and that is what does he tell the IRS? How does he represent
4 his assets and income to the IRS? You're going to learn,
5 ladies and gentlemen, is that he lies. These are his different 02:49:53
6 representations to the IRS.

7 And with the Court's permission, may I put the time
8 chart up on the board there?

9 THE COURT: Yes, you may.

10 MR. PERKEL: Thank you. 02:50:08

11 So the time chart before you is identical to the one
12 on the screen in front of you. For those of you that prefer to
13 use the screen or look here, it's fine.

14 Where we are is that post-May of 2003 the defendant
15 has agreed to this \$1.6 million tax liability. Post-May 2003 02:50:34
16 the IRS tries to collect the \$1.6 million from the defendant.
17 Remember how we talked a little bit about Counts 5 through 8 of
18 the indictment that deal with false statements to the IRS? So
19 these false statements to the IRS are in a series of offers in
20 compromise. 02:50:58

21 If you look at the screen and look at the yellow,
22 you'll see that June 18, 2004, the defendant makes his first
23 offer in compromise. October 3, 2004, he makes this second
24 offer in compromise. And by the way, ladies and gentlemen,
25 those are Counts 5 and 6 of the indictment. April 4, 2005, 02:51:14

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1 Count 3, he makes his third offer in compromise; and then 02:51:19
2 August 3, 2005, there's a request for installment agreement.
3 And those are the dates that correspond to Counts 5 through 8
4 of the indictment.

5 Now, you're going to learn what an offer in 02:51:37
6 compromise is and what it is, is really what it says it is. In
7 sort of a normal collection period the IRS goes to taxpayers
8 who are liabilities and the taxpayer may decide to file an
9 offer in compromise, which is essentially, "IRS, let me
10 compromise my tax liabilities. I can't afford the whole amount 02:51:53
11 so I'm going to pay a certain percentage in the hope that
12 you'll settle it and then I won't have any more liability and
13 you'll have a percentage of what I owe." So that's what's
14 going on here.

15 What you're going to learn is that the defendant 02:52:08
16 files three offers of compromises and an installment agreement.
17 So the whole idea behind an offer in compromise is you're going
18 to learn is that it's pretty easy to fill out. It's not like a
19 regular tax return or a 1040 or some crazy schedule.
20 Essentially, the IRS is asking you for what is your income, 02:52:31
21 what are your assets, how much money do you have in the bank?
22 What's your real estate situation like? Do you have any
23 property? How many homes do you have? How many assets,
24 personal property? The whole idea is to get a true and honest,
25 accurate feel of what an individual has; and then based on 02:52:42

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1 that, the IRS could determine whether or not the offer is
2 reasonable, whether it's credible.

02:52:48

3 And so in June of 2004, that is what the defendant
4 does. But instead of honestly and accurately reporting what he
5 owes and what he earns, he continues to lie. He chooses to
6 lie.

02:53:04

7 On June 18, 2004, and if you look at the time chart,
8 that is really about 11 days after he sells \$6 million worth of
9 land in Belize; and you're going to learn, ladies and
10 gentlemen, that at the time of the sale of the Belizean land,
11 the defendant represented himself as the president and chairman
12 of a company called MacKinnon Belize Land Development.

02:53:26

13 In simple terms, you're going to learn the defendant
14 negotiated this deal with a company in the United States and
15 the defendant represented himself. I'm the president and I'm
16 the chairman of Mackinnon Belize Land Development.

02:53:43

17 So on June 18, 2004, not one, two, three, 11 days
18 after the sale of that land, he files his first offer in
19 compromise. And he compromises, or offers, \$130,000 cash to
20 erase the remaining portion of his tax liability. That is less
21 than 10 cents on the dollar. The first lie is he tells the IRS
22 I'm going to get that \$130,000 not from the sale of Belizean
23 land that I just did. I'm going to get that \$130,000 from
24 friends and family.

02:54:06

25 He then says to the IRS, I'm president of Omega

02:54:27

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 Construction, a construction business. Nowhere in that offer
2 in compromise that June 18, 2004, offer in compromise does he
3 mention anything about MacKinnon Belize development, does he
4 mention that he's an employee of them or that he's the
5 president of them or does he mention any kind of sale. Not
6 once in that offer in compromise that he mention that he just
7 sold \$6 million worth of land or even that, at a minimum, that
8 he's associated with the company. His company is Omega
9 Construction, a company that you'll learn and a company you'll
10 learn he reports, he lies, has zero assets, no pieces of
11 machinery, \$3400 approximately in the bank and no real state.

02:54:32

02:54:48

02:55:06

12 He else tells the IRS and lies that he personally
13 doesn't have any bank accounts, that his assets include a \$600
14 watch or \$700 watch, a \$600 gun, a \$2400 or \$2500 wedding ring
15 and no real estate. He doesn't mention in his June 18, 2004,
16 offer in compromise that he has any real estate, despite the
17 fact that he just refinanced his home for \$355,000 about a year
18 before.

02:55:39

19 Going to the October 3, 2004, offer in compromise,
20 again, much of it is the same. In October of 2004 the
21 defendant tells the IRS, "I want to compromise my tax liability
22 away for \$130,000." It's almost an identical offer in
23 compromise. Again, lying about where he's going to get the
24 money, friends and family.

02:56:03

25 And you'll notice, ladies and gentlemen, that the

02:56:23

United States District Court

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 October 3, 2004 compromise, that is filed about four to five
2 months after he buys a \$306,000 Rolls Royce. Is there any
3 mention of the Rolls Royce in the October 3, 2004, offer in
4 compromise? No, ladies and gentlemen. He lists his single car
5 as a 1999 Cadillac Seville with approximately 91,000 miles on
6 it worth \$5500. That is the car he uses, not the \$306,000
7 Rolls Royce that he had just bought.

