

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF IOWA

3 UNITED STATES OF AMERICA,)
4 Plaintiff,) CR 08-1324
5 VS.) 11/5/09 Excerpt
6 SHOLOM RUBASHKIN,) TESTIMONY OF:
7 Defendant.) SHOLOM RUBASHKIN

8 APPEARANCES:

9 ATTORNEYS CHARLES J. WILLIAMS, PETER E. DEEGAN,
10 JR., AND MATTHEW J. COLE, Assistant U.S. Attorneys,
11 Suite 400, 401 First Street S.E., Cedar Rapids,
Iowa 52401, appeared on behalf of the United
States.

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13 firm of Grefe & Sidney, 500 East Court Avenue,
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14 AND
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17 West Des Moines, Iowa 50265, appeared on behalf of
Sholom Rubashkin.

18 EXCERPT OF JURY TRIAL,

19 held before the Hon. Linda R. Reade on the 5th day
20 of November, 2009, at 400 S. Phillips Avenue,
21 Sioux Falls, South Dakota, commencing at 8:09 a.m.

22
23 Patrice A. Murray, CSR, RPR, RMR, FCRR
24 United States District Court
4200 C Street S.W.
25 Cedar Rapids, Iowa 52404
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<p>1 (The following excerpt of proceedings 2 was held in open court.) 3 SHOLOM RUBASHKIN, 4 called as a witness, being first duly sworn, was 5 examined and testified as follows: 6 THE COURT: All right. Please be 7 seated. 8 DIRECT EXAMINATION 9 BY MR. COOK: 10 Q. Everybody knows who you are, but please 11 state your name for the record. 12 A. My name is Sholom Mordechai Rubashkin. 13 Q. Your age and date of birth? 14 A. I'm fifty years old. October 29 of '59. 15 Q. Where were you born, sir? 16 A. In Brooklyn, New York. 17 Q. Who are your parents? 18 A. My father is named Abraham, and my mother is 19 Rivka. 20 Q. Do you have any brothers or sisters? 21 A. I do. I have five sisters, and we have four 22 brothers. 23 Q. Make sure you speak into the microphone. 24 A. Okay. I can't really hear myself much. 25 Q. Where do you line-up in the family in terms</p>	<p>1 the afternoon. And then I went to high school, a 2 religious program. And then I went to Rabbinical 3 Seminary of America, in Jersey, Morristown, New 4 Jersey. From there, I went to -- back to 5 New York, and then there was a program where we 6 went to start a school in Argentina, Buenos Aires. 7 Q. Let me stop you right there. Let's get a 8 little more information about your education in 9 the rabbinical sense. What was the purpose of 10 that study? 11 A. The purpose of what? 12 Q. Rabbinical study. What was the purpose of 13 that? 14 A. That's my life. 15 Q. Okay. What were you taught, or what did you 16 learn? What were the subjects? 17 MR. WILLIAMS: Objection. Relevance, 18 Your Honor. 19 THE COURT: Overruled. You may answer, 20 yes. 21 A. We studied the Bible, the Five Books of 22 Moses. And then there's the law that goes along 23 with this. It's quite large to study, and we did 24 it. We do it. I was actually ordained in -- when 25 I was twenty-two, twenty-three years old.</p>
4	6
<p>1 of sequence? 2 A. I'm number 6. 3 Q. We've heard some testimony about siblings 4 that are associated with your father's business. 5 Can you tell us who those people are? 6 A. My brother, Yossi, is the oldest of the 7 sons. He is -- he was taking care of the New York 8 operation. My brother, Heshy, and myself and my 9 brother-in-law, Yossi Gourarie, we live in 10 Postville. And my sister, Gittel, is in Florida. 11 Q. Do you have any children that work in your 12 father's business? 13 A. Yeah. 14 Q. And tell us who -- 15 A. Actually, I -- my son, Shmuly, worked in 16 Florida, and my son, Getzel, worked in Postville. 17 Q. Let's talk about you. Specifically, let's 18 talk about your education. How many years of 19 formal nonreligious education did you take? 20 A. I -- I graduated eighth grade. 21 Q. What other education in the rabbinical or 22 religious sense have you had? 23 A. Most of my studies, I went to -- I went 24 to -- are schools that have English -- a Jewish 25 program in the morning and then English program in</p>	<p>1 Q. And then you mentioned that you went to 2 Argentina. Is that after you were ordained? 3 A. No, before. 4 Q. Before. And what was your purpose in going 5 to Argentina? 6 A. A group of ten students that -- we were sent 7 there to start a -- it was a small start-up type 8 of school. They needed some -- some help. And we 9 were asked to go, and we volunteered, and we left 10 our families and went there for a year. 11 Q. All right. Now, of course, the jury's heard 12 from your wife, Leah, and so we'll try not to 13 duplicate that testimony. But tell us when you 14 were married? 15 A. Married '81, '82. 16 Q. And you have children? 17 A. Excuse me? 18 Q. You have children? 19 A. Yes. I have ten children, yeah. 20 Q. And after you were married, walk us through 21 briefly your employment. 22 A. Right after we got married, like my wife 23 said, I studied. I continued my studies. And 24 then we -- I helped my father, basically. There 25 was actually a -- he had a textile business. I</p>

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<p>1 was there for about two, three years. And then my 2 mother needed help in the store. My wife spoke 3 about it. So I went there to help her. And then 4 I -- I then -- they needed help in the meat store, 5 so I went to help them over there. And then by 6 then, I -- I kind of maxed out my -- what I really 7 wanted to do.</p> <p>8 Q. All right. We heard from your wife about a 9 move to Atlanta. What were you doing there?</p> <p>10 A. In Atlanta, I went to the, basically, an 11 outreach director. There was Chabad of Georgia 12 over there, and it was starting up, and he needed 13 some help. And my wife and, it would have been, 14 two, three children, they went to Atlanta. And I 15 went to the colleges. I spoke to students. I 16 participated in -- in this -- the services on the 17 Sabbath. On Sunday, I gave Sunday school to small 18 children who came from Macon, Georgia. They drove 19 up and -- whatever had to get done, I did it. I 20 just -- I just -- it was various, from -- from 21 older adult classes down to teaching kids the 22 alphabet, the Jewish alphabet.</p> <p>23 Q. So this is work in conjunction with a rabbi 24 there in Atlanta?</p> <p>25 A. Yeah.</p>	<p>1 okay.</p> <p>2 Q. When did your brother, Heshy, go there?</p> <p>3 A. Oh, Heshy went right after he got married, 4 before the start-up of the plant. He was there 5 while all this was being laid out.</p> <p>6 Q. Did you eventually feel some pull or 7 pressure to go help in the family business?</p> <p>8 MR. WILLIAMS: Objection, leading.</p> <p>9 THE COURT: Sustained.</p> <p>10 Q. Did you eventually assist in the family 11 business?</p> <p>12 A. Yeah, that was -- my father was asking me 13 to -- to -- to not continue my desire to -- to be 14 in the education field, if you want to call it 15 that way, and see what I could do to help. And I 16 really was not too -- not too interested in that.</p> <p>17 And there was -- being in Atlanta, I found out 18 that there's a big shortage of kosher meat 19 anyplace outside New York. It just was not 20 available. If it was available, it came in either 21 frozen or it wasn't the right kosher status. And 22 I -- I -- Heshy -- actually, I saved up my own --</p> <p>23 MR. WILLIAMS: Objection to the 24 narrative form of the answer, Your Honor.</p> <p>25 THE COURT: Objection sustained.</p>
8	10
<p>1 Q. How long were you there in Atlanta?</p> <p>2 A. A little bit over a year. And then -- it 3 was pretty successful, and then we had some --</p> <p>4 MR. WILLIAMS: Objection, Your Honor.</p> <p>5 Not responsive to the question.</p> <p>6 MR. COOK: Let me ask another question.</p> <p>7 THE COURT: Very fine. Thank you.</p> <p>8 Q. All right. After you left Atlanta, where 9 did you go?</p> <p>10 A. We were -- we were very successful there and 11 had the other opportunities on the horizon, so we 12 went back to New York and tried to -- tried to 13 go -- be -- meanwhile, my father started this 14 place called Agriprocessors in Postville, Iowa.</p> <p>15 Q. Let me stop you right there. Of course, we 16 heard from a number of witnesses about its origins 17 and so on, and a kosher meat plant. Who were your 18 other family members who were there when it 19 started?</p> <p>20 A. The whole organization was there. I was in 21 New York listening to what was going on. We 22 had -- I can't remember the names now. There was 23 a manager called James Hatch; another guy called 24 Tom Morris; another my father spoke about named 25 Bob Ball. That was basically -- I started --</p>	<p>1 Will you please ask another question.</p> <p>2 MR. COOK: Yes, of course, Your Honor.</p> <p>3 Q. So you mentioned that when you were in 4 Atlanta you saw the difficulties with getting 5 kosher meat and poultry?</p> <p>6 A. Correct.</p> <p>7 Q. And eventually you come to be involved in 8 your father's business in Postville; is that 9 right?</p> <p>10 A. Correct.</p> <p>11 Q. And we heard testimony from Rabbi Cohen that 12 you had some involvement in the kosher 13 certification; is that right?</p> <p>14 A. Yeah.</p> <p>15 Q. What is involved in kosher certification?</p> <p>16 A. It's -- it's involved in taking orders from 17 Rabbi Cohen, what he needed, what his concerns 18 were, whether the plant was dark or -- they 19 weren't working two shifts then. Over the 20 weekend, we would close things up, putting in -- 21 helping him put systems in place and then 22 overseeing them, make sure they were overseen.</p> <p>23 Q. And can you just tell us, just basically, 24 what's involved to make meat kosher?</p> <p>25 A. You have to start with a kosher animal. You</p>

11	13
<p>1 have to -- this is all Biblically ordained. You 2 have to slaughter in a certain way, and then you 3 have to check the inside organs to see if they're 4 whole, there's no -- nothing that's been 5 punctured. And after that, you have to soak and 6 salt it, basically. And once that process is 7 finished, it's -- it is kosher. Then we put it in 8 a sealed bag with a sealed certification, USDA and 9 rabbinical, and we sell it. 10 Q. All right. And then we heard, of course, 11 that the kosher diet is part of the Orthodox 12 Jewish life-style? 13 A. Yeah. 14 Q. Part of the religious dictates? 15 A. Correct, that's in the Five Books. 16 Q. All right. Now, I don't want to spend too 17 much time on this, but there's a lot of fellows in 18 the courtroom here that look like you, with black 19 and a beard and a hat. What is the hat for? 20 MR. WILLIAMS: Objection, Your Honor. 21 610, relevance. 22 THE COURT: Let's -- 23 A. Just a quick -- 24 THE COURT: -- just pare that down to a 25 general question.</p>	<p>1 A. Right. 2 Q. -- is part of your religious dictates? 3 A. Correct, correct. 4 Q. All right. Very good. All right. When is 5 it approximately then that you shift from your 6 teaching work or your rabbinical work and start 7 some association with your father's business? 8 A. I always had very -- a very, very strong 9 sense of honoring my father and mother. 10 MR. WILLIAMS: Objection, Your Honor. 11 Not responsive to the question. 12 THE COURT: Sustained. Will you read 13 back the question. 14 (Whereupon, the requested portion of the 15 record was read by the Court Reporter.) 16 A. It didn't happen in one move. It started 17 out somewhere in the middle of, approximately -- I 18 don't know, I have no diary written down -- but 19 somewhere in 1990. It developed over a year, so I 20 would put it somewhere in '90, '91. 21 Q. All right. Do you physically move from 22 Brooklyn, Borough Park, or Crown Heights to the 23 Midwest? 24 A. No. I commuted the first year from Crown 25 Heights, Brooklyn, to Postville, Iowa, sort of --</p>
12	14
<p>1 Q. Okay. Can you tell us, Sholom, why you 2 dress and appear the way you appear? 3 A. It's -- it's -- it's a religious -- it's a 4 religious way of dressing in the sense that -- in 5 the Jewish custom, covering your head is a show of 6 respect. 7 MR. WILLIAMS: Objection, Your Honor, to 8 the narrative response here. 9 THE COURT: Overruled. 10 A. It's -- it's a show of respect, to show that 11 you have somebody on top of you at all times, to 12 remind you that there's someone above you. And 13 the beard, it says in the Five Books -- 14 MR. WILLIAMS: Objection, Your Honor. 15 Not responsive, 610. 16 THE COURT: I don't think we need to go 17 into this amount of detail. 18 THE WITNESS: Okay. 19 THE COURT: Maybe you can just shorten 20 it. 21 MR. COOK: That's fine, Your Honor. 22 Q. Is your clothing, the beard, and the hat you 23 described part of your religious -- 24 A. The clothing is my choice. 25 Q. But the beard and the hat --</p>	<p>1 so I could get a feel of what was going on there. 2 Q. Let me stop you right there. When you were 3 doing this commuting work, what was your task at 4 the plant? Were you actually working on the line? 5 Were you building things? What were you doing? 6 A. I had this -- I had a pet project that I 7 wanted to put in a skin packing machine which 8 would allow -- through technology, that would 9 allow fresh meat to last about forty-five days in 10 a fresh form. And I had -- if we could get that 11 machine in there, we could get some fresh kosher 12 meat out and be able to market it to places like 13 Atlanta or other Jewish customers. 14 Q. All right. And so you commute for about a 15 year; is that right? 16 A. Roughly, until the school year. I think -- 17 I guess, if you want to put it, the school year of 18 1990. When the school ended is when we decided to 19 move to Minneapolis, Minnesota, St. Paul, 20 Minnesota. It's the Twin Cities. 21 Q. All right. And so your family, your wife, 22 and children then move to St. Paul? 23 A. Right. 24 Q. And your commute is a little shorter, but 25 you're still commuting?</p>

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15

1 A. Right.

2 Q. And during that time period, what were

3 your -- what was your job at Agriprocessors? What

4 did you do?

5 A. I don't know if I had a job at

6 Agriprocessors. I was -- whatever -- there

7 were -- it was the first year it started

8 business -- it started in, I think, '89, '90. And

9 I'm trying to place where -- I think Tom Morris

10 left, and then Donald came, and my father was

11 working with the managers and stuff. But there

12 was always an issue of getting kosher meat

13 prepared. There was a start-up -- a lot of

14 start-up issues, starting up this older plant,

15 working with it. And whoever was available -- I'd

16 come in the morning wanting to do something and

17 wound up doing something else, like work in the

18 coolers and pushing cattle around in the coolers

19 to make space. At that time, we didn't bone any

20 meat. I did that for maybe '92 or '3, whenever.

21 And then when Thomas left, I was on the kill floor

22 for a while helping out over there, giving some

23 encouragement to the workers, so that lasted for

24 about '91, '92.

25 Q. Does there come a time then, about '93, when

16

1 you and your family -- your wife and your growing

2 family move to Postville?

3 A. Yeah. When my son, Moshe, was born, that

4 summer of '93 is when we moved from

5 Minneapolis/St. Paul to Postville.

6 Q. Let's see if we can take then in 1993, and

7 your family moves to Postville. What are your

8 duties or what are your tasks that you

9 accomplished while you're working at Postville --

10 excuse me, working at Agriprocessors,

11 Incorporated, while living in Postville?

12 A. It was -- it was either downstairs in the

13 plant, it was talking to managers, seeing what had

14 to get done. I don't know if I have a real clear

15 recollection of what was going on at that

16 particular -- I was traveling back and forth

17 three, four hours. I would leave there Sunday

18 night, stay there for a day or two, and drive back

19 at night, and then come back. And I don't have a

20 clear recollection of the exact tasks. I would

21 bore you with the details with all that.

22 Q. I think you're talking now about being in

23 St. Paul?

24 A. Yeah.

25 Q. And I want to shift to Postville. The

17

1 family moves to Postville, is living in Postville.

2 The commute is no longer occurring. Did your job

3 tasks change, or what are you doing at that period

4 of time?

5 A. I was helping out a lot at the production

6 facility. I was -- I think at that time the

7 chicken plant was started. I was -- I was helpful

8 over there. There were community issues,

9 getting -- getting the community, and then some

10 issues with the city, and I was working on those

11 type of issues.

12 Q. And who was the -- essentially, managing the

13 plant or running the plant at that time?

14 A. I -- Donald Hunt was my father's manager

15 there, the guy. James Hatch was also around. And

16 when James Hatch left, Donald basically took over.

17 And we worked with Donald. Heshy and I worked

18 with Donald.

19 Q. Okay. Now, there comes a time when Mr. Hunt

20 passes away, correct?

21 A. It's been about eight years now.

22 Q. Right, we're going to come back.

23 A. He passed away about 2003, June of 2003.

24 Q. I wanted to talk about that time period

25 between '93 and 2003.

18

1 A. Okay.

2 Q. Do your tasks or duties evolve at the plant?

3 A. Yeah, I -- I guess I was -- I was on

4 production. I got a little involved with raising

5 money for Agriprocessors. There was a constant

6 need for money. I called my father up and

7 discussed what to do, and I suggested to him to

8 call a few people and see if they can help us out.

9 And he sort of didn't want to call them, so I

10 called on his behalf, and that's how I got

11 involved with -- with that part of it, and I was a

12 little bit involved in the money side, and a lot

13 of involvement in production or the rabbinical

14 community or -- side of it.

15 Q. Now, if we fast forward a little bit to

16 1995, about how big is the plant at that time in

17 terms of employees and production?

18 A. I -- I didn't really -- I don't have a clear

19 idea. When I came there, there were about 70

20 workers there, as I remember. And then we went

21 through a period that was -- there was a layoff.

