

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

08:45:19

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5	United States of America,)			
6)			
7	Plaintiff,)			
8	vs.)			
9)	CR-10-00757-PHX-ROS		
10	James R. Parker,)			
11)			
12	Defendant.)			
13)	June 19, 2012		
14)	8:59 a.m.		
15)			

08:45:19

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BEFORE: THE HONORABLE ROSLYN O. SILVER, CHIEF JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL - Day 7

(Pages 1069 through 1255)

08:45:19

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
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08:45:19

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

08:45:19

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1				08:45:19
2	139	Letter from Timothy H. Liggett, CPA to Connie Taylor, Keller Williams Real Estate, dated August 15, 2005 (sub-exhibit to Exhibit 178)	1131	
3				
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5	140	Buyer's Representation Agreement between JAMES PARKER and Keller Williams Realty dated August 16, 2005 (sub-exhibit to Exhibit 178)	1132	08:45:19
6				
7				
8	143	Residential Contract between JAMES PARKER and Robert and Becky Gross for the purchase of 218 Turkey Track Trail, Canyon, Texas, for \$1 million, dated August 17, 2005 (sub-exhibit to Exhibit 116)	1133	08:45:19
9				
10				
11				
12	144	Amendment to Contract Concerning Property Located at 218 Turkey Track Trail, Canyon, Texas, dated August 30, 2005 (sub-exhibit to Exhibit 116)	1136	
13				
14				
15	146	Settlement Statement for purchase of property at 218 Turkey Track Trail, Canyon, Texas, dated September 9, 2005 (sub-exhibit to Exhibit 116)	1144	08:45:19
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17				
18	147	Cashier's Check for \$10,000 from Sunlight Financial to Chicago Title (deposited as earnest money toward purchase of 218 Turkey track Trail, Canyon, Texas) dated August 16, 2005 (sub-exhibit to Exhibit 116)	1134	08:45:19
19				
20				
21				
22	148	Cashier's Check for \$990,000 dated September 6, 2005 to Chicago Title (sub-exhibit to Exhibit 116)	1145	
23				
24		Stipulated at Docket #177 - numerous exhibits	1076	
25	206	Certified Records obtained from Fenton Motors of Duma, Inc.	1114	08:45:19

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2	414	Keller Williams Realty Record of First National Bank of New Mexico, RSJ Investments LLC account #106127, check #4003 payable to Robert and Becky Gross dated September 4, 2005, (sub-exhibit to Exhibit 178)	1143	
3				
4				
5	415	Amendment to Contract Concerning Property Located at 218 Turkey Track Trail, Canyon, Texas, dated August 23, 2005 (sub-exhibit to Exhibit 178)	1135	08:45:19
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9	446	IRS Archive History Transcript for James and Jacqueline Parker	1200	
10				08:45:19
11	447	Universal Properties Letter to Mr. James Parker, dated August 1, 2003	1174 1175	
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13	459	Offer In Compromise - Revenue Officer Report, dated June 10, 2005	1211	
14				
15	509	Certified Copy of Notice of Federal Tax Lien for JAMES and JACQUELINE PARKER dated May 30, 2007	1216 1216	08:45:19
16				
17	511	Certified Copy of Notice of Federal Tax Lien for Sunlight Financial, LLP as nominee of JAMES and JACQUELINE PARKER dated February 2, 2011	1218 1218	
18				
19				
20	568	Universal Properties Facsimile Transmittal dated August 11, 2005 (sub-exhibit to 204)	1180	08:45:19
21				
22	1076	American Sterling Bank 007983 CK No. 6464	1234	
23	1116	Agent Giovannelli's notes	1195	
24				
25				08:45:19

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MISCELLANEOUS NOTATIONS

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Proceedings outside the presence of the jury	1075
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RECESSES

08:45:19

	Page	Line
(Recess at 10:01; resumed at 10:31.)	1119	21
(Recess at 12:09; resumed at 1:28.)	1188	13
(Recess at 2:24; resumed at 2:41.)	1224	9

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A P P E A R A N C E S

08:45:19

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

08:45:19

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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P R O C E E D I N G S

08:45:19

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

(Proceedings begin at 8:59.)

(Jury out.)

THE COURT: Please be seated.

08:59:33

All right. Counsel, I have from the defendants a couple of motions and I presume that there's no objection to entering the exhibits. Am I correct?

MR. PERKEL: That is correct, Your Honor. And Mr. Minns has just informed me that Exhibit 606, the government Exhibit 606, he has no objection to that one as well.

08:59:45

MR. MINNS: As modified.

MR. PERKEL: As modified, correct.

THE COURT: Okay.

MR. PERKEL: And then we're talking about the document that was filed last night, document 177. That is the list of all of the exhibits. So at this point, I guess they are in evidence.

08:59:57

(Exhibit Numbers 1005, 1006, 1008, 1009, 1011, 1012, 1013, 1029, 1035, 1045, 1046, 1047, 1048, 1050, 1057, 1059, 1060, 1061, 1075, 1076, 49, 50, 51, 376, 377, 378, 379, 380, 381, 382, 53, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 55, 56, 57, 58, 59, 171, 172, 173, 61, 62, 63, 64, 65, 66, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343,

09:00:06

09:00:06

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1 344, 345, 346, 347, 348, 349, 350, 351, 68, 322, 323, 324, 325, 09:00:06
2 326, 70, 71, 72, 73, 74, 75, 259, 260, 261, 262, 263, 264, 265,
3 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277,
4 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289,
5 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 09:00:06
6 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313,
7 314, 315, 316, 317, 318, 319, 320, 321, 389, 373, 375, 116,
8 143, 144, 145, 146, 147, 148, 178, 140, 141, 170, 414, 415,
9 443, 401, 402, 408, 409, 410, 413, 142, 206, 132, 133, 134,
10 383, 583, 586, 355, 357, 420, 421, 423, 427, 428, 431, 433, 09:00:06
11 434, 435, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399,
12 400, 502, 503, 504, 505, 506, 507, 508, 512, and 513 were
13 admitted into evidence pursuant to stipulation of both parties
14 at Docket #177.)

15 THE COURT: Okay. Rather than reading them, what I 09:00:09
16 will do is tell the jury that there has been a stipulation to
17 the admission of a variety of exhibits by motion and they are
18 admitted; okay?

19 Now, I've also received a motion to quash Exhibit
20 Number 596. 09:00:38

21 What's the government's position?

22 MR. PERKEL: A couple things. The government opposes
23 the motion and the way Sam Parker's prior convictions would
24 come up would be should he or his father testify and they
25 become relevant. What -- so we don't intend to offer them 09:00:59

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1 unless there's testimony from either Sam Parker or the father,
2 Mr. Parker, the defendant, about Sam Parker's role in Cimarron
3 River Ranch. And that could include even testimony from Stan
4 Manske who, Mr. Minns has told me, intends to testify.

09:01:03

5 THE COURT: Well, it seems to me on page five of the
6 motion, Mr. Minns has mentioned, as mentioned, the only
7 possible justification for admitting Sam Parker's criminal
8 record would be if Sam Parker testifies on direct examination
9 that he does not have a record in which the government would be
10 permitted to try to impeach him with his record.

09:01:21

09:01:43

11 MR. PERKEL: Well --

12 THE COURT: Hold on.

13 MR. PERKEL: I'm sorry.

14 THE COURT: And they are misdemeanor convictions or
15 drug use, shoplifting and do not involve dishonesty or false
16 statements; so I can't imagine even if he testifies, that they
17 would be admissible.

09:01:56

18 I also note that the government believes they are
19 relevant to establish that Mr. Parker could not be possibly
20 engaging in the type of business activities that would be
21 required for somebody in the business of this corporation. But
22 on the face of it, and based upon the government's position so
23 far, I don't see that they are admissible under 404(b) or under
24 609 but I will hear what you have to say.

09:02:20

25 MR. PERKEL: Thank you, Your Honor. I think that at

09:02:46

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1 the beginning of this trial when Mr. Minns opened, he did make
2 Mr. Parker's background relevant. He referred to it as
3 substance abuse problems and problems he had and how the
4 defendant's goal of opening up Cimarron River Ranch was
5 intended to help his son partly. So I think to some extent,
6 the defendant -- Sam Parker's background has already become
7 relevant.

09:02:48

09:03:06

8 And then I'll tell you specifically that it's
9 relevant because at issue in this case, and I think you have
10 just touched upon it, is whether the money from Belize came
11 from the defendant, it was his money, or whether it was a loan.
12 And I know Mr. Minns' position is it was loan from Belizean
13 investors to Cimarron River Ranch with Sam Parker as the sole
14 owner of Cimarron River Ranch.

09:03:21

15 And we think it's relevant because that rebuts that
16 argument that it was a loan, because investors aren't going to
17 loan money to someone -- and I don't mean this disparaging but
18 someone in Sam Parker's position. I think the jury has a right
19 to hear about Sam Parker's position. 21 years old. No
20 significant employment, which I think is what you just referred
21 to, and also the fact that he has substance abuse problems and,
22 prior to opening up the Cimarron River Ranch, had five
23 misdemeanors, four or five, and I think all of those factors
24 together point to the fact that the money coming from Belize,
25 that's not a loan because no investors are going to loan money,

09:03:38

09:03:59

09:04:15

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1 \$3 million, to someone in Sam Parker's position where he is the 09:04:18
2 sole owner on paper.

3 THE COURT: Do you have evidence to establish that
4 these people were aware of his criminal history?

5 MR. PERKEL: I don't have evidence to establish that, 09:04:32
6 but I think what can be inferred, from asking either Sam Parker
7 or his father if they testify, is, "Did you divulge that?" I
8 think that would be fair.

9 THE COURT: Why would they?

10 MR. PERKEL: If they are engaged in an agreement and 09:04:46
11 the company is doing due diligence, because they are loaning \$3
12 million, and the head of that company is a 21-year-old with no
13 experience and a criminal record, I think that that information
14 if the jury hears about that they can assess whether or not
15 there was, in fact, a loan given. 09:05:02

16 THE COURT: And Mr. Minns?

17 MR. MINNS: Yes, Your Honor. First, the government
18 has already introduced records with payments of his rehab bills
19 into evidence. We're not trying to hide that he had a drug
20 problem. Basically, and I said this to the government and I 09:05:15
21 believe in brief, we're going to say he ran with a bad crowd
22 and he got shot and the parents wanted him away from that
23 crowd. There's no evidence that any of the investors knew of
24 his criminal record.

25 I am not convinced that it would have mattered but it 09:05:29

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1 might have, but I don't think any of the investors invested 09:05:33
2 because of Sam. I think they invested because of his father.
3 People knock on his door because they always make money in
4 these projects, so they are constantly knocking on his door.
5 That doesn't mean that the ownership would have made a 09:05:44
6 difference one way or the other.

7 But they have to have known about it. The government
8 has already said they have no evidence that any of the
9 investors knew of the record whatsoever, that it had any
10 influence one way or the other. So their purpose is not to 09:05:56
11 determine what the investors knew or did not know. And they
12 have put on redundant investors for the same investment
13 project. They have put on two people already to testify to the
14 exact same investment project. So they put on redundant
15 investors. 09:06:15

16 The investors know nothing, as the Court has
17 suggested, about his misdemeanor record. It would be
18 speculative to go to the next step, if they asked about his
19 personal record; and if he had volunteered his personal record,
20 what effect that would or would not have made. It would be 09:06:30
21 irrelevant to the trial in this case.

22 THE COURT: All right. The motion is granted. The
23 potential relevancy is really minimal at best and as I
24 mentioned, there's no evidence at this point to know that the
25 investors were aware of it. And if they were aware of it and 09:06:51

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1 they still invested, then that would make it even less 09:06:57
2 relevant.

3 All right. So the motion is granted.

4 MR. MINNS: Thank you, Your Honor.

5 THE COURT: Anything else? Mr. Perkel? 09:07:04

6 MR. PERKEL: Your Honor, if I could just have one
7 moment.

8 No, Your Honor.

9 THE COURT: Anything?

10 MR. MINNS: No, Your Honor. 09:07:19

11 THE COURT: All right. Let's bring the jury in.

12 MR. MINNS: Oh, Your Honor. Are we closing today at
13 3:30?

14 THE COURT: No, we aren't.

15 MR. MINNS: What time will we be finishing today? 09:07:46

16 THE COURT: About a quarter to four, so it is a
17 little bit shorter.

18 MR. MINNS: Thank you, Your Honor.

19 (Jury enters.)

20 THE COURT: All right. Please be seated. Good 09:08:59
21 morning, everyone. Did you enjoy your recess?

22 All right. We are ready to go.

23 Mr. Perkel?

24 MR. PERKEL: Thank you, Your Honor.

25 09:09:08

CLEATUS HUNT - Direct

1 CLEATUS HUNT, 09:09:08

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

5 **DIRECT EXAMINATION** (Continued) 09:09:08

6 BY MR. PERKEL:

7 Q. Good morning, Mr. Hunt.

8 A. Good morning.

9 Q. Before we left off, we were going through some of the
10 records associated with the tech system and the border crossing 09:09:15
11 for James and Jacqueline Parker.

12 A. That's correct.

13 Q. And since our break, did I ask you to look through the
14 records and, in order to speed things up, sort of summarize the
15 records for the jury? 09:09:43

16 A. Yes, you did.

17 Q. Can you tell us in summary the number of confirmed inbound
18 flights that relate to Belize? Can you tell us as they pertain
19 to the time period of 1999 to 2010 for the subject?

20 A. Yes. I reviewed the records and the number of confirmed 09:10:03
21 inbound flights from Belize for Mr. James Parker is 20 and the
22 number of confirmed inbound flights for Jacqueline Parker is
23 13.

24 Q. And did you also have a chance to look at the number of
25 reported outbound flights to Belize? 09:10:20

CLEATUS HUNT - Direct

1 A. Well, I looked at the total number of reported outbound 09:10:23
2 flights. The flight relationship is not necessarily a
3 one-to-one so they won't necessarily be a direct relationship.
4 The total number of outbound flights for Mr. Parker reported
5 13 -- actually, I need to correct my other information. 09:10:38

6 Total number of confirmed inbound flights for
7 Jacqueline Parker is 11. Total number of reported outbound
8 flights for James Parker is 13. Total number of reported
9 outbound flights for Jacqueline is 10.

10 Q. And just to make sure it's clear, because you misspoke, 09:11:07
11 there are 20 confirmed inbound flights for James Parker; is
12 that correct?

13 A. Yes. From Belize.

14 Q. From Belize. And then there are 13 reported outbound 09:11:22
15 flights for James Parker for Belize.

16 A. Just total outbound flights from the United States.

17 Q. Total outbound flights from the United States?

18 A. Correct.

19 Q. When you say there's no correlation in the records, is it
20 fair to say that the records don't indicate whether someone may 09:11:34
21 have crossed into Mexico by car or foot and then taken a flight
22 from Mexico City. Is that fair to say?

23 A. That is fair to say.

24 Q. Okay. And then again, just to make sure it's clear, the
25 total number of confirmed inbound flights for Jacqueline 09:11:49

United States District Court

CLEATUS HUNT - Direct

1 Parker, that was 11? 09:11:52

2 A. That is correct.

3 Q. And the total number of reported flights was 10?

4 A. 10.

5 Q. Did you have a chance to summarize the number of vessels 09:11:56
6 or cruise ships that are contained in the records?

7 A. Yes, I did.

8 Q. And can you tell the jury what the summary is?

9 A. The total number of cruises that the data reflects for
10 James Parker is seven and the total number of cruises for 09:12:08
11 Jacqueline Parker is also seven.

12 Q. And with regards to other international flights besides
13 Belize, can you tell us what, again, you found? Can you
14 summarize that for us?

15 A. Yes. The records reflect confirmed inbound flight from 09:12:25
16 Tel Aviv for Mr. James Parker and confirmed inbound flight from
17 Frankfurt for Mr. James Parker. The records also reflect a
18 confirmed inbound flight from Tel Aviv for Jacqueline Parker
19 and a confirmed inbound flight from Frankfurt for Jacqueline
20 Parker. 09:12:41

21 Q. And Frankfurt is Frankfurt, Germany?

22 A. Yes.

23 Q. And Tel Aviv, Tel Aviv, Israel?

24 A. That's correct.

25 Q. Were there associated records that showed a reported 09:12:48

United States District Court

CLEATUS HUNT - Cross

1 outbound flight for those two destinations? 09:12:50

2 A. For those two destinations, yes.

3 MR. PERKEL: Your Honor, if I could have one moment,
4 please.

5 THE COURT: Yes. 09:12:59

6 MR. PERKEL: No further questions. Thank you.

7 THE COURT: All right.

8 Cross-examination?

9 **CROSS - EXAMINATION**

10 BY MS. ARNETT: 09:13:16

11 Q. Hi, Mr. Hunt. I represent Mr. Parker.

12 A. Good morning.

13 Q. The flights that you summarized, they go back to 1999;
14 correct?

15 A. That is correct. 09:13:23

16 Q. And it's not unusual for an international businessperson
17 to make international trips; correct?

18 A. No.

19 Q. Thank you. Thank you for your service, too.

20 THE COURT: All right. Your next witness? 09:13:34

21 (Witness excused.)

22 MR. SEXTON: John Schumacher.

23 JOHN L. SCHUMACHER,

24 called as a witness herein by the Government, having been first

25 duly sworn or affirmed to testify to the truth, was examined 09:14:19

JOHN L. SCHUMACHER - Direct

1 and testified as follows: 09:14:19

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

4 THE WITNESS: John Leroy Schumacher.
5 S-C-H-U-M-A-C-H-E-R. 09:14:32

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

8 **DIRECT EXAMINATION**

9 BY MR. SEXTON:

10 Q. Good morning. 09:14:53

11 A. Good morning.

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

13 A. I'm John Leroy Schumacher.

14 Q. Every time you turn your head away from that microphone,
15 it sort of loses your volume, so try to speak into the 09:15:04
16 microphone.

17 A. Yes, sir.

18 Q. Where do you live, sir?

19 A. I live in Boise City, Oklahoma.

20 Q. And are you married? 09:15:15

21 A. Yes, and I have two children.

22 Q. What do you do for a living, sir?

23 A. I'm a rancher and I own the local feed store.

24 Q. And where is the feed store located?

25 A. In Boise City. 09:15:31

JOHN L. SCHUMACHER - Direct

1 Q. How big of a store are we talking about? 09:15:32
2 A. In size or dollar sales or --
3 Q. No, more or less just sort of square footage. Use this
4 room as sort of your base for your feed store.
5 A. Oh, it would be five to -- eight times as big as this 09:15:40
6 room.
7 Q. And besides operating this feed store, how long have you
8 been operating that feed store?
9 A. Started in 1983.
10 Q. Besides that store, do you do anything else to make a 09:15:59
11 living?
12 A. I ranch.
13 Q. Where is your ranch located?
14 A. We have several parcels in the Kenton and Boise City,
15 Campo, Colorado area. 09:16:10
16 Q. Approximately how many acres do you have at this time?
17 A. We operate around 50,000 acres, leased and purchased.
18 Q. Why don't you break down for the jury how much of it you
19 actually own and how much, approximately, you lease?
20 A. We own approximately 4500 acres and the rest of the land 09:16:26
21 is leased land.
22 Q. And the leased land, what do you approximately rent that
23 for per acre for year?
24 A. It runs from \$4 up to \$6 per acre.
25 Q. And are these multi-year lease? 09:16:47

United States District Court

JOHN L. SCHUMACHER - Direct

1 A. Most of them are on a five-year lease. 09:16:49

2 Q. And is your property all contiguous or is it chopped up a
3 little bit?

4 A. There are separate tracts. I have, like, four different
5 major tracts. 09:17:02

6 Q. And are you running it by yourself or do you have anybody
7 else that you're working with?

8 A. Family. My brother-in-law and my partner, we've taken
9 over some of my father-in-law's leases, so my wife and
10 sister-in-law are partners with us. 09:17:19

11 Q. And do you have any leases in your ranch operation?

12 A. Yes, we do.

13 Q. How many do you have?

14 A. We have two currently.

15 Q. And what has been the evolution of your ranch in that area 09:17:30
16 from the standpoint of where did you begin and from the family
17 standpoint and to the point where it's now 50,000 acres?

18 A. I moved to that area in 1981 and I didn't have any
19 property at that time, and I started leasing some country for
20 just summer leases. And then I gradually got where I bought a 09:17:50
21 little bit of country and then I leased some country of my own
22 and just added to it over the years where we've -- some of it
23 we just have added in the last, you know, five or six years.

24 Q. And approximately how many heads of cattle do you have on
25 your property? 09:18:10

United States District Court

JOHN L. SCHUMACHER - Direct

- 1 A. We run about 900 cows. 09:18:11
- 2 Q. When did you first meet James Parker?
- 3 A. To tell you the exact year, I don't recall. It would be
- 4 2003, 2004, somewhere in that neighborhood.
- 5 Q. Do you see him in the courtroom today? 09:18:28
- 6 A. Yes, sir, I do.
- 7 Q. Is he the man that just stood up?
- 8 A. Yes, sir.
- 9 Q. Did he ever visit your feed store?
- 10 A. Yes, sir, he had. 09:18:43
- 11 Q. Was there a time when he visited your feed store where he
- 12 bought rather a large item from you?
- 13 A. Large in dollar sales or --
- 14 Q. A bale wagon?
- 15 A. Yes. He has bought a bale wagon from us. 09:18:57
- 16 Q. When was that that he bought that bale wagon from you?
- 17 A. The exact year would be, like, 2004 would be my -- that
- 18 would be an estimation.
- 19 Q. Who was with him other than him?
- 20 A. I remembered his son, Samuel, being with him. 09:19:15
- 21 Q. And whose bale wagon was this?
- 22 A. It was my personal bale wagon.
- 23 Q. Was it for sale?
- 24 A. No, it wasn't.
- 25 Q. Explain to the jury the circumstances how you ultimately 09:19:26

United States District Court

JOHN L. SCHUMACHER - Direct

1 sold him the bale wagon, your bale wagon? 09:19:28

2 A. Well, he came in and wanted a bale wagon to move a round
3 bale, which is a large 1000 to 1500 pound bale. We didn't have
4 any for sale. We weren't in that business, but I had my
5 personal bale wagon sitting on the parking lot and that is what 09:19:45
6 he wanted to buy. And that was my -- I didn't have it for sale
7 at that time and he insisted that he wanted to buy it, that he
8 needed one now and he wanted to get it. I told him I could
9 order one but I didn't have one. But we did make the sale that
10 day. He wanted to buy that bale wagon today while he was in 09:20:05
11 town.

12 Q. And how much did he pay for it?

13 A. The exact number I can't tell you. In the 700, \$750
14 range.

15 Q. And was Samuel Parker in any way involved in the 09:20:18
16 negotiation for the bale wagon?

17 A. Samuel was there. That's all I can say. Mr. Parker --
18 James did the negotiating.

19 Q. What was the next significant encounter you had with
20 Mr. Parker? 09:20:40

21 A. Well, I had seen him over the course of several years
22 there but I believe in the summer of 2004 we had heard that he
23 was going to lease up the school lands that were in our area to
24 make a ranch for himself. And we had been hearing this rumor
25 and we -- I guess we invited ourselves over to visit with 09:21:06

United States District Court

JOHN L. SCHUMACHER - Direct

1 him -- 09:21:09

2 MS. ARNETT: Objection, Your Honor. Hearsay.

3 MR. SEXTON: I'll stop.

4 THE COURT: Sustained on foundation.

5 BY MR. SEXTON: 09:21:17

6 Q. Sir --

7 MS. ARNETT: I would ask it that be stricken, too,

8 Your Honor.

9 THE COURT: Ladies and gentlemen, you are to strike

10 the last answer to the question and the question itself and not 09:21:22

11 consider it.

12 BY MR. SEXTON:

13 Q. Let me back up a little bit.

14 You said the summer of 2004. To orient you a little

15 bit, the auction that was a contentious auction, that was in 09:21:36

16 2005. Was this meeting in 2004 or 2005?

17 A. It was in the summer prior to the auction.

18 Q. Okay. So that would be 2005?

19 A. I'm not -- referring which auction you're speaking of.

20 They have an auction every fall. 09:21:53

21 Q. Okay. So were you at the auction in which there was a --

22 some hard feelings between home owners at the auction?

23 A. Yes, sir, I was.

24 Q. Okay. And so this meeting you're talking about before,

25 was that the summer before that auction? 09:22:11

United States District Court

JOHN L. SCHUMACHER - Direct

1 A. The summer before the auction where all of the hard 09:22:12
2 feelings and the activities.
3 Q. Now, how is it that you came to be having a meeting with
4 Mr. Parker?
5 A. How did -- pardon me? 09:22:23
6 Q. How did it come that you were going to have a meeting with
7 Mr. Parker the summer before --
8 A. We called and set up a meeting at his cabin.
9 Q. And who went to his cabin?
10 A. My brother-in-law, John Nye; his wife, Sherry; and my 09:22:35
11 wife, Vicky.
12 Q. And was Mr. Parker there?
13 A. Yes, sir. Mr. Parker, Mrs. Parker, a friend of Samuel, I
14 could not tell you his name.
15 Q. When you say Samuel, you're talking about Samuel Parker? 09:22:55
16 A. Yes.
17 Q. So was Samuel Parker there?
18 A. Samuel was not there. Roy Young was there.
19 Q. And now, sir, what was the purpose of your visit to the
20 Parker home there? 09:23:07
21 A. We were hearing that he was going to --
22 MS. ARNETT: Objection, Your Honor. Hearsay.
23 THE COURT: Sustained.
24 BY MR. SEXTON:
25 Q. Let's do it this way. Why did you go to his home that 09:23:16

United States District Court

JOHN L. SCHUMACHER - Direct

1 day? Why did you go to his home that day? 09:23:24

2 A. I was concerned of him leasing the properties that we had
3 leased in the past and were part of our ranching operation.

4 Q. Now, when you got there, I would like you to isolate, if
5 you would, what did James Parker say to you about your concern 09:23:47
6 about his leasing ideas?

7 A. That he had plans to have a ranch in the area and that he
8 planned to obtain leases at the state school land auction.

9 Q. As far as his plans, was he more specific as to what those
10 plans were for the area? 09:24:08

11 A. Yes. He had disclosed to us if you want to call it a
12 lodge or a hotel or the wild west facility that he had planned
13 on building. He brought out his blueprints and showed them to
14 us that he was going to develop the area into this -- I don't
15 know if you want to call it a town or not, but he had a plan 09:24:36
16 that he had laid out that he was planning to build. He had not
17 built it previously.

18 Q. Did he indicate to you in any way the sum of money that he
19 intended to invest in your area?

20 A. He indicated to us that he was planning to invest millions 09:24:51
21 in our area.

22 Q. And you said there were blueprints?

23 A. Yes, sir, there were.

24 Q. Were there any other sort of architectural plans that were
25 shown to you at that time? 09:25:11

United States District Court

JOHN L. SCHUMACHER - Direct

1 A. Well, there were several blueprints of the layout of the 09:25:12
2 rooms to a frontal picture of it but they were professionally
3 drawn blueprints.