02:56:24

02:56:48

8 And if you go to the April 4, 2005, offer in
9 compromise, so we're about six months after October 3, 2004,
10 the defendant files a third offer in compromise. This time
11 he's attempting to compromise his tax liability with a payment
12 of \$450,000. Again, that offer is rejected by the IRS. This
13 time that offer in compromise contains much of the same
14 information as the two previous ones, but this time he has his
15 attorney write a cover letter and his attorney says his
16 construction company, Omega Construction, is doing better so
17 even though I offered \$130,000 five months ago, we can now
18 offer \$450,000. Despite the fact that the numbers, as you will
19 learn, in the offer in compromise don't really reflect any
20 difference from the two previous ones. In fact, you'll learn
21 that in his April 4, 2005, offer in compromise, his business
22 was running at a loss. You're going to learn, too, that the
23 attorney writes on behalf of the defendant that the defendant
24 has cut his expenses to the bone, is living without paying any
25 rent.

02:57:16

02:57:36

02:57:57

02:58:22

United States District Court

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1 His attorney writes to the IRS that the defendant
2 used to have a business involved -- a business in which he was
3 involved with the sale of Belizean land. His attorney writes
4 to the IRS that the defendant's business now all dried up
5 because of September 11, 2011, and because of Hurricane Mitch.

02:58:23

02:58:39

6 The defendant's attorney tells the IRS he doesn't
7 have any more Belizean land business because it's all dried up.
8 It was destroyed with the hurricane and after September 11 his
9 business dried up. Despite the fact that this is less than a
10 year after he sold \$6 million worth of land and hundreds of
11 thousands of dollars are coming back into the United States
12 from that sale, he tells the IRS no business in Belize.

02:59:01

13 And if you go to the last count, Count 8, which is
14 the request for an installment agreement, this is a little
15 different than an offer in compromise. The installment
16 agreement the defendant asks that he be able to pay off his tax
17 liability in installments. On August 3, 2005, he files a
18 request for installment agreement. He's asking the IRS if he
19 could pay his tax liability at about \$2000 a month, his \$1.6
20 million tax liability.

02:59:20

02:59:41

21 Well, if you take that over 12 months, that's \$24,000
22 a year. That is roughly \$100,000 every four years. Well,
23 ladies and gentlemen, you do the math. He's asking the IRS if
24 he can pay back his liability over 60 years. 60 years he wants
25 to pay back his tax liability, despite the fact that in August

03:00:05

United States District Court

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1 of 2005, in that very same month, if you look the timeline,
2 that very same month he's negotiating the refinance of a \$1.5
3 million residence where he nets out \$1.1 million. Rather than
4 take that \$1.1 million and pay back a liability that he agreed
5 upon, that he agreed with, he tells the IRS, "Can I pay you
6 back in 60 years?" Well, again, that offer is rejected by the
7 IRS.

03:00:09

03:00:25

8 The other things you should consider with the
9 representations to the IRS is that in August of 2003 and
10 September of 2003 you'll see at the top of the green he
11 actually files his 2002 and 2003 tax returns, and those are
12 Counts 3 and 4 of the indictment.

03:00:50

13 You're also going to learn that after filing those
14 returns, he does file his 2005 return, his 2006 return, his
15 2007 return, and his 2008 return. Those are in the same column
16 of representations to the IRS and you're going to learn that in
17 none of those tax returns does the defendant mention anything
18 about the sale of Belizean land. Not one of those returns
19 accounts for any income, any commission, any royalties, any
20 interest from the sale of Belizean land.

03:01:09

03:01:31

21 And remember how we discussed the different nominee
22 entities, the shell companies? We have Sunlight Financial that
23 supposedly owns his Carefree residence. RSJ Investments that
24 allegedly owns his home in Amarillo, Texas. RCQ, the nominee
25 entity that is just shuffling money to pay off his interest.

03:01:53

United States District Court

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1 And Cimarron River Ranch, his pet project. None of those
2 limited liability partnerships which are, in reality, shell
3 companies and alter egos of the defendant, none of them ever
4 file a tax return with the IRS, not one of them.

03:01:56

5 The timeline shows that at the same time the
6 defendant is earning income and spending it, he's lying to the
7 IRS. At the same time that he's selling his land in Belize,
8 he's starting a cattle ranch and hunting operation in Oklahoma,
9 buying a Rolls Royce and telling the IRS that he doesn't have
10 any assets except for a \$5500 car, a watch, a wedding ring and
11 a gun.

03:02:23

03:02:38

12 At the same time that he files the April 4, 2005
13 offer in compromise money is streaming into the United States
14 that he has access to. And at the same time that he files that
15 installment request he buys a second million dollar home for
16 cash. You'll learn that he pays cash for that home, one
17 million dollars.

03:02:59

18 You're also going to learn that behind every nominee
19 entity is the defendant and his money. Sunlight Financial
20 allegedly owns his home in Arizona, the Carefree residence.
21 You're going to learn that it's the defendant who is
22 negotiating the \$1.5 million loan; it's the defendant on the
23 phone with the investors negotiating the deal; it's the
24 defendant who is arguing about specifics of the deal.

03:03:25

25 You're going to learn about Cimarron River Ranch and

03:03:48

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 how the defendant started his project in Cimarron County and 03:03:50
2 you're going to learn about how he told all of the residents
3 being -- told residents in Cimarron County about how he wanted
4 to start his hunting lodge and cattle operation. You're going
5 to learn that it was the defendant who was at the auctions to 03:04:03
6 lease public land in Oklahoma. You're going to learn that it's
7 the defendant zooming around in the Rolls Royce all under the
8 name of Cimarron River Ranch but yet part of the defendant.

9 And with regards to RSJ Investments, the company that
10 allegedly owns his Texas home, you're going to learn that it's 03:04:26
11 the defendant who calls up the realtor and tells the realtor
12 that he saw the home on line. Loves the home and wants to pay
13 \$1 million for the home subject to inspection. You're going
14 learn a couple weeks later he goes out to that residence,
15 inspects the home, meets its then current owners of the home 03:04:51
16 and says, "I want some of the furniture," and pays \$70,000 for
17 the furniture.

18 You're going to learn that it's the defendant behind
19 these businesses, these nominee entities. It's not his
20 21-year-old son who was recently claimed as a dependent on his 03:05:10
21 own tax returns. It's not his 25- or 26-year-old daughter;
22 it's the defendant who is negotiating these deals.