22 I remember working on that very strongly. There

23 was big economic pressures, and we had to actually

24 tone it down. And we had -- we had to have a

25 layoff. We -- at a certain point, we mixed

19	21
<p>1 between meat and chicken. We went -- went back 2 and forth, from one side to the other -- 3 Q. You might slow down for our court reporter. 4 She's very good, but it's hard when you talk fast. 5 A. Okay. There was a time over there that 6 we -- that's when Brent Beebe came there, on the 7 kill floor, and we had to tone the business down 8 to -- to sort of back up a little bit. And we set 9 up three days beef and two days chicken for a 10 while. It was -- I would say the first five, 11 eight years was the growing pains that, you know, 12 any start-up business goes through, you know, 13 and -- and all the surprises that go along with 14 it. 15 Q. Okay. Now, to produce the kosher meat and 16 poultry, of course, we've heard that there's 17 religious slaughters and rabbis that must be 18 present at the plant? 19 A. Yes, lots. 20 Q. And as the plant grows, their population 21 grows as well? 22 A. Yeah, the population grows. Postville was, 23 I think, 1,200 when we came, and at the end of it, 24 it was about, I think, about 3,500. 25 Q. I want to focus on the Jewish population</p>	<p>1 We've heard, of course, that a Jewish school -- 2 actually two schools developed, right? 3 A. Correct. 4 Q. And a synagogue? 5 A. Correct. 6 Q. What was your involvement in getting those 7 facilities off the ground and functioning? 8 A. I just did it. I talked to people, 9 convinced them to come. You know, we have 10 people -- if you look in the courtroom, there's a 11 lot of different dresses and a lot of different 12 styles of people that have come together, and we 13 had to be together for it to work. And it was 14 quite a task to keep everybody wanting to be there 15 and happy and not -- not arguing; and typical 16 communal type of tasks, had some meetings with 17 people to maybe try to avoid conflict with people, 18 arbitrate a little. 19 Q. And eventually, you and others are 20 successful in establishing these schools and the 21 infrastructure? 22 A. Yeah, it was -- it was a communal effort, 23 yeah. And then over the years, we developed over 24 a hundred -- maybe more. I think it's 120 25 families were there. And had a school, large girl</p>
20	22
<p>1 that's there. Do you have any involvement in 2 construction or development of the infrastructure 3 to support the Jewish community that is coming to 4 Postville? 5 A. Yeah. 6 Q. Tell us what involvement you had with that. 7 A. Well, a religious Jew in Postville is not 8 the average that you find. And it's -- we needed 9 a -- we needed a community to -- for people to 10 want to be there. You're raising a family, 11 typically, and there's an infrastructure that has 12 to happen along with it. And I always viewed it 13 like the pioneers of the west, when they first 14 went out west and what it took to -- to -- just to 15 have people that will come. You have to have 16 established your restaurants, you have your 17 theater, you'll have people that will come. But 18 in the beginning it took convincing, meeting with 19 people, explaining to them what we want to 20 accomplish, that -- that it would work out, we'll 21 be able to supply you. In the beginning it was 22 quite a task, to talk with people that want to 23 move there and then to try to get one or two 24 teachers that want to teach, more or less. 25 Q. And let me see if we can speed this up.</p>	<p>1 school, large boy school. People coming from 2 other cities to Postville. Initially, the first 3 year people came from Minneapolis that I knew from 4 there, and it grew. 5 Q. Let's go back to talking about your evolving 6 chores at the plant. What sort of work do you do 7 in the years leading up to Mr. Hunt's passing? 8 A. Like I said, I had this -- this 9 responsibility. I -- I was involved, as Donald 10 Hunt was, and as Heshy was, with the day-to-day 11 business, is the money coming in, is the money 12 going out. I talked to my father quite frequently 13 on that. I tried to help him wherever I could on 14 that issue. Some were -- there's always people 15 around doing their thing, and then there was more 16 than enough to fill a day; and production, and a 17 new project, a USDA issue. We had a neighbor, 18 Iowa Turkey Products. They were very concerned 19 about us coming to a small town, for whatever 20 reason. I never really understood. And being 21 the -- being the new kid on the block, as you 22 will, we were -- there's always that -- that thing 23 to explain to people who we are, why we're there. 24 We had a lot of town meetings. It was quite a 25 busy time.</p>

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23	25
<p>1 Q. All right. Now, we, of course, have heard 2 evidence that the turkey plant had a fire. 3 A. That's -- that's about 2005, I think. No. 4 2003? I don't know. 5 Q. All right. Well, in any event, they have a 6 fire -- 7 A. Yeah. 8 Q. -- in the early 2000s? 9 A. Right. 10 Q. And do some of those workers then come to 11 work at Agriprocessors? 12 A. Oh, lots. 13 Q. Did you have any involvement in that? 14 A. Yeah. 15 Q. Tell us -- 16 A. I had involvement in the sense that I 17 suddenly started getting a lot of calls from -- 18 MR. WILLIAMS: Objection. Motion in 19 limine, Your Honor. 20 THE COURT: Let's rephrase it. Make 21 sure that we -- 22 MR. COOK: Yes, Your Honor. 23 Q. What was your specific task as it related to 24 workers who might be coming from the turkey plant? 25 A. I was approached by a lot of people. It was</p>	<p>1 A. I think I counted it out with Monty. I 2 think I had six or seven places -- offices 3 during -- I had one time an office down the hall 4 from Donald and Heshy, and then I moved next to 5 Donald, and then I moved in a closet-type office 6 down the hall, and then I went downtown, and then 7 I moved into a trailer outside the security, and, 8 finally, downstairs in that building and upstairs. 9 I think I counted six places that I moved around. 10 Q. Is there any significant change in your job 11 duties prior to -- when Mr. Hunt passes away? 12 A. Yeah. 13 Q. All right. And tell us what those changes 14 were. 15 A. Mr. Hunt, like I was -- I would say he was a 16 real driver. He was a very positive, energetic 17 person, very can-do attitude. I described him as 18 a breath of fresh air from other people we saw. 19 And he also is the type of person that -- 20 MR. WILLIAMS: Objection. Not 21 responsive to the question, Your Honor; narrative. 22 THE COURT: Sustained. 23 A. I'm trying to answer. I'm sorry. 24 Q. Tell us how your job duties changed. 25 A. I was trying to remember that -- he did</p>
24	26
<p>1 a big to-do in Postville. A plant had burned 2 down. I think it employed about 300 people, 350 3 people. At that time, I think we were about the 4 same size, maybe a little bigger. I don't have an 5 exact number. There was a big concern, what's 6 going to happen with these people. It was from 7 everyone, religious leaders, community leaders. 8 There was a constant: We have to do something to 9 help them out. And there was a question, maybe 10 they're going to rebuild, and that sort of served 11 some hope for a few months. And then finally, 12 they made an announcement that they were moving 13 out to Minneapolis. And from there, there was a 14 lot of pressure to -- 15 MR. WILLIAMS: Objection, Your Honor. 16 Motion in limine and generally to this line of 17 questioning. 18 THE COURT: Sustained. 19 Q. In any event, workers come to work at 20 Agriprocessors from the former turkey plant? 21 A. Right. 22 Q. And during this time period, we're talking 23 now before Mr. Hunt passes, do you have an office 24 in the plant or in the building, or where do you 25 do your work?</p>	<p>1 many, many different things, so it's split up, 2 basically split up, between the managers in the 3 plant. We didn't -- my father never really did 4 find another manager -- or maybe he did 5 find but -- that really filled his shoes, so his 6 responsibilities were filled. 7 Q. All right. Split up between you, your 8 brother, Heshy, and who else? 9 A. Mark Halbe was there; Gary Norris; Brent 10 Beebe; Toby; Mark Switzer helped. 11 Q. Now, let me ask you, from the beginning to 12 the end of Agriprocessors, did you ever have any 13 ownership share in the company? 14 A. No. 15 Q. Does your wife ever have any ownership share 16 in the company? 17 A. No. 18 Q. All right. Let's talk then about the time 19 period then after 2003. The plant is growing in 20 size and in scope? 21 A. That is happening. Not by my design. 22 Q. And why do you say that? 23 A. Because that's an accurate statement. 24 Q. Why was it not by your design? Whose design 25 was it?</p>

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27

1 A. I think you heard testimony. I think my
 2 father and -- my father and Donald were quite --
 3 quite entrepreneurs, and there was always room for
 4 something else.
 5 Q. And what was your title at the plant?
 6 A. Vice-president.
 7 Q. And your brother's title?
 8 A. Vice-president.
 9 Q. And Toby Bensasson's title?
 10 A. Controller, CFO.
 11 Q. We, of course, have heard testimony, but do
 12 you have any accounting or official business
 13 training?
 14 A. No.
 15 Q. Who was in charge of hiring workers?
 16 A. In charge of hiring workers is who -- who
 17 decides -- the one who decides the -- who decides
 18 was Elizabeth Billmeyer.
 19 Q. And she was the human resource director?
 20 A. Yes, I knew her as the payroll person.
 21 Q. Who did she report to?
 22 A. Toby.
 23 Q. How is it that you got involved with the
 24 issue of no-match letters?
 25 A. It was -- it was spoken about before, like

28

1 the -- there was a period of time, '01, '02, '03,
 2 from the exhibits that were there -- it was a long
 3 period of time where there seemed to be a
 4 computer -- a computer problem between what was
 5 happening between Toby's and Mitch's filing of
 6 whatever they have to file and how the government
 7 was taking the money. The money was sent every
 8 single week. And one day she came into my office,
 9 if I recollect correctly, and she says that we
 10 have a number of mismatches that just was -- it
 11 was big. And, of course, I didn't understand how
 12 that happened, because there were no prior
 13 indication of any -- any serious problem, but
 14 there was -- there was a mismatch letter that did
 15 come in the previous years, with ten people or
 16 thirty people. It was a very, very insignificant
 17 number. And I asked her to look into it. And I
 18 think most of them, if I can recollect, they were
 19 not there anymore. There was kind of a turnover
 20 there, and so they didn't really have any
 21 significance. And then suddenly, you have a --
 22 a -- numbers, and I think we saw all together in
 23 court, you have lines and lines of numbers.
 24 Q. Let me stop you for a moment. Did you rely
 25 upon Ms. Billmeyer to deal with those in the first

29

1 instance?
 2 MR. WILLIAMS: Objection, Your Honor.
 3 Leading.
 4 THE COURT: Sustained.
 5 Q. What reliance did you place on Ms. Billmeyer
 6 when it came to these no-match letters?
 7 A. That she should take care of it. If there
 8 are mismatches, she should follow what it says on
 9 the form. I didn't really read the form, but it
 10 didn't seem to be an issue, and just deal with it.
 11 And then she reported back to me that most of them
 12 are gone and had no future dealings with them, and
 13 that was a confirmation to me that she was doing a
 14 good job in -- in hiring people.
 15 Q. Now, of course, the jury's heard testimony
 16 from Ms. Billmeyer where she claims to be
 17 referencing a statement you made or paraphrasing a
 18 statement you made that "It's my company, and I'll
 19 run it the way I want to," or something to that
 20 effect. Did you ever make any statement like
 21 that?
 22 A. First of all, Agriprocessors was not my
 23 company. And I -- I never -- I never talked like
 24 that. I never ever said it's -- it's impossible
 25 to have made a statement like that. It's not me.

30

1 Q. Now, while you're working in Postville,
 2 there are other operations of Agriprocessors in
 3 New York and Florida?
 4 A. If I was involved there?
 5 Q. No. Here's my question. You're in
 6 Postville, right?
 7 A. Right.
 8 Q. And you have certain duties and tasks you're
 9 attending to in Postville?
 10 A. Correct.
 11 Q. Are there other components of Agriprocessors
 12 that are in New York and Florida?
 13 A. Yeah, there's a distribution in New York.
 14 Q. Who runs that?
 15 A. My brother, Yossi.
 16 Q. And the Florida, who runs that?
 17 A. I'm sorry, I have a little bit of a cough.
 18 Florida is my sister, Gittel.
 19 Q. And, of course, we've heard some testimony
 20 about the efforts to have a plant in Gordon,
 21 Nebraska. Was that something you were involved
 22 in?
 23 A. That -- that -- Donald Hunt got a call from
 24 Gary Ruse from the bank in Nebraska, and he had
 25 his -- this place, and he wanted to start it up.

31	33
<p>1 And we took a trip out there to see what it's</p> <p>2 about and the different benefits that were talked</p> <p>3 about with Donald, and he still got my father on</p> <p>4 board to purchase that. There was a discussion of</p> <p>5 working with American Indians and getting</p> <p>6 something going there. And with the kind of</p> <p>7 trouble we were having in Postville and the</p> <p>8 ability to do things, so --</p> <p>9 Q. Okay. And, of course, we've heard some</p> <p>10 testimony about that. Let's shift gears and talk</p> <p>11 about the management or the corporate hierarchy</p> <p>12 there at Agriprocessors. Your brother's primary</p> <p>13 tasks were, what?</p> <p>14 A. My brother, his sale -- he was in sales,</p> <p>15 took care of sales. He took care of the actual</p> <p>16 production. As I got busy with many other issues,</p> <p>17 he had more and more with production. And plus,</p> <p>18 he had -- Gary Norris, and Brent Beebe, and Mark</p> <p>19 Halbe, and then a guy from the -- from the quality</p> <p>20 control -- I forget his name now. They basically</p> <p>21 had a group, and they ran the plant.</p> <p>22 Q. I think there's been some testimony that</p> <p>23 production controlled the plant, or something to</p> <p>24 that effect. Did you hear that?</p> <p>25 MR. WILLIAMS: Objection, leading, Your</p>	<p>1 much they would hire.</p> <p>2 Q. All right. Let me shift gears again and go</p> <p>3 back and talk about these no-match letters. Did</p> <p>4 there come a time in approximately April of 2007</p> <p>5 where there was additional notices of the</p> <p>6 so-called no-match letters?</p> <p>7 A. April -- which year?</p> <p>8 Q. 2007.</p> <p>9 A. I don't have really a chronology on exactly</p> <p>10 when it was. When I found out about mismatch, I</p> <p>11 asked Elizabeth what is happening in 2006. And if</p> <p>12 you ask me questions, I can go through that with</p> <p>13 you.</p> <p>14 Q. Let's get at it this way. Did there come a</p> <p>15 time when there were notices that went to</p> <p>16 employees that said there was a problem with</p> <p>17 their -- with the matching of numbers?</p> <p>18 A. Yes.</p> <p>19 Q. And what was your involvement in that?</p> <p>20 A. Very active. I discussed it with</p> <p>21 consultants and -- discussed the problem. It's a</p> <p>22 very complicated, complex issue. If you read the</p> <p>23 actual form itself, it tells you there's a problem</p> <p>24 but there is no problem but there could be a</p> <p>25 problem, do this and don't do that. It's a very</p>
32	34
<p>1 Honor.</p> <p>2 THE COURT: Overruled.</p> <p>3 A. In a very big way. Unfortunately, in a very</p> <p>4 big way. They would meet and make decisions what</p> <p>5 the production levels ought to be, what type of</p> <p>6 product ought to be, how many employees ought to</p> <p>7 be, how much staffing should be, and they directly</p> <p>8 communicated that with -- with Elizabeth, of how</p> <p>9 many people we want in this department, how many</p> <p>10 people in that department. There was one exhibit</p> <p>11 about that.</p> <p>12 Q. Let me ask you about the production and the</p> <p>13 costs associated with production. What was</p> <p>14 your -- excuse me, what was your position</p> <p>15 regarding reducing expenses or reducing employees</p> <p>16 or reducing costs?</p> <p>17 A. I -- I was always vocally -- vocally in that</p> <p>18 meeting. I was advising to keep the amount of the</p> <p>19 employees less. And unfortunately, the managers</p> <p>20 that actually decided how many workers there</p> <p>21 should be, they always felt, if you hire</p> <p>22 them -- if there's a problem, hire a few more</p> <p>23 people, hire a few more people. And that's how it</p> <p>24 really grew. They would give Elizabeth a list of</p> <p>25 how many people they want hired, and that's how</p>	<p>1 complicated form, and I needed some guidance on</p> <p>2 how to deal with that. And then, finally, I -- in</p> <p>3 the absence of anybody else doing anything, I -- I</p> <p>4 told Elizabeth that she has to do as the</p> <p>5 consultant tells her and get the letter out.</p> <p>6 Q. And so letters went out to employees?</p> <p>7 A. On May 7, yeah.</p> <p>8 Q. And what did you understand the employees</p> <p>9 were being told?</p> <p>10 A. Well, the legal -- the legal -- the letter</p> <p>11 was drafted so we could correspond legally. It</p> <p>12 wasn't drafted by me. And this refreshes my</p> <p>13 memory, from seeing what was going on in court the</p> <p>14 last few weeks. I think you're required to give a</p> <p>15 notice to an employee for 60 days to correct any</p> <p>16 problems that may be with the mismatch.</p> <p>17 Q. And what happened then as a result of the</p> <p>18 letters going out? What was your next involvement</p> <p>19 with that project?</p> <p>20 A. Well, I was in New York on that Thursday,</p> <p>21 came back Friday afternoon. I was told the letter</p> <p>22 did go out. Came in -- I worked on -- at least</p> <p>23 worked on Sunday evening, but Monday morning, I</p> <p>24 was upstairs with Heshy, in Heshy's office,</p> <p>25 talking to him, and then there was discussion</p>

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<p>1 about some workers wanted to know what this was</p> <p>2 about. We gave the letter in English and in</p> <p>3 Spanish. And there were a number of workers that</p> <p>4 were outside and were kind of loud. And they</p> <p>5 wanted to know what this was about.</p> <p>6 Q. And what did you do?</p> <p>7 A. I can't speak very good Spanish. I mean,</p> <p>8 I -- a little bit I remember, but -- there were</p> <p>9 people there that had to guide me what to do. But</p> <p>10 they wanted to talk to me outside and talk about</p> <p>11 it.</p> <p>12 Q. And what did you do then?</p> <p>13 A. First, it wasn't my problem. It was Heshy</p> <p>14 and Gary's problem, and so I just -- I kept on</p> <p>15 walking from the plant to my office. And,</p> <p>16 basically, they said -- they were talking about</p> <p>17 leaving, and so I said, "You have to do what you</p> <p>18 have to do." And a number of them did leave.</p> <p>19 There was no -- a number of them left. It was</p> <p>20 labeled in the papers as a walkout. I didn't see</p> <p>21 it that way, because the plant had about 800</p> <p>22 workers. And there were about, I would say,</p> <p>23 thirty, forty, fifty people, my guess, at its</p> <p>24 peak. And I went to the office. And some</p> <p>25 consultants were --</p>	<p>1 was very upset about it, and she offered to be a</p> <p>2 translator for me. And I thought that was a good</p> <p>3 idea. And then I went back into my office, found</p> <p>4 out what I should -- how I should handle it. And</p> <p>5 I went down and used her as a translator to try to</p> <p>6 explain to the people what this no-match letter</p> <p>7 means. And there was a lot -- if you ever tried</p> <p>8 to talk to forty people, with English</p> <p>9 translation -- it's hard to describe it to you,</p> <p>10 but it was -- it was like -- something I had never</p> <p>11 seen before, never done before. And it was quite</p> <p>12 a job. And some people talked to her about the</p> <p>13 letter. They spoke about different issues in the</p> <p>14 plant, and I invited them up to talk to me, and</p> <p>15 finally people went back in the plant and they</p> <p>16 went back to work.</p> <p>17 Q. Let's talk about -- I think there's been</p> <p>18 some reference in the testimony to a Passover</p> <p>19 meeting in April of 2008?</p> <p>20 A. You're jumping ahead.</p> <p>21 Q. Yes, I am.</p> <p>22 A. Okay.</p> <p>23 Q. What is the Passover meeting in April of</p> <p>24 2008?</p> <p>25 A. We had -- we -- we had -- we had this</p>
36	38
<p>1 MR. WILLIAMS: Objection, Your Honor.</p> <p>2 402, 403.</p> <p>3 Q. Just tell us what you did.</p> <p>4 A. I'm telling you what I did. I'm sorry.</p> <p>5 Q. Okay.</p> <p>6 A. You have to hear the whole story.</p> <p>7 Q. Yes, I understand.</p> <p>8 MR. WILLIAMS: Objection. Not</p> <p>9 responsive to the question, Your Honor; narrative.</p> <p>10 Q. Tell us specifically what you did next.</p> <p>11 A. There was by -- by divine providence, there</p> <p>12 were two consultants there.</p> <p>13 MR. WILLIAMS: Objection, Your Honor.</p> <p>14 Ask that the answer be struck, 402, 403.</p> <p>15 THE COURT: The Court does strike that</p> <p>16 and let's ask another question.</p> <p>17 Q. What did you do next, sir, yourself?</p> <p>18 A. I spoke to people about what to do over</p> <p>19 here.</p> <p>20 Q. And then what did you do?</p> <p>21 A. I walked outside, back into the yard. And</p> <p>22 my brother, Heshy, was walking there with -- with</p> <p>23 somebody from quality -- somebody from the</p> <p>24 department. I don't know who she was. She was an</p> <p>25 English-speaking/Spanish-speaking person. And she</p>	<p>1 mismatch issue we had to take care of. And we had</p> <p>2 a meeting with -- with five or six managers of how</p> <p>3 to deal with this mismatch issue. That had to get</p> <p>4 done. There was statutory issues that we couldn't</p> <p>5 do anything until March, and then I got -- then I</p> <p>6 got notified that we -- that issue has been</p> <p>7 resolved, we have to take action. And I -- we had</p> <p>8 a meeting about it. And there's a lot of</p> <p>9 discussion here about Trader Joe's and why that</p> <p>10 layoff was designed. The reason we were</p> <p>11 discussing this Trader Joe's issue was because we</p> <p>12 shouldn't have a repeat -- seeing what we had seen</p> <p>13 from outside instigators that were making problems</p> <p>14 in the plant --</p> <p>15 Q. Let me stop you right there. Passover is</p> <p>16 when?</p> <p>17 A. That year, working backwards, May 12 was</p> <p>18 about two weeks after Passover, so it was</p> <p>19 somewhere in April.</p> <p>20 Q. Okay. And what is the significance of this</p> <p>21 so-called Passover meeting? What happens there?</p> <p>22 A. It's a pre-Passover meeting, and we're</p> <p>23 talking about after Passover, I had to let go</p> <p>24 about 200 workers or -- round numbers, roughly 200</p> <p>25 workers, and we -- I just had to let them go.</p>

