

CR-10-00757-PHX-ROS, June 19, 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)	June 19, 2012
14)	
15)	
16)	
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BEFORE: THE HONORABLE ROSLYN O. SILVER, CHIEF JUDGE
REPORTER'S EXCERPT TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - Day 7
(Jerry Carter testimony)

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

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

CR-10-00757-PHX-ROS, June 19, 2012

A P P E A R A N C E S

1
2 For the Government:

3 **PETER S. SEXTON, ESQ.**

4 **WALTER PERKEL, ESQ.**

5 U.S. Attorney's Office

6 40 North Central Avenue, Suite 1200

7 Phoenix, AZ 85004-4408

8 602.514.7500

9 For the Defendant:

10 **MICHAEL LOUIS MINNS, ESQ.**

11 **ASHLEY BLAIR ARNETT, ESQ.**

12 Minns Law Firm, P.L.C.

13 9119 S. Gessner, Suite 1

14 Houston, TX 77074

15 713.777.0772/(fax) 713.777.0453

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19
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21
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United States District Court

JERRY CARTER - Direct

P R O C E E D I N G S

(The following excerpt was transcribed.)

THE COURT: Your next witness?

MR. PERKEL: Jerry Carter.

JERRY CARTER,

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: Jerry Carter, C-A-R-T-E-R.

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

DIRECT EXAMINATION

BY MR. SEXTON:

Q. Sir, would you introduce yourself to the jury?

A. I am Jerry Carter. I'm a revenue officer with the Internal Revenue Service.

Q. And how long have you been a revenue officer?

A. Next month will be 30 years.

Q. Out of what office do you work out of?

A. I work in the Mesa office of the IRS.

Q. Have you been mostly in the greater Phoenix metropolitan area during your career?

A. Yes, sir. The last 26 years I worked in the State of Arizona, Phoenix area.

United States District Court

01:42:34

01:43:10

01:43:39

01:43:52

01:44:05

JERRY CARTER - Direct

1 Q. And did you join the IRS shortly after graduating from 01:44:08
2 college?

3 A. I did. 1982.

4 Q. For some of the documents, do you have an alias name that
5 you use besides your last name of Carter? 01:44:25

6 A. Yes. I was assigned a pseudonym several years ago.

7 Q. And what is the pseudonym?

8 A. The pseudonym is Young, Y-O-U-N-G.

9 Q. So sometimes in the record there might be a reference to
10 Jerry Young? 01:44:41

11 A. Yes.

12 Q. You also were given like a specific identification number
13 that is associated with your entries into official records?

14 A. Yes, sir.

15 Q. Now, before you -- maybe you don't have before you. 01:44:59

16 MR. SEXTON: Did I give you that?

17 BY MR. SEXTON:

18 Q. Before you, sir, is Exhibit 446 which is not in evidence.
19 That's the archived history for the collection on this case. I
20 will sometimes refer you to it to see if that refreshes your 01:45:22
21 recollection as to the sequence of events. But please do not
22 read out loud from it if I ask you to look at it and see if
23 that refreshes your recollection. Do you understand?

24 A. I do.

25

JERRY CARTER - Direct

1 Q. Okay. Now, sir, we've heard from Paul Wedepohl. Did you 01:45:39
2 follow him on this file sometime in March of 2005. And if it
3 would help you to look at page 48 of your archive history to
4 see if that jogs your thoughts as to when you became involved?
5 A. Yes. I was involved. The case was assigned to me 01:46:08
6 originally March 11, 2005.
7 Q. Now, in your capacity as a revenue officer, was it similar
8 in nature to what Paul Wedepohl was doing before you?
9 A. Yes.
10 Q. You are both collection officers? 01:46:29
11 A. Yes.
12 Q. Now, when you came on board for this file and the file
13 we're talking about, James and Jacqueline Parker?
14 A. Yes, sir.
15 Q. What did you do in order to get up to speed? 01:46:44
16 A. The file was rather extensive so I reviewed all of the
17 documents and boxes that came with the file.
18 Q. Were you part of the individuals who did that field call
19 at the Meander Way residence that day?
20 A. Yes, I was there. 01:47:06
21 Q. And do you have a background in real estate?
22 A. I actually have a real estate license until recently.
23 Q. When did you obtain that?
24 A. Approximately January 2000.
25 Q. In the State of Arizona? 01:47:18

United States District Court

JERRY CARTER - Direct

1 A. State of Arizona. 01:47:19

2 Q. Now, when you took over the file, what are you working on
3 on the file at this point?

4 A. Mostly, my job is to try to collect the money --

5 MR. MINNS: Pardon me. Your Honor, could I approach 01:47:35
6 sidebar?

7 THE COURT: And what's that about?

8 MR. MINNS: Well, I need to ask if he's going to be
9 qualified as a real estate expert.

10 THE COURT: All right. Let's talk about it. 01:47:50

11 (At sidebar.)

12 MR. MINNS: The Court disagreed with me. I lost this
13 last time. The Court said I should have objected when he
14 started qualifying him, so I don't know why he's putting on the
15 fact that he has a real estate license. If he's going to 01:48:08
16 discuss real state in any capacity as a licensee in any type of
17 expertise, then I want to be in a position to either fully stop
18 it or cross-examine him.

19 THE COURT: Is he going to testify to give opinions
20 on real estate? 01:48:24

21 MR. SEXTON: No.

22 THE COURT: So he's not going to give real estate
23 opinions.

24 MR. MINNS: I am curious why he's put that in as a
25 qualification. 01:48:33

United States District Court

JERRY CARTER - Direct

1 THE COURT: Well, we'll wait and see. If he offers
2 opinion testimony, you can make an objection. I'm not going to
3 allow it.

01:48:34

4 MR. MINNS: Thank you, Your Honor.

5 (End sidebar.)

01:48:42

6 BY MR. SEXTON:

7 Q. The question before you was, when you took over this
8 collection file, what did you begin working on?

9 A. My main focus, after reviewing all of the documents and
10 boxes of records that came with it, was to continue the nominee
11 lien investigation on the residence in Carefree.

01:49:08

12 Q. And then shortly after this file came to you, did you have
13 a conversation with Attorney Greg Robinson around April of
14 2005? And I'll refer you to page 49 of your archive history.

15 A. Yes, I did. I received a phone call from power of
16 attorney Greg Robinson.

01:49:44

17 Q. Now if you would, would you summarize what you and he
18 talked about that day?

19 A. Attorney Robinson said he was going to send another offer
20 in compromise to Memphis in order to reduce the taxpayer's
21 liability that they would have to pay. I asked him to actually
22 send me a copy of the offer in compromise so I could assist in
23 the investigation if necessary.

01:50:03

24 Q. As a revenue officer, are you -- do you have input into
25 whether an offer in compromise is accepted or not?

01:50:24

JERRY CARTER - Direct

1 MR. MINNS: Pardon me, Your Honor. That same exact 01:50:28
2 question was asked and answered of Mr. Wedepohl. This is
3 redundant and repetitive.

4 MR. SEXTON: I don't believe it was, so I guess I
5 stand by the question's uniqueness. 01:50:40

6 THE COURT: I do believe that Wedepohl answered that
7 question; but if it's preliminary to something else, then I
8 will allow it. But he was asked that question.

9 MR. SEXTON: Okay.

10 BY MR. SEXTON: 01:51:05

11 Q. You may answer that question.

12 A. As the Parker case was assigned to me, it is my duty --
13 I'm required to provide a written recommendation towards the
14 offer in compromise should the government accept it or should
15 the government not accept it. 01:51:18

16 And I did write a report.

17 Q. At this point in your conversation with Mr. Robinson, are
18 you revealing to him precisely your intentions about a nominee
19 lien?

20 MR. MINNS: This is leading, Your Honor. 01:51:33

21 THE COURT: Sustained.

22 MR. MINNS: Could I ask instructions to disregard the
23 question?

24 THE COURT: Well, the questions are never evidence
25 and the jury has already been told that. 01:51:40

JERRY CARTER - Direct

1 BY MR. SEXTON: 01:51:42

2 Q. What, if anything, did you tell Mr. Robinson about your
3 efforts with regards to a nominee lien?

4 A. I purposely did not tell Mr. Robinson about my
5 investigation to pursue a nominee lien against the residence in 01:51:49
6 Carefree as I did not want to transfer it or encumber the
7 property.