4 Q. Did he in any way discuss with you the scope of the size
5 of the ranch that he wanted to acquire either by buying 09:25:24
6 property or leasing property?

7 A. He explained that he wanted to have a large ranch in the
8 area, that he didn't want to be just a small operator.

9 Q. After he summarized all of this, how did you react to him
10 about that? 09:25:41

11 A. We didn't feel good about it. We didn't express all of
12 our opinions that day to him but people in our area --

13 MS. ARNETT: Objection, Your Honor. He's talking
14 about his feelings, "we."

15 THE COURT: Sustained. I don't see the relevancy of 09:26:01
16 his feelings.

17 BY MR. SEXTON:

18 Q. Before you left, did Samuel Parker ever join you and
19 participate at all in this discussion?

20 A. No, sir. 09:26:14

21 Q. Now, after this meeting at his house, did there come a
22 time before this auction that you were talking about where you
23 actually met with Mr. Parker at Stan Manske's office?

24 A. Yes, sir.

25 Q. And is Stan Manske a local attorney in your area? 09:26:41

United States District Court

JOHN L. SCHUMACHER - Direct

1 A. Yes, he is. 09:26:45
2 Q. Who was present at the meeting?
3 A. James Parker; Roy Young; Stan Manske; John Nye, my
4 brother-in-law; and Kip McMillan, my brother-in-law; and
5 myself. 09:27:01
6 Q. I don't know if you said this, but was Mr. Schumacher
7 there?
8 A. Myself.
9 Q. Oh, dang it. All right.
10 So you were there, huh? 09:27:15
11 A. Yes, sir.
12 MR. MINNS: We'll stipulate he was there, Your Honor.
13 MR. SEXTON: Stipulation accepted. Sorry about that.
14 It's early Monday -- Tuesday.
15 BY MR. SEXTON: 09:27:29
16 Q. Was anybody else there?
17 A. Well, at the meeting itself, no. Mrs. Manske and Stan
18 Manske's secretary were in the office.
19 Q. Okay. But that completes the group of people there?
20 A. Yes. 09:27:45
21 Q. Approximately how soon before the auction was this meeting
22 being held?
23 A. I would say approximately two weeks.
24 Q. Whose idea was it to have this meeting, to your knowledge?
25 A. The meeting was contacted from Mr. Manske, if I recall. 09:27:58

United States District Court

JOHN L. SCHUMACHER - Direct

- 1 Q. Now, at this meeting, what did James Parker say to you 09:28:04
2 all?
- 3 A. The first part of the meeting, he asked Roy Young to
4 identify which one was it, and I guess he had pointed out my
5 brother-in-law, Kip McMillan, that Kip and Roy Young, 09:28:21
6 Mr. Parker's ranch manager, had words. And Mr. Parker asked
7 him to identify which one of us it was.
- 8 Q. Okay. What happened after that?
- 9 A. Mr. Parker became agitated about it because of the
10 conversation, which I was not there when Mr. Young and McMillan 09:28:45
11 had their confrontation, and Mr. Parker said we would handle
12 that -- if that would ever come up again, he would handle it in
13 his own way.
- 14 Q. Okay. And after that, what did he say to you guys?
- 15 A. He was telling us his plans to acquire the large leases in 09:29:03
16 our area and that he had intended to lease the land north of
17 our property and intended to lease land south of our property
18 and we were in the way in the middle, that he had intended to
19 lease our property also. But then he was going to cut us a
20 deal where we would only take approximately half of the acreage 09:29:29
21 and let him have access so he could -- he wanted us to sublease
22 half of the property to him so he would have contiguous access
23 between the properties that he planned to lease at the auction.
- 24 Q. So he had a property here and a property here (Indicating)
25 and you had the land in between? 09:29:55

United States District Court

JOHN L. SCHUMACHER - Direct

1 A. At that time he did not have the property north or south, 09:30:00
2 but he planned to get it and he planned to take the land on the
3 other side.

4 Q. And how much land did you have in between the two areas he
5 was hoping to get that? 09:30:10

6 A. Lease was approximately 5,000 acres.

7 Q. And how much of it was he asking you to sublease to him?

8 A. It's about three and a half sections which would be about
9 2200 acres.

10 Q. And was there any discussion with him that if you refused, 09:30:32
11 what he intended to do?

12 MS. ARNETT: Objection, Your Honor. Repetitive and
13 irrelevant.

14 THE COURT: Sustained.

15 MR. SEXTON: On relevance, Judge? 09:30:47

16 THE COURT: It's sustained.

17 BY MR. SEXTON:

18 Q. Did you agree to his proposal?

19 A. No, sir, we did not.

20 Q. Did Roy Young in any way participate in this meeting? 09:31:02

21 A. The only participation Roy said was at the very beginning
22 when he identified Mr. McMillan.

23 Q. Did Sam Parker ever join you at this meeting in any way?

24 A. No, sir.

25 Q. Now, at the auction that year, was this 4800 acres or 09:31:21

JOHN L. SCHUMACHER - Direct

1 5,000 acres, was it up for bid? 09:31:32

2 A. Yes, it was.

3 Q. And how long had that property been in your family?

4 A. It had been in my family for 49 years.

5 MS. ARNETT: Objection, irrelevant. 09:31:41

6 THE COURT: Sustained.

7 Ladies and gentlemen, you are to ignore the last

8 answer to the last question.

9 BY MR. SEXTON:

10 Q. What were you expecting to bid at this auction for this 09:31:49

11 property?

12 MS. ARNETT: Objection. Irrelevant.

13 THE COURT: Sustained.

14 BY MR. SEXTON:

15 Q. Were you outbid at the auction by Mr. Parker? 09:31:57

16 A. Yes, sir, we were.

17 Q. How much did Mr. Parker bid for your land?

18 MS. ARNETT: Objection. Repetitive.

19 THE COURT: Overruled.

20 BY MR. SEXTON: 09:32:11

21 Q. How much?

22 A. I can answer that question?

23 Q. Yes, you can.

24 A. Mr. Parker bid \$89,000 for the lease.

25 Q. And during the time the actual auction was taking place, 09:32:28

United States District Court

JOHN L. SCHUMACHER - Cross

1 did you see Samuel Parker at the auction? 09:32:30

2 A. No, sir.

3 MR. SEXTON: Nothing further.

4 THE COURT: All right.

5 Cross? 09:32:40

6 MS. ARNETT: Yes, Your Honor.

7 **CROSS - EXAMINATION**

8 BY MS. ARNETT:

9 Q. Hi. I'm Ashley Arnett. I represent Mr. Parker. Is it
10 Mr. Schumacher? 09:33:05

11 A. Yes, ma'am.

12 Q. When you were talking about the lease auction and bidding
13 on land, you referenced your land but it's not actually your
14 land. It's the state of Oklahoma's land; correct?

15 A. Yes. 09:33:15

16 Q. And the 5,000 acres that was bid on, it was bid on by
17 Cimarron River Ranch; correct?

18 A. They were the successful bidder.

19 Q. And you weren't there for the lease paperwork, were you?

20 A. For the lease paper signing? No. 09:33:31

21 Q. And the 5,000 acres that Cimarron River Ranch bid on, the
22 state of Oklahoma actually switched that land with some more of
23 your land; correct?

24 A. No, ma'am. They got the 5,000 acre lease.

25 Q. Sure. And they -- the lease was for riverbottom land; 09:33:49

JOHN L. SCHUMACHER - Cross

1 correct? 09:33:54

2 A. No, ma'am.

3 Q. Was the lease for rocky bottom land?

4 A. No, ma'am. The lease we lost was a fairly flat open area.

5 Q. Okay. And then the state of Oklahoma took that 5,000 09:34:02

6 acres and switched it with some more of your land; correct?

7 MR. SEXTON: Objection. Foundation as to when and

8 the circumstances here.

9 THE COURT: Well, I will allow you to establish more

10 foundation in terms of time. 09:34:22

11 MS. ARNETT: Thank you, Your Honor.

12 BY MS. ARNETT:

13 Q. After the lease auction, further down the road before the

14 lease had expired, the state of Oklahoma -- are you familiar

15 with Keith Kuhlman? 09:34:36

16 A. Yes.

17 Q. Are you friends with Keith Kuhlman?

18 A. We're on friendly terms.

19 Q. He took some of your land and switched it with the

20 successful bid on the 5,000 acres; correct? 09:34:46

21 A. Let me clarify that. There was 40 acres of the Tuckalote

22 (phonetic) load, which is my wife's family, that was switched.

23 It's different than Nye/Schumacher, which is my brother-in-law

24 and I.

25 Q. Okay. So there was land that you controlled that was 09:35:12

JOHN L. SCHUMACHER - Cross

1 switched with some of Cimarron River Ranch's land? 09:35:14

2 A. 40 acres.

3 Q. Thank you. And when you met with Mr. Parker at his cabin,
4 he honestly told you that there were plans to develop a wild
5 west town; correct? 09:35:29

6 A. Yes, ma'am.

7 Q. And there actually were planned -- there actually is a
8 wild west town that's built?

9 A. A complex. I don't know if you want to call it wild west
10 or -- an older western theme I guess you would say the building 09:35:42
11 had.

12 Q. And Mr. Parker and his son bought a wagon from you;
13 correct?

14 A. A bale wagon, yes.

15 Q. And Mr. Parker's son, Sam Parker, was there? 09:35:56

16 A. Yes.

17 Q. And you know who Sam Parker is because of his activities
18 in Oklahoma; correct?

19 A. I know of his activities. He was there with Mr. Parker
20 that day. 09:36:07

21 Q. And you know Roy Young; correct?

22 A. Yes.

23 Q. And he's a cattleman in the area; correct?

24 A. He works for Mr. Parker.

25 Q. As a cattleman; correct? 09:36:19

JOHN L. SCHUMACHER - Cross

1 A. Yes, I . . . 09:36:21

2 Q. And Kip McMillan is your brother-in-law; correct?

3 A. Yes, ma'am.

4 Q. And you know that Kip McMillan threatened to shoot

5 Mr. Young; correct? 09:36:35

6 A. No, I do not know that.

7 MS. ARNETT: One moment, Your Honor.

8 BY MS. ARNETT:

9 Q. The conversation that you brought up that Mr. Young

10 pointed out it was this person at Mr. Stan Manske's office, the 09:37:00

11 conversation they were referring to was where Mr. Young was

12 threatened by Mr. McMillan; correct?

13 A. That Mr. Young was threatened by Mr. McMillan you're

14 saying?

15 Q. Yes, sir. 09:37:17

16 A. I wasn't there.

17 MS. ARNETT: Thank you, Your Honor. I pass the

18 witness.

19 THE COURT: All right.

20 Redirect? 09:37:22

21 MR. SEXTON: No. Thanks.

22 THE COURT: All right. You may step down.

23 (Witness excused.)

24 THE COURT: Your next witness?

25 MR. SEXTON: Monty Joe Roberts. 09:37:27

MONTY ROBERTS - Direct

1	MONTY ROBERTS	09:38:01
2	called as a Witness herein by the Government, having been first	
3	duly sworn and/or affirmed by the Courtroom Deputy, testified	
4	as follows:	
5	COURTROOM DEPUTY: State your name for the record,	09:38:01
6	spell your last name.	
7	THE WITNESS: Monty, M-O-N-T-Y, Roberts,	
8	R-O-B-E-R-T-S.	
9	DIRECT EXAMINATION	
10	BY MR. SEXTON:	09:38:38
11	Q. Sir, would you introduce yourself to the judge and to the	
12	jury?	
13	A. I'm Monty Roberts.	
14	Q. Where do you live, sir?	
15	A. Kenton, Oklahoma.	09:38:46
16	Q. And what do you do for a living if you're not retired?	
17	A. I'm a retired rancher.	
18	Q. And do you actually run a -- sort of a little bed and	
19	breakfast in Kenton?	
20	A. Yes, sir.	09:39:03
21	Q. Okay. How long have you been running this little bed and	
22	breakfast?	
23	A. 16 years.	
24	Q. And you're retired from ranching. When did you retire	
25	from ranching?	09:39:14

MONTY ROBERTS - Direct

1 A. Seven years ago. 09:39:15

2 Q. When you were in ranching, who were you ranching with?

3 A. I was in partnership with my sister.

4 Q. And approximately how many acres did you have?

5 A. Deeded land, about 2500 acres. 09:39:30

6 Q. And how much, if any, did you lease from the state?

7 A. 5,000.

8 Q. Of your deeded land, did you sell some of that deeded land

9 to James Parker in June of 2005?

10 A. Yes, sir. 09:39:57

11 MS. ARNETT: Objection, Your Honor. It wasn't sold

12 to James Parker.

13 THE COURT: Well, hold on. He answered the question.

14 BY MR. SEXTON:

15 Q. Did you sell property in which you dealt with James Parker 09:40:11

16 regarding the sale of that property?

17 A. Yes, sir.

18 Q. Do you see James Parker in the courtroom today?

19 A. Yes, sir.

20 Q. Is he the gentleman that just stood up? 09:40:25

21 A. Yes, sir.

22 Q. How much land did you sell to either him or Cimarron River

23 Ranch?

24 A. 400 acres.

25 Q. Explain where it was located, approximately. 09:40:48

United States District Court

MONTY ROBERTS - Direct

1 A. Just north of my house. 09:40:50

2 Q. Well, let's assume we don't know where your house is. You
3 have a bed and breakfast you said there?

4 A. Yes.

5 Q. Where is the -- this 400 acres in relation to where your 09:40:59
6 bed and breakfast was?

7 A. About a quarter mile north of my house.

8 Q. Now, the jury has seen pictures of a house and sort of an
9 old style western structure. Where is it, these 400 acres, in
10 relation to those two structures? 09:41:14

11 A. It would be south and east of that.

12 Q. By very far?

13 A. Just farther of a mile or less.

14 Q. Okay. How much was paid for this land?

15 A. \$350,000. 09:41:35

16 Q. Were there any improvements on the land or was it just raw
17 land?

18 A. No improvements except fences.

19 Q. Now, in the negotiation for the sale of this, who did you
20 deal with? 09:41:54

21 A. Jim Parker.

22 Q. Was Samuel Parker in any way involved in the negotiations
23 for the purchase of this land?

24 A. Not that I recall.

25 Q. Did you ever discuss with James Parker what he was 09:42:03

United States District Court

MONTY ROBERTS - Direct

1 planning to do with the 400 acres that he was purchasing? 09:42:08
2 A. I think it's for agricultural. That's pretty much --
3 Q. I didn't hear your answer.
4 A. Agricultural use.
5 Q. Did you ever do any odd jobs for Mr. Parker on one of the 09:42:28
6 homes that he had built?
7 A. Yes, sir.
8 Q. Is it a little cabin that was on one of his pieces of
9 property?
10 A. Yes, sir. 09:42:40
11 Q. Approximately -- what did you do for him?
12 A. I built a porch on the front of it.
13 Q. And did there come a time when you asked him to pay you?
14 A. Yes.
15 Q. And how much was the job? 09:42:54
16 A. I'm not sure. I don't remember.
17 Q. Less than a thousand?
18 A. Yes.
19 Q. More than 500?
20 A. More or less, 500 maybe. 09:43:04
21 Q. And how did he pay you?
22 A. By check.
23 Q. And did he make out the check in front of you?
24 A. Yes, sir.
25 Q. And when you got the check, was it his signature at the 09:43:16

United States District Court

MONTY ROBERTS - Direct

1 bottom of the check or someone else's? 09:43:21

2 A. It was someone else's.

3 Q. Who was it?

4 A. His daughter I think.

5 Q. Was his daughter anywhere around when he was writing out 09:43:28

6 that check?

7 A. No, sir.

8 Q. Did you ever him, James Parker, drive any vehicles during

9 the time of 2004, 2005? Did you ever see him driving any

10 vehicles around there? 09:43:44

11 A. Yes, sir.

12 Q. What kind of vehicles did you see him driving?

13 A. He had a Hummer II and he drove a Rolls Royce one time.

14 Q. Did you ever go into the Rolls Royce with his permission?

15 A. I looked in it, sat on the edge of the door and looked in 09:44:00

16 it.

17 Q. Okay. Now, at the auction that was in October of 2005,

18 did you have any of your land up for auction at that time?

19 A. Yes, sir.

20 Q. And were you outbid by either Cimarron River Ranch or 09:44:21

21 James Parker as to your leased land?

22 A. Yes, sir.

23 Q. So the leased land that you talked about you didn't get.

24 A. I didn't get it, that's correct.

25 Q. Okay. And then after that auction, sometime later -- 09:44:34

United States District Court

MONTY ROBERTS - Direct

1 first off, after you sold 400 acres of your deeded land, that 09:44:43
2 left you with how much deeded land left that you owned in the
3 area?
4 A. About 700 acres.
5 Q. Did there come a time down the road that Mr. James Parker 09:44:56
6 approached you about selling that?
7 A. Yes, sir.
8 Q. Approximately how long after this October 2005 auction
9 would you say he approached you about that subject?
10 A. I really don't recall. 09:45:14
11 Q. Well, let me see if I can help you. More than a year
12 after the auction?
13 A. Probably, yes, sir.
14 Q. Do you think it was more than two years after the auction?
15 A. Maybe two years. I don't recall. 09:45:28
16 Q. And just you and he discussing the subject?
17 A. I think his wife was there.
18 Q. Okay. And what did he ask you at that time when he met
19 with you?
20 A. If I would be interested in selling the rest of my 09:45:42
21 property.
22 Q. And would this be the 700 acres you were just talking
23 about.
24 A. Yes, sir.
25 Q. And do you have a homestead on that property as well? 09:45:49

United States District Court

MONTY ROBERTS - Direct

- 1 A. Yes, sir. 09:45:53
- 2 Q. Okay. And is that the homestead you were living in at the
3 time?
- 4 A. Yes, sir.
- 5 Q. So when you're selling the acreage that he was trying to 09:46:03
6 buy, would it include your homestead as well?
- 7 A. I think so.
- 8 Q. And did he make an offer to you for that land?
- 9 A. Yes, sir.
- 10 Q. Approximately what did he offer to you? 09:46:19
- 11 A. I really don't remember but it was less than what he paid
12 for the other 400 acres.
- 13 Q. So somewhere less than \$350,000?
- 14 A. Yes.
- 15 MS. ARNETT: Objection. Leading. 09:46:35
- 16 THE COURT: Sustained.
- 17 BY MR. SEXTON:
- 18 Q. Can you give a range of where the offer was, between --
19 what's the low end and what's the high end?
- 20 A. Maybe 275 an acre, something like that. 09:46:49
- 21 Q. And when you say 275, you're talking about \$275 an acre?
- 22 A. \$275 an acre, somewhere along there.
- 23 Q. You're mumbling.
- 24 A. I don't remember, sir.
- 25 Q. Did you sell him the land? 09:47:07

United States District Court

MONTY ROBERTS - Cross

1 A. No, sir. 09:47:08

2 Q. Okay.

3 MR. SEXTON: That's it, Judge.

4 THE COURT: All right.

5 Cross? 09:47:17

6 MS. ARNETT: Thank you, Your Honor.

7 **CROSS - EXAMINATION**

8 BY MS. ARNETT:

9 Q. Hi, Mr. Roberts.

10 A. Hello. 09:47:28

11 Q. I'm Ashley Arnett and I represent Mr. Parker.

12 At the lease auction that you attended, Roy Young did

13 the bidding for Cimarron River Ranch; correct?

14 A. Yes.

15 Q. And Roy Young appeared to be taking care of all of the 09:47:38

16 cattle for Cimarron River Ranch; correct?

17 A. Correct.

18 Q. And the land that was bid on, it's not your land, it's the

19 state of Oklahoma's land; correct?

20 A. Yes. 09:47:55

21 Q. It belongs to the school system; correct?

22 A. Yes, ma'am.

23 Q. And you met with Ms. Giovannelli here, correct, for about

24 two hours?

25 A. Yes, ma'am. 09:48:11

MONTY ROBERTS - Cross

1 Q. The 400 acres that you sold, you sold the 400 acres to 09:48:20
2 Cimarron River Ranch; correct?

3 A. Yes.

4 Q. And Cimarron River Ranch signed the warranty deed;
5 correct? 09:48:30

6 A. Yes, I think so.

7 MS. ARNETT: One moment, Your Honor.

8 Thank you, Your Honor. We pass the witness.

9 THE COURT: All right.

10 Redirect? 09:48:44

11 MR. SEXTON: No, Judge.

12 THE COURT: You may step down.

13 (Witness excused.)

14 THE COURT: Your next witness?

15 MR. PERKEL: Yes, Your Honor. The government calls 09:48:50
16 Deanne Chase.

17 DEANNE CHASE,

18 called as a witness herein by the Government, having been first
19 duly sworn or affirmed to testify to the truth, was examined
20 and testified as follows: 09:49:31

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

23 THE WITNESS: Deanne Chase, C-H-A-S-E.

24 COURTROOM DEPUTY: Great. Have a seat right up here,
25 please. 09:49:44

DEANNE CHASE - Direct

09:49:44

09:50:05

09:50:14

09:50:22

09:50:31

09:50:39

DIRECT EXAMINATION

BY MR. PERKEL:

Q. Good morning, Ms. Chase. Can you please again introduce yourself to the jury?

A. Deanne Chase.

Q. And, Ms. Chase, where are you from?

A. Dallas, Texas.

Q. And without telling us your address, is that where you currently reside?

A. Yes.

Q. And how long have you been living in Dallas?

A. All my life.

Q. And where are you employed?

A. Yes.

Q. Where do you work?

A. Fenton Motor Group.

Q. And what is Fenton Motor Group?

A. It's an auto dealer, multiline.

Q. What is your job at the -- it's called Fenton Motor Group?

A. Yes.

Q. What's your job at the Fenton Motor Group?

A. I'm a controller.

Q. And can you tell the jury what that means?

A. I oversee the accounting of several dealerships.

DEANNE CHASE - Direct

1 Q. How many dealerships does Fenton Motor Group own or work 09:50:45
2 with, if that's the right way of saying it?
3 A. All together, we probably own about 14.
4 Q. 14 dealerships?
5 A. Yes. 09:50:59
6 Q. If you could just maybe scoot up a little bit.
7 Where are those dealerships located, Ms. Chase?
8 A. I have one in Dumas, one in Pampa, Lincolnview, one in
9 Mesquite, Texas. There are two in Oklahoma City, two in
10 Ardmore, one in Aida, one in McAllister, and one in Poto. 09:51:19
11 Q. And you mentioned Dumas and Pampa. Is that --
12 A. Yes.
13 Q. Are some of the dealerships in west Texas?
14 A. Yes, Dumas and Pampa.
15 Q. Dumas and Pampa? 09:51:39
16 A. Yes.
17 Q. And what's the largest closest city in Texas to Dumas and
18 Pampa?
19 A. Amarillo.
20 Q. And you're from, again, Dallas? 09:51:47
21 A. Yes.
22 Q. Is Dallas east Texas or west Texas?
23 A. It is North Central.
24 Q. North Central, okay.
25 And how far is Dallas from Amarillo? 09:51:57

United States District Court

DEANNE CHASE - Direct

1 A. A long way, about eight hours. 09:52:00

2 Q. Okay. And I wanted to turn your attention to Government's

3 Exhibit 206, which is in evidence, and I would like you to

4 direct your attention to page four of the exhibit. We're going

5 to put that up on the screen, too. 09:52:24

6 MR. PERKEL: I can just use the image projector for

7 this witness. If I can just approach.

8 THE COURT: All right. Go ahead. There we go. It's

9 up. Thank you. Thank you for your patience.

10 BY MR. PERKEL: 09:53:30

11 Q. So you see the -- and the screen in front of you, we have

12 page four of this exhibit. Can you just tell the jury what

13 this is?

14 A. This is a buyer's order that we use, a bill of sale.

15 Q. And as controller, are you familiar with these business 09:53:44

16 records and this kind of record?

17 A. Yes.

18 Q. And how come?

19 A. This is our standard -- these are our standard documents

20 of every deal, car deal, that we would do. 09:53:54

21 Q. And as part of your job position, do you review these

22 records from the different dealerships?

23 A. Yes. We go in and we look at them. Every dealership is

24 required to keep certain documents, so this is one of the

25 documents that we're required to keep. 09:54:08

DEANNE CHASE - Direct

1 Q. Okay. And I see at the top it says Fenton Ford of Dumas; 09:54:11
2 right?
3 A. Yes.
4 Q. And that is the -- that's in Dumas, Texas?
5 A. Yes. 09:54:21
6 Q. And it looks like the purchaser in that first line, that
7 is Cimarron River Ranch?
8 A. Yes.
9 Q. And what is the date of the purchase?
10 A. The date of purchase is December 2, 2004. 09:54:30
11 Q. Can you tell us what was sold on that date?
12 A. On that date, it was a 2004 XLT F-250, white.
13 Q. Okay. And can you tell us that Ford that was sold, can
14 you tell us the VIN number, just the last four numbers of the
15 VIN number associated with that Ford? 09:54:56
16 A. 4415.
17 Q. And what is a VIN number?
18 A. 1FTSW21Y95EA54415.
19 Q. And is a VIN number a unique number for a car?
20 A. Yes. 09:55:18
21 Q. What was the total sales price of the vehicle?
22 A. Sales price of the vehicle was \$35,979.
23 Q. Okay. And then after the additional documentary fee, what
24 does it come to?
25 A. \$36,029. 09:55:33

United States District Court

DEANNE CHASE - Direct

1 Q. Okay. And I notice that above, there doesn't seem to be 09:55:35
2 any -- so if you look above the -- sort of right next to the
3 subtotal line where it says 35,979, there doesn't seem to be
4 any tax. Can you tell us why?
5 A. This vehicle would have been taken out of state and so we 09:55:54
6 would not have collected sales tax for the state of Texas.
7 We're only required to collect for the -- for a state that has
8 title holding in a state where we would have to collect sales
9 tax. So it was not in our jurisdiction. So it would be going
10 out of state. 09:56:17
11 Q. Okay. If we could back out of this. At the bottom of the
12 screen -- we're going to enhance it -- can you tell us who
13 appears to have signed that?
14 A. The customer whoever would be the authorized purchaser for
15 Cimarron River Ranch. 09:56:38
16 Q. And does that look like Sam Parker or can you tell?
17 A. Going through the deal on other documents that expressly
18 may have his name associated to the vehicle, he was the
19 authorized purchaser for Cimarron River Ranch.
20 Q. Okay. And then let's go to page five of this exhibit and 09:56:56
21 can you just tell the jury, what does this represent?
22 A. This is a certificate of origin, called an MCO, the
23 manufactured certificate of origin.
24 Q. Okay. And if you look at the next page, page six of the
25 same exhibit, is this the back to that page five of the 09:57:20

DEANNE CHASE - Direct

1 exhibit? 09:57:25

2 A. Yes.

3 Q. And what does this tell you?

4 A. This is the first assignment to Cimarron River Ranch.

5 Q. So, essentially, this was pretty much a new car; correct? 09:57:31

6 A. Brand new car.

7 Q. All right. And let's just go to page seven of the

8 exhibit. Can you tell us what this statement or what this

9 document means?