23 Well, now I've told you a was little bit about how --
24 told you a little bit about this case. Let me tell you how we
25 intend to prove this case. I've given you a preview of only 03:05:34

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 the big-ticket items in this case. Let me tell you how we 03:05:37
2 intend to prove this case.

3 The first chunk of evidence, ladies and gentlemen, is
4 going to come in the form of records and documents from the
5 Internal Revenue Service. You're going to learn about notices 03:05:47
6 of deficiency and notices of deficiency that was sent to the
7 defendant. You're going to learn that the defendant, post-May
8 of 2003, post the time that he agreed to the tax liability, was
9 given ample opportunity to pay and was given notice repeatedly.
10 He was given repeated notice as to his tax liability. 03:06:06

11 You're going to learn that he knew about the tax
12 liability. He was told many times.

13 You're going to learn about offers in compromise as
14 we discussed and what constitutes them. You're going to have a
15 chance to look at them and see the answers to the questions and 03:06:22
16 how at the same time the defendant was lying about what he
17 owned and what he earned he was out generating cash and
18 spending it.

19 You're also going to have a chance to hear from Paul
20 Goguen who represents a company called ioVest. That's a 03:06:39
21 company that bought the \$6 million worth of land in Belize and
22 how Mr. Goguen negotiated the deal with the defendant. The
23 defendant represented himself as the chairman and president of
24 MacKinnon Belize Development. You're going to have a chance to
25 learn how, in August of 2005, the defendant refinances his home 03:07:01

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 with a company called Universal Properties and you're going to
2 hear from the investors of Universal and you're going to hear
3 from representatives from Universal that it was the defendant
4 was negotiating that loan. Despite the fact Sunlight Financial
5 may have signed the final document, it was the defendant who
6 was negotiating that \$1.5 million loan.

7 And you're going to learn a little bit about Cimarron
8 River Ranch. You're going to learn that it wasn't his
9 21-year-old son who was in charge of Cimarron River Ranch. It
10 was the defendant and how he told residents that he was going
11 to build a cattle operation, a hunting lodge. He had dreams of
12 building a hotel, an airport, a restaurant; that he wanted to
13 use the cattle to create some sort of high-priced steak
14 restaurant. You're going to learn that he was at these
15 auctions in Cimarron County, auctions where residents can bid
16 on the right to use public lands for grazing for their cattle
17 and how it was the defendant at those auctions who was calling
18 the shots. And you're going to learn how it was the defendant
19 that was driving that Rolls Royce, how he is the primary driver
20 on that car. You're going to have a chance to look at records
21 from the dealership, wire transfers to the dealership and also
22 to the Ford truck dealership.

23 You're going to have a chance to hear from the owners
24 of that Amarillo, Texas, property, the property that was bought
25 by the defendant for one million dollars cash and how the

United States District Court

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1 defendant wants \$70,000 of their furniture at the time and paid 03:08:39
2 for it. You're going to have a chance to hear from the realtor
3 who sold that property and how the defendant called her one
4 evening soon after he signed the paperwork for the sale of the
5 home and said, "I have to drop off the \$990,000 cashier's check 03:08:54
6 for the remaining portion of the home," and how he gave that
7 check to the realtor.

8 Ladies and gentlemen, the devil in this case is in
9 the details. The dates are important. The wire transfers are
10 important. Where money flows is important. Statements the 03:09:14
11 defendant made to others is important.

12 At the conclusion of this case, I'm going to have an
13 opportunity to speak with you again and I'm going to ask you to
14 convict the defendant on all eight counts. Thank you very much
15 for your patience and attention. 03:09:32

16 THE COURT: Thank you.

17 Mr. Minns?

18 MR. MINNS: May it please the Court, Your Honor,
19 sometimes people can't hear me. If you don't, raise your hand.

20 THE COURT: Well, you know, I can't hear you. Sorry. 03:10:47

21 MR. MINNS: I'll raise my voice, Your Honor.

22 THE COURT: I don't think that's going to work. Move
23 that microphone very close to you. Let's see. And if you have
24 to get behind the podium, I'm sorry, you're going to have to do
25 that. 03:11:03

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 MR. MINNS: Can I move it so that I can -- 03:11:09

2 THE COURT: Yes. I think we can move it.

3 MR. MINNS: For part of it, Your Honor, I won't be
4 able to use it.

5 THE COURT: Well, just speak loudly enough so that we 03:11:17
6 can all hear you.

7 MR. MINNS: I will, Your Honor. I apologize.

8 Thank you for telling us so much about you all so we
9 could learn, so the Court could learn, so that we could learn,
10 the defense could make decisions. 03:11:30

11 You know, you don't get to know much about us. My
12 name is Michael Minns. I'm an ex-boxer, ex-high school English
13 teacher. Grandfather of six. That's probably enough.

14 I have been doing this for 35 years. I am defending
15 an innocent man today and I'm going to show you a timeline that 03:11:46
16 I hope won't be as confusing as what we just heard. The
17 timeline is kind of what you heard about. I've also heard the
18 government put something down that I thought might be of
19 interest. I tried to write it down on my timeline so that I
20 could go through it and explain where it was wrong. 03:12:10

21 The first thing this, General Eisenhower said this
22 about the time I was born: There's just so many times you can
23 call a good man a liar; and after that, you are lucky if you
24 are in Court rather than you are out behind a barn.

25 Jim Parker is on honest man. He was born on the 03:12:34

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 reservation. That's Jim Parker in 1954. His dad is Cherokee. 03:12:43

2 He was born on that reservation and if you go into his
3 apartment house, he's not living in the -- when someone says
4 8,000 square foot home, I'm assuming they mean that to make you
5 jealous because there's no other logic or reason to say that. 03:12:58

6 But I'm assuming at this point in time in his life he was
7 living -- the government didn't say this -- he was living in a
8 place with no plumbing on a reservation --

9 MR. PERKEL: Objection, Your Honor.

10 THE COURT: And -- 03:13:19

11 MR. PERKEL: Relevancy.

12 THE COURT: -- I'm going to allow it at this point.
13 It's in the nature of background.

14 MR. MINNS: Mr. Parker was a successful man and he
15 did what any successful and honest man would do. He worked his 03:13:33
16 way out of that place in Seattle, Washington, where the
17 reservation was. He ended up being a very successful
18 restaurateur. This is in 1984. The government doesn't have
19 any complaints about that because he had good bookkeepers. He
20 had a good attorney and everything was done -- they are not 03:13:55
21 saying he owes taxes for the years in his restaurants.