8 MR. MINNS: I object to the last portion. It is
9 nonresponsive.

10 THE COURT: Sustained. 01:52:03

11 Ladies and gentlemen, the only portion of that answer
12 is the first portion. The remainder of you are to ignore.

13 Go ahead.

14 BY MR. SEXTON:

15 Q. Why didn't you tell him that you were doing it? 01:52:13

16 A. It was my intent to actually file a nominee lien against
17 the free and clear property in Carefree and I was afraid that
18 the taxpayer would encumber the property with a mortgage or
19 further convey the property outside the reach of the
20 government. 01:52:31

21 Q. Do you have Exhibit 110 in front of you, sir, which is in
22 evidence? Go to the last paragraph on page three.

23 Was this letter copied to you?

24 A. Yes, sir, it was.

25 Q. Is this the same offer in compromise you just talked to 01:53:19

JERRY CARTER - Direct

1	Greg Robinson on the phone about?	01:53:24
2	A. Yes.	
3	Q. Now, looking at the bottom paragraph on page three, do you	
4	see where it talks about what had happened to the Belize land	
5	down there? Do you see that part? At the bottom of page	01:53:44
6	three.	
7	A. Yes, I see on the first page of the actual letter it	
8	explains what happened to the property in Belize.	
9	Q. Were you provided any information about a sale in June of	
10	2004 for \$6 million of Belize land sale?	01:54:09
11	A. No. I was never provided any documentation or testimony	
12	or anything regarding any sale of property in Belize.	
13	Q. Were you provided any information that would show pictures	
14	of any devastation to the Belizean property?	
15	A. I never received or saw any evidence of any evidence of	01:54:32
16	the property in Belize being wiped out.	
17	Q. Go to the page four. The first full paragraph on that	
18	page where it starts out "their children." Do you see that?	
19	A. Yes, sir.	
20	Q. At the bottom of that paragraph, do you see where it says,	01:55:07
21	"The children make the mortgage payments and refuse the heavy	
22	handed pressure of the revenue officer." Do you see that?	
23	A. Yes, sir.	
24	Q. Were you ever provided any information that the children	
25	were making the mortgage payments?	01:55:20

United States District Court

JERRY CARTER - Direct

1 A. No, I was not. 01:55:22

2 Q. And then right above that almost in the middle of that

3 paragraph, it says, the children, "They have their own counsel

4 who informs them that since the acquisition of the house was

5 accomplished," et cetera, et cetera. Do you see that? 01:55:39

6 A. Yes, sir.

7 Q. Were you ever contacted by a lawyer that represented any

8 of the children of James and Jacqueline Parker?

9 A. No, I was not.

10 Q. Let me kind of skip ahead here. Let's go to Exhibit 114 01:56:11

11 which is in evidence.

12 Starting on page three, is this a letter to you from

13 Greg Robinson?

14 A. Yes, it is.

15 Q. Is this the cover letter that contains the installment 01:56:47

16 agreement and the financials associated with it?

17 A. Yes, it is.

18 Q. So let's go to page 21 of this document. Do you see that

19 page? Would you look at the very top so the jury can

20 understand? What is Section 8 of this document that you're 01:57:20

21 asking for?

22 A. Section 8 is on the Form 4338-A which of course is the

23 collection statement for individuals. Section 8 is the

24 accounts/notes receivable. In this case, if the Parkers would

25 have had anyone that owed them money, the Parkers would have 01:57:37

JERRY CARTER - Direct

1 listed the individuals or the entities that owed them money on 01:57:40
2 this part of the financial statement.

3 Q. And what was the date of that cover letter that you just
4 looked at? What was the date of it?

5 A. Can we go back to it? I don't have that exhibit. 01:57:57

6 Q. Oh, you don't have Exhibit 114? My fault. I must not
7 have put it down. If you could bring up page three which is
8 the cover letter.

9 A. The date on the cover letter is August 4, 2005.

10 Q. And then looking at page 16 of that installment request, 01:58:33
11 let's look at that. The top two-thirds, what is that asking
12 for?

13 A. On the financial statement, it's asking for all checking
14 accounts.

15 Q. And then below that, what's the column -- what's in 01:58:58
16 paragraph 12?

17 A. And any other accounts.

18 Q. And what does that include?

19 A. Credit unions and any other financial institutions.

20 Q. And then down in number 13, what does that require someone 01:59:09
21 to disclose?

22 A. It talks about if you have any -- it's asking to disclose
23 any investments in 401(k)s, IRA, Keoghs.

24 Q. Now take a look at -- I don't know if you have Exhibit 78
25 in front of you. 01:59:32

United States District Court

JERRY CARTER - Direct

1 MR. SEXTON: It's in evidence, Your Honor. Let's go 01:59:33
2 down to page five.

3 COURTROOM DEPUTY: It should be the bottom of your
4 pile.

5 BY MR. SEXTON: 01:59:47

6 Q. It's also on the screen if you can read it there.

7 A. Okay.

8 Q. Do you see this promissory note?

9 A. Yes, sir.

10 Q. What's the date of the promissory note? Upper right-hand 02:00:01
11 corner, page five.

12 A. It would be April 13, 2005.

13 Q. And what's the amount of this promissory note?

14 A. \$450,000.

15 Q. And who is this money to be repaid to? 02:00:29

16 A. James and Jacqueline Parker.

17 Q. Is this promissory note anywhere on Exhibit 114?

18 A. No, sir, it's not.

19 Q. Go to page four of Exhibit 78. If we could highlight the
20 enlarge the document. 02:01:13

21 What's the date of this promissory note?

22 A. June 16, 2005.

23 Q. What's the amount of this promissory note?

24 A. \$450,000.

25 Q. And who is this money to be repaid to? 02:01:26

United States District Court

JERRY CARTER - Direct

1	A.	James Parker.	02:01:30
2	Q.	And?	
3	A.	Jacqueline Parker.	
4	Q.	Is this promissory note anywhere in Exhibit 114?	
5	A.	No, sir, it's not reflected on the financial statement.	02:01:41
6	Q.	Now, page three of Exhibit 78, what's the date of this	
7		promissory note?	
8	A.	August 31, 2005.	
9	Q.	And what's the amount?	
10	A.	\$239,903.48.	02:02:09
11	Q.	And who is this to be repaid to?	
12	A.	It says pay to the order of James R. Parker and Jacqueline	
13		L. Parker.	
14	Q.	Now, sir, this promissory note is dated after Exhibit 114	
15		was submitted to you, wasn't it?	02:02:29
16	A.	Yes, it was.	
17	Q.	So, now, looking at page 16 of Exhibit 114, do you see any	
18		bank account that has \$239,000 in it?	
19	A.	No, I do not.	
20	Q.	Now let's go to Exhibit 111, page 14 of that which is in	02:03:05
21		evidence, Your Honor. First off, this is the third offer in	
22		compromise. Would you look at page six of this document and	
23		pull it up on the screen? What's the date this was signed by	
24		James and Jacqueline Parker?	
25	A.	March 24, 2005.	02:03:43

United States District Court

JERRY CARTER - Direct

1 Q. Would that date be just prior to those two \$450,000 02:03:46
2 promissory notes that we just saw?
3 A. Yes.
4 Q. Now looking at page 14, is there any account, investment
5 account or anything listed, that would have \$900,000 in it to 02:04:11
6 be disbursed.
7 A. \$900,000 is not disclosed on the financial statement.
8 Q. Now, we're in this third one here, still on the green.
9 Take a look at Exhibit 459, which is not in evidence I don't
10 believe. I don't think it's in evidence yet. 02:04:50
11 THE COURT: It is.
12 COURTROOM DEPUTY: It's not.
13 THE COURT: Okay.
14 MR. SEXTON: Let me lay some foundation and then
15 we'll do that. 02:05:03
16 THE COURT: Are you stipulating to its admissibility
17 or not?
18 MR. MINNS: I have no objection to this.
19 THE COURT: All right. It's admitted.
20 MR. MINNS: Oh, wait a second. This is the report of 02:05:15
21 the revenue officer.
22 THE COURT: So you object?
23 MR. MINNS: Yes, I do. This is hearsay.
24 THE COURT: All right. It's objected on hearsay.
25 MR. SEXTON: Okay. Let me lay some foundation, 02:05:23

United States District Court

JERRY CARTER - Direct

1 Judge. 02:05:25

2 BY MR. SEXTON:

3 Q. Did you prepare this?

4 A. Yes, I did.

5 Q. For what purpose? 02:05:29

6 A. As part of my duties to review the offer in compromise

7 submitted by Mr. Parker, I completed this report to forward to

8 the people that were looking at the offer in compromise.