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<p>1 There are no risks and they have to leave, unless 2 they fix the papers. And I was trying to get 3 permission from the powers that be to -- to get it 4 done. 5 Q. Okay. Let me ask you this specifically with 6 respect to the powers that be. Who was the boss 7 of Agriprocessors, Incorporated? 8 A. My father. 9 Q. Okay. Now, let's roll forward a little bit. 10 Does there come a time in May of 2008 when you 11 learned that there might be some enforcement 12 action by the government? 13 A. Yes. 14 Q. And did you have a sense of when that might 15 occur? 16 A. I -- I had my own ideas of when it would 17 occur. 18 Q. And, of course, we know from the record that 19 it was May 12? 20 A. Right. 21 Q. And there's been some testimony about some 22 hirings that occurred on the weekend before 23 May 12? 24 A. Correct. 25 Q. Were you working on that Sunday?</p>	<p>1 getting their documents and so forth. Did you 2 have any involvement in people getting their 3 documents? 4 A. No. 5 Q. Let me shift gears entirely, and we'll come 6 back to the raid. First Bank Business Capital, of 7 course, we know had a loan agreement with 8 Agriprocessors, Incorporated, to provide funding, 9 correct? 10 A. Correct. 11 Q. And you've seen the loan document? 12 A. I've seen a loan document, about this thick. 13 Q. Big thick document? 14 A. Correct. 15 Q. And who signed that agreement, as far as you 16 know? 17 A. The agreement was between the owner of 18 Agriprocessors, which was Mr. Aaron -- my father, 19 and I don't recall exactly the situation, why they 20 wanted me to sign when they first made it, but 21 somehow they pressed my father, and I wound up on 22 the -- guaranteeing personally a million dollars. 23 Q. And when you signed your name to it, did you 24 read every word of that thick document? 25 A. I saw my father's signature there, and I</p>
40	42
<p>1 A. I worked in the morning, went home about 2 approximately 3:15, 3:30, somewhere in that 3 neighborhood. I don't have a diary. And then I 4 came back for business, and not related to hiring, 5 about -- anywhere in the vicinity of 6:15 to 6:30. 6 Q. Was there any hiring that took place on 7 Sunday? 8 A. No. 9 Q. Were there any workers that were interested 10 in applying for work on Sunday? 11 A. There was applications taken from workers on 12 that Sunday to be processed the Monday. 13 Q. And what involvement, if any, did you have 14 in that application process? 15 A. I asked the -- in the absence of Elizabeth 16 being there -- she was away on a seminar -- I 17 asked Laura if she could come in and take -- take 18 applications. Laura does not have the training 19 to -- to look at cards and find out if they're 20 genuine or good. And I asked her just to come -- 21 to get the paperwork together, so Monday morning, 22 when this consultant will be there and advise us 23 how to act if these papers are correct or not, at 24 that point, we'll initiate a hiring. 25 Q. There's been some reference to people</p>	<p>1 signed underneath. 2 Q. So you didn't read the document or the 3 information in the loan agreement before signing 4 it? 5 MR. WILLIAMS: Objection, leading, Your 6 Honor. 7 A. I -- 8 THE COURT: The objection is sustained. 9 Please ask another question. 10 Q. Okay. Sir, you testified that you saw your 11 father's signature and you signed your name. What 12 did you do by way of reading the contents of the 13 document and the provisions of the loan agreement, 14 if any? 15 A. Actually, how the signatures worked is that 16 they faxed me a -- the -- the signing sheet. 17 Q. Okay. So you signed it and faxed it back? 18 A. Faxed it back. And then, I don't know, days 19 later, a week later, an envelope had come in by 20 either UPS or Fed Ex with the whole package and my 21 signature there. 22 Q. And what did you do by way of reading any of 23 the contents of the agreement? 24 A. I never read it. 25 Q. Did you ever visit First Bank Business</p>

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<p>1 Capital?</p> <p>2 A. No.</p> <p>3 Q. Do you know -- strike that. Do you know --</p> <p>4 let me ask it this way. What do you know about</p> <p>5 whether or not First Bank Business Capital or FB</p> <p>6 Business Capital is insured by the FDIC?</p> <p>7 MR. WILLIAMS: Objection, relevance,</p> <p>8 Your Honor.</p> <p>9 THE COURT: Sustained.</p> <p>10 Q. Tell us how you understood the loan to work.</p> <p>11 A. I don't -- I understood that there was an</p> <p>12 agreement with the bank for a certain amount of</p> <p>13 money to loan Agriprocessors, and there were</p> <p>14 multiple layers of assets of Agriprocessors that</p> <p>15 the bank used and had -- had their loan covered</p> <p>16 by. And in addition to that, you had my father's</p> <p>17 personal guarantee and mine.</p> <p>18 Q. Who handled the borrowing under the loan?</p> <p>19 A. From day one, Toby and Mitchell did it, the</p> <p>20 first transaction and the last transaction.</p> <p>21 Q. Now, we heard testimony, of course, by a</p> <p>22 number of witnesses about invoices that have been</p> <p>23 referred to as either invoices without supporting</p> <p>24 documents or fake invoices, specifically, the</p> <p>25 testimony of Darlis Hendry. How did you</p>	<p>1 for the court reporter.</p> <p>2 A. I'm sorry, I'm sorry. The first issue is,</p> <p>3 there had been many weeks where Twin City Hides</p> <p>4 and VanHoven had not been invoiced at all, because</p> <p>5 that's a manual entry. For whatever reason, it</p> <p>6 was not being booked at all. I became aware of</p> <p>7 it, and I -- and I asked Toby to look into it. He</p> <p>8 said he would. And then, finally, he told me to</p> <p>9 go to Darlis and find out how that's happening and</p> <p>10 it will be straightened out. Then -- then there's</p> <p>11 simply the issue of there was orders that</p> <p>12 customers would book for Passover and for the</p> <p>13 lock -- to -- to lock in -- to, how do you say --</p> <p>14 reserve inventory, and those invoices were part of</p> <p>15 that too.</p> <p>16 Q. That's what we heard called "bill and hold"?</p> <p>17 A. That's what -- in the textile business,</p> <p>18 that's what it's called, bill and hold. And it</p> <p>19 was a common feature to do that as a service to a</p> <p>20 customer. It was actually something which the</p> <p>21 bank was -- was happy with, because the bank was</p> <p>22 constantly complaining about the high levels of</p> <p>23 inventory as it's going higher and higher and</p> <p>24 higher and higher.</p> <p>25 MR. WILLIAMS: Objection, Your Honor.</p>
44	46
<p>1 understand the invoices to relate to the loan</p> <p>2 agreement?</p> <p>3 A. I -- the invoices are made out to a</p> <p>4 customer, and in relation to that invoice, there's</p> <p>5 a lot of discussion about it, because there was</p> <p>6 different levels of shipping it, of billing and</p> <p>7 holding it, and it's something that was done every</p> <p>8 single day.</p> <p>9 Q. What can you tell us about anything you did</p> <p>10 regarding requests for invoices from Darlis Hendry</p> <p>11 that did not have the supporting documents?</p> <p>12 A. Well, with Darlis Hendry, I -- I -- I --</p> <p>13 Toby -- I spoke -- Toby explained to me that we</p> <p>14 need --</p> <p>15 MR. WILLIAMS: Hearsay, Your Honor.</p> <p>16 MR. COOK: (2)(E), Your Honor.</p> <p>17 THE COURT: (2)(E). I'm sorry, (2)(E)?</p> <p>18 MR. COOK: (2)(E) is what I said, Your</p> <p>19 Honor. 801(d)(2)(E).</p> <p>20 THE COURT: All right. I will</p> <p>21 conditionally admit it under <i>Bell</i>.</p> <p>22 Q. You may proceed.</p> <p>23 A. Okay. The different issues that came up</p> <p>24 with the invoices and Darlis Hendry --</p> <p>25 Q. Sholom, please try to slow down. It's hard</p>	<p>1 There's no question pending, narrative.</p> <p>2 MR. COOK: I'll ask another one right</p> <p>3 now.</p> <p>4 THE COURT: All right.</p> <p>5 Q. On that subject, sir, what -- we've heard</p> <p>6 some talk about the inventory reduction plan.</p> <p>7 What was that?</p> <p>8 A. There was in '07 -- it started in '07, where</p> <p>9 there was discussion with the bank to reduce the</p> <p>10 amount of inventory that was building up in</p> <p>11 outside freezers. Like we spoke before,</p> <p>12 production was interested in producing and</p> <p>13 producing, and not always the sales matched the</p> <p>14 production. And there was a discussion with the</p> <p>15 powers that be what was to be done, and part of</p> <p>16 that plan was to -- we had large inventory of</p> <p>17 cutlets, of turkey products, of chicken products,</p> <p>18 of Uruguay meat, different types of products, that</p> <p>19 needed to be -- to be sold, and we tried to get it</p> <p>20 in a sales position.</p> <p>21 Q. All right. Did you then, as you've</p> <p>22 described, on occasion ask -- ask Ms. Hendry to</p> <p>23 prepare invoices?</p> <p>24 A. For that, and also, in the time when we were</p> <p>25 bumping on top of our cap, the loan cap, I mean,</p>

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<p>1 watching this whole -- this whole court case, it 2 makes me -- 3 MR. WILLIAMS: Objection, nonresponsive, 4 Your Honor. 5 THE COURT: Sustained. 6 (Whereupon, the requested portion of the 7 record was read by the Court Reporter.) 8 Q. Would you answer that question? 9 A. The answer is, yes, and -- 10 MR. WILLIAMS: Objection, not 11 responsive, Your Honor. 12 THE WITNESS: I said "Yes." 13 THE COURT: Why don't you ask him 14 another question. 15 MR. COOK: Yes, I will, Your Honor. 16 Thank you. 17 Q. And why would you do that, sir? 18 A. We had discussion about where we are in 19 sales. I mean, Toby explained to me, and he 20 indicated to me -- 21 MR. WILLIAMS: Objection, hearsay. 22 MR. COOK: Same as before, Your Honor, 23 under (2)(E). 24 THE COURT: All right. <i>Bell</i> procedures. 25 A. Okay. I'm just saying it very simply, that</p>	<p>1 phones being bugged? 2 A. What? 3 Q. Who brought up the subject of the phones 4 being bugged? 5 A. Toby made a comment about it. I don't know. 6 Q. Let's shift gears entirely now, Sholom, and 7 let's talk about the testimony that was presented 8 by Mr. Bolt, the last witness the government 9 called. What was your salary at Agriprocessors? 10 A. I was making about \$2,000 a week. 11 Q. And what personal expenses, if any, do you 12 understand was paid by Agriprocessors, 13 Incorporated, in addition to your salary? 14 A. Nothing that was not accounted for that I 15 know of. 16 MR. WILLIAMS: Objection, Your Honor, 17 not responsive. Ask that the answer be struck. 18 THE COURT: It is stricken, and you 19 may -- Patrice, could you read that question back 20 for him. 21 (Whereupon, the requested portion of the 22 record was read by the Court Reporter.) 23 A. Any expense that came out from 24 Agriprocessors was booked for where it was and 25 what it was supposed to be for.</p>
48	50
<p>1 he indicated to me that the bank wanted to have 2 coverage on -- on their -- on the loan, that 3 they're not as -- as square as -- as they needed 4 to be, and if the invoice gets paid back, that 5 would be an okay thing to do. 6 Q. All right. Was that something that you 7 worked with -- strike that. Who did you work with 8 on that -- on those requests, besides Darlis 9 Hendry? 10 A. I worked with Toby, Darlis. Which time 11 frame? 12 Q. Well, let's say in 2007. 13 A. With Darlis Hendry. 14 Q. And then 2008? 15 A. Darlis Hendry. 16 Q. What about Toby? 17 A. I mean, whenever he needed something, I 18 worked with him. 19 Q. By the way, this reminds me, I think there 20 was some testimony from Toby about you said you 21 thought the phones were always bugged. What did 22 you think about the phones being bugged at 23 Agriprocessors? 24 A. I think Toby worked for the Secret Service. 25 Q. And so who brought up the subject of the</p>	<p>1 MR. WILLIAMS: Objection, not 2 responsive, Your Honor. 3 A. And therefore -- 4 THE COURT: There's an objection, and 5 the answer is stricken. It does not appear to be 6 a responsive answer. 7 Should we take just a short break here? 8 MR. COOK: That's fine, Your Honor. 9 THE COURT: Let's take about fifteen 10 minutes. And, members of the jury, we'll be at 11 recess for fifteen minutes. Please remember the 12 admonitions of the Court. And we'll see you in 13 just a few minutes. 14 (Whereupon, a brief recess was taken.) 15 THE COURT: We are outside the presence 16 of the jury in the case of United States of 17 America versus Sholom Rubashkin, Case Number 18 8-1324. Mr. Rubashkin is present with counsel, as 19 is the United States. 20 I was a little startled at the 21 801(d)(2)(E) response. I don't think that that -- 22 that rule permits hearsay to come in during the 23 government -- or during the defense case. The 24 rule reads that: (2), the statement is offered 25 against a party and is, (E), a statement by a</p>

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51	<p>1 co-conspirator of a party during the course and in 2 furtherance of the conspiracy. So I don't think 3 that the defense can use that, unless you are 4 admitting that there is a conspiracy, so it could 5 be used as an admission against you if you offer 6 it under that exception. And so I'm sorry I 7 didn't stop it earlier. We have two statements 8 in. I'm not sure that they were hearsay, so I'm 9 not that concerned about it.</p> <p>10 MR. COOK: They were offered for the 11 state of mind also, Your Honor.</p> <p>12 THE COURT: Okay. And so I'm not 13 worried about that, but that exception does not -- 14 is not available to you, as a matter of the 15 Federal Rules of Evidence.</p> <p>16 MR. COOK: We understand, Your Honor. 17 We respectfully disagree under 801(d)(2)(E) also 18 applies -- we believe that 801(d)(2)(E) applies to 19 the defense case, and we also believe that there 20 was a conspiracy as admitted to by Mr. Toby 21 Bensasson and Mitch Meltzer, who were 22 co-conspirators, and it's a statement by one of 23 those co-conspirators in furtherance of that 24 conspiracy. And -- but nevertheless, Your Honor, 25 we understand the Court's ruling, and we will</p>	53	<p>1 the defendant be barred from any further 2 references to "consultants." I fear this may come 3 up again when we revisit May 12 and the presence 4 of counsel there. And so I just wanted to bring 5 that up to the Court, that the government is going 6 to vehemently object if we get back into his 7 consultation with so-called consultants.</p> <p>8 THE COURT: Mr. Cook, anything on that, 9 sir?</p> <p>10 MR. COOK: Only to say, Your Honor, 11 we're not relying upon advice of counsel. And I 12 think Mr. Rubashkin was simply trying to describe 13 the events as they were unfolding and was trying 14 to be careful with the Court's ruling.</p> <p>15 THE COURT: Because the defendant has 16 not and has repeatedly told us is not relying on 17 an advice of counsel defense. Any further 18 reference to "consultants" or "lawyers" should not 19 come in. It wouldn't be relevant at all, because 20 that is not the defense that the defendant has 21 sought to put in.</p> <p>22 And also, we need to be very careful. 23 Mr. Rubashkin, listen carefully to the question 24 that's asked and only answer that question. And I 25 know it's -- if you haven't testified before,</p>
52	<p>1 proceed accordingly.</p> <p>2 THE COURT: Mr. Williams?</p> <p>3 MR. WILLIAMS: I find my only 4 disagreement with the defense counsel is, clearly 5 under 801(d)(2) is a subset of statements that are 6 not deemed hearsay, and this subset is admissions 7 by a party-opponent offered against a 8 party-opponent, and they were not -- in this case 9 that exception is not available to the defense.</p> <p>10 Your Honor, I'd also request that the 11 defendant be warned to make no further references 12 to "consultants" as an euphemism for legal advice 13 that he was provided. It came up during the 14 testimony concerning the so-called walkout. He 15 used the word "consultants" and "getting advice 16 from consultants" as an euphemism for lawyers. 17 The defendant is not mounting an advice of counsel 18 defense. It is improper for him to make reference 19 to getting advice from anybody concerning his 20 conduct, and it's an attempt to present that 21 defense without giving the government the 22 opportunity to invade that attorney-client 23 privilege and find out what sort of advice was 24 given to the defendant and whether he complied 25 with it in the first place. So we would ask that</p>	54	<p>1 you're nervous, but just try to focus on the 2 question and just tailor your answer to that.</p> <p>3 THE WITNESS: Thank you, Your Honor. 4 I'm trying to. I'm sorry. I'm sorry.</p> <p>5 THE COURT: Yeah, I understand. And 6 then if Mr. Cook needs some more information, he 7 will ask you some more questions to bring out what 8 he wants to bring out.</p> <p>9 THE WITNESS: Could I speak to my 10 counsel for a minute to get advice about answering 11 the questions properly?</p> <p>12 THE COURT: Sure, sure.</p> <p>13 THE WITNESS: Thank you. 14 (A discussion was held off the record.)</p> <p>15 THE WITNESS: Thank you.</p> <p>16 THE COURT: Thank you.</p> <p>17 MR. WILLIAMS: I think we're going to 18 hit the lunch hour with the defendant's testimony 19 here, and I'd like to suggest that we either send 20 the jury to an extra long lunch or the lawyers and 21 the Court take a short lunch so we can deal with 22 these exhibit issues while the jury's not waiting 23 for us, so we can handle any objections so we can 24 get that in cleanly.</p> <p>25 THE COURT: All right. Is that all</p>

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<p style="text-align: right;">55</p> <p>1 right, Mr. Cook?</p> <p>2 MR. COOK: That's fine. But I think we</p> <p>3 can be even more efficient. I think once they</p> <p>4 give us the list of the things that they agree on,</p> <p>5 then the ones we disagree on, then I won't go over</p> <p>6 the ones they disagree on.</p> <p>7 THE COURT: Oh, okay. Then I think</p> <p>8 we're ready for the jury.</p> <p>9 (The jury entered the courtroom.)</p> <p>10 THE COURT: When we left off, Mr. Rubashkin</p> <p>11 was testifying. He's still under oath.</p> <p>12 And I think we're ready for another</p> <p>13 question, Mr. Cook.</p> <p>14 MR. COOK: Thank you, Your Honor.</p> <p>15 Q. Before we took the break, we were talking</p> <p>16 about Mr. Bolt's testimony and personal expenses.</p> <p>17 Sir, what specific knowledge do you have of</p> <p>18 Agriprocessors improperly paying your personal</p> <p>19 expenses, if any?</p> <p>20 A. None.</p> <p>21 Q. All right. Let's move on to another</p> <p>22 subject. There's been testimony in this record</p> <p>23 that certain members of the management or office</p> <p>24 folks at Agriprocessors received compensation by</p> <p>25 way of payroll; is that right?</p>	<p style="text-align: right;">57</p> <p>1 THE COURT: Overruled.</p> <p>2 Q. Okay. Let's shift gears again and now go</p> <p>3 back to the day of the raid.</p> <p>4 A. Okay.</p> <p>5 Q. May 12, where were you when the raid</p> <p>6 occurred?</p> <p>7 A. I was by the rendering plant.</p> <p>8 Q. And how did you learn that the raid was</p> <p>9 underway or it was occurring?</p> <p>10 A. I saw a helicopter flying overhead.</p> <p>11 Q. And what did you do in relationship to the</p> <p>12 raid?</p> <p>13 A. Well, I started walking back to the plant.</p> <p>14 Actually, I remember now. Brent Beebe called me</p> <p>15 and he says, "ICE is here," and I looked up, and</p> <p>16 there was a helicopter there. So I started</p> <p>17 walking back to the plant. I had a customer there</p> <p>18 that had come in for -- for talking about some</p> <p>19 stuff, and I was -- there at Agriprocessors,</p> <p>20 there's a side road that goes back into the plant,</p> <p>21 and there was cars flying all over the place.</p> <p>22 There was -- it was like mayhem. And then</p> <p>23 Elizabeth calls me and says, "Where are you?" And</p> <p>24 I said, "I'm walking up to the plant." "They want</p> <p>25 to break your door down." And I said, "Why?"</p>
<p style="text-align: right;">56</p> <p>1 A. Yeah.</p> <p>2 Q. And that they may have also been compensated</p> <p>3 for their work off the payroll. What involvement</p> <p>4 did you have with that?</p> <p>5 A. Every -- every -- there would be many checks</p> <p>6 from Agriprocessors that were written in a -- the</p> <p>7 term is -- for -- when -- I think it's a 1099,</p> <p>8 where Agriprocessors would pay the individual, and</p> <p>9 that individual then would have to take -- take</p> <p>10 that out of his taxes.</p> <p>11 Q. Who did you understand was in charge of</p> <p>12 monitoring or ensuring that the 1099s were</p> <p>13 followed?</p> <p>14 A. The accounting department, which is Toby and</p> <p>15 Mitchell.</p> <p>16 Q. What understanding, if any, did you have as</p> <p>17 to whether that was appropriate or not</p> <p>18 appropriate?</p> <p>19 A. I -- I was told it's appropriate. They cut</p> <p>20 the checks. They asked for a check request. And</p> <p>21 it's an appropriate form of payment.</p> <p>22 MR. WILLIAMS: Objection, ask that the</p> <p>23 answer be struck as calling for hearsay.</p> <p>24 THE COURT: Do you agree, Mr. Cook?</p> <p>25 MR. COOK: State of mind, Your Honor.</p>	<p style="text-align: right;">58</p> <p>1 "They need to get in the office. They want to</p> <p>2 break the door down. Come quick." I said, "Fine.</p> <p>3 I'm getting there." As I'm walking up the hill,</p> <p>4 cars are coming in, you know. I don't watch much</p> <p>5 movies, but it was fascinating, if that's the</p> <p>6 right word. And all these guys jumping out of the</p> <p>7 cars, and I guess they must know who I am, because</p> <p>8 they didn't bother me. But they showed me a</p> <p>9 warrant, so I could walk back -- walk up to the</p> <p>10 office. I went to the office. I walked upstairs.</p> <p>11 I opened my office up and sat down. And then they</p> <p>12 proceeded to give me a -- a warrant that was about</p> <p>13 this thick.</p> <p>14 Q. Okay. Let me ask you this specifically.</p> <p>15 What cooperation, if any, did you give to the</p> <p>16 agents when they arrived?</p> <p>17 A. Anything they asked for. I was very cordial</p> <p>18 to them. Mike Fischels was there.</p> <p>19 Q. What was going on in the rest of the office</p> <p>20 that morning where the administrative activities</p> <p>21 occurred?</p> <p>22 A. In -- down the hall in the -- where</p> <p>23 Elizabeth and Laura sit, there was activity there</p> <p>24 that -- that we ought to have somebody there, if I</p> <p>25 can say this correctly, somebody -- okay, they</p>