22 In 1994 -- and here's the impossibility of it all.
23 You got those offers in compromise which they claim he lied on
24 every one of them and put fake companies on every one of them.
25 And I'm going to talk about the offers in compromise in a 03:14:23

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1 minute, each charge, so that you can kind of figure it out 03:14:27
2 rather than lump it in together. I'm going to going into that
3 in a minute.

4 But the government says that he created a fake
5 nominee, that's the word they are using for it, a better word 03:14:43
6 would be fake. None of these are fake. They are all
7 legitimate companies set up to provide for his family. They
8 say that he created a fake -- and it was his home, a fake
9 company here and they say it is his home. He owns it. He can
10 do anything he wants with it. 03:15:03

11 Well, this was the basis of something he lied about;
12 that this is on -- that he left this off and I guess they are
13 not saying it outright but if Greg Robinson, his attorney, left
14 it off of the offers in compromise, they are also saying the
15 attorney did something wrong because the attorney created. 03:15:27

16 What they are really saying -- and here's what
17 happens: Mr. Parker was very successful and Mr. Parker made a
18 lot of money and Mr. Parker lost a lot of money. But
19 Mr. Parker thought he was going to be more successful than he
20 was and in 1994, with experts, we'll go through this chart of 03:15:48
21 all of the lawyers and all of the CPAs, and there's several of
22 them missing. I'm not on here for one. But the Central
23 Business Services' CPAs created this company called Cornerstone
24 in 1994. In 1994 and they put that money -- they borrowed
25 money and put that house into that for him and his wife to live 03:16:19

United States District Court

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1 in. But on the day they died, his kids would own it. But it
2 doesn't work that way. They gave it to the kids immediately.
3 So the kids now own it. It's called a trust. It's nothing
4 surprising or unusual. It's called an estate plan.

03:16:23

5 If the government's case is true, then they are
6 saying Mr. Parker knew that he was going to get in trouble with
7 the government on all of these counts. And leave the
8 Cornerstone trust off in 1994. He was going to do that knowing
9 that he was going to sell property in Belize 12 -- no, 20 years
10 later and leave it off of his August 5, 2005, offer in
11 compromise. That's impossible. He would have to time travel
12 and he would have to be able to see his future.

03:16:42

03:17:06

13 For them to say that this was not an honest gift to
14 his children, I don't want to use the word "lie" over and over
15 again as I have been hearing. I'm just going to say the
16 government made a mistake because you would have to have time
17 travel to know 20 years in advance that you were going to come
18 up with selling a piece of property in Belize 20 years later.
19 It's not even possible. If you wanted to think that Mr. Parker
20 was a bad man, which he not, you could not give the government
21 that point.

03:17:26

03:17:45

22 The foundation of the government's case is this
23 Cornerstone home. The home was put in Cornerstone.

24 I also remember hearing when the government talks
25 about this \$1.5 million later, many years later, and they say

03:18:01

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 there's some extra money in there. Aha. What happens to the
2 extra money? Well, they are just kind of ignoring that they
3 borrowed money to build the house so that there wasn't any
4 extra money. There was 1.1 million. But it's kind of
5 indicative that you paint something with an evil brush, you're
6 going to find an evil ending to it if you want, if you are
7 looking for that. If you are not presuming innocence, if
8 you've decided your case before you heard any of the evidence.

03:18:10

03:18:25

9 This is the same piece of property. This is the same
10 piece of property.

03:18:42

11 Now, what happened is that the government audited the
12 Cornerstone Trust and they did not like it and so lawyers told
13 him the government has changed their meaning of the tax laws.

14 They don't like trusts. You're going to get audited for the
15 rest of your life. Everybody is unhappy. You're going to have

03:19:04

16 to move the Cornerstone property into something the government
17 likes and the government now likes LLPs. They don't like
18 trusts any more. They like LLPs. Several of the attorneys on
19 this chart had that advice, including the lawyer that took it
20 out of Cornerstone and put it in the LLP. And guess who signed

03:19:23

21 the papers? Mr. Parker would have if he could have but he
22 didn't own it any more. The kids owned the trust so the kids
23 have to sign it.

24 Now, Mr. Parker is the creator of the family wealth.
25 Jim Parker, the man you see there. And he is the creator of

03:19:48

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 wealth that he wanted his children to have and his 03:19:53
2 grandchildren to have so that there would never be poverty in
3 his family again. But -- and he had influence at all times.
4 Influence and respect is not ownership. And as a matter of
5 fact, the government's witnesses are going to be telling you 03:20:12
6 that, that Mr. Parker was very involved in the stuff he gave to
7 his kids and constantly was told, "Sorry, Mr. Parker, this
8 isn't yours any more. You have to get your kids to agree to
9 sign the papers. You don't own it."

10 Now, often it works fine when you give stuff to your 03:20:33
11 kids; but then if your kids get married, it may not work as
12 well because the son's wife or the wife's husband may say,
13 "Whoa, we're not going to loan you money; that you gave us,
14 we're not going to loan it back to you now that you're in
15 trouble with the IRS. We don't agree with that." 03:20:53

16 In 1999 you have Jim Parker coming back from this
17 home -- to his home where he lives, but he doesn't own it. The
18 kids' trust owns it but, yes, he lives there. Yes, it's his
19 residence. And he's driving home in his car with his family
20 and he doesn't know that his life is about to go to -- I'll use 03:21:23
21 the term that Mr. Perkel used. His life is going to go to the
22 devil for a while. But he gets home. He finds the audit for
23 the Internal Revenue Service letter and what does he do? At
24 this point in time he's still got money in the bank. He's
25 still relatively successful. He hands it over to his lawyer. 03:21:48

United States District Court

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1 He's told that this guy is the best lawyer in Phoenix, Arizona. 03:21:55
2 He's a specialist in tax. He says, "Do what I have to do, fix
3 it."