9 Q. And is this a true and accurate copy of what you prepared

10 and submitted for that purpose? 02:05:56

11 A. Yes, it is.

12 MR. SEXTON: I would offer Exhibit 459 into evidence.

13 MR. MINNS: No, Your Honor. This is bootstrapping.

14 THE COURT: Hold on. We're not talking about

15 bootstrapping here. Let's see. 02:06:02

16 I'm concerned about some of the document. I don't

17 think there's enough foundation, so far at least. Let me have

18 the document.

19 Okay. You need more foundation for the content of

20 this document. 02:07:03

21 MR. MINNS: Could I add to the objection, Your Honor?

22 This is argument of this witness. If it refreshes his memory

23 to his opinion, but the entire purpose of this is just to get a

24 speech in about his opinion, which he's on the stand to give

25 his opinion. 02:07:17

United States District Court

JERRY CARTER - Direct

1 MR. SEXTON: Let me shortchange it, Judge. I think 02:07:18
2 what I'm going to do now would obviate what the issues are;
3 okay? Let me ask a question.

4 THE COURT: Are you withdrawing it?

5 MR. SEXTON: I am withdrawing the exhibit, yes. 02:07:27

6 THE COURT: Okay.

7 You're not going to use this now with this witness so
8 I can give to it Christine.

9 MR. SEXTON: That's fine. It might be useful to
10 refresh his recollection, but I'm not going to move it in. 02:07:39

11 THE COURT: All right. Okay.

12 BY MR. SEXTON:

13 Q. Sir, did you make a recommendation that the offer -- the
14 third offer in compromise not be accepted?

15 A. Yes, I did. 02:07:54

16 Q. Did you communicate that in writing?

17 A. Yes, I did.

18 Q. Now, look at page 53 of your archived history, 446. Did
19 you have another conversation with Greg Robinson on that day?

20 Page 53 of Exhibit 446. 02:08:23

21 A. I did have a conversation with Mr. Robinson.

22 Q. Okay. And just the two of you on a phone call?

23 A. Are we talking about August 5?

24 Q. Yes.

25 A. Mr. Robinson was actually in my office. 02:08:47

United States District Court

JERRY CARTER - Direct

1 Q. Okay. And anybody else in your office besides the two of 02:08:49
2 you?
3 A. It would have just been myself and Mr. Robinson.
4 Q. And what was the nature of what you two talked about?
5 A. Mr. Robinson submitted a request for an installment 02:08:57
6 agreement of \$2000 a month.
7 Q. Anything else discussed by you at that time?
8 A. I purposely did not discuss the case any more than what
9 Mr. Robinson asked for.
10 Q. And then is the file, from your standpoint, was it then 02:09:15
11 reassigned shortly thereafter, looking at page 54, back to Paul
12 Wedepohl?
13 A. Yes, it was.
14 Q. And what date was that?
15 A. November 14, 2005. 02:09:37
16 Q. And like all good governments, was it then resent back to
17 you on page 59?
18 A. Yes, it was.
19 Q. And then, looking at page 60, did there come a time when
20 you made a criminal referral on this investigation? 02:10:05
21 A. Yes, there was a time.
22 Q. And what date was that?
23 A. That was January 17, 2007.
24 Q. Explain briefly the nature of a criminal referral and what
25 it does to your collection process at that point? 02:10:22

United States District Court

JERRY CARTER - Direct

1 A. In this case I felt that I wanted -- in my personal 02:10:27
2 opinion --
3 MR. MINNS: Excuse me.
4 THE COURT: Sustained.
5 BY MR. SEXTON: 02:10:36
6 Q. I'm not looking for your personal opinion.
7 A. Okay.
8 Q. Did you create a criminal referral process for this
9 matter?
10 A. Yes, I did. 02:10:42
11 Q. And as a result of that, does that -- the fact that a
12 criminal referral has been made, does that impact your
13 collection efforts?
14 A. Yes, because we forward -- I forwarded a criminal
15 referral -- 02:10:57
16 THE COURT: Let me tell you, Mr. Carter, just answer
17 yes or no. If he asks for an explanation, he'll ask.
18 BY MR. SEXTON:
19 Q. So it does affect your collection efforts?
20 A. Yes. It does impact my collection efforts. 02:11:08
21 Q. Okay. Are you still able to pursue liens and nominee
22 liens?
23 A. Yes. I was still able to pursue the nominee lien
24 investigation on the Carefree residence even though I referred
25 the case to criminal investigation. 02:11:27

United States District Court

JERRY CARTER - Direct

1 Q. And as far as the lien, could you look at Exhibit 509? 02:11:29

2 MR. SEXTON: I don't think this is in evidence.

3 COURTROOM DEPUTY: It's not.

4 THE COURT: And let me ask. Counsel, do you object

5 to this? 02:11:48

6 MR. MINNS: I have to look at it, Your Honor.

7 No objection, Your Honor.

8 THE COURT: All right. It's admitted.

9 (Exhibit Number 509 was admitted into evidence.)

10 BY MR. SEXTON: 02:12:11

11 Q. Did you prepare this?

12 A. Yes, I did.

13 Q. Did you use your pseudonym at the bottom there, Jerry

14 Young?

15 A. That is me. 02:12:18

16 Q. Why did you prepare or have this federal tax lien

17 recorded?

18 A. Because the servicer had requested the taxpayer pay the

19 money.

20 MR. MINNS: Hearsay, Your Honor. 02:12:29

21 THE COURT: Sustained.

22 BY MR. SEXTON:

23 Q. Without talking about what somebody else said, I just want

24 to know why you did this without referring to somebody else's

25 words. 02:12:39

United States District Court

JERRY CARTER - Direct

1 A. The taxes were assessed. The money was owed, so I filed a 02:12:40
2 lien to protect the government's interest in any property or
3 rights to property Mr. Parker may have.
4 Q. And this is only as to James R. and Jacqueline R. Parker?
5 A. That is true. 02:13:02
6 Q. And where was it recorded?
7 A. Maricopa County Recorder, Phoenix, Arizona.
8 (Panel member begins coughing.)
9 THE COURT: Let's just stop for a moment.
10 MR. SEXTON: Let's stare at him. 02:13:41
11 MR. MINNS: Your Honor, may I offer a cough drop?
12 THE COURT: No. That's okay.
13 Do you want one?
14 PANEL MEMBER: I'm okay.
15 BY MR. SEXTON: 02:13:56
16 Q. After filing this lien that's on the screen here, did you
17 continue to work on a nominee lien?
18 A. Yes, I did.
19 Q. Take a look at Exhibit 511.
20 MR. SEXTON: We would move 511 in as a certified 02:14:12
21 record.
22 MR. MINNS: No objection, Your Honor.
23 THE COURT: It's admitted.
24 (Exhibit Number 511 was admitted into evidence.)
25

JERRY CARTER - Direct

1 BY MR. SEXTON: 02:14:29

2 Q. Let's break it into parts. Go to the top third before the

3 listing of years.

4 All right. Now, who is the taxpayer that you name in

5 this tax lien? 02:14:44

6 A. The taxpayer is James Parker and Jacqueline Parker.

7 Q. But in the line that says name of taxpayer in 511, who

8 does it list?

9 A. It lists Sunlight Financial, LLP.

10 Q. As? 02:14:59

11 A. The name of the taxpayer on the lien is "Sunlight

12 Financial, LLP as a nominee of James R. and/or Jacqueline

13 Parker."

14 Q. And then just in the body of it where it lists all of the

15 tax years, let's highlight that. Is that all of the tax years 02:15:17

16 from '97 to 2005?