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59	<p>1 were -- there's a lot of talking about what was 2 going on over there. And I went to my office. 3 And then I went outside my office, and I looked at 4 the office from -- and it was -- it was very 5 distressful. All the girls were sitting in a 6 circle as if, I don't know, they were armed and 7 dangerous. And one big six-footer was guarding 8 them with some automatic weapon or something 9 and -- I don't mean an automatic, a big -- a big 10 handgun. And they looked very, very scared. And 11 I asked them, "Do you have to do this?" And he 12 said, "That's the way the procedure works." And I 13 was quite shocked. I couldn't look at it, so I 14 just went back. I went back into the office. And 15 I was handed a warrant as if somebody is giving 16 you a present, you know. Gave me a warrant, and I 17 didn't have much patience to read it. I said -- 18 MR. WILLIAMS: Objection, Your Honor. 19 At this point, it's a narrative. 20 THE COURT: It is. Ask him another 21 question. 22 MR. COOK: Yes, of course. 23 Q. All right. How long were the agents there? 24 I think one witness has testified there were 600 25 there. How many were there -- excuse me, how long</p>	61	<p>1 I came back once I was arrested, I didn't -- I 2 didn't get to say hello to anybody anymore. Toby 3 was talking to them about the possibility of not 4 coming back to work the following week, didn't 5 know if we would have any work. And I was -- I 6 was by April Hamilton, and maybe the other girls 7 was there too. I wasn't directing anything at 8 her. And she asked me what was going on, and I 9 said, "You may have to clean up your desk because, 10 you know, it may be over." 11 Q. Okay. Now, there's been testimony about a 12 blue file and a thumb drive. What, if anything, 13 did you do by way of removing a blue file or a 14 thumb drive from the plant? 15 A. I did not remove a blue file. I don't know 16 the color of the file. And this was not on 17 Friday. This happened on Wednesday, before -- 18 before I was arrested. I had just come back from 19 Canada. And I wanted to know -- came to Toby. 20 The auditors were there. And I was in Toby's 21 office. I asked if I could get the information, 22 which she gave me. She gave me the little, I 23 don't know, black or whatever it was colored thumb 24 drive. And I asked her, "Where do you put it when 25 you're finished?" And she told me, you put it</p>
60	<p>1 were they there? 2 MR. WILLIAMS: Objection, Your Honor, 3 leading -- 4 Q. How long were they there? 5 A. They were there for about -- I don't 6 remember clearly. I think five, six o'clock, if I 7 remember, six. Roughly, by six o'clock. 8 Q. Six p.m. And they arrived approximately 9 when? 10 A. If my memory is correct, about ten o'clock. 11 Q. All right. Now I want to try to get through 12 these things relatively efficiently here. After 13 the raid, there's been some testimony about a blue 14 file and a thumb drive and "Clean out your desk"? 15 A. That's way later. 16 Q. Yes, I know it is. 17 A. Okay. 18 Q. And what I want to know now, sir, is what 19 instructions did you give to anyone about cleaning 20 out their desk or cleaning up their desk? 21 A. I -- you're talking about a Friday. It was 22 a Friday. And there's a lot of tension there 23 because payroll was delayed, and the people felt 24 something was really amiss. I had been arrested 25 the day before, so I guess I was -- actually, when</p>	62	<p>1 in -- there's a hat in the office there, and 2 that's where they kept it. So I said, "Fine." 3 Q. Is that what you did with it? 4 A. That's what I did. 5 Q. What about this reference to a file that was 6 blue in color? Did you take a blue file? 7 A. There's no reason for me to take a file. 8 She gave me a -- she gave me a file and -- and a 9 chip, and I sat in Toby's desk, and I left 10 everything there. 11 Q. Now, I want to change to another subject 12 here. After the raid, of course, you lose a 13 number of workers, right? 14 A. Yeah. 15 Q. And there are issues with production and 16 continued operation of the plant? 17 A. Correct. 18 Q. And there are meetings or a meeting where 19 Mr. Phil Lykens is present? 20 A. Correct. 21 Q. And either in person or on the phone did you 22 make any statements to him about your knowledge of 23 whether there were illegal workers in the plant? 24 A. The -- the statement was -- Phil Lykens was 25 talking. I was -- I remember the statement, but</p>

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<p>1 most of the conversation was between my father and 2 Norm Lipshie, and his boss was there, and maybe 3 Toby was there, and I was there. I was kind of 4 quiet. I was kind of stunned through the whole 5 story. And the -- I don't remember exact 6 representations about illegals, and I don't think 7 I ever -- I don't remember what I answered him, 8 but he said, quite simply put, "I'm afraid they're 9 going to come here and cart you away." I was kind 10 of -- the way he said it, I mean, I took aback, 11 and I said, "Well, this is not about me," and I -- 12 I never -- any representation that was made that 13 day was made by my father and by him. And if I 14 said that the HR department was functional, I may 15 have said that. I don't -- I just don't recall. 16 I just remember him saying about carting me away, 17 and that was the extent of it. 18 Q. Okay. 19 A. And he's afraid of that, "I read in the 20 papers" -- "From what I read in the papers, I'm 21 afraid they're going to come and cart you away." 22 Q. Okay. Let's shift gears again and talk 23 about the livestock sellers and payments to the 24 livestock sellers. What specific knowledge, if 25 any, do you have regarding the Packers &</p>	<p>1 issues that surround that, getting the ground and 2 where it was built. I was involved with the --the 3 coordinating buying, coordinating the frying line. 4 Again, this was told for me to do. It wasn't 5 something I really wanted to do. The 6 refrigeration system around that, the rendering 7 plant. I was sort of the -- the -- the funnel for 8 legal issues, where they would talk to me, and 9 then I would report back to the powers that be 10 about what's going on, sort of like deciphering 11 what was going on. We had waste water issues. 12 The plant about then started up. Ron Jacobson 13 reported to me on that. I was involved with the 14 trucking company. I was involved buying cattle. 15 Q. Were you sometimes gone from the plant? 16 A. Yeah, many times. 17 Q. And what were those occasions for? 18 A. Many times, well, either went to Nebraska or 19 to go to New York on business, some for family. 20 My father had an 80th birthday that year. We had 21 a family thing. And then I went on a trip to 22 Israel in '07, and there was -- there was 23 different needs in the business that takes a 24 person out and makes them travel. 25 Q. Who was the person who primarily controlled</p>
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<p>1 Stockyards Act? 2 A. Packers & Stockyards Act, I have a basic 3 knowledge. It's -- more how it pertains to 4 cattle, less of a knowledge how it pertains to 5 poultry. There's a lot of detail. There's 6 subsections of other sections. And it's about 2 7 pounds. It's this thick. And I haven't really 8 read the whole thing, but -- but I'm aware of the 9 basic concepts of it. 10 Q. And what action did you take, if any, to 11 hold checks or to not comply with the Act? 12 A. I -- I tried to comply to the Act. I tried 13 to comply with the Act. 14 Q. We touched on this a little bit earlier, but 15 can you just give us -- what can you list for us 16 in terms of the special projects you worked on as 17 the vice-president at Agriprocessors, 18 Incorporated? 19 A. Well, that -- in that time frame -- excuse 20 me, I'm sorry, I've got suddenly this cough. 21 I can try by memory. I was involved 22 with this Nebraska plant. I was involved with the 23 chicken houses, building of the chicken houses, 24 started in about 2006. And that pertained to 25 permitting, getting the proper permits, all the</p>	<p>1 the money at Agriprocessors, Incorporated? 2 A. When you say "controlled," can you be more 3 specific? 4 Q. Who was the controller? 5 A. Controller, it was Toby. But that's not -- 6 Q. What involvement, if any, did you have in 7 the finances of the business? 8 A. I had -- my involvement was in the scope 9 of -- the way it was set up was that you had -- 10 you had the New York division, you had a Florida 11 division, and you had Agriprocessors, and Local 12 Pride, and different -- different people had 13 access to the checking account for various 14 payments. And I was -- when I had time or likely 15 to give a scan on it, to see the activity of money 16 that's going through the accounts. That's one 17 thing I did. The second thing I did was, the one 18 that really controls the checkbook is the one who 19 makes the order. In my mind, the one who really 20 controls expenses in the company is not the one 21 who signs the check, but rather, the one who makes 22 the order and makes the company have to pay for 23 something. So if Chaim Abrahams or Mike Halbe or 24 Heshy or Gary or whoever are doing what they're 25 doing, then they are making an encumbrance --</p>

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1 they're making liability, whatever it makes on the
 2 company, so then, it comes to the company having
 3 to have to pay. I was trying to -- one of the
 4 things I tried to do is trying to see what these
 5 people are doing and trying to report back to my
 6 father of what's really happening, whether it
 7 would be too high of a payroll, whether it would
 8 be too high of expenses, or whether it would be
 9 too high of whatever else is going on.
 10 Q. Okay. Let me shift gears again. And we
 11 have for demonstrative purposes Defendant's
 12 Exhibit 6032B, which is a poster that sets forth
 13 certain employer obligations and employee rights.
 14 A. Correct.
 15 Q. Whose -- who was in charge of seeing that
 16 these things were complied with?
 17 A. Elizabeth.
 18 Q. What mistakes, if any, did you make when you
 19 were at Agriprocessors?
 20 A. I made -- I made -- I made mistakes. I'm a
 21 human being. I was brought -- I took information
 22 from people, what they told me, and sort of went
 23 with it without really drilling down, if you will,
 24 or seeing if it was for real or not. I -- I
 25 relied -- I basically -- for the lack of having

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1 any business training, I relied heavily on advice
 2 of either co-workers or people in different
 3 positions with degrees. The reason I got into,
 4 for example, to having access to -- access to all
 5 the workers, workers felt accessible to me
 6 because, first, because of my personality, and
 7 second of all, Mr. James Hatch, when I first came,
 8 he said, "You have to have an open door policy
 9 where people want to approach you. Don't tell
 10 them 'I'm too high on the ladder. I can't talk to
 11 you.'" So whenever somebody came to talk to me,
 12 my personality fits that way, and that's how I was
 13 taught, to have other people come talk to me.
 14 Once people talk to you, suddenly you're in the
 15 middle of things you really never should have been
 16 there.
 17 Q. All right. Let me ask you finally, sir,
 18 very specifically, you're charged with crimes in
 19 this case. Did you intend to cheat or steal First
 20 Bank Business Capital?
 21 A. No.
 22 Q. Did you intend to launder any funds that
 23 were Agriprocessors' funds or funds that were to
 24 go to the bank?
 25 A. No.

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1 Q. Did you intend to hold illegally checks for
 2 nonpayment to livestock sellers?
 3 A. No.
 4 Q. Did you intend to submit any false
 5 statements to the bank for the purposes of
 6 committing a crime?
 7 A. No.
 8 MR. COOK: Thank you for your testimony.
 9 THE COURT: Cross-examination.
 10 CROSS-EXAMINATION
 11 BY MR. WILLIAMS:
 12 Q. \$1.5 million of checks that were issued from
 13 Agriprocessors were deposited into your personal
 14 account, isn't that right, sir?
 15 A. Yes --
 16 MR. COOK: Objection, argumentative.
 17 THE COURT: Overruled.
 18 A. According to your exhibit, that's what it
 19 says.
 20 Q. Those funds were used, in part, to pay for
 21 your house payment, right?
 22 A. Yeah -- yeah, there are payments on it for
 23 personal use.
 24 Q. Used to pay for your car payments, right?
 25 A. Yes.

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1 Q. Used for your house addition --
 2 A. No --
 3 Q. -- is that right?
 4 A. No.
 5 Q. Used to pay for a silver tea set located in
 6 your house?
 7 A. Not for me.
 8 Q. And all these things were paid for by money
 9 coming from Agriprocessors, isn't that right, sir?
 10 A. Yes --
 11 MR. COOK: Objection, argumentative.
 12 A. -- you're missing something.
 13 THE COURT: Overruled.
 14 Q. Now, we've talked about the \$1.5 million,
 15 but there's other funds that came to you as well,
 16 weren't there, sir?
 17 A. I'd like to address the 1.5, because you're
 18 not giving a clear picture to the jury.
 19 Q. If your counsel wants to ask you questions,
 20 he can do that, sir. I want you to answer mine
 21 now, okay? Understand?
 22 A. (No response.)
 23 Q. In addition to the \$1.5 million that came
 24 from Agriprocessors, you also got additional funds
 25 from Agriprocessors for personal expenses, isn't

<p style="text-align: right;">71</p> <p>1 that right, sir?</p> <p>2 A. I don't know -- if you show me an exhibit,</p> <p>3 maybe I can answer the question.</p> <p>4 Q. Let's talk about some of them. First off, -</p> <p>5 on May 4, 2007, your wife wrote a personal check,</p> <p>6 Number 7856, in the amount of \$8,117.47 made</p> <p>7 payable to Latham Furniture. Do you recall that,</p> <p>8 sir?</p> <p>9 A. That's part of the exhibit.</p> <p>10 Q. And that was actually covered by a check</p> <p>11 from Agriprocessors in the amount of \$9,000,</p> <p>12 wasn't it, sir?</p> <p>13 A. I'm not sure if that's the check or if that</p> <p>14 was one of my payroll checks.</p> <p>15 Q. You signed a check on May 3, 2007, a</p> <p>16 personal check to Dean Drew Cabinets, for \$7,260?</p> <p>17 A. There was deposits -- there were deposits</p> <p>18 into that account that came from a loan that I</p> <p>19 took from Citizens State Bank for my -- my -- that</p> <p>20 extension. And I don't think your exhibit</p> <p>21 accurately reflects the approximate 250, \$300,000</p> <p>22 personal loan that I'm paying today to pay for</p> <p>23 these things that you're talking about.</p> <p>24 Q. Let's get away from that exhibit then.</p> <p>25 Let's start talking about some other things here.</p>	<p style="text-align: right;">73</p> <p>1 had brought into Agriprocessors.</p> <p>2 Q. On September 25, 2006, you wrote a check --</p> <p>3 A. That diamond was for my son by the way. He</p> <p>4 got married.</p> <p>5 MR. WILLIAMS: Your Honor, I'd ask that</p> <p>6 the Court strike that answer as nonresponsive.</p> <p>7 THE COURT: Yes. That answer is</p> <p>8 stricken and will be disregarded by the jury.</p> <p>9 And you may ask another question.</p> <p>10 Q. Sir, on September 25, 2006, you wrote a</p> <p>11 personal check in the amount of \$5,400 to</p> <p>12 Simpson's Jewelry. And on October 26, about a</p> <p>13 month later, you signed a check off of the</p> <p>14 Agriprocessors account, Number 123400, in the</p> <p>15 amount of \$10,600, to Simpson's. The combination</p> <p>16 of those two matches an invoice from Simpson's</p> <p>17 Jewelers for the purchase of two diamond pendants,</p> <p>18 one emerald pendant --</p> <p>19 MR. COOK: I object to this narrative.</p> <p>20 Is there a question, or is this testimony by a</p> <p>21 lawyer?</p> <p>22 THE COURT: I'll ask you, Mr. Williams,</p> <p>23 to please ask a question.</p> <p>24 Q. Sir, isn't it true that you used</p> <p>25 Agriprocessors' money in October of 2006 to buy</p>
<p style="text-align: right;">72</p> <p>1 A. I like this exhibit. Keep on going.</p> <p>2 Q. January 15, 2007, sir, you signed two checks</p> <p>3 from your personal checking account to pay your</p> <p>4 taxes for the tax years 2005 and 2006?</p> <p>5 A. Is that illegal?</p> <p>6 Q. Those checks were actually covered by</p> <p>7 Agriprocessors's checks, Number 33268 and 33323,</p> <p>8 both for \$15,000, that went into your personal</p> <p>9 bank account, isn't that right, sir?</p> <p>10 A. After I gave Agriprocessors money too.</p> <p>11 Q. On February 26, 2008, you bought a 1.2 caret</p> <p>12 diamond from WhiteFlash.com, Inc., using your</p> <p>13 Agriprocessors American Express card to pay for a</p> <p>14 \$7,100 bill?</p> <p>15 A. I thank you for bringing that up very much.</p> <p>16 I had made phone calls to this business you're</p> <p>17 talking about. American Express, they sued me for</p> <p>18 money that I personally owe them. That's not --</p> <p>19 that's not -- that wasn't a personal expense --</p> <p>20 that wasn't a business expense. That was a</p> <p>21 personal expense.</p> <p>22 Q. And that credit card bill was paid for with</p> <p>23 funds from Agriprocessors, wasn't it, sir?</p> <p>24 A. Not as -- not as a -- as money coming to me</p> <p>25 but as a -- as a -- as a pay back for money that I</p>	<p style="text-align: right;">74</p> <p>1 jewelry from Simpson's Jewelers?</p> <p>2 A. Agriprocessors had bought employees -- they</p> <p>3 were given presents. And if you give me dates, I</p> <p>4 can tell you. One of them may have been for my</p> <p>5 father's birthday party, and other managers have</p> <p>6 received bonuses in the form of gifts, like any</p> <p>7 other company does. And to lay it in that light</p> <p>8 is not correct.</p> <p>9 Q. Sir, the -- the \$1.5 million that was</p> <p>10 deposited in your personal bank account from</p> <p>11 checks from Agriprocessors, you agree with your</p> <p>12 son that a number of those -- a number of that</p> <p>13 money was used for your personal expenses, isn't</p> <p>14 that right, sir?</p> <p>15 A. I didn't have time to review what my son</p> <p>16 worked on. He's my son. The reason my son did it</p> <p>17 was because of my lack of funds -- the reason my</p> <p>18 son did it was because of the lack of my money now</p> <p>19 to hire a proper accountant for this job. And</p> <p>20 upon review, you're missing a very important</p> <p>21 component of that whole exhibit, which is how was</p> <p>22 that -- those checks booked and how were those --</p> <p>23 how much money I had brought into Agriprocessors,</p> <p>24 and how Marks, Peneth & Shron, the accounting</p> <p>25 company, set up the account at my father's</p>