10 A. This is an odometer disclosure statement that is required 09:57:45

11 of the seller to the buyer that would, you know, give the

12 accurate miles of the vehicle at the time of sale.

13 Q. And does this document reflect the odometer accuracy of

14 the vehicle at the time of sale?

15 A. Yes. 09:58:09

16 Q. And that's 10 miles; correct?

17 A. Yes.

18 Q. Let's go to page three of the exhibit.

19 MR. PERKEL: If we can enhance the whole letter. If

20 you could just -- that's great. 09:58:19

21 Q. And it's -- take your time, by the way. It's in the

22 packet in front of you or on the screen.

23 A. Okay.

24 Q. And I see the letter is dated December 2, 2004. So this

25 is the date of the sale reflected in the bill of sale, the same 09:58:40

DEANNE CHASE - Direct

1 date. Who was this letter addressed to or who is this made out 09:58:46
2 to?
3 A. This letter was written to the attention of Danny Wren,
4 sales manager, and a Trenna White, who was a sales consultant
5 for Fenton Motors of Dumas. 09:59:04
6 Q. And do you recognize those individuals as either being
7 employees or former employees of that specific dealership?
8 A. They are former employees.
9 Q. And the subject line, what does that read?
10 A. The purchase of the 2005 Ford F-250. 09:59:17
11 Q. That's the VIN number that you have just described and
12 told us was the subject of the sale; correct?
13 A. Yes.
14 Q. And can you read the first paragraph?
15 A. Yes. "May this correspondence please confirm a wire 09:59:32
16 transfer this a.m. of \$36,029 to First State Bank, Dumas,
17 Texas" -- keep going?
18 Q. Yes, ma'am.
19 A. -- "for the account of Fenton Motors, account number
20 0433330 in the amount of \$36,029 for the purchase of the above 09:59:51
21 vehicle."
22 Q. And does the second paragraph, it says international wire
23 transfer, does that reflect where the money was coming from?
24 A. The word "international" would -- it doesn't say what
25 bank. It just says that it would be an international wire. 10:00:13

United States District Court

DEANNE CHASE - Direct

1 Q. Is that something that happens occasionally in 10:00:16
2 dealerships, that there's a transfer of money through wire?
3 A. Yes.
4 Q. And can you tell us the last paragraph that says the
5 purchase of the vehicle is by and for who? 10:00:27
6 A. The purchase of the vehicle is by and for Samuel J. Parker
7 of Cimarron River Ranch, LLC."
8 Q. And it sounds like, based on the letter, he'll take
9 delivery of the vehicle Friday at the dealership. Is that what
10 it -- 10:00:42
11 A. Correct.
12 Q. And who signs this letter?
13 A. James R. Parker.
14 Q. And then he lists his phone numbers below?
15 A. Yes. 10:00:53
16 Q. Let's go to --
17 THE COURT: Let's take a break. 20 minutes.
18 We're in recess.
19 COURTROOM DEPUTY: All rise.
20 (Jury departs.) 10:01:23
21 (Recess at 10:01; resumed at 10:31.)
22 (Jury out.)
23 THE COURT: Okay. Sixty seconds, I'm counting. I
24 was told. I was told all you need is 60 seconds.
25 MR. PERKEL: That must have been Mr. Minns. 10:31:33

United States District Court

DEANNE CHASE - Direct

1 THE COURT: Yes. 10:31:36

2 MR. MINNS: Yes, Your Honor. Bill Graves is the
3 third witness from the same company on the promissory note. He
4 is not offering any new information whatsoever. Most of what
5 he says what the two people have already said on the stand, 10:31:42
6 Cave and Demore. And he, apparently, says they think the same
7 thing that they said they think.

8 He's going to testify to meetings that took place
9 when he wasn't there that he learned through them which are
10 already in the record. It's 100 percent duplicative. It will 10:31:57
11 be the third time it was put on and it brings up another
12 problem.

13 Apparently, he has committed a crime of moral
14 turpitude, bankruptcy fraud, and I don't know what that may or
15 may not bring into this case, whether it's helpful or harmful, 10:32:11
16 but it's certainly irrelevant, prejudicial, and there's no
17 reason to put Mr. Graves on the stand at all.

18 THE COURT: All right. What is he going to offer
19 that's new that we haven't already heard before? And I am very
20 respectful of the need to -- you may be seated -- to 10:32:29
21 corroborate testimony of other witnesses; but as I see it,
22 we've had a lot of testimony concerning this type of
23 information. Why is this witness necessary?

24 MR. PERKEL: He is going to be testifying to specific
25 conversations he had with Mr. Parker about several negotiating 10:32:48

DEANNE CHASE - Direct

1 points of the 2005 loan, conversations that he was only a party 10:32:52
2 to with Mr. Parker or Mr. Demore.

3 THE COURT: Are these any different than
4 conversations that somebody else had?

5 MR. PERKEL: They are more specific and they are more 10:33:03
6 detailed as to the responses by Mr. Parker as to the concerns,
7 yes.

8 And, frankly, Your Honor, Mr. Minns told me about his
9 objection literally ten minutes ago. Last Monday in this court
10 you asked him whether he had any objections and he said no. I 10:33:18
11 sent out a list on Friday with this witness. And this comes as
12 a surprise, now that we've made arrangements for this witness
13 to be here for 1 o'clock after lunch, that this wasn't brought
14 up and it's not hearsay. It's going to be testifying to his
15 conversations with the defendant. 10:33:37

16 THE COURT: How long is it going to take?

17 MR. PERKEL: I am trying to do it as fast as I can.

18 THE COURT: Well, I know. I know you are and I know
19 you are and I appreciate that you're trying very hard to do so
20 and I also am respectful of the fact that detail is often 10:33:50
21 helpful in cases like this. But let me just say I don't know
22 why the VIN number was necessary, Mr. Perkel, in the last
23 witness.

24 MR. PERKEL: That might have just been my mistake.

25 THE COURT: Well, it's not necessarily a mistake but 10:34:08

United States District Court

DEANNE CHASE - Direct

1 you need to just narrow it to what is important. In fact, I
2 saw the jurors raise their eyebrows so just so you know. And
3 the other thing is that I appreciate your statement that
4 Mr. Minns brought this to the attention of you previously, but
5 he doesn't always know what the witnesses are going to testify
6 to, and duplication and cumulative testimony can only be seen
7 sometimes when the witness testifies, the previous witnesses in
8 combination with this witness.

9 I'm not going to preclude you from doing it, but I'll
10 tell you if it is the same type of testimony and that it isn't,
11 as you said, more specific, then you don't want me striking the
12 witness in front of the jury. So think about it; all right?

13 MR. PERKEL: Thank you.

14 THE COURT: Okay. Let's get the jury in.

15 (Jury enters.)

16 THE COURT: Please be seated, ladies and gentlemen.

17 And Mr. Perkel?

18 MR. PERKEL: Thank you, Your Honor.

19 BY MR. PERKEL:

20 Q. You may be seated. Before we took our break, we were
21 talking about this letter. I want to now switch to page 10 of
22 the exhibit. And if we could just focus in on the bottom
23 portion of this page, is this a bank record, Ms. Chase?

24 A. Yes. This is our bank statement.

25 Q. Okay. And I want to just focus on the part that looks

United States District Court

DEANNE CHASE - Direct

1 like it was previously highlighted. Can you see that on the 10:36:37
2 screen in front of you?

3 A. Yes.

4 Q. Is that the wire transfer that we were talking about?

5 A. Yes. 10:36:47

6 Q. And that is the one for the \$36,029 from Belize Bank wire?

7 A. Yes.

8 Q. And that was on December 3, 2004?

9 A. Yes.

10 Q. And as part of your business when these wires come in, you 10:36:57
11 keep track of these wires through these statements provided by
12 your bank?

13 A. Correct.

14 Q. I want to turn now to -- just give me a second --
15 Government Exhibit 521, page two. And let's just focus on the 10:37:12
16 top portion.

17 MS. ARNETT: I'm sorry. This exhibit isn't in
18 evidence.

19 COURTROOM DEPUTY: I have it down as in evidence.

20 THE COURT: Is that right? 10:37:30

21 MR. PERKEL: I believe it is, Your Honor.

22 COURTROOM DEPUTY: It was part of the stipulation.

23 Actually, no, it was not admitted.

24 It was actually admitted on June 6.

25 THE COURT: It was admitted on June 6. Overruled. 10:37:42

DEANNE CHASE - Cross

1 Go ahead. 10:37:45

2 BY MR. PERKEL:

3 Q. And at the top of this is the Fenton Ford of Dumas's logo?

4 A. Yes.

5 Q. And the first line says that James Parker is purchasing a 10:37:53

6 vehicle?

7 A. Yes.

8 Q. And he'll be wiring the money on Thursday that says in the

9 third line?

10 A. Yes. 10:38:02

11 Q. And then at the time that the money is cleared, no more

12 money will be owed by Sam Parker. That's what his letter says?

13 A. That's correct.

14 Q. And it's again signed by Danny Wren. That looks like the

15 same name as the sales manager? 10:38:15

16 A. Yes.

17 Q. Okay.

18 MR. PERKEL: No further questions.

19 THE COURT: All right.

20 Cross? 10:38:21

21 MS. ARNETT: Thank you, Your Honor.

22 Can I have the document camera? Document 206.

23 **CROSS - EXAMINATION**

24 BY MS. ARNETT:

25 Q. Hi, Ms. Chase. I represent Mr. Parker. 10:39:04

DEANNE CHASE - Cross

1 A. Okay. 10:39:07
2 Q. This is the Fenton Ford of Dumas sales record; right?
3 A. Yes.
4 Q. And it was -- it's for the purchase of a Ford truck;
5 correct? 10:39:16
6 A. Correct.
7 Q. And it was purchased by Cimarron River Ranch; correct?
8 A. Correct.
9 Q. And it's signed for by Sam Parker; correct?
10 A. Correct. 10:39:28
11 Q. And it's not uncommon for parents to negotiate car prices
12 and car sales contracts for their kids; correct?
13 A. Correct.
14 Q. Thank you.
15 MS. ARNETT: I have nothing further, Your Honor. 10:39:46
16 THE COURT: Redirect?
17 MR. PERKEL: No, Your Honor.
18 THE COURT: You may step down.
19 (Witness excused.)
20 THE COURT: And your next witness? 10:39:51
21 MR. SEXTON: Connie Taylor.
22
23 CONSTANCE TAYLOR,
24 called as a witness herein by the Government, having been first
25 duly sworn or affirmed to testify to the truth, was examined 10:40:22

CONSTANCE TAYLOR - Direct

1 and testified as follows: 10:40:22

2 COURTROOM DEPUTY: If you can state your name for the
3 record and spell your last name, please.

4 THE WITNESS: Constance Taylor.

5 COURTROOM DEPUTY: And spell your last name. 10:40:36

6 THE WITNESS: T-A-Y-L-O-R.

7 **DIRECT EXAMINATION**

8 BY MR. SEXTON:

9 Q. Good morning.

10 A. Good morning. 10:41:08

11 Q. Could you introduce yourself to the Court and the jury?

12 A. I go by the name of Connie Taylor.

13 Q. And where do you live?

14 A. Amarillo, Texas.

15 Q. And where do you work? 10:41:16

16 A. Keller Williams Realty.

17 Q. And how long have you been working there?

18 A. Since 2004.

19 Q. And what do you do for them?

20 A. I sell real estate. 10:41:27

21 Q. Are you a real estate broker or realtor?

22 A. I'm a real estate agent, realtor.

23 Q. And how long have you been a realtor even before Keller
24 Williams?

25 A. I started my career in 2004 so that is the beginning. 10:41:41

CONSTANCE TAYLOR - Direct

1 Q. All right. Were you the real estate agent for the sale of 10:41:48
2 the home at 218 Turkey Track Trail in Canyon, Texas?

3 A. Yes, I was.

4 Q. And in beginning, who did you represent in that
5 transaction? 10:42:05

6 A. In the beginning of that transaction, I represented the
7 seller, Robert and Becky Gross. I had the home listed.

8 Q. So did you have a contract with them representing them as
9 the seller?

10 A. Yes, I did. 10:42:20

11 Q. And how did you list the property? How did you market it?

12 A. I listed it locally and then I also listed that property
13 more on a national basis through Internet.

14 Q. Why don't you explain to the jury in this day and age how
15 a piece of property can be sort of marketed in your Internet
16 way? 10:42:41

17 A. Sure. I list a property through what we call Multiple
18 Listing and then that property feeds through many channels to
19 various websites through Multiple Listing, and you put pictures
20 on it. You put videos on it, put a lot of information about 10:43:00
21 the property. And most people now search Internet when they
22 are looking for a home.

23 Q. And do you generally put a room-by-room picture
24 walk-through for an Internet user?

25 A. Yes. I do. 10:43:17

United States District Court

CONSTANCE TAYLOR - Direct

1 Q. And this particular property, how much was it being listed 10:43:19
2 for sale?
3 A. Oh, I think it was 1.2 or 1.3. It's been a long time.
4 Q. Did there come a time when Mr. James Parker called you to
5 express some interest in the property? 10:43:37
6 A. Yes.
7 Q. Approximately when was that?
8 A. It was August of 2005.
9 Q. Do you see Mr. James Parker in the courtroom today?
10 A. Yes. 10:43:56
11 Q. Is he the gentleman that just stood up for you?
12 A. Yes.
13 Q. Was your first dealing with him by telephone?
14 A. Yes.
15 Q. Was there anybody else on the telephone call besides you 10:44:11
16 and Mr. James Parker?
17 A. No.
18 Q. Would you, as best you can recall for the jury, tell them
19 what you and he talked about on that telephone call?
20 A. Yes. He called. He was inquiring about the property. He 10:44:24
21 had seen the picture tour of the property and we talked about
22 that for a while. He mentioned that -- I thought it was
23 interesting because of the picture tours, he was able to tell
24 that in one of the rooms that there was a desk that he said his
25 wife had the same desk. So it was in one of the front rooms 10:44:44

United States District Court

CONSTANCE TAYLOR - Direct

1 and we kind of talked about that. He just said he might have 10:44:48
2 interest in the property.

3 Q. At this time, is he expressing what amount he might be
4 willing to pay for the property?

5 A. Not the initial time, I don't think so, no. 10:45:03

6 Q. As you're discussing this with him, is there any
7 discussion as to why he was interested in this property in
8 Texas?

9 A. Yes. He told me that he would probably be relocating to
10 Texas. His home in Arizona was listed and for sale. that he 10:45:23
11 was starting a western town somewhere in Oklahoma or Kansas, I
12 can't remember, but anyway, that's why he would be moving
13 there. He would be moving his family there.

14 Q. Was there any discussion about you needing to change your
15 status in relation to the seller as to who you represented? 10:45:54

16 A. Yes. He did ask that. Texas real estate, you have -- you
17 either represent a buyer or you represent a seller or you go
18 into what we call intermediary and that means that you're not
19 really representing either side favorably. You're no longer a
20 coach. You become a referee. And he asked that I go into that 10:46:23
21 position on that property.

22 Q. So you will neither represent the buyer's interest nor the
23 seller's interest when you go into an intermediate?

24 A. No. You are working on the transaction and you're
25 relaying messages from one party to the other but you -- you're 10:46:41

United States District Court

CONSTANCE TAYLOR - Direct

1 an intermediary so you -- you're just more like a referee 10:46:44
2 between the two parties.

3 Q. What did you tell him in relation to his request to have
4 you change your status to intermediary status?

5 A. Well, I told him I would have to talk to the Grosses 10:47:00
6 because I had known the Grosses for a long time and I've done
7 this often with other clients where they are friends but I
8 can't represent them as a friend. I have to explain the roles
9 and change my relationship for that particular transaction.

10 And so I did talk to the sellers and they said they 10:47:18
11 were good people. It wasn't the first property they had sold
12 and that they were okay with me changing that position.

13 Q. Did you warrant anything from Mr. Parker as to some proof
14 that he was able to buy a million dollar home?

15 A. Yes. I do that with all of my clients. If I'm working 10:47:40
16 with someone and they wanted to buy a home, I want to see proof
17 that they can pay for the home before somebody packs up and
18 moves.

19 Q. Did you in any way suggest to him the form to which you
20 wanted to have that proof? 10:47:57

21 A. Yes. I just gave him some examples. I told him either an
22 account where he could white out the account number but show
23 funds in that or a bank or a letter from the accountant, but I
24 needed something showing that there was verification of funds
25 for him to purchase the property. 10:48:17

United States District Court

CONSTANCE TAYLOR - Direct

1 Q. Would you take a look at Exhibit 39? There's a hard copy 10:48:19
2 in front of you.

3 MR. SEXTON: This is a subset of Exhibit 178 that was
4 part of the stipulation this morning.

5 THE COURT: All right. Fine. 10:48:31

6 COURTROOM DEPUTY: What exhibit is this?

7 MR. SEXTON: I'm sorry, 139 and it's a subpart of
8 Exhibit 178 that was admitted into evidence so we would move it
9 in.

10 THE COURT: It's admitted. 10:48:50

11 (Exhibit Number 139 was admitted into evidence.)

12 BY MR. SEXTON:

13 Q. Now, you can either read from the hard copy or what's on
14 the screen there. How soon after your phone conversation with
15 Mr. Parker did you receive this letter? 10:49:05

16 A. Probably within the week, maybe a couple of days, within a
17 week probably.

18 Q. And who is it sent to?

19 A. It's sent to me.

20 Q. Does it also have below you Mr. James Parker? 10:49:29

21 A. Yes. And it's sent to Mr. Parker.

22 Q. Now, if you would, starting with the, "Dear Connie," would
23 you read that down to the signature?

24 A. Sure. "Dear Connie. I have prepared James Parker's
25 individual and corporate tax return since 1997. Per my 10:49:44

United States District Court

CONSTANCE TAYLOR - Direct

1 knowledge of Jim's companies and businesses, it appears that 10:49:51
2 Jim has the cash reserves available to purchase a one million
3 dollar residence." Sincerely Tim Liggett.

4 Q. And at the top, Tim Liggett is what?

5 A. A CPA. 10:50:00

6 Q. After getting this assurance, what happened next?

7 Well, let me make it easier for you. Let's go to
8 Exhibit 140 that is in evidence pursuant to the stipulation
9 this morning.

10 Take a look at that. Maybe we can make that a little 10:50:29
11 larger for everybody.

12 Is this a buyer's representation agreement that you
13 entered into with Mr. Parker?

14 A. Yes.

15 Q. And is that his signature just above yours at the bottom? 10:50:45

16 A. Yes.

17 Q. And was this one day after the letter that we were looking
18 at that Mr. Liggett sent to you?

19 A. Yes.

20 Q. And what does this represent between you and Mr. Parker? 10:51:02
21 What is this?

22 A. This is a buyer's representation just stating that I am
23 representing him as a buyer and that I had a listing agreement
24 that said I was representing the seller as a listing and then
25 between all of that on the contract, it goes into intermediary 10:51:27

United States District Court

CONSTANCE TAYLOR - Direct

1 at that point. 10:51:30

2 Q. And then looking at Exhibit 143, which is in your little

3 stack there.

4 MR. SEXTON: And it's in evidence, Your Honor, in the

5 stipulation. 10:51:42

6 THE COURT: All right.

7 BY MR. SEXTON:

8 Q. Tell the jury what they are looking at here.

9 A. This is the one to four family residential contract for

10 the purchase of the home on 218 Turkey Track. 10:51:57

11 Q. And skip back to the back. When was this dated?

12 A. The contract -- the contract was income taxed. It was,

13 like, on the 16th. And then the contract was signed and

14 executed by all parties on August 17.

15 Q. And is that on page eight of the agreement? 10:52:32

16 A. Yes.

17 Q. Okay. Let's go to that real quickly. Page eight of

18 Exhibit 143. Are those the signature lines that you were

19 talking about right there?

20 A. Yes. 10:52:50

21 Q. Do you see James Parker on the left?

22 A. Yes.

23 Q. And then it has Robert and Becky Gross to the right?

24 A. Yes.

25 Q. Now, going back to page two, when was it first discussed 10:53:07

United States District Court

CONSTANCE TAYLOR - Direct

1 how much Mr. Parker was going to offer for this home? 10:53:20

2 A. It was a telephone conversation, probably before we signed

3 the buyer's rep when he called me and told me what he wanted to

4 offer for cash.

5 Q. And what did he want to offer for the property? 10:53:36

6 A. One million.

7 Q. Is that why it's written up this way in this contract?

8 A. That's correct.

9 Q. And then down below at the very bottom of this first page,

10 is there earnest money requirement of \$10,000? 10:53:46

11 A. That's correct.

12 Q. Take a look real quickly at Exhibit 147.

13 MR. SEXTON: That is in evidence, Judge, pursuant to

14 stipulation.

15 Q. Is that the earnest money check there dated August 17, 10:54:00

16 2005?

17 A. That's correct.

18 Q. And who is the remitter on this check in the upper

19 left-hand corner?

20 A. Sunlight Financial. 10:54:12

21 Q. And then if you look at the bottom, is the bottom of each

22 one of these pages initialed by the buyer and seller as to the

23 terms of this contract?

24 A. Yes.

25 Q. And as to Mr. Parker, are the initials JP at the bottom of 10:54:33

United States District Court

CONSTANCE TAYLOR - Direct

1 each one of the pages? 10:54:37

2 A. Yes. Well, on page eight of the contract, he signed it
3 but he did not initial at the bottom.

4 Q. Okay. How quickly, now that you're the intermediary, did
5 it take the Grosses to accept this one million dollar offer for
6 their property? 10:55:16

7 A. I don't think it took very long at all.

8 Q. Did Mr. Parker give you any contingencies on this offer
9 that he wanted the receipt of property or do something with
10 regard to the property before the offer would be final? 10:55:35

11 A. Yes. He wanted -- I mean, it was contingent upon him
12 viewing the property within the option period that he had on
13 the property. They were going to be coming down to look at the
14 property.

15 Q. So before this sales contract in Exhibit 143 was executed
16 in which there's an offer of one million dollars -- 10:55:51

17 A. M'hum.

18 Q. -- at that time, on August 17, had Mr. Parker visited the
19 property in Texas?

20 A. No, he had not. 10:56:07

21 Q. If you would, go to Exhibit 415.

22 MR. SEXTON: Which is in evidence pursuant to
23 stipulation, Your Honor.

24 THE COURT: All right.

25

CONSTANCE TAYLOR - Direct

1	BY MR. SEXTON:	10:56:35
2	Q. Is this an amendment to that sales contract we were just	
3	looking at in Exhibit 143?	
4	A. Yes.	
5	Q. And if you look at the very bottom, does it explain what	10:56:47
6	the event is at the top?	
7	A. Yes, it does.	
8	Q. What does it say?	
9	A. It says, "Buyer chooses to use \$4500 septic enlargement	
10	money to purchase furniture in lieu of repairing/replacing	10:57:01
11	system."	
12	Q. And then if we could go down to the signature section	
13	right above -- below that. All right. And when was this	
14	amount to the contract executed?	
15	A. August 23.	10:57:18
16	Q. And who signed on behalf of the buyer?	
17	A. James Parker.	
18	Q. Is there anything about Cimarron River Ranch or Samuel	
19	Parker there?	
20	A. No.	10:57:32
21	Q. Who signed on behalf of the Grosses?	
22	A. Robert and Becky Gross.	
23	Q. Both of them signed there?	
24	A. Yes.	
25	Q. Now let's go to Exhibit 144.	10:57:41

United States District Court

CONSTANCE TAYLOR - Direct

1 MR. SEXTON: This is in evidence, Your Honor, per the 10:57:52
2 stipulation.
3 BY MR. SEXTON:
4 Q. Is this another amendment to that same contract for the
5 offer of one million dollars for the property? 10:58:00
6 A. Yes.
7 Q. Let's highlight this paragraph number nine down here. Is
8 this the purpose of the modification, this paragraph?
9 A. That's correct.
10 Q. Okay. Can you read -- it's kind of hard to read. Would 10:58:20
11 you read that for the jury, what's in paragraph nine there?
12 A. I think it says, "James Parker has reassigned his new" --
13 well, it's -- basically, what it's saying is that he's
14 reassigned the name to RSJ Investments, LLC.
15 Q. So what's the effect of this modification? 10:58:47
16 A. He's just buying it in the name of the LLC, RSJ
17 Investments versus buying it as James Parker.
18 Q. And then looking at the bottom of this document, is this
19 document just a modification executed on August 30 of 2005?
20 A. That's correct. 10:59:07
21 Q. And then is it signed by James Parker individually?
22 A. Yes.
23 Q. And then the Grosses individually?
24 A. Yes.
25 Q. When did you first meet Mr. Parker face-to-face? When was 10:59:27

United States District Court

CONSTANCE TAYLOR - Direct

1 the first time you did that? 10:59:31

2 A. During the option period of this contract when he came to
3 view the property.

4 Q. Is this view something that just you and he did just
5 because you have access to the house to have him go look at the 10:59:41
6 house or was this with the Grosses around?

7 A. Well, Jackie came with him to view the property initially
8 and then we went back to see the property again that evening.

9 Q. So is there a viewing of the property with just Mr. and
10 Mrs. Parker? 10:59:57

11 A. M'hum.

12 Q. With you?

13 A. Yes.

14 Q. Going to the Grosses' house?

15 A. Yes. 11:00:04

16 Q. And then there's a subsequent visit in which the Grosses
17 are there?

18 A. Yes, that's correct.

19 Q. In the context that you're becoming acquainted with
20 Mr. Parker, did you ever have any conversations about his 11:00:16
21 Phoenix home?

22 A. Just that it was for sale, that he had it listed there.
23 that it was in a nice subdivision. I'm trying to remember. I
24 think he told me that I believe John McCain lived in that
25 subdivision. I can't remember right but I think that's 11:00:40

United States District Court

CONSTANCE TAYLOR - Direct

1 correct. 11:00:44

2 Q. Anything else you can remember about him talking about his
3 Phoenix home?

4 A. Just that he hoped it sold.

5 Q. Now, before the next time you came to the house with Mr. 11:00:53
6 and Mrs. Parker when the Grosses would be there, did you and
7 Mr. Parker have a conversation about him proposing a different
8 offer on the house?

9 A. Well, he just wanted -- he decided that he felt like maybe
10 he was paying too much for that house and that he would like to 11:01:17
11 have the furniture included in the house. He wanted the
12 Grosses to include the furniture in the purchase of the house.
13 And I just told him, you know, I would propose that but I
14 didn't think that was going to work and maybe we should go look
15 at some other houses if he felt that way. And he decided that 11:01:36
16 he liked that house and he was going to proceed with it and we
17 were going to go look at furniture that evening to possibly
18 purchase some.