4 And this lawyer -- ah, this is Greg Robinson. But
5 there's another lawyer. Greg Robinson sends it to Henry Tom 03:22:17
6 because they sit down and Greg Robinson and Henry Tom tell him
7 the government is claiming for these two years, for the years
8 '97 and '98, about \$1.7 million and they are saying your taxes
9 were -- are wrong. The CPA made some mistakes and, by golly,
10 you owe almost 10 percent of that, almost \$170,000. And he 03:22:47
11 says, "Well, take care of it. Do whatever has to be done."

12 They negotiate for a long time. They deal for a long
13 time and then Mr. Henry Tom tells him, "Look, you're in really
14 big trouble because you've drawn the worst IRS guy in the
15 field, and if you don't make him happy, he's going to put you 03:23:11
16 in jail for the rest of your life."

17 And Mr. Parker says, "Well, what is the law, what
18 does the law say I'm supposed to do? Do whatever the law
19 says."

20 And Mr. Tom tells him, "Here's the way it happens. 03:23:29
21 In order to defend you in tax court and get it so you'll pay
22 only what you owe, \$170,000, you're going to have to pay me
23 \$400,000. And then you still might go to jail." So that isn't
24 a very appealing options. So what other options are there?
25 You can make this IRS happy. You can agree to his figures but 03:23:53

United States District Court

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1 agree to pay. You can make offers in compromise. You'll be
2 out.

03:23:58

3 Mr. Parker says, "Well, what about the tax Court?"

4 Now, this is something else that the government is
5 talking to you about these two different court systems, but I
6 don't think they have explained it very well. One side is
7 civil that has to do only with money. And that starts with
8 this audit letter. And you can talk to the person and you
9 either make a deal or you don't. If you don't, then you go to
10 civil appeals. If you don't, then you go to civil examination.
11 If you don't, then you go to tax court where there is no jury
12 because there is no jail.

03:24:09

03:24:29

13 After tax court, you can go to the offer in
14 compromise administrative remedies and there are lots of stuff
15 in the civil side, the money side, and now we're on the
16 criminal side.

03:24:50

17 And as Mr. Tom told Mr. Parker, we're on the go to
18 jail side. So how does a man that hires more lawyers than you
19 need to start a couple of law firms, that hires more CPA's end
20 up in criminal courtroom when he's trying to pay?

03:25:16

21 Now, we won't agree on everything but I wrote this
22 down where the government was saying Mr. Perkel says he wants
23 to pay and I added up all of the numbers that Mr. Perkel said
24 he wanted to pay and they came out to more than the tax did.

25 But you can't just pay because you want to pay. You

03:25:41

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 have to have the money.

03:25:45

2 The Cornerstone house, right now it's in foreclosure.

3 But it's -- it was worth, at the most, somewhere around a

4 million and a half dollars. There was a loan -- it wasn't for

5 a million and a half dollars. But, you know what, crooks,

03:26:03

6 especially if they have a biz in Belize, they don't come to

7 criminal court and face the court and the jury. They just

8 skedaddle. Mr. Parker has always appeared, always hired people

9 to come in when he had the money, always came to face whatever

10 medicine there was to face because he's an honest man.

03:26:25

11 Now, let's talk about these eight counts but also

12 let's talk about the stuff that the government has said and I'm

13 going to kind of click them off. If I thought they were

14 interesting -- I don't think the size of a man's home is

15 interesting. The value might be interesting but the size of

03:26:49

16 home is not terribly interesting unless this is about jealousy

17 for a man that became successful.

18 The government says it is not about deductions but

19 that is the first thing that the case was about.

20 In Belize, and these are pictures of the company in

03:27:08

21 Belize that Mr. Parker went out. He and his family lived in

22 Belize. They got dysentery. They got malaria. He spent every

23 penny that he had and he sold everything that he owned and it

24 became successful.

25 In Belize, though, he doesn't own it all. And what

03:27:25

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1 this case kind of is about is the government is saying, well, 03:27:29
2 first of all, in '97 and '98, how did Mr. Tom get to \$170,000
3 and Mr. Robinson and the government get to a \$1,700,000? How
4 did that happen? Well, it happened in '97 and '98 because the
5 government said you have to pay taxes on this money but you 03:27:55
6 don't get any deductions for the pavement, the labor, the cost
7 of construction, nothing, and that is how it happened. And
8 Mr. Parker still hasn't figured that out and I doubt -- well,
9 they are going to have to if they want to prove their positions
10 beyond a reasonable doubt before the trial is over. Why a man 03:28:24
11 can build something, spend \$1.5 million building it and if it
12 gets sold for \$1.7 he's supposed to have a \$1.7 million in
13 profit. Any business that ran that way would be broke
14 tomorrow. It's an impossibility in performance. It's an
15 impossibility. And his lawyers told him -- I didn't think that 03:28:48
16 was going to make it.

17 His lawyers told him -- you see we're not engineers
18 over here. His lawyers told him eventually the discounted, the
19 expenses, revenue is not income. Income is what happens after
20 you make your profit and it's not yours if you work for the 03:29:14
21 company. That's another problem with the government case.

22 So the government is charging him with eight
23 felonies. The first one in '97 and '98 they are not saying
24 that he didn't tell the truth, or maybe they are because they
25 called him a liar 37 times in opening. 03:29:38

United States District Court

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 But he didn't do that in tax court. They said you've 03:29:41
2 agreed with us and we get a judgment. So they are not saying
3 the returns were false in tax court. They were saying they
4 were wrong. And I take exception with that if every time a
5 taxpayer made an agreement with the IRS and signed the 03:29:55
6 paperwork that it was false, no one -- there would never be
7 another settlement in the history of the United States because
8 they would all be marched into criminal court.

9 These two years weren't paid. And he did not have
10 the money. 2001 and 2002, those taxes have already been paid. 03:30:19
11 Counts 5, 6, 7, 8, those are four times, it's the same thing
12 and, basically, you have an IRS agent saying, "Come on. Make
13 me another offer. Come on." And they know he's going to put
14 the same thing down on it. Come on. Cornerstone is not on
15 offer number one. Sunlight is not on offer number one because 03:30:45
16 he doesn't own it.