17 A. Yes. That would have been all of the tax years that were

18 assessed against Mr. Parker.

19 Q. And the far right is the unpaid balance as of that date?

20 A. That is correct. 02:15:37

21 Q. Now, looking at the bottom third of the document, what is

22 this tax lien attached to? Read that first line there.

23 A. "This notice of federal tax lien attaches to the real

24 property located at 35802 North Meander Way, Carefree, Arizona

25 85377." 02:16:02

United States District Court

JERRY CARTER - Direct

1 Q. And when was this -- in the upper right-hand corner, which 02:16:09
2 was this recorded?

3 A. It was recorded February 2, 2011.

4 Q. During the time that you were working as a collection 02:16:32
5 offer on this matter in either your dealings with attorney Greg
6 Robinson or any other accountants that were used by the
7 Parkers, were you ever given access to the Carefree home to
8 look at the contents inside the home?

9 A. No. I was not given access to look inside the house.

10 Q. Were you ever given any photographs of the inside of that 02:16:57
11 home?

12 A. No.

13 Q. Were you ever provided any bank records from Sunlight
14 Financial to determine whether or not Mr. and Mrs. Parker were
15 actually paying rent on that property? 02:17:13

16 A. No.

17 MR. MINNS: I object to that, Your Honor. There are
18 canceled checks that the government has put in evidence.

19 THE COURT: Well, overruled. Overruled.

20 BY MR. SEXTON: 02:17:29

21 Q. As to Mr. Robinson, did he ever provide you any records as
22 to any borrowings against the Carefree residence?

23 A. Could you repeat that?

24 Q. As to attorney Greg Robinson, did he ever provide you with
25 any information of any borrowings or loans that were taken out 02:17:44

United States District Court

JERRY CARTER - Cross

1 against the Carefree residence? 02:17:47

2 A. No. He never provided any information regarding the loans
3 against the property.

4 Q. Were you ever provided any information of any records
5 dealing with any business in Belize? 02:18:07

6 A. I never received or saw any records regarding any property
7 in Belize.

8 Q. Were you ever provided any information regarding any real
9 estate purchased in Texas?

10 A. No. 02:18:32

11 Q. Were you ever provided any information about any
12 investments in Oklahoma?

13 A. No.

14 MR. SEXTON: That's it, Judge, thanks.

15 THE COURT: All right. 02:18:52

16 Cross?

17 MR. MINNS: Yes, please, Your Honor.

18 May I proceed, Your Honor?

19 THE COURT: Yes.

20 **CROSS - EXAMINATION** 02:19:36

21 BY MR. MINNS:

22 Q. Good afternoon, Mr. Carter. We've never met; correct?

23 A. That is correct.

24 Q. Now, you had an opportunity to talk to any of your other
25 associates or friends that you've worked with the IRS about 02:19:46

United States District Court

JERRY CARTER - Cross

1 this case? 02:19:50

2 A. No, I've not.

3 Q. You haven't asked any of them -- since you and I have

4 never met, you didn't ask any of them what it's going to be

5 like to be asked questions or anything? 02:20:03

6 A. No, I have not.

7 Q. So you know nothing about what's happened in the courtroom

8 when you weren't in the courtroom?

9 A. I really have no idea what happened in this courtroom

10 before I walked in here a few minutes ago. 02:20:16

11 Q. And we watched you hanging out the other couple days with

12 Mr. Wedepohl. You all never discussed anything about this

13 case?

14 A. No. I did not discuss this case with any IRS employees.

15 Q. Now, you do understand that there's been an ongoing 02:20:36

16 dispute between Mr. Greg Robinson and Mr. Wedepohl?

17 A. I'm not aware of that.

18 Q. You didn't help -- you didn't sign the reports filing

19 charges, recommendation against Mr. Greg Robinson?

20 A. I'm not aware of any report or anything like that in any 02:20:56

21 form or fashion.

22 Q. Okay. And you're not aware of any report filed either

23 criminally or with the -- under Circular 230 with the Internal

24 Revenue Service, professional responsibility, by Mr. Wedepohl

25 dealing with Mr. Greg Robinson? 02:21:13

JERRY CARTER - Cross

1 A. I think there's something in the ICS history where the 02:21:15
2 revenue officer before me had reported Mr. Robinson to I think
3 it's OPR, Office of Professional Responsibility.
4 Q. So, then, the correct answer to the question is you are
5 aware that he reported Mr. Greg Robinson to the Office of 02:21:34
6 Professional Responsibility?
7 A. Yes. That is in the ICS history.
8 Q. So you have discussed that with Mr. Wedepohl?
9 A. I probably did many years ago when it happened, you know,
10 in '03, '04, '05, but I haven't discussed it with him. 02:21:49
11 Q. You are aware that Dave Robinson was partners with Greg
12 Robinson, two lawyers?
13 A. I've never heard the name Dave Robinson ever in my life.
14 Q. You are not aware that he is the signing partner of one of
15 the trusts that you've been testifying on? 02:22:05
16 MR. SEXTON: Objection. He says he doesn't know
17 anything about him.
18 THE COURT: Sustained.
19 MR. MINNS: With the Court's permission, I'm going to
20 put part of Government's Exhibit 511 up on the board. 02:22:22
21 BY MR. MINNS:
22 Q. You prepared this exhibit saying lien against Sunlight
23 Financial, LLP, as nominee of James R. and/or Jacqueline
24 Parker; correct?
25 A. No. I did not prepare this nominee lien. 02:22:50

United States District Court

JERRY CARTER - Cross

1 Q. Oh. Okay. 02:22:53

2 A. It was prepared by someone else.

3 Q. Do you know who prepared it?

4 A. The name is on the bottom left-hand corner I believe.

5 Q. Is that the name of the person, Abe Reyes, R-E-Y-E-S? 02:23:07

6 A. Yes, sir.

7 Q. Is that a real name or a pseudo-name?

8 A. That is a real name of a revenue officer.

9 Q. And when you said your real name is Jerry Young, that's

10 your real name? 02:23:31

11 A. My real name is Jerry Carter. C-A-R-T-E-R.

12 Q. Oh. Okay.

13 And I'm just trying to determine. You used the term

14 "pseudo." Pseudo means false, so Jerry Young is a false name;

15 correct? 02:23:47

16 A. It's a pseudonym issued to me by the Internal Revenue

17 Service Department of Treasury.

18 Q. I understand that. And that means it's a fake name. It's

19 not a real name?

20 A. That is correct. It is not my real name. 02:23:57

21 PANEL MEMBER: Excuse me. Your Honor, I have to use

22 the restroom.

23 THE COURT: Okay. We'll take a 20-minute break.

24 We're in recess.

25 PANEL MEMBER: Thank you. 02:24:25

JERRY CARTER - Cross

1 (Jury departs.) 02:24:27

2 (Recess at 2:24; resumed at 2:41.)

3 (Jury out.)

4 THE COURT: All right. We're going to talk about
5 scheduling. I understand the government is resting or napping 02:41:13
6 or what?

7 MR. SEXTON: We're going to finish up with this
8 witness and then our summary witness.

9 THE COURT: And who is that?

10 MR. SEXTON: That is Mark Klamrzynski, who has been 02:41:28
11 sitting with us, and we're done at that point. So we wanted to
12 talk a little bit about tomorrow's schedule because there's a
13 couple --

14 THE COURT: So you know that we're only going to 3:35
15 because I have a TRO at 4? 02:41:48

16 MR. SEXTON: It would be my suggestion that wherever
17 we are with Mark Klamrzynski, if we finish with him, that the
18 court recess us for the day to allow us to compare our exhibit
19 list to make sure there's nothing that we overlooked. That way
20 we can officially rest tomorrow morning. 02:42:02

21 THE COURT: That's fine. But how much time are you
22 going to talk with him, with a summary witness?

23 MR. SEXTON: He has about 15 summaries.

24 THE COURT: But, I mean, how much time?

25 MR. SEXTON: I am guessing 30 to 45 minutes. So we 02:42:12

JERRY CARTER - Cross

1 might finish right before. I don't know what kind of cross 02:42:17
2 he'll have.