19 Q. So in this process -- first off, as to this
20 counterproposal to throw in the furniture -- 11:01:53

21 A. M'hum.

22 Q. -- did he actually ask you to make that counterproposal to
23 the Grosses?

24 A. I can't remember. We just discussed it. I think at the
25 end he decided that -- I told him that it wasn't going to work. 11:02:14

CONSTANCE TAYLOR - Direct

1 He wanted to and I told him I would do it but it wasn't 11:02:18
2 probably going to work. I think I actually did call the
3 Grosses and say he wanted to know if the furniture -- you know,
4 that some of the furniture could be included in the house and I
5 think they told me they would sell it to him. 11:02:30
6 Q. In addition to the million dollar price for the home?
7 A. Yes, m'hum.
8 Q. So prior to Mr. and Mrs. Parker coming over to the home
9 when the Grosses were there, was there some discussion about
10 the Grosses willing to offer for sale some of their furniture 11:02:45
11 in their home?
12 A. Yes, there was.
13 Q. So before you got over there, did Mrs. Gross actually put
14 down some almost like price tags on some of the furniture that
15 she wanted to sell? 11:03:05
16 A. Yes. She had lists and she had price tags on some of the
17 furniture and that was just the easiest way to do it. I wasn't
18 taking a commission or anything on any of this. It was just I
19 was just trying to facilitate this so that they could buy
20 furniture if they wanted to at whatever price was on the 11:03:21
21 furniture.
22 Q. So did there come a time where Mr. and Mrs. Parker, with
23 you, visited Mr. and Mrs. Gross at this home for the purpose of
24 looking at the furniture that the Grosses were willing to sell?
25 A. Yes. The buyer and the sellers were there and -- 11:03:39

United States District Court

CONSTANCE TAYLOR - Direct

1 Q. Let me just set the stage a little bit if I could. 11:03:44
2 A. Okay.
3 Q. Besides you and Mr. and Mrs. Gross and Mr. and
4 Mrs. Parker, was anybody else there?
5 A. Samuel was there. 11:03:52
6 Q. Now if you would, from the standpoint of going around the
7 house, who physically went around the house looking at the
8 property with you?
9 A. Becky Gross and James and Jackie Parker pretty much were
10 the ones that walked around. Bob Gross was there, Samuel was 11:04:18
11 there, but we were the four that basically walked around. And
12 I had a pad and was writing down exactly what they were going
13 to be taking.
14 Q. Now, from the standpoint of this house, how long did it
15 take the four of to basically walk around the house and look at 11:04:33
16 all of the items and finish up and say, "These are the ones we
17 want, these are the ones we don't want"?
18 A. Well, a pretty long time because James was talking to
19 Jackie and saying, "Do you like this?" or, "Do you want that?"
20 And they were talking and Becky told them some stuff about some 11:04:51
21 of the furniture. So I would say a couple of hours, two or
22 three hours just to do that.
23 Q. Now, if you would look at Exhibit 141 --
24 MR. SEXTON: Which is in evidence through the
25 stipulation, Your Honor. 11:05:06

United States District Court

CONSTANCE TAYLOR - Direct

1 Q. First off, the first page, does that show the amount of 11:05:17
2 money spent on furniture that evening?
3 A. Yes.
4 Q. And how much was it?
5 A. \$72,400. 11:05:26
6 Q. Now, at the bottom, who signs this what you refer to as a
7 non-realty items addendum to the contract? Who signs that on
8 behalf of the purchaser of that furniture?
9 A. James Parker and the Grosses.
10 Q. And then are the next -- well, let's just go to the third 11:05:51
11 page. Is the third page sort of a summary per room of what was
12 bought from a dollar standpoint?
13 A. That's correct. It does so from the amendment minus the
14 septic credit on this.
15 Q. And then let's just start with page four to give the jury 11:06:17
16 a sense of what follows here. Are these the individual rooms
17 and the items within those rooms that were sold?
18 A. That's correct.
19 Q. Is that your handwriting that has the word "complete"
20 there? 11:06:31
21 A. Yes.
22 Q. Now, as far as the price tags on the furniture, was there
23 any haggling going on at all? "I'll give you 300 for that"?
24 A. No. There really wasn't.
25 Q. And this goes on for how many pages of listing of items of 11:06:52

United States District Court

CONSTANCE TAYLOR - Direct

1 furniture? 11:06:55
2 A. I don't have that in 141.
3 Q. It's Exhibit 141 --
4 MR. MINNS: And I object to asking this witness to
5 count the pages. It's in evidence. If the jurors have an 11:07:03
6 interest in counting it --
7 THE COURT: Sustained.
8 MR. SEXTON: Alrighty.
9 BY MR. SEXTON:
10 Q. Let's go to page five. That's the second page of the 11:07:12
11 listing of the items that were purchased that night?
12 A. Correct.
13 Q. Page six, is that the third page of the items that were
14 listed including items in the guest house?
15 A. Correct. 11:07:29
16 Q. And then, finally, the outdoor patio furniture is listed
17 on page seven?
18 A. Correct. There's one item on here that says missing, will
19 reimburse at closing. I think this is when I took inventory
20 and there was one item that I think the neighbors had packed up 11:07:53
21 so . . .
22 Q. And then if you would look at Exhibit 414, is that the --
23 MR. SEXTON: That's in evidence per stipulation, Your
24 Honor.
25

CONSTANCE TAYLOR - Direct

1 BY MR. SEXTON: 11:08:14

2 Q. -- is that the check for the furniture within the Grosses'

3 house?

4 A. Yes.

5 Q. And who was the check from up in the upper left-hand 11:08:19

6 corner?

7 A. RSJ Investments, LLC.

8 Q. And then Exhibit 146 which is in evidence, take a look at

9 that. Is this the settlement statement?

10 All right. Let's kind of go to the bottom two-thirds 11:08:50

11 of this, starting with the amounts of a million dollars up in

12 the purchase price.

13 MR. MINNS: Objection to the statement. It doesn't

14 appear to be a question.

15 THE COURT: Sustained. 11:09:06

16 MR. MINNS: Instruction that it be stricken.

17 THE COURT: All right.

18 Ladies and gentlemen, the description at the bottom

19 is a statement that you are to ignore.

20 BY MR. SEXTON: 11:09:22

21 Q. Is this the escrow statement or settlement statement from

22 that consummated sale?

23 A. Yes.

24 Q. Now, at the bottom, who signs on behalf of the borrower

25 purchaser? Can you make it out? 11:09:32

United States District Court

CONSTANCE TAYLOR - Direct

1	A.	Sam Parker.	11:09:34
2	Q.	Okay. And then what's it say just below his signature?	
3	A.	RSJ Investments, LLC.	
4	Q.	And this is signed on what date to the right?	
5	A.	September 14, 2005.	11:09:47
6	Q.	And then right up above, it shows in what's box number 205	
7		the amount of money that was -- it says "wired in." Do you see	
8		that?	
9	A.	Yes.	
10	Q.	How much does it say?	11:10:03
11	A.	\$990,000.	
12	Q.	Was it actually wired or was a check give to you?	
13	A.	It actually was not wired. Actually, it was a cashier's	
14		check.	
15	Q.	Take a look at Exhibit 148. Is that the cashier's check	11:10:16
16		which is in evidence?	
17	A.	That's the check.	
18	Q.	Is this for the balance of \$1 million after the earnest	
19		money of 10,000?	
20	A.	That's correct?	11:10:35
21	Q.	And who is the maker of this check in the upper lend	
22		corner?	
23	A.	RSJ Investment, LLC.	
24	Q.	And how did this check get into your hands?	
25	A.	James and Jackie were going to be driving through Amarillo	11:10:47

United States District Court

CONSTANCE TAYLOR - Cross

1 on a Sunday so they asked me to meet them. And I met them I 11:10:50
2 think it was at The Homewood Suites and they just pulled up and
3 I pulled up and got the check from them and I took it to the
4 title company and had them put it in their vault.

5 MR. SEXTON: That's all for me, Judge. 11:11:15

6 THE COURT: All right.

7 Cross?

8 MR. MINNS: Please, Your Honor.

9 **CROSS - EXAMINATION**

10 BY MR. MINNS: 11:11:38

11 Q. It's still morning. Good morning, Ms. Taylor?

12 A. Good morning.

13 Q. I'm Michael Minns. We have not had an opportunity to
14 meet; correct?

15 A. That's correct. 11:11:44

16 Q. You probably figured out from the seating arrangement that
17 I represent Jim Parker.

18 A. That's correct.

19 MR. MINNS: If I could publish Exhibit 148. It's
20 just been discussed and is in evidence. 11:12:05

21 BY MR. MINNS:

22 Q. Ms. Taylor, that's the check that you just discussed just
23 a couple of minutes before I got up here. It's made out. It
24 came from something called RSJ Investment, LLC; correct?

25 A. Yes. 11:12:30

CONSTANCE TAYLOR - Cross

1 Q. Mr. and Mrs. Parker handed it to you? 11:12:31

2 A. That's correct.

3 Q. I would assume ordinarily you get -- you take funds to the
4 title company or you just receive funds from the title company.
5 You've done both? 11:12:43

6 A. Yes.

7 Q. And also your commission doesn't come from this, from RSJ
8 Investments. It comes from the title company after the
9 statement is finalized and the deal goes through?

10 A. That's correct. 11:13:01

11 Q. You've testified about a letter from -- and I'm going to,
12 with the Court's permission, post Exhibit 139 -- somebody who
13 says to you he's a CPA; correct?

14 A. That's correct.

15 Q. And even to this day, I think it would be fair for you to 11:13:25
16 assume that he probably is a CPA.

17 A. Correct.

18 Q. And this CPA is telling you, and I've highlighted this,
19 "It appears Jim has cash reserves available to purchase a one
20 million dollar residence." Correct? 11:13:39

21 A. Correct.

22 Q. And it appears that this person is the person that does
23 the Parkers' individual and corporate tax return, a person that
24 they possibly relied on since 1977?

25 A. 1997. 11:13:56

CONSTANCE TAYLOR - Cross

1 Q. Thank you. I apologize. You're correct. 11:13:57
2 You have to catch things like that as a realtor,
3 don't you?
4 A. I do.
5 Q. What this tells us, reading these two documents, is the 11:14:08
6 source of these cash reserves is, obviously, RSJ Investments,
7 LLC; right?
8 A. Correct.
9 Q. And your clients and buyers are happy with that. The sale
10 went through and they received the funds that they were legally 11:14:25
11 entitled to?
12 A. Well, my clients were the buyer and the seller.
13 Q. Yes, ma'am.
14 A. Yes, m'hum.
15 Q. Well, in this particular time, I would imagine you had 11:14:35
16 happy clients on both sides.
17 A. I think so, yes.
18 Q. The sellers needed to sell the house?
19 A. Right.
20 Q. They had listed it at a million and a half dollars and 11:14:51
21 apparently --
22 A. I think it was 1.3.
23 Q. 1.3?
24 A. M'hum.
25 Q. So they were taking more than a 30 percent reduction in 11:14:56

CONSTANCE TAYLOR - Cross

1 the acceptance if they listed it 1.3 and sell it for one 11:15:00
2 million, they are taking a very significant difference?
3 A. Correct.
4 Q. And sometimes people in your business, we would call that
5 a motivated seller. They are motivated; for whatever reasons, 11:15:12
6 they wanted to sell?
7 A. Right.
8 Q. And so it's available at a bargain to the buyer when
9 someone is motivated to sell?
10 A. Well, I mean, I think they wanted to sell their house. I 11:15:27
11 don't think they were ready to just give it away but I think
12 they wanted to sell. I mean, I have properties now that I've
13 had for -- that are close to two million that I just reduced
14 \$300,000. I mean, it's -- we're in Amarillo, Texas. Over a
15 million dollars is a tougher market. 11:15:46
16 Q. Well, today -- I'm thinking this was in 2005. Today in
17 2012 the market has crashed, has it not?
18 A. Not in Amarillo.
19 Q. Amarillo is still doing good?
20 A. Yes. 11:16:01
21 Q. Would the Parkers be able to get their money out of the
22 house today?
23 A. I would hope they could. If it's in the condition that it
24 was sold for when I sold it to them, same condition.
25 Q. And Exhibit 414 is a check you've talked about and that 11:16:13

CONSTANCE TAYLOR - Cross

1 also -- the source of that funds is -- you can see I'm not 11:16:17
2 great at this, huh -- RSJ Investments also; correct?
3 A. Correct.
4 Q. And the signature on that is Sam Parker, the son who you
5 personally met? 11:16:35
6 A. Correct.
7 Q. And you had an opportunity to talk with a woman I'm
8 pointing to -- I apologize for pointing -- who identified
9 herself to you as Ms. Ingle; correct?
10 A. Correct. 11:16:53
11 Q. Do you know whether or not her correct and true name is
12 Ms. Giovannelli?
13 A. I mean, I just know -- I know her as Lisa. She's given me
14 her name but I don't remember which --
15 Q. Whatever she says she is, you're going buy it? 11:17:12
16 A. I had a card. I had a card from her that she gave me the
17 first time that she came to my office. I don't still have that
18 card but I did.
19 MR. MINNS: Your Honor, if I could approach the
20 witness with a memorandum of interview. I'm not offering it. 11:17:26
21 I'll hand it to the government so they can read my personal
22 notes on it before I hand it to the witness.
23 THE COURT: All right.
24 MR. SEXTON: You're going to give it to her with your
25 notes on? 11:17:51

CONSTANCE TAYLOR - Cross

1 MR. MINNS: Pardon? 11:17:53

2 MR. SEXTON: You're going to give it to her with your
3 notes indicating?

4 MR. MINNS: I don't have any other copy.

5 THE COURT: Is there a problem? 11:17:59

6 MR. SEXTON: Well, he's written something on there
7 that I think shouldn't be on there.

8 THE COURT: Well, he's not offering it into evidence;
9 right?

10 MR. MINNS: I'm not offering it. I just wanted her 11:18:06
11 to identify the name Lisa Ingle on it.

12 THE COURT: Okay. Let's have her --

13 MR. SEXTON: We'll stipulate that Lisa Ingle is Lisa
14 Giovannelli right here.

15 THE COURT: Okay. That's fine. 11:18:19

16 MR. MINNS: If the government will stipulate that
17 Ms. Giovannelli told her she was Ms. Ingle, then we can go on
18 to the next question.

19 THE WITNESS: I don't recall really. I'm just being
20 honest. 11:18:31

21 BY MR. MINNS:

22 Q. You are. And that's why I wanted to show you this, to
23 refresh your memory.

24 THE COURT: Well, the United States government has
25 agreed that they are one and the same. Is there some other 11:18:38

CONSTANCE TAYLOR - Cross

1 reason? 11:18:38

2 MR. MINNS: Yes. She introduced her --

3 MR. SEXTON: Her name is --

4 THE COURT: Hold on, hold on, hold on. Let him

5 finish. 11:18:45

6 Go ahead.

7 MR. MINNS: I'll accept his explanation and move on,

8 Your Honor.

9 THE COURT: All right. Let's move on.

10 BY MR. MINNS: 11:19:11

11 Q. When you met with Miss Giovannelli -- and I apologize, am

12 I pronouncing it correctly?

13 MR. SEXTON: That's close enough.

14 Q. When you met with Ms. Giovannelli, and you told her that

15 you didn't find any of this to be unusual, that you had dealt 11:19:29

16 with -- I believe the words that you used trust fund baby

17 clients before; correct?

18 A. That's correct.

19 Q. And you didn't find, based on your experience, parents

20 negotiating for their children for trust funds or funds very, 11:19:44

21 very common; correct?

22 A. Well, Amarillo is a big ranching area so there's families

23 there that do sorts of things, trusts, that sort of thing to --

24 for their families, yes, for the children.

25 Q. Did you find it necessary to tell Ms. Ingle that it was 11:20:13

CONSTANCE TAYLOR - Cross

1 not unusual because she was kind of hinting that maybe there 11:20:16
2 was something wrong with it or something unusual with it? What
3 was the reason why you --

4 A. I don't think she thought anything was unusual about it.
5 She was asking me about RSJ Investments and I was telling her 11:20:29
6 how that name -- what James had told me how that name came to
7 be. It was named after the first initials of his children so
8 that was the conversation.

9 Q. The first three names being Rachel, Samuel, and James?

10 A. Correct. 11:20:48

11 Q. And one of the three young people you actually had the
12 pleasure of meeting?

13 A. Yes. I met Samuel at the house the night the furniture
14 was purchased.

15 Q. And it might just be that he made a good impression on you 11:20:57
16 or you just have a great memory, but it's seven years later and
17 you still remember meeting the young man?

18 A. Yes, I do.

19 MR. MINNS: And I'm putting, with the Court's
20 permission, Government's Exhibit -- oh Plaintiff's Exhibit -- 11:21:21
21 yeah, that's the government, Plaintiff's Exhibit, Government's
22 Exhibit 141 on the screen.

23 BY MR. MINNS:

24 Q. On that exhibit, which is the non-realty items addendum to
25 the contract, on the signature line, it says James Parker 11:21:41

CONSTANCE TAYLOR - Cross

1 and/or assigned. 11:21:45

2 When you were asked James Parker on there, you
3 weren't asked to read the full signature line but I am going to
4 ask you to read the full signature line.

5 A. James Parker and/or assigned. 11:22:02

6 Q. And in your practice with these substantial residences and
7 ranches, it's a very, very, very common for there to be
8 assignees, assignors, and ultimately ends with somebody
9 different than the original signors owning the property itself?

10 A. It happens sometimes. It happens more in commercial 11:22:24
11 properties I think than it does in residential but it does
12 happen.

13 Q. And in this one, it happened on -- over and over again.

14 MR. MINNS: If I could put Government's Exhibit 144
15 on the stand which is amendment to the document, amendment to 11:22:38
16 contract concerning property. If I could move down to the
17 bottom.

18 Q. It's there again on this document, too. It says buyer
19 James Parker and/or assigned; correct?

20 A. Correct. 11:23:00

21 Q. And that tells you, and perhaps everyone else, that there
22 is a distinct possibility that James Parker is not the actual
23 buyer and in this case it turns out and you weren't surprised,
24 having been told previously who RSJ Investments was --

25 MR. SEXTON: Objection to the form of the question. 11:23:21

CONSTANCE TAYLOR - Cross

1 THE COURT: Wait, wait. He's not finished. 11:23:22

2 BY MR. MINNS:

3 Q. That who the ultimate owner was --

4 MR. MINNS: And I'm posting Government's Exhibit 142

5 on, publishing that with the Court's permission. 11:23:33

6 THE COURT: All right. And ask a question.

7 BY MR. MINNS:

8 Q. The ultimate purchaser was, in fact, RSJ Investments, LLC?

9 A. That's correct.

10 Q. As a realtor and a licensed real estate salesperson in the 11:24:07

11 state of Texas, you study the chain of title; correct?

12 A. What chain of title?

13 Q. I'm sorry. Well, you've learned that someone to sell

14 property must be in the chain of title; correct?

15 A. M'hum. 11:24:29

16 Q. And if you find out -- sometimes you do at closing -- that

17 someone you're negotiating with isn't in the chain of title,

18 you've got to find people in the chain of title and get them to

19 agree with it or you can't consummate the sale; correct?

20 A. Well, title company does a search for that. 11:24:43

21 Q. Right. And you've had situations arise where the title

22 company said, "This person not in the chain of title and we

23 can't write a title policy on him"?

24 MR. SEXTON: Objection. Beyond the scope of direct

25 and it's an improper -- he's seeking improper opinion 11:24:56

CONSTANCE TAYLOR - Cross

1 testimony. 11:25:01

2 THE COURT: Sustained without foundation.

3 BY MR. MINNS:

4 Q. Is it important to you when you're taking a listing for a
5 client that the client who is trying to sell property and 11:25:13
6 listed on the title company's chain of title?

7 MR. SEXTON: Objection. Same objection and adding
8 relevance.

9 THE COURT: Overruled.

10 THE WITNESS: Would you ask the question again? 11:25:26

11 BY MR. MINNS:

12 Q. Yes, ma'am. You've got a listing, someone has come to you
13 and asked you to use your skills to sell their property. And
14 the title company tells you they are not in the chain of title.
15 Is it important to you, when you take a listing, that the 11:25:43
16 person who gives you the listing to sell the property be in the
17 chain of title and capable of selling?

18 A. Yes, but I don't always get the information from the title
19 company. I can go to the appraisal district to start there.

20 Q. So there are many places where you can find out who has 11:26:01
21 the right to sell the property?

22 A. Correct.

23 Q. And it is important to you to make sure, before a sale can
24 go through, who actually owns the property?

25 A. Yes. 11:26:19

CONSTANCE TAYLOR - Cross

1 Q. And while you probably haven't been following the chain of 11:26:20
2 this title for the last seven years --
3 A. No, I haven't.
4 Q. -- you do know that as of September 9, 2005, title was
5 placed in RSJ Investments, LLC? 11:26:30
6 A. Okay.
7 Q. Would that be true?
8 A. Sure, yeah. I mean, well, the property was sold to RSJ
9 Investments.
10 Q. And the arrangement that you and the government have been 11:26:44
11 speaking of, it happens a great deal where both parties trust
12 the realtor and both parties say, "We will rely on the honesty
13 of this realtor"?
14 A. Sure.
15 Q. And that's what happened in this case. Both parties 11:26:58
16 trusted your skills and integrity, sure.
17 And you didn't let them down. The sale went through
18 and you watched everything?
19 A. That's correct.
20 Q. Including that \$1,000, you made certain, when you didn't 11:27:09
21 see that inventory on one piece of the property, you brought
22 that to everyone's attention?
23 A. Correct.
24 Q. Ms. Taylor, welcome to Arizona. I hope you have a happy
25 trip home. 11:27:35

CONSTANCE TAYLOR - Redirect

1 MR. MINNS: Your Honor, with the Court's permission, 11:27:36
2 I thank Ms. Taylor and pass the witness.

3 THE COURT: Mr. Sexton?

4 **REDIRECT EXAMINATION**

5 BY MR. SEXTON: 11:27:54

6 Q. Turning back to Exhibit 139 if you would. We'll put it on
7 the screen.

8 Does this letter in any way reference anybody other
9 than James Parker individually or in his corporate capacity?

10 A. No. 11:28:12

11 Q. Other than meeting Sam Parker on that one evening, was he
12 ever involved in any of the negotiations associated with the
13 purchase of this piece of property?

14 A. No.

15 Q. Did you ever meet or discuss this with -- 11:28:28

16 MR. MINNS: Pardon me. Your Honor, these are exactly
17 the same questions he has gone on on direct.

18 THE COURT: Overruled.

19 BY MR. SEXTON:

20 Q. Next question was, did you ever meet and discuss this with 11:28:39
21 their daughter?

22 MR. MINNS: Oh.

23 THE WITNESS: I met Rachel.

24 BY MR. SEXTON:

25 Q. Did you ever discuss and negotiate with her with regard to 11:28:52

CONSTANCE TAYLOR - Redirect

1 the purchase of this property on Turkey Track? 11:28:54
2 A. No.
3 Q. Did you ever even meet James, Jr.?
4 A. No.
5 MR. SEXTON: No further questions. 11:29:03
6 THE COURT: All right. You may step down.
7 (Witness excused.)
8 THE COURT: Your next witness?
9 MR. SEXTON: Dr. Robert Gross.
10 MS. ARNETT: Could we approach the sidebar, Your 11:29:15
11 Honor.
12 THE COURT: About what?
13 MS. ARNETT: About the next witness.
14 THE COURT: Was this something that we took up
15 before? 11:29:20
16 MS. ARNETT: No, Your Honor.
17 (At sidebar.)
18 THE COURT: Is this new?
19 MS. ARNETT: Yes, Your Honor. I didn't know that
20 Connie Taylor would be talking about the sale of the real 11:29:40
21 estate items inside the house or I would have brought it up at
22 the. Break but they have two more witnesses coming in, Dr.
23 Gross and his wife Becky Gross, and they are both going to talk
24 about the sale of the house, which has already been discussed
25 in the sale of the real estate items. In fact, when Mr. Perkel 11:29:55

CONSTANCE TAYLOR - Redirect

1 had talked about giving us a description of what these -- what 11:30:00
2 their witnesses were going to be talking about, they have in
3 the exact duplicate copy --

4 THE COURT: So why are they each going to be called
5 and why is it different? 11:30:09

6 MR. SEXTON: Well, Mr. Gross, Dr. Gross, is going to
7 have a private conversation in which he's going to talk about
8 what Mr. Parker told him about what his financial assets were
9 and he's doing with some of the money he has.

10 Mrs. Gross, they objected to certain photos. She is 11:30:23
11 the only one that is going to be able to look at the photos
12 that they have objected to and say that the room of the house
13 with the -- that's the furniture we sold.

14 THE COURT: So are there photos of that?

15 MS. ARNETT: Yes, Your Honor. We had objected 11:30:40
16 previously to interior photos of the house -- I don't know the
17 date of these photos, if they represent the house that the
18 Parkers --

19 THE COURT: Let's ask.

20 Are they? 11:30:52

21 MR. SEXTON: Yes. And, Judge, these witnesses are
22 ten minutes.

23 THE COURT: Well, if they are going to stipulate to
24 the document --

25 MS. ARNETT: I'll stipulate to the witnesses. 11:31:00

CONSTANCE TAYLOR - Redirect

1 MR. SEXTON: I would still like to show it to the 11:31:04
2 jury.

3 THE COURT: They can see it later. They are
4 stipulating to the admission of it. I mean, you have a whole
5 listing, as you said, seven pages. What else do they need? 11:31:09
6 Seven pages of --

7 MR. SEXTON: Seven pages of what?

8 THE COURT: Seven pages of what the -- of the
9 furniture; right?

10 MR. SEXTON: Yeah. I think there's -- I mean, to 11:31:21
11 look at the house, it shows --

12 THE COURT: Are we talking about a Rolls Royce inside
13 the house? What are the photos going to show?

14 MR. SEXTON: It's an absolutely gorgeous house.

15 THE WITNESS: It's a beautiful mansion. The interior 11:31:35
16 is first rate.

17 THE COURT: They have stipulated to it. So you can
18 use it in closing or you can use it when you have stipulated
19 documents. We don't need witnesses to sit up there and say
20 it's gorgeous. 11:31:48

21 MR. SEXTON: I said that just a second ago and I
22 brought two people in to talk about their dealings with
23 Mr. Parker.

24 THE COURT: I'm not going to allow it.

25 MR. SEXTON: You're not going to allow either 11:31:59

ROBERT GROSS - Direct

1 witness? 11:32:01

2 THE COURT: Well, if they had private conversations.

3 If they have private conversations, that's different. The

4 photos are in evidence. I'm not going to allow the jury to see

5 the photos that are already admitted. Private conversations, 11:32:10

6 yes.

7 (End sidebar.)

8 MR. SEXTON: Dr. Gross?

9 ROBERT GROSS,

10 called as a witness herein by the Government, having been first 11:32:56

11 duly sworn or affirmed to testify to the truth, was examined

12 and testified as follows:

13 COURTROOM DEPUTY: State your name for the record and

14 spell your last name, please.