17 Why don't they just tell him? No. "Come on. Give
18 us another one." Every time they give him one, they indict
19 him. He can't make all of the children make all of the loans
20 against that property that they want. 03:31:08

21 And one of the things the kids -- when he puts down
22 on there his family will borrow it from them, he's basically
23 telling them -- and they know it and Mr. Robinson knows it.
24 Mr. Robinson and the IRS agent know about the Cornerstone house
25 in 1998. They know about it. They are not hiding it. 03:31:25

United States District Court

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1 This whole case, all eight counts, starts off with
2 this, with a false premise, and that is in 1994 they set this
3 thing up, which he transferred, with Mr. Robinson for the
4 purpose of cheating and lying on four forms over and over and
5 over again. Each time the IRS knows about it. You'll see
6 notices where the IRS is talking about the home. The IRS is
7 talking about mortgaging it. Mr. Parker is talking about
8 having his kids mortgage the home.

03:31:30

9 The maximum that could have been obtained out of that
10 home at any time was \$1.1 million, not the 1.5 that included
11 financing.

03:31:51

03:32:12

12 And that money would have been available but the IRS
13 kept saying no. They didn't ever make an offer that he could
14 make that was within 100 percent of what was in that house.
15 They want to call Reports Consulting Quorum a fiction. That is
16 set up by Mr. Robinson's brother and law partner, Dave
17 Robinson, who, unfortunately, is dead now. Another advisor,
18 David Robinson, who has a business relationship, convinces
19 Mr. Parker -- and the government is showing this in its
20 evidence. He convinces Mr. Parker to borrow money from Belize.

03:32:32

03:33:00

21 He tells Mr. Parker it's completely legal. He convinces him to
22 put it in Results Consulting Quorum which the government calls
23 a fiction. And you don't see the Robinson brothers -- one of
24 them is dead so you can't see him here. But you don't see
25 either of them here indicted. If something is wrong, the

03:33:23

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1 lawyers who he relied on are all fine. The CPAs that he relied
2 on, they are all fine. None of them are here. You don't see
3 their lawyers and team and everything sitting at the table
4 because the government isn't doing anything except the
5 government agent filed a professional report against him with
6 the IRS saying he was unethical, but they didn't tell
7 Mr. Parker that. He didn't learn that until this case got
8 started.

03:33:29

03:33:42

9 So Mr. Robinson has a partnership with Jim Parker
10 where he is the only one that can sign on the checking account.
11 That is unethical. An ethical attorney is not allowed to do
12 that in this state. Mr. Robinson says he just doesn't know
13 what his partner and brother lawyer is doing. He tries to stay
14 out of his partner lawyer and he doesn't know about Belize even
15 though his partner, who is also a lawyer, is doing business in
16 Belize with Mr. Parker and he says he knows nothing about it.
17 He's partners with his brother lawyer and he's partners with
18 Mr. Parker telling him what to do and taking money from Belize
19 that only Mr. Robinson can sign on in the account.

03:34:04

03:34:24

20 This which Mr. Perkel says is a pet project and he
21 said there was \$2 million put in it and if I were not going to
22 be honest with you, I would agree with him. There's \$3 million
23 put into that, not 2 million. It's no pet project, though.
24 It's a matter of life and death. It's the most important
25 project that the family is involved in. It's a huge, huge

03:34:48

03:35:10

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1 project.

03:35:17

2 Mr. Parker has shut down the Belize company, is
3 having some troubles, as it is true, and Mr. Parker is doing
4 something that no dishonest tax avoider has ever done in the
5 history of the United States. He's bringing money into the
6 United States where there's full transparency, where everybody
7 can see it, where these gentlemen have been following
8 everything he has been doing for 10 years. You have to believe
9 he's the biggest idiot on the planet if you believe he's hiding
10 the money in the United States.

03:35:29

03:35:47

11 What the government didn't say is this: Yes, there's
12 a \$6 million sale in Belize. Mr. Parker doesn't own all the
13 property. He has a small interest in it and if he succeeds in
14 finishing it, he will own a portion. He didn't put up all of
15 the money. He didn't put up most of the money. \$3 million
16 went immediately to investors so the government throws out
17 these things that are supposed to matter to us. One, they
18 throw out this \$6 million figure and they say -- I guess this
19 is supposed to make you all think Mr. Parker is richer than
20 Warren Buffet when he says that he has a pet project. This is
21 not a pet project. This is a project really intended to save
22 the life of his son.

03:36:09

03:36:27

23 Now, one thing about the Parkers is that they are
24 scrupulously honest about what they say. But Sam Parker is in
25 trouble all the time. That is Jim Parker's son. He's in

03:36:47

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1 trouble all the time, not trouble like this, not trouble for
2 lying or being dishonest. Sam Parker is a professional boxer.
3 He has gotten into a lot of fights and he had gotten into drugs
4 and so his dad is trying to save his life and probably did save
5 his life.

03:36:51

03:37:14

6 His dad has the Belize investors have \$3 million that
7 they are holding to do the second part of the project. When it
8 goes off, the Belize project will make them all rich but
9 there's \$3 million sitting there. And, see, Mr. Parker says
10 I've got an ideas. If you will allow that money to come back
11 and be used in the United States, we will build a huge project,
12 not a pet project. We'll build a huge project in Oklahoma and
13 we'll make a lot of money.

03:37:33

14 We'll sell cattle to wealthy people. We'll build up
15 the seed better than it's been done before. His foreman, who
16 is a professional ranchman who has handled cowboys and cattle
17 and everything else from the beginning of the day he was born,
18 and he's like a cowboy from central casting. He's hired by
19 Sam. Sam is put in charge of the project and they build it up.
20 And Sam lives there. First outside before they build it up and
21 then inside when they build it up. And the purpose is to
22 create a new and expensive cattle breed and they succeed but
23 they end up with litigation. They end up with economy problems
24 and the project ultimately fails.