3 THE COURT: That's what I was trying to figure out.

4 Mr. Minns, are you going to spend much time with him?

5 MR. MINNS: I typically don't spend a lot of time. I 02:42:27
6 only go to points that are relevant. I'm guessing --

7 THE COURT: So we might finish today.

8 MR. SEXTON: We might but I still would like a little
9 bit of time to compare the exhibits.

10 THE COURT: Absolutely. And let me ask you one 02:42:38
11 question first. With all of that in mind, if the government
12 closes or rests tomorrow, do you anticipate that you will be
13 starting the case and that you will have a case?

14 MR. MINNS: Yes, Your Honor.

15 THE COURT: Okay. I'm not asking you what you're 02:42:54
16 going to do because we can leave that as a surprise, but how
17 long do you think your defense case will take?

18 MR. MINNS: On the high side, two full trial days and
19 maybe significantly less. That's the high side.

20 THE COURT: Okay. All right. 02:43:13

21 MR. SEXTON: But he's given us a list of the order
22 that he's intending to call. Whether he calls them, that's his
23 choice. But there's a couple of people on there that we have
24 received almost no information on and they are in the expert
25 category. And so either right now or before they come on, I 02:43:26

United States District Court

JERRY CARTER - Cross

1 would like an opportunity to address with you. 02:43:30

2 THE COURT: Well, let's take that up tomorrow. If
3 you have -- what you need to do is talk to Mr. Minns about what
4 he anticipates their testimony will be and if it's opinion
5 testimony and you have no notice of it, under Rule 16, then I 02:43:45
6 will deal with that. But I don't want to talk about it now
7 before you have had an opportunity to confer with Mr. Minns.

8 MR. SEXTON: I'll confer with him and we'll address
9 it tomorrow.

10 THE COURT: Okay. 02:44:00

11 MR. SEXTON: That's it from us.

12 THE COURT: All right.

13 Anything?

14 MR. MINNS: No. Your Honor. I need to be ready to
15 put on some witnesses tomorrow morning. Is that what -- 02:44:06

16 THE COURT: Sounds like it.

17 MR. MINNS: And the Rule 29 motions, when will they
18 be taken out?

19 THE COURT: That will be taken out right in the
20 morning also, so we should probably start a little bit later 02:44:19
21 because the Rule 29 may take some time.

22 I don't know if you're going to file anything. Are
23 you intending to file something?

24 MR. MINNS: I have one motion but it's not a Rule 29
25 motion. I'll file it tonight. I have -- but I do believe we 02:44:32

United States District Court

JERRY CARTER - Cross

1 have some extensive positions. It's not just a pro forma 02:44:38
2 motion.

3 THE COURT: Well, most of them aren't but in this
4 case I can imagine that you would, and most tax cases I hear
5 quite a bit under Rule 50 -- it's not a Rule 50 but a directed 02:44:49
6 verdict motion.

7 MR. SEXTON: If there's a motion to be filed, can we
8 have some heads-up that there's something that might need to be
9 researched?

10 THE COURT: Yes. That's a good question. 02:45:03

11 You said you're going to file a motion in addition to
12 the oral motion concerning --

13 MR. MINNS: No. I apologize. I was going to make an
14 oral Rule 29. I was not going to file one.

15 THE COURT: So you're not going to file a motion? 02:45:14

16 MR. MINNS: No.

17 THE COURT: Okay. That takes care of that. Then
18 let's get the jury back and we will proceed.

19 MR. MINNS: That's a separate motion. I already
20 discussed the other motion with the government, not a Rule 29 02:45:29
21 motion.

22 THE COURT: What other motion?

23 MR. MINNS: The government has said that they say
24 that Ms. Giovannelli is not a hostile witness and --

25 MR. SEXTON: And I've already told him that I have no 02:45:42

JERRY CARTER - Cross

1 objection to him leading her. I told him that this morning. 02:45:44

2 MR. MINNS: But he did not put it in writing.

3 THE COURT: Well, we have it on the record that she
4 is an adverse witness to you.

5 MR. MINNS: Then I don't have to file a motion, Your 02:45:55
6 Honor.

7 THE COURT: All right.

8 (Jury enters.)

9 THE COURT: Please be seated.

10 All right. Mr. Minns? 02:46:51

11 MR. MINNS: Yes. May I proceed, Your Honor?

12 THE COURT: You may.

13 BY MR. MINNS:

14 Q. Mr. Young, do you prefer to be called in court Mr. Young
15 or Mr. Carter? 02:47:08

16 A. Carter is fine.

17 Q. Okay. Mr. Carter, with the Court's permission, I'm
18 putting Government's Exhibit 509 on the screen, Your Honor.

19 Starting at the top here, this is the notice of
20 federal tax lien form, Form 668(Y)(c), which you filed -- this 02:47:33
21 was filed for you by R.A. Mitchell as of May 30, 2007. Is that
22 correct?

23 A. If you look at the top of the form, top right-hand corner,
24 it shows the date it was recorded and that was recorded June
25 12, '07 -- I'm sorry. June 12, 2007. 02:47:58

United States District Court

JERRY CARTER - Cross

1 Q. Is it up there right? 02:48:04

2 A. Yes, sir.

3 Q. And this is not -- these are not fake records of Maricopa
4 County. These are the real records of Maricopa County count;
5 correct? 02:48:18

6 A. I'm not aware of any fake records at Maricopa County, but
7 this lien was recorded against James and Jacqueline Parker in
8 2007 for their outstanding taxes.

9 Q. Thank you for the narrative.

10 In these real records, state records, you've used a 02:48:35
11 fake name?

12 A. I used my pseudonym which is issued to me by the
13 Department of Treasury, IRS, and it is registered with the
14 Department of Treasury.

15 Q. Yesterday or the last week, excuse me. Longer than a week 02:48:55
16 ago, your co-revenue agent, Mr. Wedepohl, the last thing he
17 said on the stand was that I should sue him. So if someone
18 were to sue you, should they sue you under your fake name or
19 your real name?

20 A. Actually -- 02:49:20

21 MR. SEXTON: Objection. This is just argument.

22 THE COURT: It is. Sustained.

23 BY MR. MINNS:

24 Q. Well, the only way to remove the federal tax lien is to
25 file a suit; is that not correct? 02:49:29

United States District Court

JERRY CARTER - Cross

1 A. No, sir. The taxpayers can pay the outstanding liability. 02:49:32

2 Q. Okay. They can pay 100 percent of what you claim, plus
3 penalties and interest, or they can file a suit and a court can
4 remove it?

5 A. It's actually the amount of money the taxpayer agreed that 02:49:45
6 he owed in tax court he would have to pay.

7 MR. MINNS: I ask that that be stricken. It was not
8 asked for. It is not responsive, Your Honor. The witness is
9 giving a closing argument from the stand.

10 THE COURT: Overruled. 02:49:58

11 Ask your next question.

12 BY MR. MINNS:

13 Q. Well, the same question. The only way to get that off,
14 other than pay it, is to sue to get it taken off, correct or
15 not? Yes or no? True or false? 02:50:14

16 A. I'm trying to think of the right type of suit. There's
17 probably a suit the taxpayer can file to get the lien removed.
18 I'm guessing an erroneous levy suit would take care of that,
19 yes, sir. The taxpayer has lots of options. If the lien is
20 not correct or wasn't -- is no longer enforceable, there are 02:50:40
21 methods, legal methods, taxpayers can avail themselves of to
22 have the lien released or withdrawn.

23 Q. And the only agency that is not required to sign this
24 under oath, notary, to get it filed --

25 MR. SEXTON: Objection. Foundation as to what he 02:51:04

JERRY CARTER - Cross

1 knows about other agencies. 02:51:06

2 THE COURT: Sustained.

3 BY MR. MINNS:

4 Q. But no court has made a ruling whether or not your nominee
5 lien can be foreclosed on? 02:51:18

6 MR. SEXTON: Objection. Foundation.

7 THE COURT: Sustained.

8 BY MR. MINNS:

9 Q. You can't by yourself foreclose on this nominee lien
10 without a court order? 02:51:44

11 A. That is correct. As a revenue officer, I would have to
12 file suit to propose the federal tax lien.

13 Q. And if you file suit and lose, your lien is taken off?

14 A. Yes, sir.

15 MR. MINNS: And if the witness could be handed 02:52:10
16 Government's Exhibit 446. The government asked some questions
17 about to it refresh his memory and I would like to do so also.
18 I would like to draw the witness's attention to page 48.