15 THE WITNESS: Robert Gross. G-R-O-S-S. 11:33:06

16 **DIRECT EXAMINATION**

17 BY MR. SEXTON:

18 Q. Good morning.

19 A. Good morning.

20 Q. Would you introduce yourself to the Court and to the jury, 11:33:36

21 please?

22 A. I'm Robert Gross from Kenyon, Texas.

23 Q. Are you a medical doctor, sir?

24 A. Yes, sir.

25 Q. What's your practice? 11:33:45

United States District Court

ROBERT GROSS - Direct

1 A. Where? 11:33:47
2 Q. What is your practice?
3 A. Family practice.
4 Q. Were you the owner of the home that was sold to James
5 Parker at 218 Turkey Track Trail in Canyon, Texas? 11:33:57
6 A. Yes, sir.
7 Q. Do you see Mr. Parker in the courtroom? Is he the man
8 standing up?
9 A. Yes, sir.
10 Q. Sir, the house that was sold, how many acres of land were 11:34:21
11 you selling?
12 A. About three.
13 Q. And are there two structures on those threes acres?
14 A. Yes, sir.
15 Q. And is there, like, a main residence and then sort of a 11:34:36
16 guest house?
17 A. Yes.
18 Q. How big is the main residence?
19 A. I think it's 5300 square feet.
20 Q. How many bedrooms and baths in the main residence? 11:34:46
21 A. I believe there were four bedrooms and, I'm sorry, five
22 bedrooms and four baths.
23 Q. And then the guest house, how many square feet was that?
24 A. About 1500.
25 Q. On the evening when you first met the Parkers when they 11:35:22

United States District Court

ROBERT GROSS - Direct

1 came over to look at your furniture items, do you remember that 11:35:27
2 evening?
3 A. Yes, sir.
4 Q. Did you accompany Mr. and Mrs. Parker and your wife as
5 they went room to room or did you stay and chat with Samuel 11:35:36
6 Parker that evening?
7 A. I spent most of the time chatting with their son.
8 Q. During the time that you were with James Parker that
9 evening -- first off, what kind of car did they drive up in to
10 your house? 11:35:59
11 A. Hummer, gray Hummer.
12 Q. And did you ever have any conversations with Mr. James
13 Parker about any other vehicle that he owned?
14 A. Somehow it came up that he had had a problem with a flat
15 tire on a Rolls that he owned? 11:36:13
16 Q. And what did you and he talk about in that regard?
17 A. The costs of fixing the flat tire.
18 Q. And what was the price?
19 A. I think he said \$1500.
20 Q. Did he in any way describe to you sort of the nature of 11:36:25
21 how a Rolls Royce flat tire is fixed?
22 A. I think he said that a truck had to come out and pick it
23 up and then take it back in to the dealer to fix it.
24 Q. Did you talk to him at all about sort of the practicality
25 of a Rolls Royce in this part of the country? 11:36:46

United States District Court

ROBERT GROSS - Direct

1 A. Yes, sir. 11:36:48

2 Q. What did you say to him?

3 A. I said, "Don't bring it here."

4 Q. Were you more specific than that about why he shouldn't
5 bring it there? 11:36:55

6 A. Well, the roads are not the best in the world in the
7 winter. In the summer, all they do is dump gravel and hot tar
8 on them so it's not conducive to driving a Rolls Royce. And
9 you can't get it fixed probably anywhere west of Dallas.

10 Q. Now, when you were talking to Mr. James Parker, was there 11:37:10
11 any discussion between the two of you about his Phoenix
12 residence?

13 A. I remember they had said their home was for sale and that
14 it had been their dream home, put a lot of effort into it. And
15 this home, ours that they were looking at, reminded it of 11:37:31
16 theirs.

17 Q. And did they have anything for you to look at in regard to
18 what the appearance of the Phoenix home looked like?

19 A. I remember a real estate laminate book that had a very
20 beautiful entrance to a home. 11:37:47

21 Q. And did you and he discuss at all what his plans were in
22 the part of the country he was moving to in Texas? What was he
23 planning to do?

24 A. He said that they were going to be getting into the cattle
25 business, ranching business in some of the areas of Oklahoma 11:38:09

United States District Court

ROBERT GROSS - Cross

1 and wanted to use Canyon as a base of operations because it was 11:38:14
2 a nice town, lot of activity, close to Amarillo and then was
3 thinking about doing a western theme town somewhere.

4 MR. SEXTON: That's all I have, Judge. Thank you.

5 THE COURT: All right. 11:38:54

6 Cross?

7 **CROSS - EXAMINATION**

8 BY MS. ARNETT:

9 Q. Hi, Dr. Gross. I'm Ashley Arnett and I represent
10 Mr. Parker. We haven't had a chance to meet; correct? 11:39:06

11 A. Correct, yes.

12 Q. And you actually sold the home in Canyon to RSJ
13 Investments; correct?

14 A. Yes.

15 MS. ARNETT: Thank you, Your Honor. No further 11:39:18
16 questions.

17 THE COURT: All right.

18 Redirect?

19 MR. SEXTON: No. Thank you, Judge.

20 THE COURT: You may step down. 11:39:24

21 (Witness excused.)

22 THE COURT: Your next witness?

23 MR. PERKEL: Yes, Your Honor.

24 THE WITNESS: The government calls Bill Grace.

25 THE COURT: Let me see counsel at the sidebar for a 11:39:35

ROBERT GROSS - Cross

1 moment. 11:39:37

2 (At sidebar.)

3 THE COURT: One issue Mr. Minns raised with this

4 witness about bankruptcy.

5 MR. MINNS: I think he was in prison for bankruptcy 11:39:58

6 fraud.

7 MS. ARNETT: He was.

8 THE COURT: So are you going to intend to bring that

9 up?

10 MR. PERKEL: I was just briefly and I plan on doing 11:40:05

11 exactly what you want. I'm going to cut out any background and

12 go right to specifics to make it easy.

13 THE COURT: He's an adverse witness for you then?

14 MR. PERKEL: No. He's just here to tell what he

15 knows. 11:40:17

16 THE COURT: Why is the bankruptcy an issue?

17 MR. PERKEL: I'm bringing it up because I'm assuming

18 Mr. Minns going to cross him on it. If he doesn't cross him on

19 it, I won't even bring anything up.

20 MR. MINNS: I probably would. I don't know. As I 11:40:31

21 told the Court, I mean, I understand that he needs to bring

22 that up.

23 THE COURT: He can draw this so I'm going to let him.

24 Okay.

25 (End sidebar.) 11:40:43

United States District Court

WILLIAM GRAVES - Direct

1 WILLIAM GRAVES, 11:40:43

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

5 COURTROOM DEPUTY: State your name for the record, 11:41:07
6 spell your last name, please.

7 THE WITNESS: William Graves, G-R-A-V-E-S.

8 COURTROOM DEPUTY: Great. Have a seat right up here,
9 please, sir.

10 **DIRECT EXAMINATION** 11:41:17

11 BY MR. PERKEL:

12 Q. Mr. Graves, could you please introduce yourself to the
13 jury?

14 A. Could you repeat?

15 Q. Please state your name for the record. 11:41:43

16 A. Yes. Bill Graves.

17 Q. Mr. Graves, without telling us your specific address,
18 where do you currently reside?

19 A. Phoenix, Arizona.

20 Q. And how long have you been a resident of Phoenix? 11:41:53

21 A. Since 1968.

22 Q. And, Mr. Graves, are you employed or what do you do for a
23 living?

24 A. I'm partly retired and I also do consulting work.

25 Q. And the consulting work that you do, in what area do you 11:42:07

United States District Court

WILLIAM GRAVES - Direct

1 do that work? 11:42:13

2 A. Real estate.

3 Q. And do you have a background in real estate?

4 A. Yes.

5 Q. And how long have you worked in real estate for? 11:42:15

6 A. Since 1968.

7 Q. Do you know Charles Huey Demore and Walter Cave, the

8 partners of Universal?

9 A. Yes.

10 Q. And how do you know them? 11:42:29

11 A. Well, we've been both friends and they have been clients

12 of mine for a number of years.

13 Q. Are you an employee at Universal Partners?

14 A. No.

15 Q. What's your role? What would you say your role is at 11:42:41

16 Universal?

17 A. Independent consultant.

18 Q. And as independent consultant, what do you help them with?

19 A. Currently, I am helping them in the overseeing and

20 management of two mobile home parks in Avondale, Arizona. 11:42:59

21 Q. And I want to turn now to July of 2003 and August of 2005,

22 those two months and years, July of '03 and August of 2005.

23 Did you facilitate and help Universal Properties provide two

24 loans to Sunlight through James Parker?

25 A. Yes. 11:43:25

United States District Court

WILLIAM GRAVES - Direct

1 Q. And before we discuss this, I have to ask you, prior to 11:43:25
2 that, did -- years ago did you have -- unfortunately, did you
3 have an incident with law enforcement?

4 A. Yes, I did.

5 Q. And were you prosecuted? 11:43:39

6 A. Yes.

7 Q. Can you tell the jury really briefly what happened?

8 A. Well, in my capacity as a real estate broker, I was the
9 commercial real estate broker, had a fairly large operation and
10 during the period in the late eighties there was a regional 11:43:57
11 real estate crash and many properties went into receivership,
12 bankruptcy. And I was managing quite a number of properties
13 and I made the mistake of covering the funds for one of my
14 clients out of a common master real estate trust.

15 So what that meant was I paid moneys out of the trust 11:44:29
16 account for -- on behalf of party A when there weren't actually
17 enough funds in there to pay out those obligations. So it
18 meant that parties B, C, D, and E may have been -- well,
19 however many were short.

20 Q. And subsequent to the conduct, were you prosecuted because 11:44:54
21 of this?

22 A. Yes, I was.

23 Q. And were you actually convicted in 1990 in Maricopa County
24 for theft?

25 A. I believe the charge was unlawful conversion. 11:45:07

United States District Court

WILLIAM GRAVES - Direct

1 Q. And did you receive a probationary sentence? 11:45:11
2 A. Yes, I did.
3 Q. And in 1990 did you plead guilty or did you go to trial?
4 A. I pled guilty.
5 Q. And I want to -- in 1992 were you prosecuted by the U.S. 11:45:20
6 Attorney's Office for embezzlement by bankruptcy or bankruptcy
7 charge?
8 A. Yes.
9 Q. And was that because of the same conduct?
10 A. Yes. The shortage all arose out of one action. It just 11:45:33
11 simply was a case where the federal charges took an additional
12 period of time to come to fruition.
13 Q. And that was in 1992 approximately?
14 A. Yes.
15 Q. And subsequent to that, did you -- were you placed on a 11:45:48
16 term of probation or supervised release for about 36 months?
17 A. That's correct, yes.
18 Q. And did you do any jail time for the federal case?
19 A. Yes.
20 Q. Do you recall how many days? 11:46:00
21 A. It was approximately three months.
22 Q. After these convictions, did they alter your life?
23 A. Yes. My life was changed forever.
24 Q. And did you have, unfortunately, the bad experience of
25 having to abuse drugs or some substances? 11:46:18

United States District Court

WILLIAM GRAVES - Direct

1 A. Yes. Seeing my life had changed forever, I had always 11:46:23

2 felt proud that I could walk down the street and look anybody

3 in the eye and all of that changed in the twinkling of an eye

4 and I just wanted to bury my head and not see anything, yes.

5 Q. And, finally, because of the fact that this changed your 11:46:41

6 life, in 1997, were you convicted of a marijuana charge?

7 A. Yes.

8 MR. MINNS: Excuse me, Your Honor. I object to the

9 leading question, leading the witness to say that the marijuana

10 charge in 1997 was a result of the conduct in 1990. I object. 11:46:57

11 THE COURT: I'm going to overrule the objection based

12 upon our discussion at the sidebar.

13 Go ahead.

14 MR. PERKEL: Thank you.

15 BY MR. PERKEL: 11:47:15

16 Q. Let me ask a couple of questions about this today. As we

17 speak, are you abusing any illegal drugs?

18 A. No.

19 Q. And since the '97 conviction, did you continue to abuse

20 drugs or did you stop? 11:47:26

21 A. I haven't used drugs since then, no.

22 Q. And with regards to these convictions and this unfortunate

23 experience in your life, did you inform Mr. Cave and

24 Mr. Demore?

25 A. Yes. 11:47:38

WILLIAM GRAVES - Direct

1 Q. And you told them about the convictions? 11:47:38

2 A. Actually, they were aware of it prior to that.

3 Q. Okay. Let's now turn back to the matter at hand. And I

4 wanted to talk to you first briefly about the July of 2003

5 loan. We're not going to walk through the loan right now but I 11:47:56

6 want to ask you, did you assist in the negotiation of the July

7 2003 loan?

8 A. Yes.

9 Q. And did you have an opportunity to speak with the

10 defendant, Mr. Parker, with regards to that loan? 11:48:08

11 A. Yes.

12 Q. Now, that loan involved a mortgage broker, the 2003 loan.

13 That's all I'm referring to right now.

14 A. That's correct.

15 Q. And did you speak to her, too? 11:48:22

16 A. The mortgage broker? Yes. For that loan, most of the

17 communications did go through the mortgage broker and my

18 communication with Mr. Parker was very limited at that time.

19 Q. And who was the mortgage broker with regards to the 03

20 loan? 11:48:41

21 A. America's Home Funders.

22 Q. And what was the name of the individual that you spoke

23 with?

24 A. Karen Stiles and she was an agent for -- her license was

25 under American Home Funders and the actual broker was Donna 11:48:52

United States District Court

WILLIAM GRAVES - Direct

1 Gilbrick. 11:49:04

2 Q. And I would like to show you, which is not in evidence,
3 and I'm just going to put up on the screen in front of you, and
4 it's Government Exhibit 447, page two.

5 MR. PERKEL: This is not in evidence. 11:49:19

6 COURTROOM DEPUTY: It's not being shown to the jury.

7 BY MR. PERKEL:

8 Q. And is this a letter that you wrote?

9 A. Yes, it bears my signature.

10 THE COURT: Yes. It bears your signature. Okay. Go 11:49:35
11 ahead.

12 BY MR. PERKEL:

13 Q. And this is with regards to the July 31, 2003 loan?

14 A. Yes.

15 MR. PERKEL: Your Honor, at this time I offer this 11:49:48
16 exhibit into evidence.

17 MR. MINNS: It's hearsay. The witness wants to say
18 he told Mr. Parker something.

19 THE COURT: Okay. Is it being offered for the truth
20 of what is said in the exhibit? 11:50:01

21 MR. PERKEL: It's being offered to show the
22 communication between this witness and Mr. Parker.

23 THE COURT: All right. Overruled.

24 Ladies and gentlemen, it's admitted but the content
25 of the document, other than to whom it was written and from 11:50:11

United States District Court

WILLIAM GRAVES - Direct

1 whom it was made, those are the only portions of the exhibit 11:50:21
2 that you are to consider in deciding this case, not the
3 content. The content is irrelevant.

4 MR. PERKEL: Okay. Thank you.

5 (Exhibit Number 447 was admitted into evidence.) 11:50:39

6 BY MR. PERKEL:

7 Q. And with regards to the 2003 loan, you testified that you
8 negotiated or you spent less time speaking with Mr. Parker and
9 more time with the broker?

10 A. That's correct. 11:50:53

11 Q. And so let's now fast forward to the August of 2005 loan,
12 so about two years later. Did you participate in negotiations
13 with regards to that loan?

14 A. Yes.

15 Q. And with regards to this loan, did you speak more with 11:51:04
16 Mr. Parker or less than the 2003 loan?

17 A. I had -- I spoke with him a lot more, yes.

18 Q. And, Mr. Graves, can you tell us why?

19 A. There was no mortgage broker involved. Mr. Parker wanted
20 to pay off his old loan and borrow more money. And since 11:51:26
21 Universal Properties, who was the lender on the first loan who
22 was my client, since there was no mortgage broker involved at
23 that time, we dealt directly with the borrower.

24 Q. And when you say "we," I want to ask you what you did.
25 Did you speak with James Parker about the terms of the 2005 11:51:58

WILLIAM GRAVES - Direct

1 loan? 11:52:03

2 A. Yes. I believe what happened was -- what I recall
3 happening was Mr. Parker first contacted Mr. Demore, one of the
4 principals in Universal Properties, and they made some
5 preliminary agreements about the terms of the new loan and were 11:52:15
6 considering it. And then pretty much things were turned over
7 to me to handle the day-to-day business of facilitating that
8 loan.

9 Q. And when you say day-to-day, did you speak to Mr. Parker
10 during that contemporaneous time period on a daily basis, would 11:52:32
11 you say?

12 A. I can't say that I spoke to him every day but I would say
13 several times a week. Sometimes more than once a day.

14 Q. And when you spoke to him, how did you know that it was
15 Mr. Parker on the phone? 11:52:47

16 A. He identified himself as Mr. Parker.

17 Q. Okay. Do you recall what his first name was?

18 A. Jim.

19 Q. I want to now get into some of those conversations. Was
20 there ever a discussion with Mr. Parker about loaning him \$1.5 11:53:04
21 million rather than \$1.75 million?

22 A. Yes. He had wanted to borrow 1.75. Actually, I think it
23 was --

24 MR. MINNS: Excuse me. Your Honor, I object to this
25 as being repetitive. There have been already two witnesses, 11:53:23

WILLIAM GRAVES - Direct

1 the actual owners of the company, who testified on the 11:53:26
2 discussions about the loan.

3 THE COURT: I'm going to overrule the objection at
4 least at this point as long as what was said and by whom is
5 particular. 11:53:40

6 MR. PERKEL: Fair enough.

7 BY MR. PERKEL:

8 Q. Let me jump right to the question, then, because of this
9 issue. Did you discuss this issue with Mr. Parker and, coupled
10 with that, can you tell us what Mr. Parker told you after you 11:53:53
11 brought up the fact that he was going to get 1.5 rather than
12 1.75?

13 MR. MINNS: Leading.

14 THE COURT: Overruled.

15 THE WITNESS: There were actually a number of 11:54:09
16 individuals that were going to go together to provide the
17 million seven fifty. One of them was a gentleman by the name
18 of Tom Lowe and he was going to provide the additional \$250,000
19 or at least that portion of the loan. He decided --

20 THE COURT: Let me stop you. The question was, what 11:54:26
21 was your conversation with Mr. Parker.

22 THE WITNESS: Oh. Well, basically, I told him that
23 we wouldn't be able to loan a million seven fifty; that we were
24 going to loan a million five.

25

WILLIAM GRAVES - Direct

1 BY MR. PERKEL: 11:54:47

2 Q. And how did he respond?

3 A. He said, "I guess I'll have to live with that."

4 Q. Okay. And with regards to the second loan, did you have a

5 conversation with him about the change in the applicable 11:54:57

6 interest rate on the second loan?

7 A. Yes.

8 Q. And can you tell us the substance of the conversation,

9 what he told you -- can you tell us how the interest rate

10 changed and what was his response when you told him that the 11:55:11

11 interest rate was going to change?

12 A. Well, on the second loan, it was going to be for a longer

13 period of time. So as a lender, my clients wanted to be

14 protected against changes in the interest rate. So we made it

15 a condition that the interest rate would fluctuate with prime 11:55:28

16 rate and then there was a minimum amount of interest to be

17 charged. It was nine something. I would have to look at the

18 documents to give you the exact number.

19 And then the interest rate would increase to reflect

20 any changes and the increases in the prime rate. And then if I 11:55:49

21 also recall correctly, there were certain caps that could only

22 be increased so much and during a certain period of time and

23 then after so much more, another increase. But never during

24 the term of the loan would the interest rate decrease.

25 Q. So because the interest rate was more than on the first 11:56:11

WILLIAM GRAVES - Direct

1 loan, can you tell us what was Mr. Parker's response to you 11:56:13
2 when you told him about this?

3 A. I don't remember any specific words, but I do remember him
4 not being pleased.

5 Q. After the first loan from Universal, the one from 2003 11:56:34
6 July, there was an additional loan between Omega Construction
7 and Sunlight that came up during the negotiation process. Was
8 that of concern to you?

9 A. Actually, it came up in the title search and we didn't
10 know that there was another loan on the property and I said, 11:56:55
11 "Hey, there's another loan on the property." If the loan to
12 Universal is paid off and the other loan that Mr. Parker put on
13 is in a second position behind the original Universal loan, if
14 that were paid off, then the Omega loan would move into first
15 position; and if we lent any more money, we would then be in a 11:57:18
16 second position which we weren't willing to do.

17 Q. Did you bring up this topic with Mr. Parker?

18 A. Yes.

19 Q. And can you tell us, what did he tell you about the --
20 that loan from Omega Construction to Sunlight? 11:57:31

21 A. He told me not to worry about it. He said that he had a
22 close connection with the principal of that loan and that it
23 could be easily subordinated to a new Universal loan.

24 Q. Did he tell you what that purpose of that loan was?

25 A. Yes. He had told me it was for property improvements. 11:57:53

United States District Court

WILLIAM GRAVES - Direct

1 Q. Did you ask him to sign a subordination agreement with 11:57:57
2 regards to that loan?
3 A. Yes.
4 Q. And, in fact, that was signed?
5 A. Yes, to the best of my -- yes, it was a condition of 11:58:03
6 closing so I'm sure it was signed. Otherwise, the loan would
7 never have taken place, yes.
8 Q. Okay. And I would like to show you what is in evidence
9 and it's Government's Exhibit 568, page two. We're going to
10 bring it up on the screen in front of you. This is a fax from 11:58:19
11 it looks like you to a Lynn.
12 A. That would be Lynn Russell. She was the escrow officer at
13 Stewart Title & Trust.
14 Q. And the date of this fax is what, August 11 of 2005?
15 A. Yes. 11:58:42
16 Q. In my haste, I may have neglected to ask you this
17 question, but is part of your job to sort of to do due
18 diligence on these deals?
19 A. Yes. That was a good portion of the purpose that I was
20 fulfilling for Universal. 11:58:59
21 Q. So let's go to the bottom portion of this document. Can
22 you tell the jury what was the purpose of this message to Lynn
23 at the closing agency?
24 A. Well, as I just testified, we were doing due diligence.
25 The first loan, if I remember correctly, was around 300, 11:59:25

United States District Court

WILLIAM GRAVES - Direct

1 \$350,000. Now we were going to lend one million five, so we 11:59:29
2 wanted to be a lot more careful before we lent that money.

3 So we asked Stewart Title to -- well, I sent Stewart
4 Title these various documents and asked them to look over
5 everything. 11:59:50

6 MR. MINNS: Pardon me, Your Honor. The Stewart Title
7 has already been gone into. This is repetitive.

8 THE COURT: Why are we getting into this?

9 MR. PERKEL: Let me ask a follow-up question and it
10 might help. 12:00:03

11 THE COURT: All right. Follow up.

12 BY MR. PERKEL:

13 Q. And that is, was there -- was there an issue related to
14 the composition of Sunlight that you dealt with and an issue as
15 to Rachel Harris's bankruptcy that you were concerned about? 12:00:14

16 A. Yes. We had never received a copy of the trust agreement
17 in the past and then during the period of time from the first
18 loan to the second loan, Rachel Harris had declared bankruptcy
19 and that was uncovered and I told my clients, Universal
20 Properties, that there was a possibility that -- 12:00:46

21 MR. MINNS: Pardon me, Your Honor. I don't think his
22 statements to his clients are admissible, conversations with
23 his clients.

24 THE COURT: Well, that's sustained.

25 Are you offering it for the truth? 12:01:00

United States District Court

WILLIAM GRAVES - Direct

1 MR. PERKEL: It's, essentially, his background as to 12:01:03
2 the issue.
3 THE COURT: I'm going to sustain it.
4 MR. PERKEL: Okay.
5 BY MR. PERKEL: 12:01:08
6 Q. Let me just ask you this question: You uncovered, during
7 the course of the due diligence, that Rachel Harris was in
8 personal bankruptcy?
9 A. Yes.
10 Q. And then in this document, this exhibit, you attached 12:01:17
11 those bankruptcy records?
12 A. Correct.
13 Q. And did you a conversation with Mr. Parker about the issue
14 that his daughter, the manager of Sunlight, the alleged manager
15 of Sunlight, was in bankruptcy? 12:01:30
16 A. Yes.
17 Q. And can you have tell us what he told you?
18 A. He said that it was a personal bankruptcy --
19 MR. MINNS: Excuse me. Are we testifying for someone
20 that not available for cross-examination to hearsay? 12:01:38
21 THE COURT: Well, he's now testifying to what your
22 client said and that the jury's going to have to --
23 MR. MINNS: Then I misunderstood.
24 THE COURT: I think that's what the conversation was.
25 MR. PERKEL: That's correct. 12:01:52

United States District Court

WILLIAM GRAVES - Direct

1 THE COURT: Overruled. 12:01:52

2 MR. MINNS: Didn't understand. Thank you, Your

3 Honor.

4 BY MR. PERKEL:

5 Q. I was just asking us, can you just tell us the substance 12:01:56

6 of the conversation with Mr. Parker where you asked him about

7 the bankruptcy of Rachel Harris?

8 A. Yes. The concern was that the title was uninsurable

9 about -- possibly uninsurable because of the bankruptcy. And

10 so we wanted to make the title company aware of that, and 12:02:14

11 Mr. Parker told me it that should be not a problem because it

12 was a personal bankruptcy by Rachel Harris and had nothing to

13 do with any of the entities involved in Sunlight Financial.

14 Q. Did you ask him whether or not she had any ownership

15 interest in Sunlight Financial? 12:02:36

16 A. Yes.

17 Q. And did he tell you -- what was his response with regards

18 to that topic?

19 A. He said that, basically, she just was there to sign

20 documents for the trust and had no equitable interest in 12:02:46

21 anything.

22 Q. I'm sorry. Please continue. I didn't mean to interrupt

23 you.

24 A. No. That's okay. And because she had no equitable

25 interest, the loan wouldn't be effected. 12:02:59

United States District Court

WILLIAM GRAVES - Direct

1 Q. And coupled with that, you described this issue of there 12:03:05
2 was no trust on record as to the trust made up of Sunlight. Is
3 that another issue?

4 A. Correct. We could not find where the -- where any trust
5 agreement had been recorded or a fictitious name certificate 12:03:24
6 involving the trust.

7 Q. If we could just back out of this page and just go to the
8 very next page, I think it's page three. And if you could just
9 go to the middle portion of the page. Actually, let's back out
10 of here for just one second. I'm sorry. 12:03:47

11 The top portion of the page on the green in front of
12 you reads Partnership Agreement of Sunlight Financial?

13 A. Yes.

14 Q. And the date, July 29, 2002?

15 A. Correct. 12:04:01

16 Q. Now, I'm sorry. Back out of here and go to the middle
17 portion of the partnership agreement. In the middle it says,
18 "Ownership of the partnership shall be as follows:" And is
19 that paragraph -- we're not going to read the whole paragraph.
20 Does that paragraph list the two owners? 12:04:20

21 A. Yes, it does.

22 Q. One is Parker Children Irrevocable Trust owning 100
23 percent interest and Rachel T. Harris, a married woman, dealing
24 with her sole and separate property, owning 1 percent of the
25 voting rights; is that -- 12:04:35

United States District Court

WILLIAM GRAVES - Direct

1 A. That's correct. 12:04:36

2 Q. So let's transition. Now that you've learned that she has
3 no equity in the company Sunlight Financial because Parker
4 Children Irrevocable Trust have 100 percent in the equity, at
5 this time you didn't -- you discovered that there wasn't a 12:04:49
6 formal filing of a trust for the Parker Children Irrevocable
7 Trust?