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<p style="text-align: center;">75</p> <p>1 direction for Sholom, for Yossi Gourarie, and for 2 Heshy Rubashkin, and if I'm not mistaken, Yossi 3 Rubashkin. And so we have to take everything into 4 account before we understand that particular 5 issue. 6 Q. Are you finished, sir? 7 A. I'm trying to give you a correct answer, 8 sir. 9 Q. Let me ask you a question. Do you disagree 10 with your son's analysis that a good portion of 11 the money that came from Agriprocessors, deposited 12 into your personal account, was used for personal 13 expenses? 14 A. Some of that was used for my personal 15 expenses, correct. 16 Q. And you were limited in your compensation, 17 were you not, by the loan agreement? 18 A. I found that out when I was sitting in 19 court, yeah. 20 Q. You were limited to \$150,000, isn't that 21 right, sir? 22 A. I don't remember the number, but you're 23 assuming that that money, again, came from -- 24 Q. Sir, please just answer my question. You 25 were limited to 150,000. You know that or you</p>	<p style="text-align: center;">77</p> <p>1 sir? 2 A. I signed on the dotted line after the 3 professional company sent me the form -- 4 Q. Sir -- 5 A. -- as most people do. 6 Q. You did not read your tax returns either? 7 A. I gave them information. He calculated it, 8 tells me what to do, and I did it. 9 Q. Now, the money that you received and used 10 for your personal benefit from the Agriprocessors 11 checks, that wasn't information reported to First 12 Bank, was it, sir? 13 A. I think every time a check is cut from 14 Agriprocessors, it is reported to First Bank. 15 It's part of the general ledger at Agriprocessors. 16 It's made out with a check number, where it's made 17 out to. 18 Q. And First Bank didn't review your personal 19 bank account to find out what you were doing with 20 Agriprocessors's money, did they, sir? 21 A. If they would have wanted to, I would have 22 given it to them. 23 Q. Now, what companies were you the president 24 or chief executive officer of in 2007? 25 A. Well, officially, I'm a president for Local</p>
<p style="text-align: center;">76</p> <p>1 don't know that? 2 A. I don't know that. I found that out sitting 3 in court, yes. 4 Q. Now, when you declared your taxes though, 5 you only declared \$99,000, roughly, in the 2005 6 and 2006 tax returns, isn't that right? 7 A. I don't know if that's correct. 8 Q. Your salary, as reported in your tax returns 9 in 2005 and 2006 -- 10 MR. COOK: Your Honor, objection, 11 assumes facts not in evidence. 12 THE COURT: You can ask a question on 13 that, Mr. Williams. 14 Q. Sir, isn't it true that you reported your 15 income, your salary, as \$99,000 in 2005 and 2006? 16 A. I -- I don't prepare my own taxes. I have a 17 company, which I give them all the information 18 that they request for, and they prepare taxes. I 19 am not really prepared to be able to answer you 20 properly about a tax issue at this moment without 21 proper records. 22 Q. You signed your tax returns, didn't you, 23 sir? 24 A. Yes. 25 Q. You've read your tax returns, didn't you,</p>	<p style="text-align: center;">78</p> <p>1 Pride out in Nebraska, whatever that means, 2 because it's also officially a division of 3 Agriprocessors, which I'm no ownership of. I 4 don't know how that happened. There's a company 5 for -- we bought houses in Postville, called 6 Nevel, that I don't know what I am, a 7 vice-president or president of. There's American 8 Pride, with the supply situation on the poultry. 9 There's an issue if a packer is allowed to own 10 livestock. In order to avoid that issue, the 11 company made -- it's total liability, no profit 12 there -- called Cottonballs, for these chicken 13 houses. Again, my brother Heshy is there. 14 Q. What was your position with Cottonballs, 15 sir? 16 A. I really don't remember the official titles. 17 Q. Let's do it this way. Were you ever a 18 president of Agriprocessors? 19 A. Never. 20 Q. Now, as -- 21 A. I'm sorry, I'm sorry. PETA put me out as 22 president of Agriprocessors. 23 Q. Have you ever put yourself out as president 24 of Agriprocessors? 25 A. Never.</p>

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<p style="text-align: right;">79</p> <p>1 Q. Have you ever put yourself out as chief 2 executive officer? 3 A. Never. 4 Q. Have you ever put yourself out as owner of 5 Agriprocessors? 6 A. Never. I'm a very humble person. 7 Q. Does Agriprocessors only have one location, 8 sir, one headquarters? 9 A. I always viewed it as Postville being the 10 headquarters. 11 Q. Okay. What's located in New York? 12 A. That's the -- the meat market. That's a 13 distribution center. 14 Q. Okay. Was that part of Agriprocessors then? 15 A. I think it is, yeah. 16 Q. Okay. So there's one Agriprocessors, and 17 the New York facility is simply a distribution 18 part of it? 19 A. It's called Agri New York. That's called 20 Agri New York. 21 Q. Okay. Not referred to as Agriprocessors, 22 Incorporated? 23 A. You're asking me technical terms. I don't 24 know. I don't know. 25 Q. Do you have any position with Agriprocessors</p>	<p style="text-align: right;">81</p> <p>1 Q. Okay. North Fork Bank? 2 A. North Fork Bank, now I remember. I don't 3 remember what my signature to that was. 4 Q. Well, that was -- you opened up a bank 5 account -- Agriprocessors opened up a bank account 6 at North Fork Bank? 7 A. It started out with Trust Company Bank 8 Holdings doing the account, and from there, I 9 think they sold out to North Fork, and I don't 10 really recall what type of paper I signed. 11 Q. But Agriprocessors had an account with North 12 Fork? 13 A. I didn't sign the checks, I don't think. 14 Q. You signed some paperwork with North Fork -- 15 A. Could be. 16 Q. -- in order to open an account? 17 A. Could be. I wouldn't be surprised if you 18 showed me something. 19 Q. And also with Decorah Bank & Trust, right? 20 A. We had a few accounts, yes, I think. 21 Q. Now, let's talk for a minute. You talked 22 about Cottonballs. Cottonballs was involved in 23 the chicken barn, isn't that right? 24 A. Cottonballs was -- was organized in order -- 25 for the chicken barns -- in order to try to comply</p>
<p style="text-align: right;">80</p> <p>1 in New York? 2 A. I was -- I was a vice-president in 3 Agriprocessors in Postville, Iowa. 4 Q. All right. And you didn't answer my 5 question. Did you have any official position with 6 Agriprocessors in New York? 7 A. Could be at a certain time, when things were 8 developing. I don't know. Maybe -- maybe. 9 Q. And Agriprocessors in New York is not a 10 separate entity from Agriprocessors in Iowa, is 11 it, sir? 12 A. I am not familiar with the corporate 13 structure. I really don't know. 14 Q. Now, you were a signatory on the loan from 15 First Bank, right? 16 A. Limited. 17 Q. You signed the loan agreement with First 18 Bank, did you not, sir? 19 A. I signed a loan agreement at my father's 20 request, correct. 21 Q. All right. Now, you were a signatory on the 22 bank account at Freedom Bank? 23 A. Yeah. 24 Q. Okay. Also at Citizens State Bank? 25 A. If I remember correctly, yes..</p>	<p style="text-align: right;">82</p> <p>1 with some sort of regulation that prohibits a 2 packer from owning livestock. 3 Q. Okay. And Cottonballs was used as a vehicle 4 for paying for the building of the chicken barns, 5 right? 6 A. It got a loan. Cottonballs took a loan out 7 from Luana Bank. 8 Q. And there were expenses involved with 9 building those, labor expenses, right? 10 A. From -- with an Israeli company, correct. 11 Actually -- 12 Q. The Cottonballs account was used to pay for 13 workers, wasn't it? 14 A. Excuse me? Sorry. 15 Q. The Cottonballs account was used to pay for 16 workers who built those chicken barns, isn't that 17 right? 18 A. I don't recall Cottonballs. I think -- I 19 don't recall that. 20 Q. Okay. 21 A. There was some payroll -- there was some 22 money being paid. If you show me the documents, I 23 can explain. 24 Q. And then once the chicken barns was built, 25 there had to be workers paid for offloading the</p>

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<p style="text-align: center;">83</p> <p>1 chickens into the barns on a regular basis, right?</p> <p>2 A. Yossi Gourarie really took care of that.</p> <p>3 Q. Well, you signed the checks paying for this,</p> <p>4 didn't you, sir, a large number of them?</p> <p>5 A. I signed a lot of checks. You know, a lot</p> <p>6 of people testified here in court that they</p> <p>7 signed -- they signed things. They signed things.</p> <p>8 You know, computers sign checks too.</p> <p>9 Q. And Ron Wahls was involved with that, wasn't</p> <p>10 he?</p> <p>11 A. Yes.</p> <p>12 Q. And Ron Wahls was the guy that was also</p> <p>13 involved trying to work with the workers who had</p> <p>14 no-match problems later on, isn't that right?</p> <p>15 A. Ron Wahls was one of the contacts that we</p> <p>16 put out for people that would need some help.</p> <p>17 He -- he presented himself as a minister. He</p> <p>18 built a -- a hall next to his buildings, and he</p> <p>19 was interested in helping the Hispanics.</p> <p>20 Q. And he was the one that kind of was the</p> <p>21 go-between between Cottonballs and the workers</p> <p>22 that were used to build those buildings to</p> <p>23 ultimately offload the chickens?</p> <p>24 A. Two things, that's incorrect. For a limited</p> <p>25 time, and it was not a deal made by me. It was a</p>	<p style="text-align: center;">85</p> <p>1 people.</p> <p>2 Q. And Garnavillo Gospel is Ron Wahls's church,</p> <p>3 isn't that right?</p> <p>4 A. As I understood it, yes.</p> <p>5 Q. And the workers he was using -- or that were</p> <p>6 being used to build these barns, they're the local</p> <p>7 Hispanic workers, weren't they, sir?</p> <p>8 A. They were laid off construction workers.</p> <p>9 Q. And so you would write checks to Ron Wahls,</p> <p>10 made out to Garnavillo Gospel, to pay for the</p> <p>11 workers who were building your chicken barns,</p> <p>12 isn't that right?</p> <p>13 A. What happened was AGRITOP organized with</p> <p>14 Toby, because they came in on a Monday -- I</p> <p>15 remember the day very clearly. I didn't want to</p> <p>16 get in the middle of that. And Toby, under</p> <p>17 pressure from his Israeli buddies, made me do --</p> <p>18 pay them, and they finally took it off the -- off</p> <p>19 the final bill from the contract.</p> <p>20 Q. Putting on the display here what's been</p> <p>21 admitted into evidence as 1203. And ask you if</p> <p>22 this isn't a -- a list --</p> <p>23 MR. WILLIAMS: Actually, I'm going to</p> <p>24 move this in evidence. I believe this is one</p> <p>25 defendant's agreed to admission of, and we just</p>
<p style="text-align: center;">84</p> <p>1 deal made between him and Agri -- AGRITOP, it's a</p> <p>2 company from Israel. And I can explain if you</p> <p>3 want me to.</p> <p>4 Q. The bottom line is that that money would go</p> <p>5 to him to go to the workers, right?</p> <p>6 A. If I -- if I understand correctly, AGRITOP</p> <p>7 came with a deal that they would build five</p> <p>8 houses. They ran into visa problems, labor</p> <p>9 problems, being here. They found Ron Wahls. They</p> <p>10 went to -- and I can be a witness to this. They</p> <p>11 went to Ron Wahls, and called up Toby, and they</p> <p>12 asked Toby to lay out the money for these workers,</p> <p>13 which they organized with Ron Wahls. And that --</p> <p>14 that particular -- if you look through your</p> <p>15 documentation, you'll see that. That they --</p> <p>16 they -- Toby organized for AGRITOP to be able to</p> <p>17 get -- they would fly the workers in from Turkey.</p> <p>18 I was involved with that. I sent letters out</p> <p>19 trying to get -- trying -- trying to get them</p> <p>20 visas, and I at last figured out this situation's</p> <p>21 working. And from there, it was made out to</p> <p>22 Garnavillo Gospel.</p> <p>23 Q. A lot of checks are made out to Garnavillo</p> <p>24 Gospel, signed by you, isn't that right?</p> <p>25 A. I signed some of them. Some signed by other</p>	<p style="text-align: center;">86</p> <p>1 haven't offered it yet. 1203 I'd move into</p> <p>2 evidence, Your Honor.</p> <p>3 THE COURT: Any objection?</p> <p>4 MR. COOK: No objection.</p> <p>5 THE COURT: Received.</p> <p>6 (Whereupon, Exhibit 1203 was received.)</p> <p>7 Q. Putting 1203 on the display here, this is a</p> <p>8 list of all the checks that were issued to Ron</p> <p>9 Wahls and to Garnavillo Gospel during a time</p> <p>10 period of 2006, and then it continues up through</p> <p>11 2008?</p> <p>12 A. Okay.</p> <p>13 Q. And it starts off being paid to Ron Wahls,</p> <p>14 and then all of a sudden it switches over going to</p> <p>15 Garnavillo Gospel, isn't that right, sir?</p> <p>16 A. Correct, I stopped that.</p> <p>17 Q. That wasn't -- that wasn't charitable</p> <p>18 donations, was it, sir?</p> <p>19 A. It was never booked as a charity.</p> <p>20 Q. Sir, you made contributions to politicians,</p> <p>21 isn't that true, sir?</p> <p>22 A. I can't answer anything about politicians.</p> <p>23 Q. You filled out --</p> <p>24 MR. COOK: Your Honor, objection.</p> <p>25 Assumes facts not in evidence, also 403 and</p>

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<p>1 motions in limine.</p> <p>2 THE COURT: Sustained.</p> <p>3 But I will have to admonish the gallery</p> <p>4 that they are not to have any reaction to any of</p> <p>5 the testimony. And if you do, I will have to have</p> <p>6 you removed.</p> <p>7 Q. Sir, you testified earlier that you've never</p> <p>8 declared yourself to be the president of</p> <p>9 Agriprocessors?</p> <p>10 A. Not that I can recall.</p> <p>11 Q. You never declared yourself to be the CEO of</p> <p>12 Agriprocessors?</p> <p>13 A. Not that I recall.</p> <p>14 MR. COOK: That question's been asked</p> <p>15 and answered, Your Honor.</p> <p>16 THE COURT: Sustained.</p> <p>17 Q. In fact, on November 5, 2000, you made a</p> <p>18 political contribution in which --</p> <p>19 MR. COOK: Objection, Your Honor, 403,</p> <p>20 motions in limine.</p> <p>21 THE COURT: Sustained.</p> <p>22 MR. WILLIAMS: Can we have a sidebar,</p> <p>23 Your Honor?</p> <p>24 THE COURT: Yes. I'll invite the jury</p> <p>25 to relax.</p>	<p>1 client, that the -- we're unable to present any</p> <p>2 evidence regarding politicians and their</p> <p>3 interactions with Mr. Rubashkin, yet the</p> <p>4 government comes in on cross-examination, after</p> <p>5 they've won on their motion, and wants to dump in</p> <p>6 evidence regarding his interactions with</p> <p>7 politicians. We've stayed away from that, and</p> <p>8 it's -- it's 403, it's not relevant, it's</p> <p>9 confusing and prejudicial, and it's unfair. And</p> <p>10 if the government wants to demonstrate that he</p> <p>11 held himself out to be president on some document,</p> <p>12 that's one thing, but to interject this notion of</p> <p>13 politicians, we think, is solely inappropriate,</p> <p>14 and, frankly, it may open the door to us calling a</p> <p>15 number of politicians if they continue down this</p> <p>16 road successfully.</p> <p>17 THE COURT: Mr. Williams?</p> <p>18 MR. WILLIAMS: Your Honor, the relevance</p> <p>19 on this goes to the defendant holding himself out</p> <p>20 to be owner or president and CEO of Agriprocessors</p> <p>21 on a number of occasions in relations to filings</p> <p>22 with the Federal Election Commission, with regard</p> <p>23 to political donations he made. I'm not getting</p> <p>24 into visits to the plant by politicians. I'm not</p> <p>25 getting into interactions with politicians. What</p>
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<p>1 (The following was held at a sidebar.)</p> <p>2 THE COURT: Outside the presence of the</p> <p>3 jury in the case of United States of America</p> <p>4 versus Sholom Rubashkin, Case Number 8-1324.</p> <p>5 Mr. Rubashkin is personally present.</p> <p>6 And there was an objection made on the</p> <p>7 basis of the motion in limine as to questions</p> <p>8 about contributions to politicians. I'm just</p> <p>9 looking at my motion in limine ruling. It's the</p> <p>10 order filed as Document 677, Page 6, Paragraph I.</p> <p>11 The government asked the Court to bar evidence of</p> <p>12 visits to Agriprocessors, Inc., by politicians and</p> <p>13 other public officials. And then the Court ruled</p> <p>14 that that evidence is not relevant because it has</p> <p>15 no tendency to make the existence of any fact that</p> <p>16 is of consequence to the determination of the</p> <p>17 action more probable or less probable than it</p> <p>18 would be without the evidence. So technically,</p> <p>19 the question does not violate the Court's order on</p> <p>20 the motion in limine. But, Mr. Cook, other</p> <p>21 concerns?</p> <p>22 MR. COOK: Well, Your Honor, 403, Number</p> <p>23 1, and the Court is absolutely correct with</p> <p>24 respect to reciting its previous ruling. I find</p> <p>25 it to be extremely unfair and prejudicial to my</p>	<p>1 I'm getting to is documents that reflect the</p> <p>2 defendant represented himself to have ownership</p> <p>3 and hold himself out as president and CEO of</p> <p>4 Agriprocessors when making political donations.</p> <p>5 The political donations is simply the context in</p> <p>6 which he made these representations. And so I</p> <p>7 can't get to the fact that he's held himself out</p> <p>8 to be these different positions without laying the</p> <p>9 context in which it -- in which it took place.</p> <p>10 Now, if there's some other way that I can do that,</p> <p>11 I'm fine. I don't care whether it was political</p> <p>12 contributions or some other document. The nature</p> <p>13 of the document doesn't matter. What's important</p> <p>14 here is that the defendant has denied vehemently</p> <p>15 ever representing himself to be president or CEO</p> <p>16 of the corporation, and I have documents that</p> <p>17 suggest just the opposite.</p> <p>18 MR. COOK: Your Honor, first of all,</p> <p>19 this man doesn't file anything with the Federal</p> <p>20 Election Commission. It appears as though the</p> <p>21 government is referring to documents that are</p> <p>22 maintained by the Federal Election Commission</p> <p>23 where the recipient of the funds is obligated to</p> <p>24 declare who they received it from and what their</p> <p>25 occupation is. So it's hearsay in hearsay, and</p>