19 COURTROOM DEPUTY: You should have it up there.

20 THE WITNESS: Which exhibit is that? 02:52:27

21 THE COURT: 446.

22 MR. SEXTON: What was the page?

23 THE COURT: 48.

24 THE WITNESS: I'm sorry. Could you repeat the
25 question? 02:52:53

United States District Court

JERRY CARTER - Cross

1 BY MR. MINNS: 02:52:53

2 Q. I haven't asked it yet. I was drawing your attention to
3 page 48.

4 A. I do have page 48.

5 Q. Thank you, Mr. Carter. 02:53:00

6 On that, this report states or you are stating in the
7 report that the power of attorney -- that means either Greg
8 Robinson or Mr. Liggett; correct? The person that has the
9 power of attorney for Mr. Parker; correct?

10 A. When I was working the case, Greg Robinson was the power 02:53:24

11 of attorney for Mr. Parker.

12 Q. Okay. The power of attorney says the house has always
13 been in the kids' names and there will be a court battle --

14 MR. SEXTON: Objection. This is not in evidence.

15 THE COURT: Sustained. You can't read from the 02:53:38

16 document.

17 BY MR. MINNS:

18 Q. Did you make the statement in your report that the power
19 of attorney --

20 THE COURT: Now wait a minute. Now, Mr. Minns, you 02:53:46

21 can ask to refresh his recollection or you can impeach him
22 otherwise.

23 MR. MINNS: Thank you, Your Honor.

24 THE COURT: That if he's made a statement and it's
25 inconsistent, you can ask him. 02:53:58

United States District Court

JERRY CARTER - Cross

1 You may proceed. 02:54:02

2 MR. SEXTON: Judge, I might be on the wrong page.

3 What page are you on?

4 MR. MINNS: 48.

5 THE WITNESS: He means page 49. 02:54:08

6 MR. MINNS: It says page 48 on my copy. I can show

7 the witness the highlighted portion of mine if the Court would

8 allow.

9 MR. SEXTON: All right.

10 THE COURT: He knows where you are. 02:54:22

11 MR. MINNS: If I could approach the witness, Your

12 Honor, to make certain. Mine says 48. I would like to --

13 THE COURT: All right. Let's have Christine hand it

14 to him to make sure.

15 And what portion of that exhibit, the highlighted 02:54:38

16 portion?

17 MR. MINNS: Yes, Your Honor. The highlighted

18 portion.

19 THE COURT: Is that the same thing that you have in

20 front of you, Mr. Carter? 02:54:47

21 THE WITNESS: Yes, ma'am.

22 THE COURT: All right. So we're ready to go.

23 BY MR. MINNS:

24 Q. Did Mr. Robinson tell you that the house has always been

25 owned by the kids? 02:55:14

United States District Court

JERRY CARTER - Cross

1 MR. SEXTON: Objection, hearsay. 02:55:15

2 THE COURT: Well, he can ask the question but not as

3 if you are reading from something.

4 BY MR. MINNS:

5 Q. Has Mr. Robinson ever told you that the kids own the 02:55:28

6 house?

7 A. Yes, sir.

8 Q. And you've testified that there was no rent paid on the

9 house; is that correct?

10 A. I believe I testified there was no evidence provided to me 02:55:52

11 that any rent was ever paid on the house by James Parker.

12 MR. MINNS: If I could show the witness defendant's

13 Exhibit 1076.

14 THE COURT: And does the government have that?

15 MR. MINNS: It's in evidence. 02:56:06

16 THE COURT: All right.

17 MR. SEXTON: We do, Judge. Thank you.

18 MR. MINNS: May I proceed, Your Honor?

19 THE COURT: Yes, you may.

20 BY MR. MINNS: 02:56:33

21 Q. Did Mr. Parker's construction company, on or about

22 September 4, 2003, pay \$30,000 to Sunlight Financial for rent?

23 A. It looks like it did per this check.

24 Q. Now, you were aware of the house?

25 A. Yes, sir. 02:57:02

United States District Court

JERRY CARTER - Cross

1 Q. You know the house exists? 02:57:03

2 A. Yes, sir.

3 Q. You've seen the outside and you've seen many, many
4 pictures of the house?

5 A. Yes, sir. 02:57:08

6 Q. So there was a disagreement, a strong disagreement,
7 between the IRS, between you personally and Mr. Robinson as to
8 who -- whether or not Mrs. Parker owned an interest in that
9 house; correct?

10 A. Mr. Robinson, at the beginning, said that the house was 02:57:26
11 not his house. Mr. Robinson in the beginning said the house
12 did not belong to the Parkers, that it possibly belonged to the
13 children or was in the trust. Later on, as I worked the case,
14 Mr. Robinson admitted that the house was owned by the Parkers
15 and that they would have to put the equity in the house to 02:57:45
16 another offer in compromise.

17 Q. Mr. Robinson admitted that they own it and that the trust
18 is a fake trust?

19 A. It's in my ICS history, yes, sir.

20 Q. Do you have a letter from Mr. Robinson admitting this or 02:58:02
21 an indication from Mr. Robinson admitting this or communication
22 from Mr. Robinson admitting this?

23 A. It would be in my ICS history of a conversation I had --

24 Q. He has told you this --

25 THE COURT: Now. Mr. Minns, you asked him a 02:58:13

United States District Court

JERRY CARTER - Cross

1 question. Let him answer. 02:58:14

2 BY MR. MINNS:

3 Q. He just told you this confidentially between the two of

4 you over an unrecorded telephone conversation?

5 A. Unless I read it, I would have to look at the case to see 02:58:23

6 where it's written; but he had power of attorney Robinson

7 acknowledge that Mr. Parker is going to have to provide the

8 equity in the residence in Carefree as part of the offer in

9 compromise.

10 Q. That's not even close to my question. 02:58:39

11 A. Okay.

12 Q. Let me reask it.

13 A. Yes, sir.

14 Q. You've just made an amazing statement --

15 THE COURT: Well, now, Mr. Minns, ask a question. 02:58:46

16 MR. MINNS: Thank you, Your Honor.

17 BY MR. MINNS:

18 Q. You've just testified under oath that Mr. Robinson told

19 you that Mr. Parker owned the house. My first question is, did

20 Mr. Robinson put that in writing? This would be the time to 02:59:03

21 see that. This is the trial.

22 THE COURT: Well, do you have a question?

23 MR. MINNS: Yes.

24 BY MR. MINNS:

25 Q. Do you have anything in writing from Mr. Robinson that 02:59:11

United States District Court

JERRY CARTER - Cross

1 says that his client owns the house? 02:59:14

2 A. I don't know if there is. I haven't looked at the case in
3 five or six years. But my ICS history I believe talks about --

4 Q. I'm not asking what you talk about or wrote down yourself.
5 I'm asking, do you have something in writing -- 02:59:27

6 A. I do not know, sitting here --

7 THE COURT: Now, Mr. Carter. Let him ask the
8 question.

9 Finish your question.

10 BY MR. MINNS: 02:59:36

11 Q. First, do you have anything in the handwriting of
12 Mr. Robinson backing up what you've just said under oath, that
13 Mr. Parker owns the house?

14 A. If you mean typed, I'm not sure if he actually sent a
15 letter typed. I would have to go through the entire file to 02:59:51
16 see if there was an actual letter, or if he just merely told me
17 that and I documented in my history.

18 Q. You don't have anything from Mr. Parker saying that
19 either, do you?

20 A. I definitely do not have anything from Mr. Parker, never 03:00:05
21 received a letter from Mr. Parker regarding that.

22 Q. So it's your sworn testimony that Mr. Robinson, on a
23 telephone conversation -- were you in person with Mr. Robinson
24 or was this over the phone when he made this confession to you?