8 A. Yes.

9 Q. Let's go on to --

10 A. At least the title company could not find any evidence. 12:05:01

11 Q. And in this fax, I want to turn to page four and in this
12 fax you include the certificate of trust as to that partner of
13 Sunlight; right?

14 A. Yes.

15 Q. Okay. And so at some point, you were -- somebody provided 12:05:20
16 this to you as proof that there was a trust formed; correct?

17 A. Yes. At the top, you can see where Mr. Parker's attorney
18 had faxed it to our office at Universal.

19 Q. Okay. And what's the date on the first line of the trust?

20 A. April 16, 2002. 12:05:43

21 Q. And on that date, it says -- at least the certificate says
22 that it was established; correct?

23 A. Yes.

24 Q. And, again, the Parker Children Irrevocable Trust, that's
25 one of the partners of Sunlight? 12:05:56

United States District Court

WILLIAM GRAVES - Direct

1 A. Correct. 12:05:58

2 Q. Now, let's go to page nine of this document. And on what
3 date was the actual trust signed and sworn to a notary public?

4 A. August 11 of 2005.

5 Q. And that's what, just 10 days before the loan was given, 12:06:18
6 the \$1.5 million loan; correct?

7 A. Yes.

8 Q. Finally, did you discuss with Mr. Parker a request to have
9 him sign unconditional guarantee of payment and the adding of
10 furniture as collateral? 12:06:44

11 A. Well, we first asked him --

12 MR. MINNS: Pardon me, Your Honor. I object to the
13 word "we." If this witness --

14 THE COURT: Sustained.

15 Only did you have a conversation with him? 12:06:57

16 THE WITNESS: Yes, I did.

17 THE COURT: All right.

18 THE WITNESS: I told him that Universal Properties
19 wanted him to sign a personal guarantee for the loan.

20 BY MR. PERKEL: 12:07:11

21 Q. And what did he tell you after you told him they wanted a
22 personal guarantee?

23 A. He said he was unwilling to do that.

24 Q. And did you have another conversation about adding the
25 furniture in the home as additional collateral? 12:07:22

United States District Court

WILLIAM GRAVES - Direct

1 A. Yes. I told the principals of Universal that he was 12:07:24
2 unwilling to sign the personal guarantee, so they said that
3 they wanted them to take the furniture as additional collateral
4 under the loan.
5 Q. And did you talk to Mr. Parker about that? 12:07:39
6 A. Yes.
7 Q. And what did he say?
8 A. I can't remember his specific words but he got pretty
9 upset and he said, "This is ridiculous," and, you know, he
10 might even just forget the loan. So I reported his response 12:07:52
11 back to Universal.
12 Q. And needless to say, the loan went through; correct?
13 A. Yes.
14 Q. Did you ever during this time period, did you ever
15 negotiate these details and these specific items with Rachel 12:08:08
16 Harris?
17 A. No. I've never spoken to Rachel.
18 THE COURT: How much longer do you have?
19 MR. PERKEL: One more question.
20 THE COURT: All right. 12:08:22
21 BY MR. PERKEL:
22 Q. Were you asked to keep track of the interest payments for
23 the \$1.5 million loan for a certain time period?
24 A. Yes.
25 Q. And just roughly, what is the sort of average or yearly 12:08:33

WILLIAM GRAVES - Cross

1 interest payment? 12:08:36

2 A. I'm going from memory now but, yearly, I can't remember

3 but, quarterly, it was around 36 or 37,000 per quarter so we

4 can multiply that by four.

5 BY MR. PERKEL: 12:08:54

6 Q. Okay. Thank you. No further questions.

7 THE COURT: Thank you. You may step down. We're

8 taking a break.

9 Ladies and gentlemen, we'll see you back here at

10 1:25. 12:09:01

11 We're in recess.

12 (Jury departs.)

13 (Recess at 12:09; resumed at 1:28.)

14 (Jury enters.)

15 THE COURT: Please be seated. 01:29:00

16 All right. Mr. Minns?

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

18 THE COURT: Yes.

19 **CROSS - EXAMINATION**

20 BY MR. MINNS: 01:29:12

21 Q. Mr. Graves.

22 A. Yes.

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. You've talked to Mrs. -- Ms. Gionnavelli on February 29, 01:29:28

WILLIAM GRAVES - Cross

1 2008. Do you remember having some conversation with her? 01:29:35
2 A. Yes.
3 Q. Do you remember meeting with the government agent today or
4 yesterday before the trial started to talk about the case a
5 little bit? 01:29:46
6 A. You mean in between those two times?
7 Q. Yes, sir.
8 A. Yes.
9 Q. And have you ever turned them down? Have you ever said,
10 "No, I won't talk to you"? 01:29:53
11 A. No.
12 Q. You finished testifying. The government passed you. Then
13 the jury left and then Mr. Perkel came up to where you were and
14 the two of you had a short conversation in the courtroom. Do
15 you remember that about an hour and a half ago, an hour ago? 01:30:09
16 A. Yes.
17 Q. And do you remember me, I walked up to about there and I
18 sat patiently waiting for you to finish? Do you remember that?
19 A. Yes.
20 Q. And then I came up to you and I asked if you would talk to 01:30:22
21 me and you said, "I don't have to talk to you." Do you
22 remember that?
23 A. I don't believe I said that, no.
24 Q. Well, you use your exact words. I don't want anybody to
25 put words in your mouth. Did you refuse to talk to me? 01:30:36

WILLIAM GRAVES - Cross

1 A. You asked me if you could ask me a couple of questions and 01:30:39
2 I said, "Sure." And then you said -- started to say something
3 and then, all of a sudden, I started feeling uncomfortable and
4 I said, "I'm not feeling comfortable."

5 And you said, "What are you doing, pleading the Fifth 01:30:55
6 Amendment?"

7 And I said, "I don't think that applies in this
8 situation."

9 And you said, "Well, then, you are refusing to talk
10 to me?" 01:31:05

11 And I said, "No. I just don't feel comfortable.
12 That was all."

13 Q. And do you remember that the court reporter was sitting
14 there when we had this brief conversation?

15 A. I didn't notice that she was there. 01:31:17

16 Q. The young woman in the blue outfit sitting right in front
17 of you. You don't recall that she was standing there, sitting
18 there?

19 A. I don't know because I was standing there.

20 MR. MINNS: May I approach so the witness can 01:31:29
21 identify where I was when I talked to him?

22 THE COURT: Okay.

23 Mr. Minns, you're not going to make my court reporter
24 a witness, are you.

25 MR. MINNS: No, Your Honor. I'm not but I wish you 01:31:43

WILLIAM GRAVES - Cross

1 hadn't clued him off on that. No, I apologize. I'm not 01:31:45
2 pulling her on the stand, Your Honor.

3 THE COURT: I'm not putting her on the stand.

4 MR. MINNS: I understand that, Your Honor. But I was
5 hoping the witness might not. 01:31:53

6 THE WITNESS: I would be happy if she had been
7 recording because then we could verify it.

8 THE COURT: Well, let's wait until he asks a
9 question, Mr. Graves.

10 Go ahead, ask a question. 01:32:05

11 BY MR. MINNS:

12 Q. I was standing right here; right?

13 A. I think it was a little farther than that direction.

14 Q. Tell me when I'm there.

15 A. Somewhere in that area. I think it was more to the -- 01:32:15
16 about somewhere in there, yeah. Maybe a little more to the
17 left or a little closer. Somewhere in there.

18 MR. MINNS: May I return to the bench, Your Honor?

19 THE COURT: Yes, you may.

20 BY MR. MINNS: 01:32:32

21 Q. Well, the bottom line is you refused to answer a single
22 question of mine; correct?

23 A. I said I just didn't feel comfortable doing that.

24 Q. I made you feel uncomfortable?

25 A. Yes, because I had answered yes initially and then just 01:32:45

WILLIAM GRAVES - Cross

1 something didn't seem right, so I said, "I don't feel 01:32:49
2 comfortable."

3 Q. Do you feel comfortable now?

4 A. Well, I mean, I was subpoenaed to testify.

5 Q. Well, you weren't subpoenaed the first time you talked to 01:32:56
6 Miss Giovannelli. You weren't subpoenaed the last time. You
7 had voluntarily talked to the government but you have not
8 voluntarily talked with me.

9 MR. PERKEL: Objection, Your Honor. Asked and
10 answered. 01:33:09

11 THE WITNESS: True.

12 THE COURT: Overruled.

13 THE WITNESS: No. When I talked to Ms. Giovannelli
14 in 2008, that was quite some time ago. I hadn't been
15 subpoenaed. But prior to that I had been -- I mean, subsequent 01:33:23
16 to that I had been subpoenaed by the government, so I went to
17 talk to them and that was after being served with a subpoena.

18 BY MR. MINNS:

19 Q. So you wouldn't talk to me today because I haven't served
20 you with a subpoena? 01:33:43

21 MR. PERKEL: Objection, Your Honor.

22 THE WITNESS: That's not what I said.

23 THE COURT: Overruled.

24 THE WITNESS: No. That's not what I said. I just
25 simply said I didn't feel comfortable. 01:33:50

WILLIAM GRAVES - Cross

1 BY MR. MINNS: 01:33:53

2 Q. Bottom line is -- I mean, tell me if I'm wrong. Either
3 you're afraid to talk to me or you're angry with me or you're
4 angry with Mr. Parker.

5 A. None of the above. I am certainly not angry with 01:34:05
6 Mr. Parker. I've never met the man.

7 Q. I'm sorry. You've never met Jim Parker?

8 A. That's correct.

9 MR. MINNS: If I could post Government's Exhibit 568,
10 Your Honor? 01:34:36

11 THE COURT: Yes.

12 BY MR. MINNS:

13 Q. Now, correct me if I'm wrong. I thought I heard you
14 testify that no trust was produced. Did I misunderstand that
15 or did you say no trust was produced? 01:34:44

16 A. At the time when I testified, or intended to testify to
17 was to say that at the time we went into the second loan, I
18 didn't have a copy of the trust agreement and then requested
19 the same from Mr. Parker.

20 Q. Okay. Well, I'm showing you Exhibit -- Government's 01:35:03
21 Exhibit 568, partnership agreement of Sunlight Financial
22 Limited Liability Partnership and I've highlighted a portion of
23 that. Can you read that highlighted portion?

24 A. "Rachel T. Harris, a married woman dealing with her sole
25 and separate property, shall own 1 percent of the voting 01:35:30

WILLIAM GRAVES - Cross

1 rights." 01:35:34

2 Q. Okay. And I guess the next four words are, "She shall

3 have no equity interest," does it say that?

4 A. Yes.

5 Q. And you've testified that you were told she had no equity 01:35:43

6 interest; correct?

7 A. Yes.

8 Q. And I'm going to turn the page because there's a whole

9 bunch of pages here. And if you could read the highlighted

10 portion of that page on Government's Exhibit 568. 01:36:01

11 A. "The beneficiaries of the trust are James R. Parker, Jr.,

12 and Samuel J. Parker."

13 Q. And so that tells you who are supposed to benefit from the

14 trust; correct?

15 A. Yes. 01:36:21

16 Q. And not to belabor the situation of the trust that you

17 mistakenly took money out of, but you were called down by the

18 government because you didn't own that trust. You weren't a

19 beneficiary of that trust that you took money out of;

20 correct? 01:36:36

21 A. I am not sure I understand your question. Which trust are

22 you referring that I took money out of?

23 Q. I don't think I can make it clear so I'm going on to my

24 next question.

25 The top of this document shows that it came from the 01:36:50

WILLIAM GRAVES - Cross

1 law firm Farley, Robinson & Larsen, does it not? 01:36:57

2 A. Yes.

3 Q. When you were talking with Miss Giovannelli, did you not

4 tell her in February of 2008 that if you were to buy real

5 estate, and you told Mr. Parker this, that you would use an LLC 01:37:27

6 as did Parker for asset protection?

7 A. So the question is -- yes. I would say that's a true

8 statement, yes.

9 Q. And did you make that statement?

10 A. I don't recall specifically making it but it sounds like 01:37:48

11 something that I would say, yes.

12 MR. MINNS: Your Honor, I would like to approach the

13 witness with Ms. Giovannelli --

14 THE COURT: Well, bring it up here and that's fine.

15 MR. PERKEL: Your Honor, may I see it first? 01:38:09

16 MR. MINNS: I'm going to show him the highlighted

17 portion.

18 THE COURT: And hand it to Christine, please.

19 MR. MINNS: Yes, Your Honor. If I could take the

20 second page off. I told him I would not show it to the 01:38:28

21 witness.

22 THE COURT: And this is marked as Exhibit --

23 Christine?

24 COURTROOM DEPUTY: 1116.

25 MR. MINNS: That is my only copy, Your Honor. So 01:38:48

WILLIAM GRAVES - Cross

1 when he's finished reading that last line, if I could retrieve 01:38:51
2 it and ask him my question.

3 THE COURT: What do you want him to read?

4 MR. MINNS: The very last paragraph, the highlighted
5 portion? 01:39:00

6 THE WITNESS: "Graves stated that if he were to
7 buy" --

8 MR. PERKEL: Objection.

9 THE COURT: Well, it's not admitted so read it to
10 yourself. 01:39:10

11 THE WITNESS: I'm sorry. Excuse me.

12 THE COURT: That's okay. Read it to yourself.

13 THE WITNESS: Okay.

14 MR. SEXTON: I think he's done.

15 MR. MINNS: May I retrieve it, Your Honor? 01:39:29

16 THE WITNESS: Did you want me to read the whole thing
17 or just the highlighted?

18 MR. MINNS: Just the highlighted.

19 THE WITNESS: Yes, I read that.

20 BY MR. MINNS: 01:39:38

21 Q. Does this refresh your memory that you told Special Agent
22 Giovannelli that you had advised Mr. Parker that if you were
23 buying real estate on that day, you would use an LLC for asset
24 protection?

25 A. My answer is still the same. I don't recall making that 01:40:02

WILLIAM GRAVES - Cross

1 specific statement, but it is one that I would say that I would 01:40:05
2 be prone to make, yes.

3 Q. And what you just read does not refresh your memory that
4 you did, in fact, make that statement?

5 A. I don't remember making the statement but if it came from 01:40:17
6 her contemporaneous notes, I'm sure it's true.

7 Q. So if Ms. Giovannelli wrote it down, you accept it as
8 true?

9 A. Yes.

10 Q. If I wrote it down, would you accept it as true? 01:40:28

11 MR. PERKEL: Objection, Your Honor, argumentative.

12 THE COURT: Sustained. Sustained.

13 BY MR. MINNS:

14 Q. Not going into the detail that the government went into
15 about your criminal record, but I have one question in that 01:40:46
16 regard. You made deals with the government to limit the amount
17 of time that you would spend in federal and state custody, did
18 you not?

19 MR. PERKEL: Objection. Foundation. Specificity.

20 THE COURT: Overruled. Overruled. 01:41:02

21 THE WITNESS: You mean did I enter into a plea
22 bargain agreement? Is that your question?

23 BY MR. MINNS:

24 Q. That's part of the question, yes, did you enter into
25 agreements with them to limit your time in federal custody and 01:41:12

WILLIAM GRAVES - Redirect

1 state custody? 01:41:15

2 A. No.

3 Q. You just confessed because you felt guilty and wanted to
4 get it out of your conscience?

5 A. Well, the truth about it was immediately after this act 01:41:25
6 happened, I went and I advised several of my clients actually
7 what did happen so they were aware of it.

8 Q. You never told any of the Parkers about it, though;
9 correct?

10 A. No. 01:41:49

11 Q. Thank you.

12 MR. MINNS: I pass the witness, Your Honor.

13 THE COURT: All right.

14 MR. PERKEL: Just a couple quick questions, Your
15 Honor. 01:41:55

16 **REDIRECT EXAMINATION**

17 BY MR. PERKEL:

18 Q. Mr. Minns asked you -- well, you stated that you never met
19 Mr. Parker. Earlier you testified you had conversations with
20 him. Would it be fair to say those were conversations over the 01:42:06
21 phone?

22 A. Yes.

23 MR. MINNS: Leading.

24 THE WITNESS: Sustained.

25

JERRY CARTER - Direct

1 BY MR. PERKEL: 01:42:14

2 Q. When you said before that you never met him, can you

3 elaborate and explain what that means?

4 A. I had never met him in person.

5 MR. PERKEL: If I may have a moment, Your Honor. 01:42:22

6 No further questions. Thank you.

7 THE COURT: All right. You may step down.

8 (Witness excused.)

9 (The following portion was previously separately

10 transcribed and is incorporated herein.) 01:42:27

11 THE COURT: Your next witness?

12 MR. PERKEL: Jerry Carter.

13 JERRY CARTER,

14 called as a witness herein by the Government, having been first

15 duly sworn or affirmed to testify to the truth, was examined 01:43:07

16 and testified as follows:

17 COURTROOM DEPUTY: State your name for the record,

18 spell your last name, please.

19 THE WITNESS: Jerry Carter, C-A-R-T-E-R.

20 COURTROOM DEPUTY: Have a seat right up here, sir. 01:43:14

21 **DIRECT EXAMINATION**

22 BY MR. SEXTON:

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

24 A. I am Jerry Carter. I'm a revenue officer with the

25 Internal Revenue Service. 01:43:46

United States District Court

JERRY CARTER - Direct

1 Q. And how long have you been a revenue officer? 01:43:47
2 A. Next month will be 30 years.
3 Q. Out of what office do you work out of?
4 A. I work in the Mesa office of the IRS.
5 Q. Have you been mostly in the greater Phoenix metropolitan 01:43:58
6 area during your career?
7 A. Yes, sir. The last 26 years I worked in the State of
8 Arizona, Phoenix area.
9 Q. And did you join the IRS shortly after graduating from
10 college? 01:44:12
11 A. I did. 1982.
12 Q. For some of the documents, do you have an alias name that
13 you use besides your last name of Carter?
14 A. Yes. I was assigned a pseudonym several years ago.
15 Q. And what is the pseudonym? 01:44:31
16 A. The pseudonym is Young, Y-O-U-N-G.
17 Q. So sometimes in the record there might be a reference to
18 Jerry Young?
19 A. Yes.
20 Q. You also were given like a specific identification number 01:44:42
21 that is associated with your entries into official records?
22 A. Yes, sir.
23 Q. Now, before you -- maybe you don't have before you.
24 MR. SEXTON: Did I give you that?
25

United States District Court

JERRY CARTER - Direct

1 BY MR. SEXTON: 01:45:12

2 Q. Before you, sir, is Exhibit 446 which is not in evidence.

3 That's the archived history for the collection on this case. I

4 will sometimes refer you to it to see if that refreshes your

5 recollection as to the sequence of events. But please do not 01:45:27

6 read out loud from it if I ask you to look at it and see if

7 that refreshes your recollection. Do you understand?

8 A. I do.

9 Q. Okay. Now, sir, we've heard from Paul Wedepohl. Did you

10 follow him on this file sometime in March of 2005. And if it 01:45:52

11 would help you to look at page 48 of your archive history to

12 see if that jogs your thoughts as to when you became involved?

13 A. Yes. I was involved. The case was assigned to me

14 originally March 11, 2005.

15 Q. Now, in your capacity as a revenue officer, was it similar 01:46:17

16 in nature to what Paul Wedepohl was doing before you?

17 A. Yes.

18 Q. You are both collection officers?

19 A. Yes.

20 Q. Now, when you came on board for this file and the file 01:46:38

21 we're talking about, James and Jacqueline Parker?

22 A. Yes, sir.

23 Q. What did you do in order to get up to speed?

24 A. The file was rather extensive so I reviewed all of the

25 documents and boxes that came with the file. 01:46:51

United States District Court

JERRY CARTER - Direct

1 Q. Were you part of the individuals who did that field call 01:46:57
2 at the Meander Way residence that day?
3 A. Yes, I was there.
4 Q. And do you have a background in real estate?
5 A. I actually have a real estate license until recently. 01:47:11
6 Q. When did you obtain that?
7 A. Approximately January 2000.
8 Q. In the State of Arizona?
9 A. State of Arizona.
10 Q. Now, when you took over the file, what are you working on 01:47:24
11 on the file at this point?
12 A. Mostly, my job is to try to collect the money --
13 MR. MINNS: Pardon me. Your Honor, could I approach
14 sidebar?
15 THE COURT: And what's that about? 01:47:37
16 MR. MINNS: Well, I need to ask if he's going to be
17 qualified as a real estate expert.
18 THE COURT: All right. Let's talk about it.
19 (At sidebar.)
20 MR. MINNS: The Court disagreed with me. I lost this 01:47:58
21 last time. The Court said I should have objected when he
22 started qualifying him, so I don't know why he's putting on the
23 fact that he has a real estate license. If he's going to
24 discuss real state in any capacity as a licensee in any type of
25 expertise, then I want to be in a position to either fully stop 01:48:16

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JERRY CARTER - Direct

1 it or cross-examine him.

01:48:22

2 THE COURT: Is he going to testify to give opinions
3 on real estate?

4 MR. SEXTON: No.

5 THE COURT: So he's not going to give real estate
6 opinions.

01:48:25

7 MR. MINNS: I am curious why he's put that in as a
8 qualification.

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

01:48:38

12 MR. MINNS: Thank you, Your Honor.

13 (End sidebar.)

14 BY MR. SEXTON:

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

01:48:54

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

20 Q. And then shortly after this file came to you, did you have
21 a conversation with Attorney Greg Robinson around April of
22 2005? And I'll refer you to page 49 of your archive history.

01:49:20

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

25 Q. Now if you would, would you summarize what you and he

01:49:49

JERRY CARTER - Direct

1 talked about that day? 01:49:52

2 A. Attorney Robinson said he was going to send another offer
3 in compromise to Memphis in order to reduce the taxpayer's
4 liability that they would have to pay. I asked him to actually
5 send me a copy of the offer in compromise so I could assist in 01:50:13
6 the investigation if necessary.

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

9 MR. MINNS: Pardon me, Your Honor. That same exact
10 question was asked and answered of Mr. Wedepohl. This is 01:50:30
11 redundant and repetitive.

12 MR. SEXTON: I don't believe it was, so I guess I
13 stand by the question's uniqueness.

14 THE COURT: I do believe that Wedepohl answered that
15 question; but if it's preliminary to something else, then I 01:50:57
16 will allow it. But he was asked that question.

17 MR. SEXTON: Okay.

18 BY MR. SEXTON:

19 Q. You may answer that question.

20 A. As the Parker case was assigned to me, it is my duty -- 01:51:07
21 I'm required to provide a written recommendation towards the
22 offer in compromise should the government accept it or should
23 the government not accept it.

24 And I did write a report.

25 Q. At this point in your conversation with Mr. Robinson, are 01:51:25

JERRY CARTER - Direct

1 you revealing to him precisely your intentions about a nominee 01:51:27
2 lien?

3 MR. MINNS: This is leading, Your Honor.

4 THE COURT: Sustained.

5 MR. MINNS: Could I ask instructions to disregard the 01:51:35
6 question?

7 THE COURT: Well, the questions are never evidence
8 and the jury has already been told that.

9 BY MR. SEXTON:

10 Q. What, if anything, did you tell Mr. Robinson about your 01:51:42
11 efforts with regards to a nominee lien?

12 A. I purposely did not tell Mr. Robinson about my
13 investigation to pursue a nominee lien against the residence in
14 Carefree as I did not want to transfer it or encumber the
15 property. 01:51:57

16 MR. MINNS: I object to the last portion. It is
17 nonresponsive.

18 THE COURT: Sustained.

19 Ladies and gentlemen, the only portion of that answer
20 is the first portion. The remainder of you are to ignore. 01:52:07

21 Go ahead.

22 BY MR. SEXTON:

23 Q. Why didn't you tell him that you were doing it?

24 A. It was my intent to actually file a nominee lien against
25 the free and clear property in Carefree and I was afraid that 01:52:19

JERRY CARTER - Direct

1 the taxpayer would encumber the property with a mortgage or 01:52:25
2 further convey the property outside the reach of the
3 government.

4 Q. Do you have Exhibit 110 in front of you, sir, which is in
5 evidence? Go to the last paragraph on page three. 01:52:45

6 Was this letter copied to you?

7 A. Yes, sir, it was.

8 Q. Is this the same offer in compromise you just talked to
9 Greg Robinson on the phone about?

10 A. Yes. 01:53:26

11 Q. Now, looking at the bottom paragraph on page three, do you
12 see where it talks about what had happened to the Belize land
13 down there? Do you see that part? At the bottom of page
14 three.

15 A. Yes, I see on the first page of the actual letter it 01:53:59
16 explains what happened to the property in Belize.

17 Q. Were you provided any information about a sale in June of
18 2004 for \$6 million of Belize land sale?

19 A. No. I was never provided any documentation or testimony
20 or anything regarding any sale of property in Belize. 01:54:20

21 Q. Were you provided any information that would show pictures
22 of any devastation to the Belizean property?

23 A. I never received or saw any evidence of any evidence of
24 the property in Belize being wiped out.

25 Q. Go to the page four. The first full paragraph on that 01:54:49

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1 page where it starts out "their children." Do you see that? 01:54:56
2 A. Yes, sir.
3 Q. At the bottom of that paragraph, do you see where it says,
4 "The children make the mortgage payments and refuse the heavy
5 handed pressure of the revenue officer." Do you see that? 01:55:13
6 A. Yes, sir.
7 Q. Were you ever provided any information that the children
8 were making the mortgage payments?
9 A. No, I was not.
10 Q. And then right above that almost in the middle of that 01:55:26
11 paragraph, it says, the children, "They have their own counsel
12 who informs them that since the acquisition of the house was
13 accomplished," et cetera, et cetera. Do you see that?
14 A. Yes, sir.
15 Q. Were you ever contacted by a lawyer that represented any 01:55:46
16 of the children of James and Jacqueline Parker?
17 A. No, I was not.
18 Q. Let me kind of skip ahead here. Let's go to Exhibit 114
19 which is in evidence.
20 Starting on page three, is this a letter to you from 01:56:30
21 Greg Robinson?
22 A. Yes, it is.
23 Q. Is this the cover letter that contains the installment
24 agreement and the financials associated with it?
25 A. Yes, it is. 01:56:53

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JERRY CARTER - Direct

- 1 Q. So let's go to page 21 of this document. Do you see that 01:57:02
2 page? Would you look at the very top so the jury can
3 understand? What is Section 8 of this document that you're
4 asking for?
- 5 A. Section 8 is on the Form 4338-A which of course is the 01:57:24
6 collection statement for individuals. Section 8 is the
7 accounts/notes receivable. In this case, if the Parkers would
8 have had anyone that owed them money, the Parkers would have
9 listed the individuals or the entities that owed them money on
10 this part of the financial statement. 01:57:45
- 11 Q. And what was the date of that cover letter that you just
12 looked at? What was the date of it?
- 13 A. Can we go back to it? I don't have that exhibit.
- 14 Q. Oh, you don't have Exhibit 114? My fault. I must not
15 have put it down. If you could bring up page three which is 01:58:07
16 the cover letter.
- 17 A. The date on the cover letter is August 4, 2005.
- 18 Q. And then looking at page 16 of that installment request,
19 let's look at that. The top two-thirds, what is that asking
20 for? 01:58:52
- 21 A. On the financial statement, it's asking for all checking
22 accounts.
- 23 Q. And then below that, what's the column -- what's in
24 paragraph 12?
- 25 A. And any other accounts. 01:59:02

United States District Court

JERRY CARTER - Direct

1 Q. And what does that include? 01:59:04

2 A. Credit unions and any other financial institutions.

3 Q. And then down in number 13, what does that require someone

4 to disclose?