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<p>1 there's authenticity problems, and it's far afield 2 from issues in this case. It's well established 3 what his position was. There's some dispute about 4 his control, but what title that may have been 5 represented to some politician or what some 6 politician may have had his staffer write down 7 when they're submitting their election reports is 8 not relevant and material to the issues in this 9 case and certainly 403.</p> <p>10 THE COURT: Are you looking at a 11 document that the candidate filed or something 12 that Mr. Rubashkin filed?</p> <p>13 MR. WILLIAMS: Your Honor, I'm looking 14 at the information off of the Federal Election 15 Commission, and it -- it reflects the donations, 16 the date of the donation, who made the donation, 17 what their address is, what company they worked 18 for, the name of the employer, and the occupation. 19 It's the government's position that that 20 information can only come from the donor. It's 21 not going to be simply made up by whoever the 22 politician is. And there's a good faith basis for 23 asking the defendant whether, in fact, he 24 represented himself on a number of these donations 25 to be -- to hold these various titles.</p>	<p>1 Court sustains the objection. 2 And you may ask another question, 3 Mr. Williams. 4 MR. WILLIAMS: Thank you, Your Honor. 5 May I approach the witness? 6 THE COURT: Yes. 7 Q. Mr. Rubashkin, you recall earlier we were 8 talking about the various bank accounts that you 9 had. I want to talk about the North Fork Bank. 10 A. Okay. 11 Q. Do you recognize this as a corporate 12 resolution for North Fork Bank with regard to 13 Agriprocessors? And I'm referring, for the 14 record, to Exhibit 5217. 15 THE COURT: Do you want to step away 16 from the witness while -- 17 A. It's -- it says North Fork Corporate 18 Resolution, yep. 19 Q. And let me just show you the last page here. 20 Do you recognize that as your signature there, 21 sir? 22 A. It looks like it. 23 Q. All right. 24 A. Toby filled that one out. 25 MR. WILLIAMS: United States moves to</p>
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<p>1 MR. COOK: Your Honor, there's no 2 foundation. There's no authenticity or foundation 3 that can be established for this document. It 4 also assumes facts which are not in evidence and 5 which couldn't get into evidence because they have 6 no witness to get this document in. It's not a 7 document that was offered by Mr. Rubashkin, it 8 contains hearsay upon hearsay, and it's 403. 9 THE COURT: The Court is ready to rule. 10 Under 401, 402, and 403, the Court makes the 11 finding that this line of inquiry is not going to 12 proceed for the reason that it's not relevant, 13 doesn't have foundation. This is not an instance 14 where Mr. Rubashkin, as far as we can tell, ever 15 held himself out. What other folks wrote is 16 highly irrelevant. And I'm afraid, if we get into 17 this politician thing, we're going to open the 18 door to a lot of other things that we've 19 successfully navigated through. 20 So I'll ask you, Mr. Williams, just to 21 move on to another topic. 22 MR. WILLIAMS: We'll do. 23 (The following was held in open court.) 24 THE COURT: We're back on the record. 25 And the -- if there was a question pending, the</p>	<p>1 admit Exhibit 5217, Your Honor. 2 MR. COOK: Objection, foundation, 3 authenticity. It's also several -- several pages 4 are totally illegible. 5 THE COURT: The objection is overruled. 6 The -- the exhibit is admitted. 7 (Whereupon, Exhibit 5217 was received.) 8 Q. This would be the corporate resolution here 9 for opening up a bank account with North Fork 10 Bank, isn't that right, sir, for Agriprocessors, 11 Incorporated? 12 A. I don't know what this document is. You 13 showed me a signature line that I may have signed. 14 Q. Okay. And that's the signature you 15 identified as your signature, isn't it, sir? 16 A. But I didn't write this in here. 17 Q. Sir, that's your signature that you 18 recognized, isn't that right, sir? 19 A. It could be. I mean, yes. 20 Q. And it represents you to be president of 21 Agriprocessors, does it not, sir? 22 A. If that representation was made before the 23 signature -- I never represented myself as the 24 president of Agriprocessors. 25 Q. Now, you were the person at Agriprocessors</p>

<p>95</p> <p>1 responsible for overseeing the accounts 2 receivable, isn't that right, sir? 3 A. No. 4 Q. You were the person in charge of accounts 5 payable at Agriprocessors, weren't you, sir? 6 A. No. 7 Q. You oversaw the flow of money at 8 Agriprocessors, right? 9 A. Like trying to oversee the flow of the 10 Mississippi River. I tried to catch pieces of it 11 that I could. 12 Q. You oversaw the flow of money at 13 Agriprocessors, isn't that right, sir? 14 A. I -- I did not oversee. I saw money at 15 Agriprocessors. 16 Q. You oversaw the flow of money at 17 Agriprocessors, isn't that right? 18 A. I don't think that's an accurate description 19 of what I was doing. 20 Q. Well, you were in charge of all financial 21 aspects run out of Agriprocessors, weren't you, 22 sir? 23 A. I don't think so, no. 24 Q. Well, sir, do you remember -- do you 25 remember being involved in a lawsuit where your</p>	<p>97</p> <p>1 witness, Your Honor? 2 THE COURT: Yes. 3 Q. First of all, sir, let me turn to the first 4 page here and make sure you recognize this. You 5 recognize this as a deposition of you took in the 6 Silverman case, sir? 7 A. Can I -- 8 THE COURT: Do you want to step back 9 away from the witness, please. 10 A. I'm looking for a date. Where's the date 11 here? 12 Q. It's in the upper left-hand corner, right 13 there. 14 A. Sorry. Okay. Yes. 15 Q. Okay. And let me direct your attention here 16 to Page 225. Isn't it true that you were asked a 17 question -- 18 MR. COOK: Your Honor, I object to this 19 procedure. It's improper cross-examination and 20 attempted impeachment. 21 THE COURT: I think there is a protocol 22 for impeachment with a prior statement, and I 23 would ask counsel to follow that, please. 24 MR. WILLIAMS: Your Honor, I asked the 25 defendant the question where -- was he the person</p>
<p>96</p> <p>1 deposition was taken in the Silverman litigation? 2 A. Which year was that? 3 Q. That would have been in 2005, sir. Do you 4 remember that? 5 A. Yeah. 6 Q. Okay. And you were placed under oath during 7 that deposition, weren't you, sir? 8 A. Yes. 9 Q. Okay. Same oath you took today in front of 10 this judge, right? 11 A. Took an oath, yeah. 12 Q. And you were asked a number of questions and 13 you gave a number of answers, didn't you, sir? 14 A. Yes. 15 Q. Okay. Directing your attention to -- 16 MR. WILLIAMS: Counsel, Page 225, Line 17 24. 18 MR. COOK: Objection, Your Honor. 19 Assumes facts not in evidence. 20 THE COURT: You can ask him about it. I 21 don't think that exhibit is in, is it? 22 MR. COOK: No, Your Honor. 23 Q. Sir, let me direct your attention then to 24 Page 225. 25 MR. WILLIAMS: And may I approach the</p>	<p>98</p> <p>1 in charge of overseeing -- or was responsible for 2 overseeing accounts receivable. His answer was 3 "no" to that. 4 THE COURT: All right. And if you read 5 his statement from the deposition and ask him to 6 admit or deny or -- what was his answer. 7 Q. And in the deposition at Page 225, Line 24, 8 you were asked the question, "You are the person 9 at Agriprocessors that was responsible for 10 overseeing accounts receivable, correct?" And 11 your answer was, "In a general sense." 12 A. Which is -- you said if I was the only one 13 responsible. That was the first question. 14 Q. And my question to you, sir, was, "Were you 15 the person responsible for overseeing 16 Agriprocessors's accounts receivable?" 17 MR. COOK: Your Honor, I object. It's a 18 misstatement of the record. Counsel's already 19 said what the record says and he misstates it. 20 Object to the form. 21 A. There was -- 22 THE COURT: Just a second. Objection 23 sustained. Let's move on. 24 Q. I asked you, sir, if you were the person in 25 charge of accounts payable as well. And do you</p>

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<p>1 recall in that same deposition at Page 57, Line 2 19, you were asked the question, "Does 3 Agriprocessors have somebody in charge of accounts 4 receivable?" Your answer at Line 21 was, "Yes." 5 Question was, at Line 22, "What [sic] would that 6 be?" And Line 23, your answer was, "Me." 7 Do you recall being asked those 8 questions and giving that answer, sir? 9 A. I don't recall exactly every line there, but 10 I can -- what comes to mind is -- 11 Q. Sir, did you answer that question the way I 12 read it in the deposition? 13 A. I don't have recollection. I listened to 14 you talking. But I was talking about a time frame 15 of 2001 or 1999, whatever the time frame was. It 16 was way back. When you're asking me questions, 17 I'm taking it to be you're asking me what my 18 position was in the time of the court case, which 19 is '07, '08. And my concern is you're shifting 20 backwards. And I explained to you, my positions 21 moved around. 22 Q. I asked you the question, if you oversaw the 23 flow of money at Agriprocessors, and your answer 24 was no. 25 Do you recall that question and answer,</p>	<p>1 it says, that's what it says. 2 Q. I asked you the question, if you were in 3 charge of all financial aspects run out of 4 Agriprocessors, and you said no. 5 Do you recall that, sir? 6 A. You're talking about a time frame of '07, 7 '08. And I can tell you there were five, six 8 people overseeing accounts payable at 9 Agriprocessors. 10 Q. In the same deposition, sir, Page 54, you 11 were asked the question, at Line 7, "All financial 12 aspects of the business are run out of Iowa?" 13 Your answer was, "Yes." 14 Question at Line 10 -- 15 MR. COOK: Your Honor, I object to this 16 procedure. It's improper. It's just reading from 17 the deposition. 18 THE COURT: All right. You can ask him 19 if he remembers being asked such and such a 20 question and answering such and such. 21 Q. Sir, do you remember being asked the 22 question, "You are in charge of these?" And 23 "these" being reference to the prior question, 24 "all financial aspects of the business." And your 25 answer at Line 11 was, "Yes."</p>
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<p>1 sir? 2 A. I said it was like overseeing the 3 Mississippi. I did look into it. I was involved 4 with it, but I wasn't -- I wasn't -- "overseeing" 5 means the one responsible and has the final say. 6 To that, I say no. Maybe I don't understand -- 7 Q. All right. Same deposition, sir, Page 9, 8 Line 9, you were asked the question, "In the 9 financial aspects of" -- I'm sorry, let me start 10 up further. 11 The question starts at Line 3. 12 "Question: You gave me three areas you were 13 responsible for as vice-president. One is the 14 office, one is financial, one is new projects. As 15 to your involvement in the financial aspects of 16 Agriprocessors's business, what do you do?" 17 "Answer: In the financial world?" 18 "Question: No, in the financial aspects 19 of Agriprocessors's business." 20 Answer, at Line 11, "I sign checks. I 21 oversee the flow of money." 22 Do you recall being asked those 23 questions and giving that answer, sir? 24 A. I don't recall that particular question. I 25 was reading what I was saying. And if that's what</p>	<p>1 Do you remember getting asked that 2 question and giving that answer, sir? 3 A. I don't recall. All I can say is that that 4 deposition was about a time frame -- not the time 5 frame you started asking me about, and therefore, 6 they're -- 7 Q. Let's talk a little bit about Packers & 8 Stockyards, sir. 9 A. Yes. 10 Q. You knew there was no real credit given from 11 cattle suppliers, isn't that right? 12 MR. COOK: Objection, argumentative. 13 THE COURT: Overruled. 14 A. Please repeat the question. 15 Q. Yeah. You knew there was no real credit 16 given from cattle suppliers, isn't that right? 17 A. No. 18 Q. Same deposition, Page 99, do you recall 19 being asked this question and giving this answer, 20 "Did you ever have discussion with Mr. Hunt 21 concerning Allou and its business relationship 22 with Agriprocessors?" 23 "Answer: Yes. When he opened the 24 account -- and he was very pleased with himself. 25 We got a good customer. He always knew -- he</p>

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1 always knows I need cash."
 2 At Line 18, "In the cattle business,
 3 livestock business, it's unique. There is no real
 4 credit given from suppliers. You don't get trade
 5 credit."
 6 Do you recall being asked that question
 7 and giving that answer about trade credit, sir?
 8 A. I'm listening to you now. That could have
 9 been what I said, yeah.
 10 Q. And you knew that you had to cut the
 11 suppliers' checks on a daily basis, didn't you,
 12 sir?
 13 MR. COOK: Objection, argumentative.
 14 THE COURT: Overruled.
 15 A. Agriprocessors tried very hard to cut the
 16 checks every single day.
 17 Q. My question, sir, goes to your knowledge.
 18 You knew that Agriprocessors had to cut checks to
 19 cattle suppliers on a daily basis?
 20 A. Depending how they were bought.
 21 Q. And you knew that if you killed them on
 22 Monday, you have to pay them on Tuesday, isn't
 23 that right?
 24 A. Unless they were bought -- if they buy
 25 cattle on a grade and yield basis or on a grid

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1 basis or on a bulk purchase basis, where the
 2 supplier gets one check. It's a -- there are
 3 outs.
 4 Q. Okay. And you knew that the Packers &
 5 Stockyards Act requires a timely payment
 6 accounting, didn't you, sir?
 7 A. The Packers & Stockyards Act talks about
 8 payment within 24 hours for purchase of cattle
 9 that is bought.
 10 Q. And over the years you held up those
 11 payments of cattle suppliers, didn't you, sir?
 12 A. I'm not sure. Can you be specific as to
 13 which supplier?
 14 Q. You held up payments to the point where
 15 cattlemen complained about being paid late?
 16 A. I did?
 17 Q. Yes, sir, you did.
 18 A. Okay.
 19 Q. And to the point where ultimately the
 20 Secretary of Agriculture in 2002 had to enter an
 21 order to cease and desist your late payments to
 22 cattle suppliers, isn't that right?
 23 A. That particular cease and desist was made
 24 out to Agriprocessors, not to Sholom Rubashkin.
 25 And actually, Donald Hunt was buying cattle at

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1 that point in time. So if you want to put a name
 2 on it, put Donald Hunt's name on it.
 3 Q. Well, you want to put a name on it. Let's
 4 take a look at Exhibit 3000, Page 11. That's the
 5 cease and desist order, and your name is the one
 6 on that cease and desist order, isn't it, sir?
 7 A. This is -- I don't know, can I -- I -- this
 8 is a product from Agriprocessors's, I think, legal
 9 that I was working with them on. And as a
 10 representative of Agriprocessors, I signed. It's
 11 not my personal responsibility for -- by signing
 12 this paper.
 13 Q. Attached to the cease and desist order on
 14 behalf of Agriprocessors is your name, isn't it,
 15 sir, your signature?
 16 A. I signed Agri. I wasn't signing personally
 17 for this. All I was acknowledging is that Agri
 18 had received that piece of paper. That doesn't
 19 mean I received responsibility for that.
 20 Q. And after -- after the cease and desist
 21 order, you continued to hold up those payments to
 22 cattle suppliers, didn't you, sir?
 23 A. If you showed me some kind of checks that I
 24 can respond to, I can do that.
 25 Q. What you would do is you would tell Shella

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1 what days you wanted her to mail those out, didn't
 2 you, sir?
 3 A. There were certain checks that I -- probably
 4 in the general account also, but there were cattle
 5 checks, whether they were -- there were cattle
 6 checks that were out or grade and yield or a
 7 customer picking up a check or -- if you gave me
 8 specifics, I can definitely respond to that.
 9 Q. And you would put the post-it notes on the
 10 outside of the cattle suppliers' checks telling
 11 her when to actually mail those, didn't you, sir?
 12 A. On those I did.
 13 Q. The checks were cut on a timely basis,
 14 weren't they?
 15 A. Not always.
 16 Q. And then you would put a day on there, on
 17 when you wanted them to actually be mailed out,
 18 isn't that right, sir?
 19 A. If you can be more specific, then I would
 20 like to answer you.
 21 Q. And on some occasions, you would tell Shella
 22 to go ahead and meter the payment so it was
 23 metered on a date, and then you would have her
 24 return that envelope back to you after it had been
 25 metered, isn't that right?

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<p>1 A. That's not accurate.</p> <p>2 Q. And you'd also go get the checks out of the</p> <p>3 mailbox, isn't that right, sir?</p> <p>4 A. That's definitely -- can I answer that?</p> <p>5 Q. Did you do that, sir?</p> <p>6 A. Yeah, but not the cattle check. That was --</p> <p>7 that was -- and she was here. That was the</p> <p>8 general check -- it wasn't a real mailbox. There</p> <p>9 was a cardboard box sitting next to a Postmaster</p> <p>10 thingy over there. And it was scheduled to go out</p> <p>11 that day, and then whatever happened there, I -- I</p> <p>12 went over there and took it out. It --</p> <p>13 Q. Sir, you're the one who decided when checks</p> <p>14 went out of Agriprocessors?</p> <p>15 A. Not -- not the only -- there were plenty of</p> <p>16 times that checks went out there and I didn't want</p> <p>17 them to go out or -- or -- or people bumped their</p> <p>18 heads, whatever happened. I wasn't the only guy.</p> <p>19 Q. And in 2005 you learned about the fact that</p> <p>20 Agriprocessors had hundreds of workers who were</p> <p>21 using social security numbers that did not match</p> <p>22 the names in the records, isn't that right?</p> <p>23 A. I think it's 2006.</p> <p>24 Q. Okay, 2006. You learned about that?</p> <p>25 A. I was told by Elizabeth, yes.</p>	<p>1 that right?</p> <p>2 A. We spoke about the mismatch letters, and, if</p> <p>3 I can remember correctly, I was the one that was</p> <p>4 prompting her to get moving on it.</p> <p>5 Q. Your response to her was, "It's my plant,</p> <p>6 and I'll run it the way I want to." Isn't that</p> <p>7 your response to her?</p> <p>8 A. You know, I'll take offense to that.</p> <p>9 Q. Now, in 2007, Elizabeth Billmeyer told you</p> <p>10 that the pink cards aren't good anymore, isn't</p> <p>11 that right?</p> <p>12 A. She -- she told me that she had a visitor</p> <p>13 from ICE, okay. And mind you, this came after she</p> <p>14 had a compliment from ICE about -- about some</p> <p>15 other files they looked through, and so I was</p> <p>16 getting mixed messages all over the place.</p> <p>17 MR. WILLIAMS: Your Honor, I would ask</p> <p>18 that the defendant --</p> <p>19 THE DEFENDANT: Answer the question.</p> <p>20 MR. WILLIAMS: The answer be struck as</p> <p>21 nonresponsive.</p> <p>22 THE COURT: The answer is stricken. It</p> <p>23 is nonresponsive.</p> <p>24 And, Ms. Murray, would you please</p> <p>25 re-read the question for him.</p>
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<p>1 Q. All right. And you were told by Elizabeth</p> <p>2 something had to be done about this, isn't that</p> <p>3 right?</p> <p>4 A. I think I told her something has to be done</p> <p>5 about it. And the first thing she said is that</p> <p>6 the numbers -- there's only numbers, no names, and</p> <p>7 took who knows how much time to go through all</p> <p>8 those numbers, and said give me -- give me the few</p> <p>9 you have rather than the whole list, and -- and so</p> <p>10 it took maybe a month or -- who knows how long it</p> <p>11 took, maybe months, until she actually took the</p> <p>12 numbers and put them next to the names to</p> <p>13 understand what that paper even meant.</p> <p>14 Q. Elizabeth came to you and said, "We have to</p> <p>15 do something about this. We have hundreds of</p> <p>16 workers working in our plant that are using</p> <p>17 improper social security numbers," isn't that</p> <p>18 right?</p> <p>19 A. She came to me and said she got a letter</p> <p>20 from the association weeks after she got it, and I</p> <p>21 said to her, "Please identify who they are so we</p> <p>22 can take action." That is a correct statement.</p> <p>23 Q. She kept coming back to you trying to figure</p> <p>24 out what we're going to do about these workers who</p> <p>25 were using improper social security numbers, isn't</p>	<p>1 (Whereupon, the requested portion of the</p> <p>2 record was read by the Court Reporter.)</p> <p>3 A. She told me in a year, by next year of '08,</p> <p>4 she can't be taking any more pink cards.</p> <p>5 Q. And she told you that she was not going to</p> <p>6 take any more pink cards, isn't that what she told</p> <p>7 you, in 2007?</p> <p>8 A. She told me that she could wait until 2008</p> <p>9 when she feels uncomfortable to take the pink</p> <p>10 cards, because she doesn't know -- she felt</p> <p>11 uncomfortable, although -- whatever, and then --</p> <p>12 and she would only prefer the white cards.</p> <p>13 Q. So your answer to that was to start putting</p> <p>14 workers with pink cards on the Hunt payroll,</p> <p>15 wasn't it?</p> <p>16 A. I think you've got the facts wrong.</p> <p>17 Q. And got Shlomo ben Chaim?</p> <p>18 A. Yeah. Any objection to his growing</p> <p>19 sidelocks? Is that the reason you put this</p> <p>20 here --</p> <p>21 Q. And you got him to sign the I-9s, isn't that</p> <p>22 right, sir?</p> <p>23 A. He happens to have gone to school in</p> <p>24 Decorah --</p> <p>25 Q. Sir, answer my question.</p>