25 A. I would have to look at my ICS history which, apparently, 03:00:22

JERRY CARTER - Cross

1 has not been entered as an exhibit. 03:00:25

2 Q. But you've got it in front of you have so you can go

3 through it now.

4 A. I would be happy to but it would take me a while to go

5 through -- it's the ICS history over many pages -- I'm sorry, 03:00:33

6 over many years.

7 Q. So this revelation may have occurred on the phone; it may

8 have occurred in person?

9 A. And it was documented.

10 Q. You wrote it down. I'm not looking for that. I'm only 03:00:45

11 interested in the proof that it was actually done.

12 MR. SEXTON: Objection. This has been asked and

13 answered.

14 THE COURT: Yes. Sustained.

15 Ladies and gentlemen, you are to ignore the last 03:00:54

16 statement.

17 Now, Mr. Minns.

18 MR. MINNS: Yes, Your Honor.

19 THE COURT: I don't want to have to tell you again.

20 Please ask a question. 03:01:01

21 MR. MINNS: I apologize. I wanted to make a note so

22 that I can respond later.

23 BY MR. MINNS:

24 Q. You do have a lot of letters and you've testified and put

25 some letters in from Mr. Robinson from the firm of Robinson -- 03:01:13

United States District Court

JERRY CARTER - Cross

1 Farley, Robinson & Larsen; correct? 03:01:17

2 A. I have not looked at the case in many years other than the

3 exhibits that I saw today on the screen or in front of me.

4 I've not seen any letters.

5 Q. Put Exhibit 110 that you testified from today on the 03:01:31

6 stand. You testified about this extensively today, this

7 letter, Exhibit 110, did you not?

8 A. Yes, I did.

9 Q. And if I could ask you in this letter that you've already

10 testified about from Mr. Robinson, Mr. Robinson told you the 03:01:50

11 Parkers have been unable to pay the rent of \$2500 per month

12 since August of 2004. Do you recall that in the letter?

13 A. Yes, I do.

14 Q. Do you recall saying that they hadn't paid any rent at any

15 time as far as you know, but you now changed that; correct? 03:02:11

16 A. I did not change that. I've not seen any evidence that

17 Mr. Parker or any entity paid rent to live in the residence in

18 Carefree, Arizona.

19 Q. Also, Mr. Robinson also told you in that letter that all

20 of the receipts the Belize incorporation had been adjusted as 03:02:30

21 Parker's income, but the Parkers argued with the IRS. Is that

22 correct?

23 A. You're asking me if what --

24 Q. It says that in the letter?

25 A. It says that in the letter. 03:02:45

JERRY CARTER - Cross

1 Q. And he also told you that the Parkers could not afford the 03:02:49
2 expense of a tax court trial; correct?

3 A. It says Mr. Robinson said that in the letter.

4 Q. That they could not afford the expense of a tax court
5 trial? 03:03:03

6 A. Yes.

7 Q. Do you have any reason to believe that Mr. Robinson was
8 lying to you?

9 A. No.

10 Q. And he also says fairly clearly -- correct me if I'm 03:03:16
11 wrong -- "Their children own through Sunlight Financial LLP a
12 house and they intend to mortgage the property to supplement
13 the funds to pay this offer." Am I incorrect in that?

14 A. I don't believe that's a true statement but that's what
15 the letter says. 03:03:35

16 Q. So Mr. Robinson is lying to you but that is a statement
17 that he made to you and copied to his client; correct?

18 A. That's what the letter says, yes, sir.

19 Q. Do you know Mr. Robinson well enough to call him a liar?

20 A. I'm just saying that what he wrote in the letter is not 03:03:52
21 true to the facts that I do know.

22 Q. And you would also disagree that the children own the
23 house and believe the Internal Revenue Service is acting
24 irresponsibly? You would disagree with that, too?

25 A. Yes, I disagree completely with that statement. 03:04:08

United States District Court

JERRY CARTER - Cross

1 Q. You interviewed the children and they told you they 03:04:11
2 thought you were acting responsibly?
3 A. No, I did not interview the children.
4 Q. So you have no idea what the children believe?
5 A. That is true. 03:04:20
6 Q. So it may be completely correct?
7 A. I just know the children don't own the house.
8 Q. And, finally, he states, "The children make the mortgage
9 payments and refuse the heavy handed pressure of the revenue
10 officer. Since they offer to help refinance to help pay this 03:04:39
11 offer, it should be accepted."
12 Do you agree that they offered to mortgage the house
13 that you say they don't own to make the offer to pay the IRS
14 \$450,000? Do you agree with that or disagree with that?
15 A. Could you ask that question again, because you're asking 03:05:03
16 what the letter says and I'm not sure exactly?
17 Q. Let's start with the letter. The letter says the children
18 offer to refinance the house to help pay this offer; right?
19 It's the last sentence that's highlighted there.
20 A. Yes, it says, "Their children own through Sunlight 03:05:27
21 Financial LLP a house and they intend to mortgage the property
22 to supplement the funds to pay this offer." The letter says
23 that.
24 Q. The IRS refused the offer; correct?
25 A. Yes. 03:05:45

JERRY CARTER - Cross

1 Q. And one reason they refused the offer is because they 03:05:46
2 don't accept offers in compromise when criminal charges are
3 pending; correct?

4 A. I don't believe that's true.

5 Q. What was the their counteroffer? 03:06:04

6 A. I'm not even -- did the IRS make a counteroffer?

7 Q. I'm asking you.

8 A. The offer was --

9 MR. SEXTON: Objection. Foundation as to whether
10 this witness knows anything about that. 03:06:13

11 THE COURT: Sustained.

12 BY MR. MINNS:

13 Q. Government's Exhibit 450 is an affidavit and a promissory
14 note. The affidavit is signed by Stanley Ed Manske.

15 MR. SEXTON: What exhibit again? 03:06:37

16 MR. MINNS: 78.

17 MR. SEXTON: I thought you said 450. I'm sorry.

18 MR. MINNS: Did I say 450?

19 MR. KLAMRZYNSKI: Yes.

20 MR. MINNS: I apologize. There, you can look at it. 03:06:53

21 MR. SEXTON: I'm done.

22 MR. MINNS: Thank you.

23 MR. SEXTON: I just wanted to know what number it
24 was.

25 MR. MINNS: My apologies. 03:06:57

JERRY CARTER - Cross

1 THE COURT: So it's Exhibit what now? 03:06:57

2 MR. MINNS: 78, Your Honor.

3 BY MR. MINNS:

4 Q. This is an affidavit with a promissory note attached to it
5 and it is signed by their attorney in Oklahoma, Stanley Ed
6 Manske; correct? 03:07:33

7 A. I can't see who it is signed by. I've never seen this
8 document before.

9 MR. MINNS: May I approach counsel table? I might be
10 mistaken. I would like to ask the question. 03:07:47

11 THE COURT: Fine.

12 BY MR. MINNS:

13 Q. I am incorrect. I apologize.

14 What you testified about was the promissory note
15 attached to the affidavit which I'm going to put on the screen
16 to start with. One for \$239,903.48. But you did not testify
17 about the document that it was attached to. And that is the
18 document that I'm asking you a question about, the entirety of
19 the Exhibit 78. The letter attached to that document, that
20 promissory note, the affidavit under oath that the real name of
21 attorney Stanley Ed -- 03:08:13
03:08:47

22 MR. SEXTON: Judge, can we have a question?

23 THE COURT: Well, I'm not quite sure if we have a
24 question. So you want him to look at the letter?

25 MR. MINNS: Yes. The affidavit, Your Honor. 03:09:02

United States District Court

JERRY CARTER - Cross

1 THE COURT: All right. Then he can look at the 03:09:07
2 affidavit now. And ask him a question.

3 MR. MINNS: Thank you, Your Honor.

4 BY MR. MINNS:

5 Q. The promissory note that you had earlier testified to is 03:09:15
6 attached to this affidavit, isn't it?

7 A. Yes, sir.

8 Q. But you didn't mention the affidavit when you testified
9 earlier?

10 A. I have not ever seen either the affidavit nor the 03:09:28
11 promissory note until this afternoon or this morning.