5 A. It talks about if you have any -- it's asking to disclose 01:59:14

6 any investments in 401(k)s, IRA, Keoghs.

7 Q. Now take a look at -- I don't know if you have Exhibit 78

8 in front of you.

9 MR. SEXTON: It's in evidence, Your Honor. Let's go

10 down to page five. 01:59:40

11 COURTROOM DEPUTY: It should be the bottom of your

12 pile.

13 BY MR. SEXTON:

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

15 A. Okay. 01:59:56

16 Q. Do you see this promissory note?

17 A. Yes, sir.

18 Q. What's the date of the promissory note? Upper right-hand

19 corner, page five.

20 A. It would be April 13, 2005. 02:00:16

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

22 A. \$450,000.

23 Q. And who is this money to be repaid to?

24 A. James and Jacqueline Parker.

25 Q. Is this promissory note anywhere on Exhibit 114? 02:00:44

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JERRY CARTER - Direct

1	A.	No, sir, it's not.	02:00:54
2	Q.	Go to page four of Exhibit 78. If we could highlight the	
3		enlarge the document.	
4		What's the date of this promissory note?	
5	A.	June 16, 2005.	02:01:18
6	Q.	What's the amount of this promissory note?	
7	A.	\$450,000.	
8	Q.	And who is this money to be repaid to?	
9	A.	James Parker.	
10	Q.	And?	02:01:32
11	A.	Jacqueline Parker.	
12	Q.	Is this promissory note anywhere in Exhibit 114?	
13	A.	No, sir, it's not reflected on the financial statement.	
14	Q.	Now, page three of Exhibit 78, what's the date of this	
15		promissory note?	02:01:58
16	A.	August 31, 2005.	
17	Q.	And what's the amount?	
18	A.	\$239,903.48.	
19	Q.	And who is this to be repaid to?	
20	A.	It says pay to the order of James R. Parker and Jacqueline	02:02:18
21		L. Parker.	
22	Q.	Now, sir, this promissory note is dated after Exhibit 114	
23		was submitted to you, wasn't it?	
24	A.	Yes, it was.	
25	Q.	So, now, looking at page 16 of Exhibit 114, do you see any	02:02:35

JERRY CARTER - Direct

1 bank account that has \$239,000 in it? 02:02:50
2 A. No, I do not.
3 Q. Now let's go to Exhibit 111, page 14 of that which is in
4 evidence, Your Honor. First off, this is the third offer in
5 compromise. Would you look at page six of this document and 02:03:30
6 pull it up on the screen? What's the date this was signed by
7 James and Jacqueline Parker?
8 A. March 24, 2005.
9 Q. Would that date be just prior to those two \$450,000
10 promissory notes that we just saw? 02:03:50
11 A. Yes.
12 Q. Now looking at page 14, is there any account, investment
13 account or anything listed, that would have \$900,000 in it to
14 be disbursed.
15 A. \$900,000 is not disclosed on the financial statement. 02:04:18
16 Q. Now, we're in this third one here, still on the green.
17 Take a look at Exhibit 459, which is not in evidence I don't
18 believe. I don't think it's in evidence yet.
19 THE COURT: It is.
20 COURTROOM DEPUTY: It's not. 02:04:59
21 THE COURT: Okay.
22 MR. SEXTON: Let me lay some foundation and then
23 we'll do that.
24 THE COURT: Are you stipulating to its admissibility
25 or not? 02:05:06

United States District Court

JERRY CARTER - Direct

1 MR. MINNS: I have no objection to this. 02:05:07
2 THE COURT: All right. It's admitted.
3 MR. MINNS: Oh, wait a second. This is the report of
4 the revenue officer.
5 THE COURT: So you object? 02:05:19
6 MR. MINNS: Yes, I do. This is hearsay.
7 THE COURT: All right. It's objected on hearsay.
8 MR. SEXTON: Okay. Let me lay some foundation,
9 Judge.
10 BY MR. SEXTON: 02:05:27
11 Q. Did you prepare this?
12 A. Yes, I did.
13 Q. For what purpose?
14 A. As part of my duties to review the offer in compromise
15 submitted by Mr. Parker, I completed this report to forward to 02:05:37
16 the people that were looking at the offer in compromise.
17 Q. And is this a true and accurate copy of what you prepared
18 and submitted for that purpose?
19 A. Yes, it is.
20 MR. SEXTON: I would offer Exhibit 459 into evidence. 02:05:57
21 MR. MINNS: No, Your Honor. This is bootstrapping.
22 THE COURT: Hold on. We're not talking about
23 bootstrapping here. Let's see.
24 I'm concerned about some of the document. I don't
25 think there's enough foundation, so far at least. Let me have 02:06:19

JERRY CARTER - Direct

1 the document. 02:06:25

2 Okay. You need more foundation for the content of
3 this document.

4 MR. MINNS: Could I add to the objection, Your Honor?
5 This is argument of this witness. If it refreshes his memory 02:07:06
6 to his opinion, but the entire purpose of this is just to get a
7 speech in about his opinion, which he's on the stand to give
8 his opinion.

9 MR. SEXTON: Let me shortchange it, Judge. I think
10 what I'm going to do now would obviate what the issues are; 02:07:20
11 okay? Let me ask a question.

12 THE COURT: Are you withdrawing it?

13 MR. SEXTON: I am withdrawing the exhibit, yes.

14 THE COURT: Okay.

15 You're not going to use this now with this witness so 02:07:33
16 I can give to it Christine.

17 MR. SEXTON: That's fine. It might be useful to
18 refresh his recollection, but I'm not going to move it in.

19 THE COURT: All right. Okay.

20 BY MR. SEXTON: 02:07:44

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

23 A. Yes, I did.

24 Q. Did you communicate that in writing?

25 A. Yes, I did. 02:07:57

JERRY CARTER - Direct

1 Q. Now, look at page 53 of your archived history, 446. Did 02:08:06
2 you have another conversation with Greg Robinson on that day?
3 Page 53 of Exhibit 446.
4 A. I did have a conversation with Mr. Robinson.
5 Q. Okay. And just the two of you on a phone call? 02:08:41
6 A. Are we talking about August 5?
7 Q. Yes.
8 A. Mr. Robinson was actually in my office.
9 Q. Okay. And anybody else in your office besides the two of
10 you? 02:08:51
11 A. It would have just been myself and Mr. Robinson.
12 Q. And what was the nature of what you two talked about?
13 A. Mr. Robinson submitted a request for an installment
14 agreement of \$2000 a month.
15 Q. Anything else discussed by you at that time? 02:09:03
16 A. I purposely did not discuss the case any more than what
17 Mr. Robinson asked for.
18 Q. And then is the file, from your standpoint, was it then
19 reassigned shortly thereafter, looking at page 54, back to Paul
20 Wedepohl? 02:09:30
21 A. Yes, it was.
22 Q. And what date was that?
23 A. November 14, 2005.
24 Q. And like all good governments, was it then resent back to
25 you on page 59? 02:09:44

United States District Court

JERRY CARTER - Direct

1 A. Yes, it was. 02:09:52

2 Q. And then, looking at page 60, did there come a time when

3 you made a criminal referral on this investigation?

4 A. Yes, there was a time.

5 Q. And what date was that? 02:10:10

6 A. That was January 17, 2007.

7 Q. Explain briefly the nature of a criminal referral and what

8 it does to your collection process at that point?

9 A. In this case I felt that I wanted -- in my personal

10 opinion -- 02:10:34

11 MR. MINNS: Excuse me.

12 THE COURT: Sustained.

13 BY MR. SEXTON:

14 Q. I'm not looking for your personal opinion.

15 A. Okay. 02:10:39

16 Q. Did you create a criminal referral process for this

17 matter?

18 A. Yes, I did.

19 Q. And as a result of that, does that -- the fact that a

20 criminal referral has been made, does that impact your 02:10:48

21 collection efforts?

22 A. Yes, because we forward -- I forwarded a criminal

23 referral --

24 THE COURT: Let me tell you, Mr. Carter, just answer

25 yes or no. If he asks for an explanation, he'll ask. 02:11:00

United States District Court

JERRY CARTER - Direct

1 BY MR. SEXTON: 02:11:06

2 Q. So it does affect your collection efforts?

3 A. Yes. It does impact my collection efforts.

4 Q. Okay. Are you still able to pursue liens and nominee

5 liens? 02:11:20

6 A. Yes. I was still able to pursue the nominee lien

7 investigation on the Carefree residence even though I referred

8 the case to criminal investigation.

9 Q. And as far as the lien, could you look at Exhibit 509?

10 MR. SEXTON: I don't think this is in evidence. 02:11:41

11 COURTROOM DEPUTY: It's not.

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

13 to this?

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

15 No objection, Your Honor. 02:12:00

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

17 (Exhibit Number 509 was admitted into evidence.)

18 BY MR. SEXTON:

19 Q. Did you prepare this?

20 A. Yes, I did. 02:12:12

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

22 Young?

23 A. That is me.

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

25 recorded? 02:12:22

United States District Court

JERRY CARTER - Direct

1 A. Because the servicer had requested the taxpayer pay the 02:12:24
2 money.

3 MR. MINNS: Hearsay, Your Honor.

4 THE COURT: Sustained.

5 BY MR. SEXTON: 02:12:33

6 Q. Without talking about what somebody else said, I just want
7 to know why you did this without referring to somebody else's
8 words.

9 A. The taxes were assessed. The money was owed, so I filed a
10 lien to protect the government's interest in any property or 02:12:44
11 rights to property Mr. Parker may have.

12 Q. And this is only as to James R. and Jacqueline R. Parker?

13 A. That is true.

14 Q. And where was it recorded?

15 A. Maricopa County Recorder, Phoenix, Arizona. 02:13:05

16 (Panel member begins coughing.)

17 THE COURT: Let's just stop for a moment.

18 MR. SEXTON: Let's stare at him.

19 MR. MINNS: Your Honor, may I offer a cough drop?

20 THE COURT: No. That's okay. 02:13:48

21 Do you want one?

22 PANEL MEMBER: I'm okay.

23 BY MR. SEXTON:

24 Q. After filing this lien that's on the screen here, did you
25 continue to work on a nominee lien? 02:14:00

United States District Court

JERRY CARTER - Direct

1 A. Yes, I did. 02:14:05

2 Q. Take a look at Exhibit 511.

3 MR. SEXTON: We would move 511 in as a certified

4 record.

5 MR. MINNS: No objection, Your Honor. 02:14:15

6 THE COURT: It's admitted.

7 (Exhibit Number 511 was admitted into evidence.)

8 BY MR. SEXTON:

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

10 listing of years. 02:14:36

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

12 this tax lien?

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

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

15 does it list? 02:14:55

16 A. It lists Sunlight Financial, LLP.

17 Q. As?

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

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

20 Parker." 02:15:08

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

22 tax years, let's highlight that. Is that all of the tax years

23 from '97 to 2005?

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

25 assessed against Mr. Parker. 02:15:32

United States District Court

JERRY CARTER - Direct

1 Q. And the far right is the unpaid balance as of that date? 02:15:34
2 A. That is correct.
3 Q. Now, looking at the bottom third of the document, what is
4 this tax lien attached to? Read that first line there.
5 A. "This notice of federal tax lien attaches to the real 02:15:55
6 property located at 35802 North Meander Way, Carefree, Arizona
7 85377."
8 Q. And when was this -- in the upper right-hand corner, which
9 was this recorded?
10 A. It was recorded February 2, 2011. 02:16:14
11 Q. During the time that you were working as a collection
12 offer on this matter in either your dealings with attorney Greg
13 Robinson or any other accountants that were used by the
14 Parkers, were you ever given access to the Carefree home to
15 look at the contents inside the home? 02:16:51
16 A. No. I was not given access to look inside the house.
17 Q. Were you ever given any photographs of the inside of that
18 home?
19 A. No.
20 Q. Were you ever provided any bank records from Sunlight 02:17:05
21 Financial to determine whether or not Mr. and Mrs. Parker were
22 actually paying rent on that property?
23 A. No.
24 MR. MINNS: I object to that, Your Honor. There are
25 canceled checks that the government has put in evidence. 02:17:20

United States District Court

JERRY CARTER - Direct

1 THE COURT: Well, overruled. Overruled. 02:17:23

2 BY MR. SEXTON:

3 Q. As to Mr. Robinson, did he ever provide you any records as

4 to any borrowings against the Carefree residence?

5 A. Could you repeat that? 02:17:40

6 Q. As to attorney Greg Robinson, did he ever provide you with

7 any information of any borrowings or loans that were taken out

8 against the Carefree residence?

9 A. No. He never provided any information regarding the loans

10 against the property. 02:17:53

11 Q. Were you ever provided any information of any records

12 dealing with any business in Belize?

13 A. I never received or saw any records regarding any property

14 in Belize.

15 Q. Were you ever provided any information regarding any real 02:18:23

16 estate purchased in Texas?

17 A. No.

18 Q. Were you ever provided any information about any

19 investments in Oklahoma?

20 A. No. 02:18:48

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

22 THE COURT: All right.

23 Cross?

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

25 May I proceed, Your Honor? 02:19:34

United States District Court

JERRY CARTER - Cross

1 THE COURT: Yes. 02:19:36

2 CROSS - EXAMINATION

3 BY MR. MINNS:

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

5 A. That is correct. 02:19:41

6 Q. Now, you had an opportunity to talk to any of your other
7 associates or friends that you've worked with the IRS about
8 this case?

9 A. No, I've not.

10 Q. You haven't asked any of them -- since you and I have 02:19:55
11 never met, you didn't ask any of them what it's going to be
12 like to be asked questions or anything?

13 A. No, I have not.

14 Q. So you know nothing about what's happened in the courtroom
15 when you weren't in the courtroom? 02:20:08

16 A. I really have no idea what happened in this courtroom
17 before I walked in here a few minutes ago.

18 Q. And we watched you hanging out the other couple days with
19 Mr. Wedepohl. You all never discussed anything about this
20 case? 02:20:24

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

22 Q. Now, you do understand that there's been an ongoing
23 dispute between Mr. Greg Robinson and Mr. Wedepohl?

24 A. I'm not aware of that.

25 Q. You didn't help -- you didn't sign the reports filing 02:20:49

JERRY CARTER - Cross

1 charges, recommendation against Mr. Greg Robinson? 02:20:52

2 A. I'm not aware of any report or anything like that in any
3 form or fashion.

4 Q. Okay. And you're not aware of any report filed either
5 criminally or with the -- under Circular 230 with the Internal 02:21:05
6 Revenue Service, professional responsibility, by Mr. Wedepohl
7 dealing with Mr. Greg Robinson?

8 A. I think there's something in the ICS history where the
9 revenue officer before me had reported Mr. Robinson to I think
10 it's OPR, Office of Professional Responsibility. 02:21:26

11 Q. So, then, the correct answer to the question is you are
12 aware that he reported Mr. Greg Robinson to the Office of
13 Professional Responsibility?

14 A. Yes. That is in the ICS history.

15 Q. So you have discussed that with Mr. Wedepohl? 02:21:42

16 A. I probably did many years ago when it happened, you know,
17 in '03, '04, '05, but I haven't discussed it with him.

18 Q. You are aware that Dave Robinson was partners with Greg
19 Robinson, two lawyers?

20 A. I've never heard the name Dave Robinson ever in my life. 02:21:59

21 Q. You are not aware that he is the signing partner of one of
22 the trusts that you've been testifying on?

23 MR. SEXTON: Objection. He says he doesn't know
24 anything about him.

25 THE COURT: Sustained. 02:22:12

United States District Court

JERRY CARTER - Cross

1 MR. MINNS: With the Court's permission, I'm going to 02:22:20
2 put part of Government's Exhibit 511 up on the board.
3 BY MR. MINNS:
4 Q. You prepared this exhibit saying lien against Sunlight
5 Financial, LLP, as nominee of James R. and/or Jacqueline 02:22:43
6 Parker; correct?
7 A. No. I did not prepare this nominee lien.
8 Q. Oh. Okay.
9 A. It was prepared by someone else.
10 Q. Do you know who prepared it? 02:22:55
11 A. The name is on the bottom left-hand corner I believe.
12 Q. Is that the name of the person, Abe Reyes, R-E-Y-E-S?
13 A. Yes, sir.
14 Q. Is that a real name or a pseudo-name?
15 A. That is a real name of a revenue officer. 02:23:17
16 Q. And when you said your real name is Jerry Young, that's
17 your real name?
18 A. My real name is Jerry Carter. C-A-R-T-E-R.
19 Q. Oh. Okay.
20 And I'm just trying to determine. You used the term 02:23:40
21 "pseudo." Pseudo means false, so Jerry Young is a false name;
22 correct?
23 A. It's a pseudonym issued to me by the Internal Revenue
24 Service Department of Treasury.
25 Q. I understand that. And that means it's a fake name. It's 02:23:52

United States District Court

JERRY CARTER - Cross

1 not a real name? 02:23:55

2 A. That is correct. It is not my real name.

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

4 the restroom.

5 THE COURT: Okay. We'll take a 20-minute break. 02:24:18

6 We're in recess.

7 PANEL MEMBER: Thank you.

8 (Jury departs.)

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

10 (Jury out.) 02:41:08

11 THE COURT: All right. We're going to talk about

12 scheduling. I understand the government is resting or napping

13 or what?

14 MR. SEXTON: We're going to finish up with this

15 witness and then our summary witness. 02:41:25

16 THE COURT: And who is that?

17 MR. SEXTON: That is Mark Klamrzynski, who has been

18 sitting with us, and we're done at that point. So we wanted to

19 talk a little bit about tomorrow's schedule because there's a

20 couple -- 02:41:36

21 THE COURT: So you know that we're only going to 3:35

22 because I have a TRO at 4?

23 MR. SEXTON: It would be my suggestion that wherever

24 we are with Mark Klamrzynski, if we finish with him, that the

25 court recess us for the day to allow us to compare our exhibit 02:41:56

United States District Court

JERRY CARTER - Cross

1 list to make sure there's nothing that we overlooked. That way 02:41:59
2 we can officially rest tomorrow morning.

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

5 MR. SEXTON: He has about 15 summaries. 02:42:10

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

7 MR. SEXTON: I am guessing 30 to 45 minutes. So we
8 might finish right before. I don't know what kind of cross
9 he'll have.

10 THE COURT: That's what I was trying to figure out. 02:42:21

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

12 MR. MINNS: I typically don't spend a lot of time. I
13 only go to points that are relevant. I'm guessing --

14 THE COURT: So we might finish today.

15 MR. SEXTON: We might but I still would like a little 02:42:34
16 bit of time to compare the exhibits.

17 THE COURT: Absolutely. And let me ask you one
18 question first. With all of that in mind, if the government
19 closes or rests tomorrow, do you anticipate that you will be
20 starting the case and that you will have a case? 02:42:49

21 MR. MINNS: Yes, Your Honor.

22 THE COURT: Okay. I'm not asking you what you're
23 going to do because we can leave that as a surprise, but how
24 long do you think your defense case will take?

25 MR. MINNS: On the high side, two full trial days and 02:43:05

United States District Court

JERRY CARTER - Cross

1 maybe significantly less. That's the high side. 02:43:09

2 THE COURT: Okay. All right.

3 MR. SEXTON: But he's given us a list of the order
4 that he's intending to call. Whether he calls them, that's his
5 choice. But there's a couple of people on there that we have 02:43:21
6 received almost no information on and they are in the expert
7 category. And so either right now or before they come on, I
8 would like an opportunity to address with you.

9 THE COURT: Well, let's take that up tomorrow. If
10 you have -- what you need to do is talk to Mr. Minns about what 02:43:36
11 he anticipates their testimony will be and if it's opinion
12 testimony and you have no notice of it, under Rule 16, then I
13 will deal with that. But I don't want to talk about it now
14 before you have had an opportunity to confer with Mr. Minns.

15 MR. SEXTON: I'll confer with him and we'll address 02:43:57
16 it tomorrow.

17 THE COURT: Okay.

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

19 THE COURT: All right.

20 Anything? 02:44:02

21 MR. MINNS: No. Your Honor. I need to be ready to
22 put on some witnesses tomorrow morning. Is that what --

23 THE COURT: Sounds like it.

24 MR. MINNS: And the Rule 29 motions, when will they
25 be taken out? 02:44:16

United States District Court

JERRY CARTER - Cross

1 THE COURT: That will be taken out right in the 02:44:17
2 morning also, so we should probably start a little bit later
3 because the Rule 29 may take some time.

4 I don't know if you're going to file anything. Are
5 you intending to file something? 02:44:27

6 MR. MINNS: I have one motion but it's not a Rule 29
7 motion. I'll file it tonight. I have -- but I do believe we
8 have some extensive positions. It's not just a pro forma
9 motion.

10 THE COURT: Well, most of them aren't but in this 02:44:42
11 case I can imagine that you would, and most tax cases I hear
12 quite a bit under Rule 50 -- it's not a Rule 50 but a directed
13 verdict motion.

14 MR. SEXTON: If there's a motion to be filed, can we
15 have some heads-up that there's something that might need to be 02:44:58
16 researched?

17 THE COURT: Yes. That's a good question.

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

20 MR. MINNS: No. I apologize. I was going to make an 02:45:08
21 oral Rule 29. I was not going to file one.

22 THE COURT: So you're not going to file a motion?

23 MR. MINNS: No.

24 THE COURT: Okay. That takes care of that. Then
25 let's get the jury back and we will proceed. 02:45:20

JERRY CARTER - Cross

1 MR. MINNS: That's a separate motion. I already 02:45:27
2 discussed the other motion with the government, not a Rule 29
3 motion.
4 THE COURT: What other motion?
5 MR. MINNS: The government has said that they say 02:45:33
6 that Ms. Giovannelli is not a hostile witness and --
7 MR. SEXTON: And I've already told him that I have no
8 objection to him leading her. I told him that this morning.
9 MR. MINNS: But he did not put it in writing.
10 THE COURT: Well, we have it on the record that she 02:45:50
11 is an adverse witness to you.
12 MR. MINNS: Then I don't have to file a motion, Your
13 Honor.
14 THE COURT: All right.
15 (Jury enters.) 02:46:26
16 THE COURT: Please be seated.
17 All right. Mr. Minns?
18 MR. MINNS: Yes. May I proceed, Your Honor?
19 THE COURT: You may.
20 BY MR. MINNS: 02:46:56
21 Q. Mr. Young, do you prefer to be called in court Mr. Young
22 or Mr. Carter?
23 A. Carter is fine.
24 Q. Okay. Mr. Carter, with the Court's permission, I'm
25 putting Government's Exhibit 509 on the screen, Your Honor. 02:47:14

United States District Court

JERRY CARTER - Cross

1 Starting at the top here, this is the notice of 02:47:31
2 federal tax lien form, Form 668(Y)(c), which you filed -- this
3 was filed for you by R.A. Mitchell as of May 30, 2007. Is that
4 correct?
5 A. If you look at the top of the form, top right-hand corner, 02:47:52
6 it shows the date it was recorded and that was recorded June
7 12, '07 -- I'm sorry. June 12, 2007.
8 Q. Is it up there right?
9 A. Yes, sir.
10 Q. And this is not -- these are not fake records of Maricopa 02:48:10
11 County. These are the real records of Maricopa County count;
12 correct?
13 A. I'm not aware of any fake records at Maricopa County, but
14 this lien was recorded against James and Jacqueline Parker in
15 2007 for their outstanding taxes. 02:48:26
16 Q. Thank you for the narrative.
17 In these real records, state records, you've used a
18 fake name?
19 A. I used my pseudonym which is issued to me by the
20 Department of Treasury, IRS, and it is registered with the 02:48:45
21 Department of Treasury.
22 Q. Yesterday or the last week, excuse me. Longer than a week
23 ago, your co-revenue agent, Mr. Wedepohl, the last thing he
24 said on the stand was that I should sue him. So if someone
25 were to sue you, should they sue you under your fake name or 02:49:16

United States District Court

JERRY CARTER - Cross

1 your real name? 02:49:19

2 A. Actually --

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

4 THE COURT: It is. Sustained.

5 BY MR. MINNS: 02:49:27

6 Q. Well, the only way to remove the federal tax lien is to
7 file a suit; is that not correct?

8 A. No, sir. The taxpayers can pay the outstanding liability.

9 Q. Okay. They can pay 100 percent of what you claim, plus
10 penalties and interest, or they can file a suit and a court can
11 remove it? 02:49:39

12 A. It's actually the amount of money the taxpayer agreed that
13 he owed in tax court he would have to pay.

14 MR. MINNS: I ask that that be stricken. It was not
15 asked for. It is not responsive, Your Honor. The witness is
16 giving a closing argument from the stand. 02:49:54

17 THE COURT: Overruled.

18 Ask your next question.

19 BY MR. MINNS:

20 Q. Well, the same question. The only way to get that off,
21 other than pay it, is to sue to get it taken off, correct or
22 not? Yes or no? True or false? 02:50:07

23 A. I'm trying to think of the right type of suit. There's
24 probably a suit the taxpayer can file to get the lien removed.

25 I'm guessing an erroneous levy suit would take care of that, 02:50:32

JERRY CARTER - Cross

1 yes, sir. The taxpayer has lots of options. If the lien is
2 not correct or wasn't -- is no longer enforceable, there are
3 methods, legal methods, taxpayers can avail themselves of to
4 have the lien released or withdrawn.

02:50:37

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

02:50:57

7 MR. SEXTON: Objection. Foundation as to what he
8 knows about other agencies.

9 THE COURT: Sustained.

10 BY MR. MINNS:

02:51:09

11 Q. But no court has made a ruling whether or not your nominee
12 lien can be foreclosed on?

13 MR. SEXTON: Objection. Foundation.

14 THE COURT: Sustained.

15 BY MR. MINNS:

02:51:38

16 Q. You can't by yourself foreclose on this nominee lien
17 without a court order?

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

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

02:51:54

21 A. Yes, sir.

22 MR. MINNS: And if the witness could be handed
23 Government's Exhibit 446. The government asked some questions
24 about to it refresh his memory and I would like to do so also.
25 I would like to draw the witness's attention to page 48.