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<p>1 A. Oh, sorry.</p> <p>2 Q. Did you have Shlomo ben Chaim --</p> <p>3 A. Yes.</p> <p>4 Q. -- sign the I-9s?</p> <p>5 A. I asked him. I paid him for it.</p> <p>6 Q. He wasn't part of the human resources, was</p> <p>7 he, sir?</p> <p>8 A. For that project. He was not supposed to</p> <p>9 be part --</p> <p>10 Q. He was not a member of human resources, was</p> <p>11 he, sir? Yes or no.</p> <p>12 A. No. I made him a member --</p> <p>13 Q. Sir, there's no question pending.</p> <p>14 A. I'm sorry. I'll try to abide, and I</p> <p>15 apologize.</p> <p>16 Q. And these are all workers that came in and</p> <p>17 were hired after hours, weren't they, sir?</p> <p>18 A. At Agriprocessors there was never any after</p> <p>19 hours. The city never sleeps.</p> <p>20 Q. It was after human resources hours, wasn't</p> <p>21 it, sir?</p> <p>22 A. Depending on which worker in human</p> <p>23 resources. The lights are on until nine, ten</p> <p>24 o'clock at night.</p> <p>25 Q. And these workers were all put on the Hunt</p>	<p>1 Q. All right. You thought it was going to be</p> <p>2 coming that Tuesday, May 13, not Monday, May 12,</p> <p>3 isn't that right?</p> <p>4 A. My bet was on Monday morning.</p> <p>5 Q. And on Sunday, you had Laura Althouse again</p> <p>6 come in and work Sunday night processing a bunch</p> <p>7 of new applicants, isn't that right, sir?</p> <p>8 A. She was requested to come in on Sunday to</p> <p>9 process new applicants or anybody who wanted to</p> <p>10 apply for a job.</p> <p>11 Q. And the Friday before that, you had had</p> <p>12 Laura Althouse get into Elizabeth Billmeyer's</p> <p>13 office to get that list of the no-match employees?</p> <p>14 A. That wasn't on Friday.</p> <p>15 Q. It was Thursday?</p> <p>16 A. The testimony that came in was Thursday.</p> <p>17 Q. When was it, sir? Was it Thursday or Friday</p> <p>18 that you had --</p> <p>19 A. I heard testimony on Thursday and -- I'm --</p> <p>20 I don't have a recollection of that, because that</p> <p>21 particular document was given out to anybody who</p> <p>22 needed to maybe -- a few people who were in the</p> <p>23 processes of firing people, and Laura had to know,</p> <p>24 and Elizabeth had to know, so I don't recall her</p> <p>25 having to get the document from Elizabeth.</p>
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<p>1 payroll, and you told Laura Althouse to do this</p> <p>2 without telling Elizabeth Billmeyer, isn't that</p> <p>3 right, sir?</p> <p>4 A. Elizabeth Billmeyer was not needed for that</p> <p>5 project.</p> <p>6 Q. And you told Laura Althouse --</p> <p>7 A. I don't recall.</p> <p>8 Q. -- to hire these workers without telling</p> <p>9 Elizabeth Billmeyer, isn't that right?</p> <p>10 A. You can't hide hiring 50 workers from</p> <p>11 Elizabeth Billmeyer. How could I have ever said</p> <p>12 that?</p> <p>13 Q. Answer my question, sir.</p> <p>14 A. The answer is no.</p> <p>15 MR. COOK: Your Honor, is counsel using</p> <p>16 Exhibit 334? I object to its continued display.</p> <p>17 Q. Now, May of 2008, you testified already that</p> <p>18 you were aware that there was probably a raid</p> <p>19 coming to the plant, isn't that right?</p> <p>20 A. Which date, sir?</p> <p>21 Q. In May of 2008, you believed that the plant</p> <p>22 was going to be raided?</p> <p>23 A. In the month of May? Yes.</p> <p>24 Q. In the month of May.</p> <p>25 A. Yes, sir.</p>	<p>1 Q. Sir, you're the one who directed Laura</p> <p>2 Althouse to get into Elizabeth Billmeyer's office</p> <p>3 to get that list, isn't that right?</p> <p>4 A. I don't recall, but if they say I did, I</p> <p>5 did. That's fine.</p> <p>6 Q. And on Friday in their paychecks came notice</p> <p>7 that they were going to be let go because their</p> <p>8 numbers, social security numbers, didn't match</p> <p>9 their names, isn't that right?</p> <p>10 A. Yeah.</p> <p>11 Q. And on Sunday a number of those same workers</p> <p>12 came back in and applied for jobs on Sunday</p> <p>13 afternoon, Sunday evening, isn't that right?</p> <p>14 A. When -- when -- first of all, I wasn't</p> <p>15 particularly there to see the people that were</p> <p>16 there. I was there physically. I don't -- I</p> <p>17 wasn't processing anything. But I don't think it</p> <p>18 would be impossible for somebody to have had a</p> <p>19 problem with a mismatch corrected and come back.</p> <p>20 Even though they worked there -- I mean, just</p> <p>21 seeing them again does not mean that -- that</p> <p>22 they're not there to correct this problem.</p> <p>23 Q. And you told Laura Althouse that you would</p> <p>24 sign the I-9s, didn't you, sir?</p> <p>25 A. I never did.</p>

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<p>1 Q. Now, that prior week before the raid --</p> <p>2 A. Yes.</p> <p>3 Q. -- you were approached by Brent Beebe and</p> <p>4 Carlos Guerrero about getting some money for the</p> <p>5 workers to get new IDs, weren't you?</p> <p>6 A. No.</p> <p>7 Q. And you went ahead and wrote a check for</p> <p>8 \$4,500 for that purpose, didn't you, sir?</p> <p>9 A. I did not, not for that purpose.</p> <p>10 Q. And, in fact, you made Carlos promise you</p> <p>11 the promise that he would pay you back if the</p> <p>12 workers didn't pay him back, isn't that right?</p> <p>13 A. I don't recall the whole thing.</p> <p>14 Q. Sir, after the raid, Phil Lykens came up to</p> <p>15 Agriprocessors and met with you, isn't that right?</p> <p>16 A. The raid was on Monday. He came -- I don't</p> <p>17 recall exactly -- either Wednesday or Thursday.</p> <p>18 Q. And he talked to you -- talked to you about</p> <p>19 his concern about the raid and the ramifications</p> <p>20 it was going to have on Agriprocessors, isn't that</p> <p>21 right?</p> <p>22 A. You say he came and talked to me. He didn't</p> <p>23 come and talk to me. He came to talk to</p> <p>24 Mr. Rubashkin and his accountant, or his advisor,</p> <p>25 Norman Lipshie.</p>	<p>1 A. The people working on the Hunt payroll were</p> <p>2 all legal people at the time of hire.</p> <p>3 Q. And you knew, sir, at the time that you told</p> <p>4 that to Phil Lykens, that you had been for years</p> <p>5 employing hundreds of workers at your plant that</p> <p>6 were illegal aliens, didn't you, sir?</p> <p>7 A. To be able -- I did not know for a certainty</p> <p>8 who is an illegal and who was legal. And I tried</p> <p>9 very hard, and I think I was at the forefront of</p> <p>10 the whole dealing with mismatch; was actually me</p> <p>11 who fought so hard.</p> <p>12 MR. WILLIAMS: Your Honor, I ask that</p> <p>13 the answer be struck and that he be instructed to</p> <p>14 answer the question asked.</p> <p>15 THE COURT: Let's have the question</p> <p>16 re-read.</p> <p>17 (Whereupon, the requested portion of the</p> <p>18 record was read by the Court Reporter.)</p> <p>19 MR. COOK: I also object to the form of</p> <p>20 the question. It assumes facts not in evidence.</p> <p>21 The witness has already denied the statement that</p> <p>22 he's now trying to ask another question about.</p> <p>23 Object to the form.</p> <p>24 THE COURT: Overruled. You may answer,</p> <p>25 sir.</p>
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<p>1 Q. And you told him that you thought that all</p> <p>2 the workers had been properly documented, isn't</p> <p>3 that right?</p> <p>4 A. I don't -- I don't have recollection exactly</p> <p>5 the words that I said that suddenly -- I don't</p> <p>6 have a recollection of the exact words. I</p> <p>7 remember him saying to me that he's concerned</p> <p>8 that they're going to come here and cart me away.</p> <p>9 Q. And you assured him that you had complied</p> <p>10 and Agriprocessors had complied with the law.</p> <p>11 Isn't that what you assured Mr. Lykens that day,</p> <p>12 sir?</p> <p>13 A. I told him it's not about me. It's about</p> <p>14 what he wants to do with the company. That's my</p> <p>15 response.</p> <p>16 Q. My question to you, sir, is did you assure</p> <p>17 Phil Lykens that Agriprocessors had complied with</p> <p>18 the law? Did you tell him that or didn't you,</p> <p>19 sir?</p> <p>20 A. I don't recall the exact wording of that</p> <p>21 conversation, yes.</p> <p>22 Q. And you knew at the time that you told him</p> <p>23 that that you had employed workers on the Hunt</p> <p>24 payroll that had presented pink IDs, didn't you,</p> <p>25 sir?</p>	<p>1 A. That -- I'm not particularly clear on what</p> <p>2 you're asking. Could you -- it's knowing and when</p> <p>3 was it known. I mean, after the raid and they</p> <p>4 came back with -- the government finds 300-plus</p> <p>5 people there.</p> <p>6 Q. Let me ask you a new question then, sir, all</p> <p>7 right?</p> <p>8 A. Yeah.</p> <p>9 Q. You told Phil Lykens that -- let me rephrase</p> <p>10 it. You told the jury -- do you deny or do you</p> <p>11 admit that you knew Agriprocessors was employing</p> <p>12 illegal aliens?</p> <p>13 A. After the raid --</p> <p>14 MR. COOK: Just a moment, Your Honor. I</p> <p>15 object to the form of the question. Irrelevant,</p> <p>16 immaterial, 403.</p> <p>17 THE COURT: Overruled.</p> <p>18 A. What was the question, again, sir?</p> <p>19 Q. Let me rephrase and see -- prior to the</p> <p>20 raid, you knew that Agriprocessors was employing</p> <p>21 illegal aliens, didn't you, sir?</p> <p>22 A. I did not know we hired any illegal aliens.</p> <p>23 Actually --</p> <p>24 Q. You knew Agriprocessors was employing</p> <p>25 illegal aliens prior to the raid, didn't you, sir?</p>

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<p>1 A. I knew we had mismatch letters, and I was 2 trying hard to comply with the law by giving out 3 letters and telling them they can't work at 4 Agriprocessors anymore. 5 Q. Let's talk about the invoices you had Judy 6 Meyer and Darlis Hendry create. Now, what you 7 would do is you would actually go to these women 8 and you would give them a list of company names 9 and dollar figures, isn't that right? 10 A. I don't know with Judy Meyer, but with 11 Darlis Hendry, I would -- I would -- I'd give her 12 a list with names and what -- what type of order 13 they should have -- not what type of order, 14 what -- what customers owed, like inventory. I 15 would have with me a book and I would ask them to 16 book this and this and this inventories. 17 Q. What you did, sir, is you walked up to her 18 with a piece of paper with a name of a company and 19 a dollar figure on it, didn't you, sir? 20 MR. COOK: Objection, argumentative. 21 THE COURT: Overruled. 22 A. There were times that I did that, yes. 23 Q. And you told her just to make up whatever 24 products she wanted to, to reflect it on the 25 invoice, isn't that right, sir?</p>	<p>1 money from the bank, yes. 2 Q. You knew that the invoices would increase 3 the accounts receivables as reflected on the books 4 at Agriprocessors, didn't you? 5 A. The part of the books I don't understand. 6 Q. You knew the effect was to get more money 7 from First Bank, isn't that right? 8 A. I knew that more money would be forthcoming 9 by that. 10 Q. By creating these invoices, isn't that 11 right? 12 A. Yeah. 13 Q. And you would walk down from your office, 14 down to Darlis Hendry's office, in order to give 15 her these instructions, wouldn't you? 16 A. Sometimes, I -- I don't know from where I 17 walked, but I sometimes went to her and -- yeah. 18 Q. And your office was in a different building, 19 wasn't it, sir? 20 A. My office was in the front building. 21 Q. And when you would go down, you would tell 22 her that she was supposed to keep those invoices 23 separate from the rest of the invoices, didn't 24 you, sir? 25 A. No, I never told people how to file. I</p>
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<p>1 A. I did not tell her that. I asked her to 2 make -- in certain cases, there was invoices made 3 that were -- how can -- just a bill. 4 Q. And you also told her to create bills of 5 lading, isn't that right, sir? 6 A. That, I did not. 7 Q. And you told her to sign truckers' names to 8 the bills of lading, isn't that right, sir? 9 A. That, I did not. 10 Q. And you did the same thing with Judy Meyer, 11 didn't you, sir? 12 A. Judy Meyer was -- 13 Q. Sir, just answer my question. Did you do 14 the same thing with Judy Meyer, sir? 15 A. It could have been -- I don't remember. It 16 could have been a bill and hold. It could have 17 been -- I don't recall with Judy Meyer. 18 Q. Did you tell Judy Meyer to sign truckers's 19 names to bills of lading, sir? 20 A. Definitely not. 21 Q. And you created these invoices because you 22 knew that the effect of creating these invoices 23 was to get more money from First Bank, isn't that 24 right? 25 A. The effect of those invoices would be to get</p>	<p>1 don't know how to do it myself. 2 Q. And when you had Darlis Hendry create these 3 invoices, you didn't give her any order from a 4 customer, did you, sir? 5 A. Sometimes I did. 6 Q. You didn't give her source documents, did 7 you, sir? 8 A. Sometimes I did. 9 Q. You didn't send these instructions to her in 10 an e-mail, did you? 11 A. Not that I recall. 12 Q. Let's talk about April Hamilton for a few 13 minutes. April Hamilton was in the accounts 14 receivable department, isn't that right? 15 A. Again. 16 Q. April Hamilton was in accounts receivable? 17 A. Yeah. 18 Q. She would be the one who would get the 19 customer payments every day, isn't that right? 20 A. I don't know exactly how it flows. I think 21 it first went to Wendy, and then it went to April. 22 Q. Okay. And you would walk down and have 23 April actually pull customer checks from the 24 deposit going to Decorah Bank & Trust, wouldn't 25 you, sir?</p>

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123	<p>1 A. I -- not -- not necessarily walking down. I</p> <p>2 could have been sitting in Toby's office and</p> <p>3 talking to him, and he would tell me he needs so</p> <p>4 much money and I should go and get him money.</p> <p>5 Q. And you told April Hamilton to pull checks</p> <p>6 and not deposit them in Decorah Bank & Trust,</p> <p>7 isn't that right?</p> <p>8 A. I asked April Hamilton to please take out so</p> <p>9 much and so much because Toby needs that much</p> <p>10 money for his deposit.</p> <p>11 Q. And you also told April Hamilton to come up</p> <p>12 with rounding checks, didn't you, sir?</p> <p>13 A. No.</p> <p>14 Q. You told her you needed checks so that the</p> <p>15 deposit that was going to go into the Citizens</p> <p>16 State Bank would be a round number, didn't you,</p> <p>17 sir?</p> <p>18 A. I don't recall. I'm not an accountant and I</p> <p>19 don't understand all that.</p> <p>20 Q. You told her to create checks to make sure</p> <p>21 the deposit was even, didn't you, sir?</p> <p>22 A. It could have been Mitchell Meltzer. It</p> <p>23 could have been Toby. And I don't see the whole</p> <p>24 purpose of the whole thing, so I don't recall</p> <p>25 that.</p>	125	<p>1 what was happening, isn't that right?</p> <p>2 A. There could be -- it could be many reasons</p> <p>3 why they wanted that round number.</p> <p>4 Q. Now, at some point after you had used the --</p> <p>5 the customer payments for a while, that money had</p> <p>6 to be replenished into Decorah -- I'm sorry,</p> <p>7 Decorah Bank & Trust?</p> <p>8 MR. COOK: Objection, argumentative.</p> <p>9 THE COURT: Sustained.</p> <p>10 Q. Sir, isn't it true that you approached April</p> <p>11 Hamilton, and you would tell her how many CHAX</p> <p>12 checks to issue in order to get money back into</p> <p>13 Decorah Bank & Trust?</p> <p>14 A. Again, in all this whole scenario, I -- Toby</p> <p>15 would meet with me and say how much money he need</p> <p>16 and then I was the one -- oh, boy -- I didn't</p> <p>17 realize there was anything wrong with it.</p> <p>18 Q. My question to you, sir, is did you tell</p> <p>19 April Hamilton to cut checks, CHAX checks, to be</p> <p>20 deposited into Decorah Bank & Trust?</p> <p>21 A. Yeah.</p> <p>22 Q. And you told her how many checks to cut,</p> <p>23 didn't you?</p> <p>24 A. I asked her to make it approximately -- not</p> <p>25 approximately, to make it to pay -- to give back</p>
124	<p>1 Q. Did you tell April Hamilton to create checks</p> <p>2 so the deposits going into Citizens State Bank</p> <p>3 would be even amounts, sir?</p> <p>4 A. Not that I recall.</p> <p>5 Q. And the checks that were used to make these</p> <p>6 in even amounts came from New York Agriprocessors,</p> <p>7 isn't that right?</p> <p>8 A. There were -- there were numbers of those</p> <p>9 checks, yes.</p> <p>10 Q. And you approached Mitch Meltzer at one</p> <p>11 point and asked him for a check, for about \$700,</p> <p>12 so that that deposit could be rounded out?</p> <p>13 A. Actually, I told him that he couldn't get</p> <p>14 his round number that he wanted, so he said,</p> <p>15 "Here, let me give you my check."</p> <p>16 Q. And the reason that you had these -- the --</p> <p>17 the reason it was important to have these deposits</p> <p>18 going to Citizens State Bank for the round amount</p> <p>19 was so that First Bank wasn't aware of what you</p> <p>20 were doing, isn't that right?</p> <p>21 MR. COOK: Objection, leading -- excuse</p> <p>22 me, argumentative, Your Honor.</p> <p>23 THE COURT: Sustained.</p> <p>24 Q. There's no other reason for even deposits</p> <p>25 into the Citizens State Bank other than to conceal</p>	126	<p>1 the money for the -- for the other check, and that</p> <p>2 was it.</p> <p>3 Q. And you would tell her to make those in odd</p> <p>4 amounts, wouldn't you, sir?</p> <p>5 A. The payments were in odd amounts, they</p> <p>6 should be in odd amounts.</p> <p>7 Q. And these odd amounts you had her just make</p> <p>8 up, didn't you, sir?</p> <p>9 A. No, definitely not.</p> <p>10 Q. You would tell her the number of checks that</p> <p>11 you needed and told her just to come up with the</p> <p>12 numbers herself, didn't you, sir?</p> <p>13 A. No, she may have done things for her own --</p> <p>14 for her own efficiency or faster, but I -- I</p> <p>15 remember explicitly telling her, make -- make sure</p> <p>16 you pay back the money from that particular check.</p> <p>17 So she may have been, you know, to make it faster</p> <p>18 putting it in and then later, figure it out, but</p> <p>19 my directions was to go and put it in the --</p> <p>20 the -- the right, so if you've got 87 -- 87 and an</p> <p>21 odd number, whatever, odd number, even -- or</p> <p>22 odd/even. So, do that, and if she decided it's</p> <p>23 more efficient to do it differently, that may have</p> <p>24 happened, but that's not what I told her to do.</p> <p>25 Q. Well, a lot of the checks that were put back</p>