12 Q. So the government didn't show you the affidavit that was
13 attached to the promissory note?

14 A. It was probably in this folder but I don't know if it was
15 ever flashed on the screen. 03:09:43

16 Q. Okay. Well, if you could look at the affidavit, I have
17 some questions to ask you about it very quickly.

18 It's signed by Mr. Manske, the attorney, on or about
19 the 12th day of April 2010; correct?

20 A. That's what it looks like. 03:10:13

21 Q. And he's creating it for the purpose of allowing the terms
22 of the promissory notes to be made public; correct? That's
23 what he says.

24 A. You know, I would have to read the whole document. I'm
25 not an attorney. I've never seen this document or the 03:10:31

United States District Court

JERRY CARTER - Cross

1 promissory note so I would have to review them. 03:10:34

2 Q. Well, that's fair. So I'll just ask you one question and
3 then you can review it and if you have anything to add, you can
4 read the whole thing and take your time.

5 My question on that document is it does say that the 03:10:47
6 affidavit is made for the purpose of allowing the terms of the
7 promissory note to be a matter of public record. It does say
8 that.

9 A. Yes, sir, it does say that right there.

10 Q. And that's how you got ahold of it. The attorney for 03:11:07
11 Mr. Parker made it public attaching this affidavit to it.
12 That's how you got -- that's how you got a copy of the
13 promissory note that you testified about.

14 MR. SEXTON: Objection to the form as to how he got a
15 copy -- 03:11:24

16 THE COURT: Well, we're asking him.

17 Can you answer that question?

18 THE WITNESS: I have never seen the promissory note
19 or this affidavit ever until this afternoon when it was shown
20 to me by the government. 03:11:34

21 BY MR. MINNS:

22 Q. So you haven't discussed your testimony, what you were
23 going to be asked the questions you were going to be asked, by
24 anybody at the government table until they just put you on the
25 stand? That's when you first learned what the questions were 03:11:46

United States District Court

JERRY CARTER - Cross

1 they were going to ask you were going to be? 03:11:49

2 A. I saw the promissory note today. I saw one promissory
3 note today, the one that had \$450,000 on it, but I did not ever
4 see the affidavit or this affidavit ever, not while I was
5 working the case or today until you showed it to me right now. 03:12:06

6 Q. Well, does it surprise you that it is filed publicly by
7 the lawyer for Mr. Parker?

8 MR. SEXTON: Objection to the form of the question.
9 Irrelevant.

10 THE COURT: Sustained. 03:12:24

11 MR. MINNS: May I be heard on this, Your Honor?

12 THE COURT: Well, Mr. Minns, no. His surprise is not
13 relevant. If you have a question to ask him concerning his
14 knowledge and expertise, I'll allow it.

15 BY MR. MINNS: 03:12:50

16 Q. Well, it's obvious the Parkers are not hiding this. They
17 have published it through their lawyer; correct?

18 MR. SEXTON: Objection to the form of the question,
19 Your Honor.

20 THE COURT: Well, I'm going to sustain the objection. 03:12:58
21 That assumes facts not in evidence.

22 MR. MINNS: This is in evidence, Your Honor.

23 THE COURT: But you're asking him a question in which
24 you are assuming the answer and it's not in evidence.

25 MR. MINNS: Thank you, Your Honor. 03:13:14

JERRY CARTER - Cross

1 BY MR. MINNS: 03:13:41

2 Q. This letter, Exhibit 110, from the law offices of Farley,
3 Robinson & Larsen, on the last page, it appears that the
4 lawyer, attorney Gregory Robinson, has copied it to the Parkers
5 but also copied it to you under your real name. 03:14:00

6 A. Yes, sir.

7 Q. Did you receive it?

8 A. Yes, I did.

9 Q. Did you tell your superiors at the Internal Revenue
10 Service that the property, the house that the Parkers lived in, 03:14:35
11 was clear and free and had been clear and free with no liens on
12 it?

13 A. I did believe the property was free and clear other than a
14 small mortgage against it from I think it was '03. But, yes,
15 up until August of 2005, I was always be under the assumption 03:14:56
16 the property was free and clear.

17 Q. By that small mortgage, you were mean the \$375,000?

18 A. Yes, sir. No. I think it was the second -- there was --
19 when the Parkers purchased it in '98, there was a mortgage
20 against it. They got a mortgage against it and then they -- 03:15:16
21 then they refinanced it I think in 2003.

22 Q. There was never --

23 A. Yes, sir.

24 Q. There was never a time, from the beginning of the time
25 that they purchased it to today, when there was no lien against 03:15:27

JERRY CARTER - Cross

1 it, where there was no purchase money? 03:15:33

2 THE COURT: Is that a question?

3 MR. MINNS: That's my question, yes.

4 MR. SEXTON: Objection. Foundation as to what he

5 would know for that time period. 03:15:39

6 THE COURT: Sustained on foundation.

7 BY MR. MINNS:

8 Q. Are you saying under oath that they paid off the three

9 hundred something thousand dollar promissory note or that they

10 refinanced it and still owe the money? Which is true? 03:15:50

11 A. Of which one?

12 Q. Which one is true? Did they pay it off completely or did

13 they --

14 A. There are three mortgages on the property.

15 Q. The first lien. 03:16:05

16 A. The first one, they paid that off, yes, sir.

17 Q. 100 percent?

18 A. I assume so. Stewart Title released the lien.

19 Q. Didn't they release it because they reborrowed the

20 \$350,000 wrapping it into the Universal loan? 03:16:13

21 A. I'm not sure how they secured the second loan -- the

22 second loan or paid off the first.

23 Q. So what you stated under oath earlier, that it was paid

24 off, you don't know if that's true?

25 A. They released the deed of trust. That means it was paid 03:16:32

United States District Court

JERRY CARTER - Cross

1 off.

03:16:34

2 Q. Well, no, sir. I would disagree.

3 THE COURT: Mr. Minns, let me talk to counsel at the
4 sidebar at.

5 (At sidebar.)

03:16:53

6 THE COURT: Mr. Minns, I don't want to embarrass you
7 in front of your client. I don't want to embarrass you in
8 front of the jury. I know that that is something that is very,
9 very difficult for an attorney to handle in front of a jury and
10 in front of your client. If that were to occur, it would be
11 extremely adverse.

03:17:14

12 You continue to make statements. You continue to
13 comment on the evidence. If you do so again, I will admonish
14 you in front of the jury.

15 MR. MINNS: May I make a record right now, Your
16 Honor?

03:17:31

17 THE COURT: Make a record now.

18 MR. MINNS: This gentleman has testified under oath
19 that that first lien was paid off. That's either a mistake or
20 perjury. It was not. It was covered. It was brought up into
21 the new loan and there was testimony last week by the people
22 from Universal that they -- it was a balloon payment note.
23 They paid it off with a new note, so the jury is left with the
24 mistaken, untrue --

03:17:40

25 THE COURT: That's argument. You can ask him

03:17:56

United States District Court

JERRY CARTER - Cross

1 questions. 03:17:57
2 Anything else?
3 MR. MINNS: No. Thank you, Your Honor.
4 (End sidebar.)
5 BY MR. MINNS: 03:18:23
6 Q. The government requires a check when a taxpayer makes an
7 offer in compromise of \$150; correct?
8 A. I'm not familiar with the procedures on the offer in
9 compromise regarding if a check has to accompany the offer in
10 compromise. 03:18:39
11 Q. Have you ever had a conversation with Mr. Jim Parker
12 personally?
13 A. I've never talked to James Parker.
14 Q. Thank you.
15 MR. MINNS: Pass the witness, Your Honor. 03:19:07
16 THE COURT: All right.
17 Redirect?
18 MR. SEXTON: No redirect.
19 THE COURT: Okay.
20 You may step down. 03:19:11
21 (Witness excused.)
22 (End of excerpted portion.)
23 * * * * *
24
25

JERRY CARTER - Cross

C E R T I F I C A T E

03:19:12

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.

03:19:12

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.

03:19:12

DATED at Phoenix, Arizona, this 20th day of June,
2012.

03:19:12

s/Elaine M. Cropper

03:19:12

Elaine M. Cropper, RDR, CRR, CCP

United States District Court