03:37:56

03:38:21

25 Sam, though, he stays away from drugs. He doesn't

03:38:45

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1 get into any criminal problems any more and Jim Parker says, 03:38:47
2 you know, he did what he had to do. Was it smarter funding \$3
3 million project with a young man primarily in charge of it?
4 Well, it doesn't look smart right now because the project
5 failed. The Belize company sued and got a judgment for the \$3 03:39:05
6 million.

7 Here's the problem with the whole government's
8 position. The government didn't say that he was a liar when
9 they threatened his lawyer and him and got them to agree with
10 their figures. They said, "Well, these are truthful figures." 03:39:24
11 They have never said that the figures for 2001 and 2002 are not
12 truthful. They have never said that. This is the first time
13 that I've heard that ever. So they are saying he finally gave
14 what they wanted, 100 cents on the dollar. He just didn't give
15 them the money. And then they are saying four times we tried 03:39:54
16 to make a deal and all four times he left off the home he did
17 didn't own and could not legally put on that; that the lawyers
18 have helped him with the forms, told him to leave it off and he
19 left off the Oklahoma. Saying pet project is such an insult
20 when you put a bunch of investors' life savings, your life 03:40:21
21 savings, everything else into it. It's an insult.

22 And then when they say zooming around in their
23 expensive car, well, when you have -- the car was not in his
24 name. The car has been sold to pay taxes and legal fees, so
25 they don't own the car anymore. But when you take one of those 03:40:40

United States District Court

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1 kind of cars, if you are going to zoom, I think you would zoom 03:40:44
2 in a Corvette or something. You don't zoom in a Rolls Royce.
3 And that was the term that the government used. I think he
4 meant to say zoom as in, like, show off or mean wasting money
5 or something. 03:40:57

6 When you have people coming in, flying into your pet
7 project -- no, major, major project, and in Oklahoma who fly in
8 on their own jet plane, you can't pick them up in my Jeep.
9 They won't come to you. When you are trying to sell them a
10 cattle -- a bull for a quarter of a million dollars, you have 03:41:17
11 to have an expensive car. And that was the reasoning of the
12 ranch man and that was the reasoning of Sam. They couldn't
13 leave that expensive car sitting in Oklahoma before they built
14 up the place for it.

15 When they say this is a fake name and a fake company, 03:41:39
16 RSJ, you don't put a fake company in the name Rachel -- RSJ
17 stands for Rachel which is his adopted daughter. They raised
18 her since she was two weeks old. Sam is their son that was
19 born a few years later. And James is their other son. You
20 don't name it RSJ, after your three children, put it in your 03:41:59
21 three children's names if you are trying to hide it from the
22 government.

23 If your goal is to hide it from the government, you
24 don't bring into the United States of where everybody sees it
25 where you have been living under a large, many people following 03:42:16

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1 you for 10 years microscope where they see everything you do. 03:42:21

2 I'll tell you this: I thought they were going to say
3 we're talking about personal expenses because there are
4 personal expenses that come out of these businesses that just
5 come out and shouldn't, 10,000, \$20,000? The Parkers were 03:42:39
6 broke. Their kids paid for personal things for them out of
7 these accounts and they shouldn't do that. But that is what
8 you have -- and that is not a criminal offense. That should be
9 dealt with in the civil with the money thing. But that's what
10 you have all of these lawyers and CPAs and everybody for. Can 03:42:56
11 you imagine?

12 I do want to know, as the government develops its
13 case, are they saying all of these people are innocent or all
14 of these people are guilty or all of these people are
15 deceived -- 03:43:13

16 MR. PERKEL: Objection, Your Honor. Argument.

17 THE COURT: Sustained.

18 MR. MINNS: One of the lawyers, Mr. Williams, he's
19 one of the top lawyers in Belize and he has been advising him.
20 His name is Gallant, the CPA, is advising him. One man, who we 03:43:28
21 will vouch for, who is an honest attorney, Stan Manske, is
22 part-time assistant prosecutor --

23 MR. PERKEL: Objection, Your Honor, to the voucher.

24 MR. MINNS: Oh, I apologize, Your Honor.

25 We will put him on the stand, Stan Manske. It's our 03:43:48

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1 position that he is an honest man --

03:43:57

2 MR. PERKEL: Objection, Your Honor.

3 THE COURT: Sustained.

4 Ladies and gentlemen, you are to ignore that last
5 sentence.

03:43:59

6 MR. MINNS: Stan Manske set up these last two
7 entities that the government says is fake. Stan Manske is a
8 part-time district attorney prosecutor in the small county and
9 he will -- the evidence will show, and he will testify and tell
10 you that Mr. Parker does not own them, that he set them up that
11 way.

03:44:17

12 Now, what the government really says Mr. Parker
13 should have done is not consult the children when he borrowed
14 against the large home. They should have forged their names to
15 the documents.

03:44:37

16 MR. PERKEL: Objection, Your Honor. Argument.

17 THE COURT: Sustained.

18 MR. MINNS: The government says that this is his
19 home, that he owns it even though it's not in his name. The
20 evidence will not show any evidence of that at all.

03:44:51

21 Now, typically, if you have something where you call
22 all of these nasty names straw, that they were saying to use
23 fake, dishonest, typically, what happens is the person -- when
24 it happens, the person has another deed secretly giving it back
25 anytime.

03:45:13

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1 I guess it's permitted and we don't claim anything 03:45:16
2 wrong with it but often people are required to resign in
3 writing at the same time that they get their job so that
4 there's a fallback. And then maybe you really do own the
5 position. Maybe you really do own the job. 03:45:28

6 But the paperwork to show ownership in Sunlight and
7 Mr. Parker does not exist. No one is going to show up with it
8 showing the secret paperwork. The paperwork to show ownership
9 and Mr. Parker, as the government is complaining, real
10 ownership, doesn't exist and it will not be shown. 03:45:53

11 The government does not like the fact that this money
12 is not Jim Parker's. The government, its opening, Mr. Perkel
13 says why didn't he use that \$3 million that was borrowed from
14 the Belize company to pay his taxes?

15 Well, that's just a no-brainer. What investors are 03:46:23
16 going to loan you money to pay your taxes? They are going to
17 put money into a project because you have been successful and
18 they expect the project back and if the money doesn't come
19 back, sometimes there will be a lawsuit.