02:52:18

United States District Court

JERRY CARTER - Cross

1 COURTROOM DEPUTY: You should have it up there. 02:52:22

2 THE WITNESS: Which exhibit is that?

3 THE COURT: 446.

4 MR. SEXTON: What was the page?

5 THE COURT: 48. 02:52:32

6 THE WITNESS: I'm sorry. Could you repeat the
7 question?

8 BY MR. MINNS:

9 Q. I haven't asked it yet. I was drawing your attention to
10 page 48. 02:52:56

11 A. I do have page 48.

12 Q. Thank you, Mr. Carter.

13 On that, this report states or you are stating in the
14 report that the power of attorney -- that means either Greg
15 Robinson or Mr. Liggett; correct? The person that has the
16 power of attorney for Mr. Parker; correct? 02:53:14

17 A. When I was working the case, Greg Robinson was the power
18 of attorney for Mr. Parker.

19 Q. Okay. The power of attorney says the house has always
20 been in the kids' names and there will be a court battle -- 02:53:32

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

22 THE COURT: Sustained. You can't read from the
23 document.

24 BY MR. MINNS:

25 Q. Did you make the statement in your report that the power 02:53:40

JERRY CARTER - Cross

1	of attorney --	02:53:44
2	THE COURT: Now wait a minute. Now, Mr. Minns, you	
3	can ask to refresh his recollection or you can impeach him	
4	otherwise.	
5	MR. MINNS: Thank you, Your Honor.	02:53:55
6	THE COURT: That if he's made a statement and it's	
7	inconsistent, you can ask him.	
8	You may proceed.	
9	MR. SEXTON: Judge, I might be on the wrong page.	
10	What page are you on?	02:54:05
11	MR. MINNS: 48.	
12	THE WITNESS: He means page 49.	
13	MR. MINNS: It says page 48 on my copy. I can show	
14	the witness the highlighted portion of mine if the Court would	
15	allow.	02:54:18
16	MR. SEXTON: All right.	
17	THE COURT: He knows where you are.	
18	MR. MINNS: If I could approach the witness, Your	
19	Honor, to make certain. Mine says 48. I would like to --	
20	THE COURT: All right. Let's have Christine hand it	02:54:30
21	to him to make sure.	
22	And what portion of that exhibit, the highlighted	
23	portion?	
24	MR. MINNS: Yes, Your Honor. The highlighted	
25	portion.	02:54:45

JERRY CARTER - Cross

1 THE COURT: Is that the same thing that you have in 02:54:45
2 front of you, Mr. Carter?
3 THE WITNESS: Yes, ma'am.
4 THE COURT: All right. So we're ready to go.
5 BY MR. MINNS: 02:55:08
6 Q. Did Mr. Robinson tell you that the house has always been
7 owned by the kids?
8 MR. SEXTON: Objection, hearsay.
9 THE COURT: Well, he can ask the question but not as
10 if you are reading from something. 02:55:22
11 BY MR. MINNS:
12 Q. Has Mr. Robinson ever told you that the kids own the
13 house?
14 A. Yes, sir.
15 Q. And you've testified that there was no rent paid on the 02:55:47
16 house; is that correct?
17 A. I believe I testified there was no evidence provided to me
18 that any rent was ever paid on the house by James Parker.
19 MR. MINNS: If I could show the witness defendant's
20 Exhibit 1076. 02:56:03
21 THE COURT: And does the government have that?
22 MR. MINNS: It's in evidence.
23 THE COURT: All right.
24 MR. SEXTON: We do, Judge. Thank you.
25 MR. MINNS: May I proceed, Your Honor? 02:56:30

United States District Court

JERRY CARTER - Cross

1 THE COURT: Yes, you may. 02:56:32

2 BY MR. MINNS:

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

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

5 A. It looks like it did per this check. 02:56:50

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

7 A. Yes, sir.

8 Q. You know the house exists?

9 A. Yes, sir.

10 Q. You've seen the outside and you've seen many, many 02:57:05

11 pictures of the house?

12 A. Yes, sir.

13 Q. So there was a disagreement, a strong disagreement,

14 between the IRS, between you personally and Mr. Robinson as to

15 who -- whether or not Mrs. Parker owned an interest in that 02:57:20

16 house; correct?

17 A. Mr. Robinson, at the beginning, said that the house was

18 not his house. Mr. Robinson in the beginning said the house

19 did not belong to the Parkers, that it possibly belonged to the

20 children or was in the trust. Later on, as I worked the case, 02:57:39

21 Mr. Robinson admitted that the house was owned by the Parkers

22 and that they would have to put the equity in the house to

23 another offer in compromise.

24 Q. Mr. Robinson admitted that they own it and that the trust

25 is a fake trust? 02:57:58

United States District Court

JERRY CARTER - Cross

1 A. It's in my ICS history, yes, sir. 02:58:00

2 Q. Do you have a letter from Mr. Robinson admitting this or
3 an indication from Mr. Robinson admitting this or communication
4 from Mr. Robinson admitting this?

5 A. It would be in my ICS history of a conversation I had -- 02:58:08

6 Q. He has told you this --

7 THE COURT: Now. Mr. Minns, you asked him a
8 question. Let him answer.

9 BY MR. MINNS:

10 Q. He just told you this confidentially between the two of 02:58:17
11 you over an unrecorded telephone conversation?

12 A. Unless I read it, I would have to look at the case to see
13 where it's written; but he had power of attorney Robinson
14 acknowledge that Mr. Parker is going to have to provide the
15 equity in the residence in Carefree as part of the offer in 02:58:35
16 compromise.

17 Q. That's not even close to my question.

18 A. Okay.

19 Q. Let me reask it.

20 A. Yes, sir. 02:58:43

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

22 THE COURT: Well, now, Mr. Minns, ask a question.

23 MR. MINNS: Thank you, Your Honor.

24 BY MR. MINNS:

25 Q. You've just testified under oath that Mr. Robinson told 02:58:54

JERRY CARTER - Cross

1 you that Mr. Parker owned the house. My first question is, did 02:58:57
2 Mr. Robinson put that in writing? This would be the time to
3 see that. This is the trial.

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

5 MR. MINNS: Yes. 02:59:11

6 BY MR. MINNS:

7 Q. Do you have anything in writing from Mr. Robinson that
8 says that his client owns the house?

9 A. I don't know if there is. I haven't looked at the case in
10 five or six years. But my ICS history I believe talks about -- 02:59:21

11 Q. I'm not asking what you talk about or wrote down yourself.
12 I'm asking, do you have something in writing --

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

14 THE COURT: Now, Mr. Carter. Let him ask the
15 question. 02:59:34

16 Finish your question.

17 BY MR. MINNS:

18 Q. First, do you have anything in the handwriting of
19 Mr. Robinson backing up what you've just said under oath, that
20 Mr. Parker owns the house? 02:59:44

21 A. If you mean typed, I'm not sure if he actually sent a
22 letter typed. I would have to go through the entire file to
23 see if there was an actual letter, or if he just merely told me
24 that and I documented in my history.

25 Q. You don't have anything from Mr. Parker saying that 03:00:02

JERRY CARTER - Cross

1 either, do you? 03:00:04

2 A. I definitely do not have anything from Mr. Parker, never
3 received a letter from Mr. Parker regarding that.

4 Q. So it's your sworn testimony that Mr. Robinson, on a
5 telephone conversation -- were you in person with Mr. Robinson 03:00:15
6 or was this over the phone when he made this confession to you?

7 A. I would have to look at my ICS history which, apparently,
8 has not been entered as an exhibit.

9 Q. But you've got it in front of you have so you can go
10 through it now. 03:00:30

11 A. I would be happy to but it would take me a while to go
12 through -- it's the ICS history over many pages -- I'm sorry,
13 over many years.

14 Q. So this revelation may have occurred on the phone; it may
15 have occurred in person? 03:00:40

16 A. And it was documented.

17 Q. You wrote it down. I'm not looking for that. I'm only
18 interested in the proof that it was actually done.

19 MR. SEXTON: Objection. This has been asked and
20 answered. 03:00:52

21 THE COURT: Yes. Sustained.

22 Ladies and gentlemen, you are to ignore the last
23 statement.

24 Now, Mr. Minns.

25 MR. MINNS: Yes, Your Honor. 03:00:58

United States District Court

JERRY CARTER - Cross

1 THE COURT: I don't want to have to tell you again. 03:00:58
2 Please ask a question.

3 MR. MINNS: I apologize. I wanted to make a note so
4 that I can respond later.

5 BY MR. MINNS: 03:01:09

6 Q. You do have a lot of letters and you've testified and put
7 some letters in from Mr. Robinson from the firm of Robinson --
8 Farley, Robinson & Larsen; correct?

9 A. I have not looked at the case in many years other than the
10 exhibits that I saw today on the screen or in front of me. 03:01:25
11 I've not seen any letters.

12 Q. Put Exhibit 110 that you testified from today on the
13 stand. You testified about this extensively today, this
14 letter, Exhibit 110, did you not?

15 A. Yes, I did. 03:01:44

16 Q. And if I could ask you in this letter that you've already
17 testified about from Mr. Robinson, Mr. Robinson told you the
18 Parkers have been unable to pay the rent of \$2500 per month
19 since August of 2004. Do you recall that in the letter?

20 A. Yes, I do. 03:02:06

21 Q. Do you recall saying that they hadn't paid any rent at any
22 time as far as you know, but you now changed that; correct?

23 A. I did not change that. I've not seen any evidence that
24 Mr. Parker or any entity paid rent to live in the residence in
25 Carefree, Arizona. 03:02:24

JERRY CARTER - Cross

- 1 Q. Also, Mr. Robinson also told you in that letter that all 03:02:27
2 of the receipts the Belize incorporation had been adjusted as
3 Parker's income, but the Parkers argued with the IRS. Is that
4 correct?
- 5 A. You're asking me if what -- 03:02:41
- 6 Q. It says that in the letter?
- 7 A. It says that in the letter.
- 8 Q. And he also told you that the Parkers could not afford the
9 expense of a tax court trial; correct?
- 10 A. It says Mr. Robinson said that in the letter. 03:02:57
- 11 Q. That they could not afford the expense of a tax court
12 trial?
- 13 A. Yes.
- 14 Q. Do you have any reason to believe that Mr. Robinson was
15 lying to you? 03:03:09
- 16 A. No.
- 17 Q. And he also says fairly clearly -- correct me if I'm
18 wrong -- "Their children own through Sunlight Financial LLP a
19 house and they intend to mortgage the property to supplement
20 the funds to pay this offer." Am I incorrect in that? 03:03:27
- 21 A. I don't believe that's a true statement but that's what
22 the letter says.
- 23 Q. So Mr. Robinson is lying to you but that is a statement
24 that he made to you and copied to his client; correct?
- 25 A. That's what the letter says, yes, sir. 03:03:42

United States District Court

JERRY CARTER - Cross

1 Q. Do you know Mr. Robinson well enough to call him a liar? 03:03:45

2 A. I'm just saying that what he wrote in the letter is not

3 true to the facts that I do know.

4 Q. And you would also disagree that the children own the

5 house and believe the Internal Revenue Service is acting 03:04:01

6 irresponsibly? You would disagree with that, too?

7 A. Yes, I disagree completely with that statement.

8 Q. You interviewed the children and they told you they

9 thought you were acting responsibly?

10 A. No, I did not interview the children. 03:04:15

11 Q. So you have no idea what the children believe?

12 A. That is true.

13 Q. So it may be completely correct?

14 A. I just know the children don't own the house.

15 Q. And, finally, he states, "The children make the mortgage 03:04:31

16 payments and refuse the heavy handed pressure of the revenue

17 officer. Since they offer to help refinance to help pay this

18 offer, it should be accepted."

19 Do you agree that they offered to mortgage the house

20 that you say they don't own to make the offer to pay the IRS 03:04:50

21 \$450,000? Do you agree with that or disagree with that?

22 A. Could you ask that question again, because you're asking

23 what the letter says and I'm not sure exactly?

24 Q. Let's start with the letter. The letter says the children

25 offer to refinance the house to help pay this offer; right? 03:05:16

JERRY CARTER - Cross

1 It's the last sentence that's highlighted there. 03:05:23

2 A. Yes, it says, "Their children own through Sunlight

3 Financial LLP a house and they intend to mortgage the property

4 to supplement the funds to pay this offer." The letter says

5 that. 03:05:36

6 Q. The IRS refused the offer; correct?

7 A. Yes.

8 Q. And one reason they refused the offer is because they

9 don't accept offers in compromise when criminal charges are

10 pending; correct? 03:05:54

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

12 Q. What was the their counteroffer?

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

14 Q. I'm asking you.

15 A. The offer was -- 03:06:11

16 MR. SEXTON: Objection. Foundation as to whether

17 this witness knows anything about that.

18 THE COURT: Sustained.

19 BY MR. MINNS:

20 Q. Government's Exhibit 450 is an affidavit and a promissory 03:06:25

21 note. The affidavit is signed by Stanley Ed Manske.

22 MR. SEXTON: What exhibit again?

23 MR. MINNS: 78.

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

25 MR. MINNS: Did I say 450? 03:06:48

United States District Court

JERRY CARTER - Cross

1 MR. KLAMRZYNSKI: Yes. 03:06:51
2 MR. MINNS: I apologize. There, you can look at it.
3 MR. SEXTON: I'm done.
4 MR. MINNS: Thank you.
5 MR. SEXTON: I just wanted to know what number it 03:06:57
6 was.
7 MR. MINNS: My apologies.
8 THE COURT: So it's Exhibit what now?
9 MR. MINNS: 78, Your Honor.
10 BY MR. MINNS: 03:07:23
11 Q. This is an affidavit with a promissory note attached to it
12 and it is signed by their attorney in Oklahoma, Stanley Ed
13 Manske; correct?
14 A. I can't see who it is signed by. I've never seen this
15 document before. 03:07:42
16 MR. MINNS: May I approach counsel table? I might be
17 mistaken. I would like to ask the question.
18 THE COURT: Fine.
19 BY MR. MINNS:
20 Q. I am incorrect. I apologize. 03:08:09
21 What you testified about was the promissory note
22 attached to the affidavit which I'm going to put on the screen
23 to start with. One for \$239,903.48. But you did not testify
24 about the document that it was attached to. And that is the
25 document that I'm asking you a question about, the entirety of 03:08:39

JERRY CARTER - Cross

1 the Exhibit 78. The letter attached to that document, that 03:08:43
2 promissory note, the affidavit under oath that the real name of
3 attorney Stanley Ed --

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

5 THE COURT: Well, I'm not quite sure if we have a 03:08:55
6 question. So you want him to look at the letter?

7 MR. MINNS: Yes. The affidavit, Your Honor.

8 THE COURT: All right. Then he can look at the
9 affidavit now. And ask him a question.

10 MR. MINNS: Thank you, Your Honor. 03:09:09

11 BY MR. MINNS:

12 Q. The promissory note that you had earlier testified to is
13 attached to this affidavit, isn't it?

14 A. Yes, sir.

15 Q. But you didn't mention the affidavit when you testified 03:09:23
16 earlier?

17 A. I have not ever seen either the affidavit nor the
18 promissory note until this afternoon or this morning.

19 Q. So the government didn't show you the affidavit that was
20 attached to the promissory note? 03:09:38

21 A. It was probably in this folder but I don't know if it was
22 ever flashed on the screen.

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

25 It's signed by Mr. Manske, the attorney, on or about 03:10:02

United States District Court

JERRY CARTER - Cross

1 the 12th day of April 2010; correct?

03:10:07

2 A. That's what it looks like.

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

03:10:27

6 A. You know, I would have to read the whole document. I'm
7 not an attorney. I've never seen this document or the
8 promissory note so I would have to review them.

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

03:10:41

12 My question on that document is it does say that the
13 affidavit is made for the purpose of allowing the terms of the
14 promissory note to be a matter of public record. It does say
15 that.

03:10:58

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

17 Q. And that's how you got ahold of it. The attorney for
18 Mr. Parker made it public attaching this affidavit to it.
19 That's how you got -- that's how you got a copy of the
20 promissory note that you testified about.

03:11:20

21 MR. SEXTON: Objection to the form as to how he got a
22 copy --

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

24 Can you answer that question?

25 THE WITNESS: I have never seen the promissory note

03:11:28

United States District Court

JERRY CARTER - Cross

1 or this affidavit ever until this afternoon when it was shown 03:11:30
2 to me by the government.

3 BY MR. MINNS:

4 Q. So you haven't discussed your testimony, what you were
5 going to be asked the questions you were going to be asked, by 03:11:40
6 anybody at the government table until they just put you on the
7 stand? That's when you first learned what the questions were
8 they were going to ask you were going to be?

9 A. I saw the promissory note today. I saw one promissory
10 note today, the one that had \$450,000 on it, but I did not ever 03:11:57
11 see the affidavit or this affidavit ever, not while I was
12 working the case or today until you showed it to me right now.

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

15 MR. SEXTON: Objection to the form of the question. 03:12:18
16 Irrelevant.

17 THE COURT: Sustained.

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

19 THE COURT: Well, Mr. Minns, no. His surprise is not
20 relevant. If you have a question to ask him concerning his 03:12:35
21 knowledge and expertise, I'll allow it.

22 BY MR. MINNS:

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

25 MR. SEXTON: Objection to the form of the question, 03:12:57

JERRY CARTER - Cross

1 Your Honor. 03:12:57

2 THE COURT: Well, I'm going to sustain the objection.
3 That assumes facts not in evidence.

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

5 THE COURT: But you're asking him a question in which 03:13:03
6 you are assuming the answer and it's not in evidence.

7 MR. MINNS: Thank you, Your Honor.

8 BY MR. MINNS:

9 Q. This letter, Exhibit 110, from the law offices of Farley,
10 Robinson & Larsen, on the last page, it appears that the 03:13:45
11 lawyer, attorney Gregory Robinson, has copied it to the Parkers
12 but also copied it to you under your real name.

13 A. Yes, sir.

14 Q. Did you receive it?

15 A. Yes, I did. 03:14:11

16 Q. Did you tell your superiors at the Internal Revenue
17 Service that the property, the house that the Parkers lived in,
18 was clear and free and had been clear and free with no liens on
19 it?

20 A. I did believe the property was free and clear other than a 03:14:48
21 small mortgage against it from I think it was '03. But, yes,
22 up until August of 2005, I was always be under the assumption
23 the property was free and clear.

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

25 A. Yes, sir. No. I think it was the second -- there was -- 03:15:06

JERRY CARTER - Cross

1 when the Parkers purchased it in '98, there was a mortgage 03:15:11
2 against it. They got a mortgage against it and then they --
3 then they refinanced it I think in 2003.
4 Q. There was never --
5 A. Yes, sir. 03:15:25
6 Q. There was never a time, from the beginning of the time
7 that they purchased it to today, when there was no lien against
8 it, where there was no purchase money?
9 THE COURT: Is that a question?
10 MR. MINNS: That's my question, yes. 03:15:36
11 MR. SEXTON: Objection. Foundation as to what he
12 would know for that time period.
13 THE COURT: Sustained on foundation.
14 BY MR. MINNS:
15 Q. Are you saying under oath that they paid off the three 03:15:44
16 hundred something thousand dollar promissory note or that they
17 refinanced it and still owe the money? Which is true?
18 A. Of which one?
19 Q. Which one is true? Did they pay it off completely or did
20 they -- 03:15:57
21 A. There are three mortgages on the property.
22 Q. The first lien.
23 A. The first one, they paid that off, yes, sir.
24 Q. 100 percent?
25 A. I assume so. Stewart Title released the lien. 03:16:07

United States District Court

JERRY CARTER - Cross

1 Q. Didn't they release it because they reborrowed the 03:16:10
2 \$350,000 wrapping it into the Universal loan?

3 A. I'm not sure how they secured the second loan -- the
4 second loan or paid off the first.

5 Q. So what you stated under oath earlier, that it was paid 03:16:26
6 off, you don't know if that's true?

7 A. They released the deed of trust. That means it was paid
8 off.

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

10 THE COURT: Mr. Minns, let me talk to counsel at the 03:16:38
11 sidebar at.

12 (At sidebar.)

13 THE COURT: Mr. Minns, I don't want to embarrass you
14 in front of your client. I don't want to embarrass you in
15 front of the jury. I know that that is something that is very, 03:16:59
16 very difficult for an attorney to handle in front of a jury and
17 in front of your client. If that were to occur, it would be
18 extremely adverse.

19 You continue to make statements. You continue to
20 comment on the evidence. If you do so again, I will admonish 03:17:23
21 you in front of the jury.

22 MR. MINNS: May I make a record right now, Your
23 Honor?

24 THE COURT: Make a record now.

25 MR. MINNS: This gentleman has testified under oath 03:17:34

United States District Court

JERRY CARTER - Cross

1 that that first lien was paid off. That's either a mistake or 03:17:36
2 perjury. It was not. It was covered. It was brought up into
3 the new loan and there was testimony last week by the people
4 from Universal that they -- it was a balloon payment note.
5 They paid it off with a new note, so the jury is left with the 03:17:50
6 mistaken, untrue --

7 THE COURT: That's argument. You can ask him
8 questions.

9 Anything else?

10 MR. MINNS: No. Thank you, Your Honor. 03:18:06

11 (End sidebar.)

12 BY MR. MINNS:

13 Q. The government requires a check when a taxpayer makes an
14 offer in compromise of \$150; correct?

15 A. I'm not familiar with the procedures on the offer in 03:18:32
16 compromise regarding if a check has to accompany the offer in
17 compromise.

18 Q. Have you ever had a conversation with Mr. Jim Parker
19 personally?

20 A. I've never talked to James Parker. 03:18:55

21 Q. Thank you.

22 MR. MINNS: Pass the witness, Your Honor.

23 THE COURT: All right.

24 Redirect?

25 MR. SEXTON: No redirect. 03:19:09

United States District Court

JERRY CARTER - Cross

1 THE COURT: Okay. 03:19:10

2 You may step down.

3 (Witness excused.)

4 (End of excerpted portion.)

5 THE COURT: Ladies and gentlemen, I think the 03:19:14
6 government has one more witness.

7 And I have a matter today. I don't know if you knew,
8 probably Christine told you, that we are going to adjourn at
9 3:45. We're going to adjourn a little bit earlier.

10 And I understand from the United States government 03:19:33
11 they intend to rest tomorrow and the defense has no obligation
12 to present any kind of case. I don't know if they will do so.
13 It is up to Mr. Minns and Ms. Arnett. But I will then have to
14 counsel in between the time that the government rests and the
15 defendant puts on evidence should he choose to do so. 03:20:02

16 So tomorrow is going to be noted as clear in terms of
17 the schedule as I would like it to be.

18 We will start -- Christine, we are scheduled to start
19 at what time?

20 COURTROOM DEPUTY: 8:30, Your Honor. 03:20:18

21 THE COURT: We will start at 8:30. We'll start with
22 the government's last witness and we'll take it from there. So
23 you are released today. We are adjourned. We'll see you at
24 8:30 tomorrow.

25 (Jury departs.) 03:20:52

United States District Court

JERRY CARTER - Cross

1 THE COURT: Okay. As I understand it, 03:21:07
2 Mr. Klamrzynski is going to testify tomorrow, first witness,
3 last witness?

4 MR. SEXTON: Yes.

5 MR. MINNS: So now so that you can rest, you can work 03:21:14
6 with Christine to make sure you have all of your exhibits in
7 and then we can go forward after he testifies.

8 And I guess from what you're telling me, it's going
9 to take about half an hour to 45 minutes?

10 MR. SEXTON: That's my best guess, Your Honor. 03:21:31

11 THE COURT: And then about the same for you,
12 Mr. Minns?

13 MR. MINNS: For --

14 THE COURT: For the last witness?

15 MR. MINNS: I think my cross will be less than their 03:21:43
16 direct. It always happen. Let me just say, yes, about the
17 same time. 30, 45 minutes.

18 THE COURT: All right. It looks like we will finish,
19 then, with the testimony tomorrow and the government can rest.

20 And then before noon we -- the Court will entertain 03:21:59
21 the argument for a directed verdict and, hopefully, we'll get
22 that all finished by noon so that you know, Mr. Minns, that
23 it's likely if you are going to -- if I deny the motion, then
24 likely you'll be putting on your evidence in the afternoon
25 starting between one and 1:30, depending upon how long it takes 03:22:21

United States District Court

JERRY CARTER - Cross

1 for the Court to rule. 03:22:27

2 COURTROOM DEPUTY: We have it down as no trial
3 tomorrow afternoon.

4 THE COURT: Oh. That's right. I forgot. Nothing in
5 the afternoon or do I have any time? 03:22:37

6 COURTROOM DEPUTY: It says, "Do not set."

7 THE COURT: All right. So, then, what we'll do is if
8 you are -- if I deny the motion and you wish to put on
9 evidence, then we will do that on Thursday.

10 Starting at 8:30, Christine? 03:22:56

11 COURTROOM DEPUTY: Yes, Your Honor.

12 MR. MINNS: So, Your Honor, I don't need to have
13 witnesses available tomorrow; they should be available Thursday
14 morning?

15 THE COURT: Thursday morning. 03:23:03

16 MR. MINNS: Thank you, Your Honor.

17 THE COURT: All right.

18 Anything else?

19 MR. SEXTON: Just that before the witnesses come out,
20 as to the two I talked about, I would like some time with you. 03:23:10

21 That's all. Doesn't have to be right now. He has a couple of
22 people that have very little information about it.

23 THE COURT: Yes, you talk to Mr. Minns about it.

24 There should be plenty of time for that since if he is going to
25 put on witnesses, you had a day and we'll resolve -- you can 03:23:23

JERRY CARTER - Cross

1 let me know tomorrow whether or not there are issues about the 03:23:29
2 witnesses that Mr. Minns has indicated he wishes to call.

3 MR. SEXTON: Thank you, Judge.

4 THE COURT: All right. We're adjourned.

5 (Whereupon, these proceedings recessed at 3:23 p.m.) 03:23:40

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JERRY CARTER - Cross

C E R T I F I C A T E

03:23:40

1
2
3 I, ELAINE M. CROPPER, do hereby certify that I am
4 duly appointed and qualified to act as Official Court Reporter
5 for the United States District Court for the District of
6 Arizona.

03:23:40

7
8 I FURTHER CERTIFY that the foregoing pages constitute
9 a full, true, and accurate transcript of all of that portion of
10 the proceedings contained herein, had in the above-entitled
11 cause on the date specified therein, and that said transcript
12 was prepared under my direction and control, and to the best of
13 my ability.

03:23:40

14
15 DATED at Phoenix, Arizona, this 7th day of August,
16 2012.

03:23:40

17
18
19
20 s/Elaine M. Cropper

03:23:40

21 _____
22 Elaine M. Cropper, RDR, CRR, CCP
23
24
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United States District Court