20 I don't know if any of this paperwork is perfect and 03:46:59
21 I certainly wouldn't, even if I was allowed to, vouch for any
22 of these accountants or CPAs. It's our position that they were
23 all incompetent.

24 But the two big things that the government claims
25 that Mr. Parker should be convicted for four felonies at the 03:47:19

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

1 age of 64, the two big things are leaving those two big pieces 03:47:23
2 of property off. One, the house. They claim he had to put it
3 on there. And, two, the \$3 million which they have dealt with
4 the 6 million because that's what was paid for the property
5 even though the Belize company -- not even the Belize company 03:47:45
6 made \$6 million. The investors got half of it.

7 You know, they might as well say that --
8 MR. PERKEL: Objection, Your Honor. Arguing.
9 THE COURT: Well, I don't know what he's going to say
10 yet. 03:48:01

11 As long as you refer to the evidence.

12 MR. MINNS: Thank you, Your Honor.

13 THE COURT: It's allowed as opposed to speculation as
14 to what the government will say.

15 MR. MINNS: At this point, I don't remember what I 03:48:16
16 was going to say.

17 Stan Manske, Assistant District Attorney and
18 prosecutor, who you will decide whether he's an honest man or
19 not, draws up the last entity the government says is fake.
20 When he's here, they can ask him if he's hiding papers that 03:48:47
21 would normally give everything over to Mr. Parker and not his
22 children.

23 And the Robinson brothers are responsible for the
24 second company that took the property from Cornerstone Resource
25 Trust. Every one of these people -- you can add me to the 03:49:08

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1 list, too. Michael Minns, Ashley Arnett. There's a couple of 03:49:11
2 other lawyers that they consulted with. Every one of these
3 lawyers.

4 The horrible tragedy is there's a man that sits here
5 who has been successful spending his last few pennies in a 03:49:29
6 courtroom after hiring all of these experts.

7 MR. PERKEL: Objection.

8 THE COURT: Yes.

9 MR. PERKEL: Arguing, Your Honor.

10 THE COURT: Sustained. 03:49:37

11 Mr. Minns, refer to the evidence as you anticipate it
12 will be shown.

13 MR. MINNS: Thank you, Your Honor.

14 I anticipate that it will be shown that the kids
15 owned this property and I anticipate one of the children will 03:50:00
16 say that they would like to give the money back or borrow
17 against it to save their dad and that they offered many, many
18 times to borrow the money against the property to save their
19 dad.

20 And I anticipate that the evidence will show 03:50:18
21 unequivocally that Mr. Parker wants to pay what he owes. He
22 now wants to pay more than he owes because he wants to live the
23 next few years of his life in peace.

24 And I anticipate control, respect, belief, management
25 does not equal ownership. I anticipate there will be some 03:50:44

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1 instructions -- the Court decides that at the end what the 03:50:50
2 instructions are. There will be some instructions on ethics.
3 MR. PERKEL: Objection, Your Honor.
4 THE COURT: Well, ladies and gentlemen, we don't know
5 yet whether that will be the case. You anticipate -- I think 03:51:02
6 you hope.
7 MR. MINNS: Yes, Your Honor.
8 THE COURT: That hasn't been decided.
9 MR. MINNS: May I speak on the ethics, Your Honor?
10 THE COURT: Not really. 03:51:14
11 MR. MINNS: May I approach the bench, Your Honor?
12 THE COURT: Well, on that issue, no.
13 MR. MINNS: Just on the issue of the Robinsons.
14 THE COURT: You can discuss what the evidence is
15 concerning the Robinsons and of course what the Robinsons as 03:51:35
16 long as it doesn't constitute hearsay. In other words, it's
17 admissible as not hearsay.
18 MR. MINNS: Thank you, Your Honor.
19 What the evidence will show is that the Robinsons
20 were partners in the law firm together, that one of the 03:52:00
21 Robinsons was partners in the enterprise he set up, Dave
22 Robinson; that Dave Robinson received funds from Belize; that
23 Dave Robinson was also partners with his brother Greg Robinson.
24 Whether or not that is appropriate, there may or may not be
25 instructions on that. 03:52:27

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1 The IRS this afternoon has claimed \$6 million in 03:52:32
2 income in opening argument or statement.

3 Mr. Parker has never been charged with this \$6
4 million. I suspect that it's because they know it's not income
5 but perhaps the -- they will have evidence. 03:52:51

6 MR. PERKEL: Objection, Your Honor. Arguing.

7 MR. MINNS: Well, Your Honor, on that --

8 THE COURT: You say perhaps they will, perhaps they
9 won't. Why don't you talk about what you expect the evidence
10 will show, not what you are speculating it will show? 03:53:03

11 MR. MINNS: On this, Your Honor, it was in
12 distributing rebuttal to the exact statement by Mr. Perkel on
13 opening and I did want permission to disagree with his
14 statement on opening.

15 THE COURT: Well, did he say the evidence would show? 03:53:16
16 I don't recall that.

17 MR. MINNS: I don't recall him using the words. The
18 words I recall him using was that Mr. Parker made \$6 million in
19 income. I assume he meant he would be putting on some evidence
20 of that. 03:53:29

21 THE COURT: Okay. Then your response can be what you
22 anticipate the evidence will show.

23 MR. MINNS: There will be no evidence that Mr. Parker
24 made \$6 million in income, none. There will be evidence that
25 the company that he had an interest in, that he was a manager 03:53:42

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of, made a \$6 million sale and that there was less than \$3 million profit on it.

03:53:46

I apologize for my voice problems and everything else. If I say something wrong, I will try to correct it immediately. We will put to you only what we believe to be the truth. I give you my word on that.

03:54:03

And I thank you for listening to me.

(End of excerpted portion.)

* * * * *

CR-10-00757-PHX-ROS, May 29, 2012 (EXCERPT)

C E R T I F I C A T E

03:54:12

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.

03:54:12

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.

03:54:12

DATED at Phoenix, Arizona, this 4th day of June,
2012.

03:54:12

s/Elaine M. Cropper

03:54:12

Elaine M. Cropper, RDR, CRR, CCP

United States District Court