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<p>1 into the Decorah Bank & Trust came from</p> <p>2 Agriprocessors, right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And some of them came from Torah</p> <p>5 Education, isn't that right?</p> <p>6 A. Yes.</p> <p>7 Q. And some of them came from Kosher Community</p> <p>8 Grocery, isn't that right?</p> <p>9 A. Yes.</p> <p>10 Q. And those are both institutions that you had</p> <p>11 control over, isn't that right?</p> <p>12 A. Yes.</p> <p>13 Q. You could write checks off of those</p> <p>14 accounts, couldn't you, sir?</p> <p>15 A. Yes.</p> <p>16 Q. And the money that was used to write those</p> <p>17 checks, those were funded by checks going into</p> <p>18 those accounts from Agriprocessors, isn't that</p> <p>19 right?</p> <p>20 A. Say that again.</p> <p>21 Q. The money that was used to fund the checks</p> <p>22 being written from Torah Education and Kosher</p> <p>23 Community Grocery that were deposited into Decorah</p> <p>24 Bank & Trust --</p> <p>25 A. Right.</p>	<p>1 A. I don't -- I don't know. Whatever the</p> <p>2 exhibit says, but you're not -- you're not</p> <p>3 portraying it correctly.</p> <p>4 Q. When -- when the collateral reports were</p> <p>5 going to First Bank, you knew those -- you knew</p> <p>6 those collateral reports were not accurate, didn't</p> <p>7 you, sir?</p> <p>8 A. I don't think I ever signed a collateral</p> <p>9 report.</p> <p>10 Q. That wasn't my question to you, sir. I</p> <p>11 asked you, when those collateral reports went to</p> <p>12 First Bank, you knew those collateral reports were</p> <p>13 not accurate, didn't you, sir?</p> <p>14 A. I did not know collateral reports were even</p> <p>15 going out as a collateral report, so -- I have not</p> <p>16 seen the collateral report.</p> <p>17 Q. When or -- when the aging reports were sent</p> <p>18 down to First Bank every month, you knew those</p> <p>19 aging reports were false, didn't you, sir?</p> <p>20 A. Well, here's the thing --</p> <p>21 Q. No. Answer my question. Did you know those</p> <p>22 collateral -- I'm sorry, those aging reports were</p> <p>23 false when they went to First Bank?</p> <p>24 A. Not necessarily.</p> <p>25 Q. You knew that -- that the money had been</p>
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<p>1 Q. -- those funds came from checks that were</p> <p>2 deposited by Agriprocessors into those accounts,</p> <p>3 isn't that right?</p> <p>4 A. Yes, but --</p> <p>5 Q. Okay. You answered my question.</p> <p>6 A. Not in whole.</p> <p>7 Q. And with -- with Torah Education, for a</p> <p>8 period of less than a year, there was \$10 million</p> <p>9 dollars of checks written out of Torah Education</p> <p>10 that went into Decorah Bank & Trust's depository</p> <p>11 account, isn't that right?</p> <p>12 A. That's if you take an annual number, but if</p> <p>13 you would take a daily number --</p> <p>14 Q. I'm asking you an annual number, sir. It</p> <p>15 was about \$10 million during that time period,</p> <p>16 wasn't it, sir?</p> <p>17 A. If that's what it adds up to be, that's what</p> <p>18 it is.</p> <p>19 Q. And that \$10 million was funded by checks</p> <p>20 coming from Agriprocessors going into the Torah</p> <p>21 Education bank account, wasn't it, sir?</p> <p>22 A. Yes.</p> <p>23 Q. And the same -- approximately the same</p> <p>24 amount of money from Kosher Community Grocery,</p> <p>25 isn't that right, sir?</p>	<p>1 diverted, customer payments had been diverted and</p> <p>2 not deposited into the Decorah Bank & Trust,</p> <p>3 didn't you?</p> <p>4 A. I -- they were -- they were used in the</p> <p>5 general account first.</p> <p>6 Q. All right. And you knew, therefore, that</p> <p>7 the aging reports did not accurately reflect the</p> <p>8 payments that had been paid by the customers,</p> <p>9 didn't you?</p> <p>10 A. I -- not necessarily.</p> <p>11 Q. And you knew when those aging reports went</p> <p>12 down to First Bank, First Bank was relying on</p> <p>13 those aging reports to loan money to</p> <p>14 Agriprocessors, didn't you?</p> <p>15 A. Not necessarily.</p> <p>16 Q. And you knew that those aging reports did</p> <p>17 not accurately reflect accounts receivable, isn't</p> <p>18 that right?</p> <p>19 A. Not necessarily.</p> <p>20 THE COURT: If you're at a good stopping</p> <p>21 point, we could stop for lunch.</p> <p>22 MR. WILLIAMS: That would be fine, Your</p> <p>23 Honor.</p> <p>24 THE COURT: All right. Members of the</p> <p>25 jury, we'll be at recess for lunch until 1:15.</p>

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<p>1 Please remember the admonitions of the Court and 2 we'll see you in a few minutes. 3 Everyone in the gallery, please remain 4 in place until the jury passes. 5 (Whereupon, a luncheon recess was 6 taken.) 7 THE COURT: We're ready to continue in 8 the case of United States of America versus Sholom 9 Rubashkin, Case Number 8-1324. When we left off 10 at lunch, Mr. Rubashkin was on the stand. He's 11 still under oath. 12 And, Mr. Williams, you may cross-examine. 13 MR. WILLIAMS: Thank you, Your Honor. 14 Q. Mr. Rubashkin, you kept track of the 15 accounts receivable aging for Agriprocessors, 16 didn't you, sir? 17 A. That was not part of my duty. 18 Q. You monitored the accounts receivable aging 19 though, didn't you? 20 A. That was not part of my duty. 21 Q. Sir, there was a search done on your house 22 in which accounts receivable aging reports were 23 found in your house, wasn't there, sir? 24 A. There was, yes. 25 Q. And there's a number of the accounts in here</p>	<p>1 A. Yes. 2 Q. And that's your handwriting, isn't it, sir? 3 A. Yes, but -- 4 Q. Now, every month, in addition to keeping 5 track of -- let me rephrase that. Every month 6 there would be financial statements that would 7 have to be generated for Agriprocessors, isn't 8 that correct? 9 A. I -- I wasn't part of that process. 10 Q. You'd have meetings with Toby Bensasson and 11 Mitch Meltzer every month about the financial 12 statements, wouldn't you, sir? 13 A. Not -- not in the last two years. 14 Q. And you would tell them during these 15 meetings what profit you wanted to show on the 16 financial statements, wouldn't you, sir? 17 A. No. 18 Q. And they would have to then cook the books 19 in order to make the numbers work? 20 MR. COOK: Object to the form of the 21 question. It's argumentative. 22 THE COURT: Sustained. 23 Q. They would have to adjust the other accounts 24 in order to make the balance sheet come out to the 25 place where you wanted to show the profit, isn't</p>
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<p>1 that are circled in red, isn't that right, sir? 2 For example, this one is circled in red for 3 Western Kosher, isn't it, sir? 4 Looking at Exhibit 2088 for the record. 5 A. Yes. 6 Q. There's another one in here, the Right 7 Place, is also -- there's Doheny, right here. 8 There's a red mark there, correct? 9 A. Yes. 10 Q. Okay. And you've got -- House of Glatt is 11 circled there. Do you see that, sir? 12 A. Yes. 13 Q. Okay. And the companies that are circled on 14 this aging report seized from your house on 15 November 4, they correspond to the same companies 16 for which Darlis Hendry printed off invoices, 17 isn't that right? 18 A. Yes. 19 Q. Also, in -- 20 A. But who made those red circles? 21 Q. Also, sir -- or, sir, also in your house 22 there was a note where the -- the accounts are 23 also -- the accounts receivable are also being 24 tracked, isn't that right? Referring to Exhibit 25 2092.</p>	<p>1 that right, sir? 2 A. That is not true. 3 Q. And you instructed them to do that, didn't 4 you? 5 A. That is not true. 6 Q. Now, there's a number of employees who were 7 paid off the books for their employment at 8 Agriprocessors, isn't that right? 9 A. I'm not exactly sure what you mean by "off 10 the books." 11 Q. Well, they were paid money that was not 12 reflected in their payroll; is that right? 13 A. I spoke to you about that, and that's -- 14 Q. And that includes Judy Meyer, April 15 Hamilton, Elizabeth Billmeyer, Toby Bensasson, and 16 Mitch Meltzer? 17 A. As I explained to Guy before -- 18 Q. Sir, I just want you to answer my question. 19 Sir, my question is -- and let's just take it one 20 at a time so you can answer yes or no, all right? 21 Was Judy Meyer paid money that was not 22 reflected in her payroll checks? 23 A. That's not an answer [sic] I can answer yes 24 or no to. 25 Q. Was April Hamilton paid money that was not</p>

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<p>1 reflected in her payroll checks?</p> <p>2 A. That's not an answer I can answer yes or no</p> <p>3 to.</p> <p>4 Q. Was Elizabeth Billmeyer paid money that was</p> <p>5 not reflected in her payroll checks?</p> <p>6 A. That's not an answer I can answer yes or no</p> <p>7 to.</p> <p>8 Q. Was Toby Bensasson paid money that was not</p> <p>9 reflected in his payroll?</p> <p>10 A. Yeah, he took money, not --</p> <p>11 Q. And the same thing with Mitch Meltzer, isn't</p> <p>12 that right?</p> <p>13 A. He --</p> <p>14 Q. He was paid money that was not reflected in</p> <p>15 his payroll?</p> <p>16 A. That's not an answer yes or no -- the way it</p> <p>17 was explained to me, that's a 1099. That's a</p> <p>18 perfectly legal way for paying somebody, providing</p> <p>19 the person has to file the taxes legally.</p> <p>20 Q. So this was your arrangement, wasn't it,</p> <p>21 sir?</p> <p>22 A. Definitely not.</p> <p>23 Q. You're the one that decided to come up with</p> <p>24 paying them not under payroll, isn't that right?</p> <p>25 A. I don't own Agriprocessors, and it was not</p>	<p>1 A. No, Mitch Meltzer and -- they were paid on</p> <p>2 a -- a check face.</p> <p>3 Q. And then after the raid in May, the pay that</p> <p>4 these people were getting started to be reflected</p> <p>5 in their payroll, isn't that right?</p> <p>6 A. That was their decision to do that.</p> <p>7 Q. Now, even before the raid, sir, you knew</p> <p>8 that there was a possibility that there could be</p> <p>9 people going to jail for the conduct occurring at</p> <p>10 Agriprocessors, isn't that right?</p> <p>11 A. I'm not exactly sure what you're talking</p> <p>12 about.</p> <p>13 Q. Well, let me show you what's been admitted</p> <p>14 into evidence as Exhibit 1108. Do you remember</p> <p>15 this befuddled e-mail from Elizabeth Billmeyer,</p> <p>16 sir?</p> <p>17 A. Yes.</p> <p>18 Q. And she says in here -- she's talking up</p> <p>19 above about the ICE visit when they told her that</p> <p>20 the pink cards are no longer any good. Do you see</p> <p>21 that, sir?</p> <p>22 A. I can read.</p> <p>23 Q. Yeah. And down below, she says, "Somebody</p> <p>24 could go to prison for it," isn't that right?</p> <p>25 A. I was the one in Agriprocessors that was the</p>
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<p>1 my organization that did that.</p> <p>2 Q. That was your decision, wasn't it, sir?</p> <p>3 A. Definitely not.</p> <p>4 Q. You talked to Mitch Meltzer about it, didn't</p> <p>5 you, sir?</p> <p>6 A. Definitely not.</p> <p>7 Q. Mitch Meltzer wanted to get the pay so it</p> <p>8 was reflected in his payroll, didn't he, sir?</p> <p>9 A. I'm not exactly sure what you're asking.</p> <p>10 Q. He wanted his payroll to actually be</p> <p>11 reflecting -- the pay he got he wanted to be</p> <p>12 reflected on his payroll checks, didn't he?</p> <p>13 A. Mitch Meltzer was an accountant, and he --</p> <p>14 MR. WILLIAMS: Your Honor, I'd ask that</p> <p>15 the answer be stricken as unresponsive.</p> <p>16 THE COURT: It is.</p> <p>17 And will you please answer the question.</p> <p>18 A. I cannot -- I can't answer that question yes</p> <p>19 or no. It's hard to -- he -- the arrangements</p> <p>20 that were made on the payroll were done with --</p> <p>21 actually without my knowledge.</p> <p>22 Q. And these people were paid largely in cash,</p> <p>23 weren't they, sir?</p> <p>24 A. Definitely not.</p> <p>25 Q. Not checks, but cash, isn't that right?</p>	<p>1 spearhead to get these mismatch letters fixed.</p> <p>2 Q. My question to you, sir, was: Even back</p> <p>3 before the raid, you knew people might go to jail</p> <p>4 for the conduct occurring at Agriprocessors, isn't</p> <p>5 that right?</p> <p>6 A. No.</p> <p>7 Q. And then after the raid, it became clear to</p> <p>8 you that people might start going to prison, isn't</p> <p>9 that right?</p> <p>10 A. I got a target letter a few days after the</p> <p>11 raid.</p> <p>12 Q. And one of the people you were worried about</p> <p>13 was Shlomo ben Chaim, isn't that right, sir?</p> <p>14 I'm showing you Exhibit 1038. He's the</p> <p>15 one who signed off on all the I-9s for the Hunt</p> <p>16 payroll, isn't that right?</p> <p>17 A. I don't know -- I don't know what you're</p> <p>18 asking.</p> <p>19 Q. I'm asking you, isn't it true that Shlomo</p> <p>20 ben Chaim was the one who signed off on all the</p> <p>21 I-9s for the Hunt payroll?</p> <p>22 A. Correct.</p> <p>23 Q. And after the raid, Shlomo ben Chaim ended</p> <p>24 up going to Israel, didn't he?</p> <p>25 A. He actually lost his job at Agri for the</p>

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<p>1 slow down, and him and his family did leave.</p> <p>2 Q. The raid was on May 12, 2008, isn't that</p> <p>3 right, sir?</p> <p>4 A. Yes.</p> <p>5 Q. On May 29, 2008, you, using the</p> <p>6 Agriprocessors credit card issued to you, bought</p> <p>7 plane tickets for him and his family to Tel Aviv,</p> <p>8 didn't you, sir?</p> <p>9 A. I'm not aware of that.</p> <p>10 Q. And they flew out of America on June 1,</p> <p>11 2008, isn't that right, sir?</p> <p>12 A. I'm not aware that they used my credit card.</p> <p>13 Q. And you also knew that there was a</p> <p>14 possibility that, after the raid, that Laura</p> <p>15 Althouse and Elizabeth Billmeyer and Brent Beebe</p> <p>16 could all end up going to prison, isn't that</p> <p>17 right?</p> <p>18 A. I actually felt that they had -- they did</p> <p>19 nothing wrong and they should not go to prison.</p> <p>20 Q. And because you knew there was a possibility</p> <p>21 they might go to prison, showing you Exhibit 1314,</p> <p>22 you wrote up contracts for them to pay them for</p> <p>23 the time period that they were in prison, isn't</p> <p>24 that right?</p> <p>25 A. That's not correct.</p>	<p>1 impacted by their -- but it was agreed that, more</p> <p>2 or less, it would be the same hours working. I</p> <p>3 don't see anywhere about them going to prison on</p> <p>4 this paper.</p> <p>5 Q. Sir, your brother didn't sign these</p> <p>6 contracts, did he, sir?</p> <p>7 A. This was signed by -- with permission from</p> <p>8 my brother.</p> <p>9 Q. You used --</p> <p>10 A. I stamped it.</p> <p>11 Q. You used your brother's stamp on the</p> <p>12 document, didn't you?</p> <p>13 A. I did. Yes, I did.</p> <p>14 Q. And these documents were designed to pay for</p> <p>15 those three people when they went to prison?</p> <p>16 A. Sir, I just explained to you that you're</p> <p>17 reading this thing backwards.</p> <p>18 Q. Now, after -- after the raid, at some point,</p> <p>19 as it got into the fall of 2008, you started</p> <p>20 having other financial problems at Agriprocessors,</p> <p>21 isn't that right?</p> <p>22 A. Can you be more specific on a date?</p> <p>23 Q. Well, at some point, in October, several</p> <p>24 checks bounced at Decorah Bank & Trust, isn't that</p> <p>25 right?</p>
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<p>1 Q. And while Brent Beebe signed his name to</p> <p>2 this, you used your brother's stamp to sign?</p> <p>3 A. What is this?</p> <p>4 Q. I'm showing you Exhibit 1314, sir.</p> <p>5 A. So what is this exhibit?</p> <p>6 Q. Do you recognize this exhibit, sir?</p> <p>7 A. What is that on top?</p> <p>8 Q. I'm asking the questions. Do you recognize</p> <p>9 this?</p> <p>10 A. I don't see the whole exhibit on my screen,</p> <p>11 sir.</p> <p>12 Q. Do you recognize that document, sir?</p> <p>13 A. Yeah. Now, I recognize that, yes.</p> <p>14 Q. All right. And the purpose of this document</p> <p>15 and the one for Brent Beebe and the one for Laura</p> <p>16 Althouse was to pay them if they went to prison,</p> <p>17 isn't that right, sir?</p> <p>18 A. In this document, it says same hours. As I</p> <p>19 recollect, this is -- it was a Sunday before I</p> <p>20 went to New York, and I did -- because they were</p> <p>21 busy with their legal -- whatever they were doing</p> <p>22 over there, they wouldn't get the same hours, and</p> <p>23 my brother -- generally speaking, Agriprocessors</p> <p>24 was getting raises then, and my brother authorized</p> <p>25 them to get a salary so that they should not get</p>	<p>1 A. Correct.</p> <p>2 Q. And showing you Exhibit 123, these are the</p> <p>3 checks that were written on behalf of Agri to</p> <p>4 Agriprocessors, isn't that right?</p> <p>5 A. As I recall.</p> <p>6 Q. And those are the checks that bounced, isn't</p> <p>7 it right, sir?</p> <p>8 A. That's what the exhibit says.</p> <p>9 Q. And you had a conversation with Toby at some</p> <p>10 point too about, you know, that: You guys could</p> <p>11 end up going to prison for what you were doing</p> <p>12 with the financials, isn't that right?</p> <p>13 MR. COOK: Objection, Your Honor,</p> <p>14 misstatement of the record.</p> <p>15 THE COURT: The witness may answer, if</p> <p>16 he knows.</p> <p>17 A. It is a misstatement.</p> <p>18 Q. By the end of October after these checks had</p> <p>19 bounced, you knew that the government was looking</p> <p>20 not just at immigration issues now but they were</p> <p>21 looking at the financial records of the company,</p> <p>22 isn't that right?</p> <p>23 A. I got a target letter on financials way,</p> <p>24 way, way, way before.</p> <p>25 Q. Now, the person who signed the Hunt payroll</p>

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<p>1 I-9s went to Israel, right?</p> <p>2 A. Yes.</p> <p>3 Q. And then you went to Laura Althouse and you</p> <p>4 asked her for the Hunt payroll I-9s, didn't you,</p> <p>5 sir?</p> <p>6 A. Your time frame is wrong.</p> <p>7 Q. You got the Hunt payroll records from Laura</p> <p>8 Althouse, didn't you, sir?</p> <p>9 A. As I recall, I -- I -- I took the records to</p> <p>10 see -- I think it was way, way before the raid</p> <p>11 that I got it, and I think -- I was requesting it</p> <p>12 for ben Chaim.</p> <p>13 Q. Now, after you're charged in October of</p> <p>14 2008, you go to Darlis Hendry, and you got the</p> <p>15 files of the fake invoices that she created for</p> <p>16 you, didn't you, sir?</p> <p>17 A. Definitely not.</p> <p>18 Q. You went to her, and you knew that they had</p> <p>19 your handwritten notes in her file, didn't you,</p> <p>20 sir?</p> <p>21 A. I don't know what the file is. I do not</p> <p>22 know what's in there.</p> <p>23 Q. And you went down to her office early in the</p> <p>24 morning and you found those files, and you took</p> <p>25 the file containing the false invoices, didn't</p>	<p>1 you had her keep that on the thumb drive is that</p> <p>2 had a second set of books reflecting</p> <p>3 Agriprocessors's accounts receivable, isn't that</p> <p>4 right?</p> <p>5 A. That's not true.</p> <p>6 Q. Because that thumb drive contained records</p> <p>7 of the actual payments that had been received by</p> <p>8 Agriprocessors from the customers, isn't that</p> <p>9 right?</p> <p>10 A. That is totally inaccurate, and I think</p> <p>11 April testified there was nothing on that thumb</p> <p>12 drive that indicated your -- there's nothing on</p> <p>13 that thumb drive that would indicate your</p> <p>14 description.</p> <p>15 Q. And then, after the charges against you, you</p> <p>16 went to April and you got that thumb drive from</p> <p>17 her, didn't you?</p> <p>18 A. No, I -- she -- I spoke to her in Toby's</p> <p>19 office. It was Wednesday, before the charges.</p> <p>20 Q. And you also got from her the documents she</p> <p>21 had that would reflect the current diverted</p> <p>22 checks, isn't that right?</p> <p>23 A. There was a folder. Maybe five, ten pieces</p> <p>24 of copy. Nothing was in there.</p> <p>25 Q. And you also told April to delete from APGEN</p>
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<p>1 you, sir?</p> <p>2 A. That's not true.</p> <p>3 Q. And you told Darlis not to worry about it,</p> <p>4 because she just did what you told her to do.</p> <p>5 Isn't that what you told her, sir?</p> <p>6 A. That conversation happened way before.</p> <p>7 Q. And you also went to April and you asked her</p> <p>8 for the thumb drive, didn't you, sir?</p> <p>9 A. We spoke about it before.</p> <p>10 Q. Now, you had told her initially to store</p> <p>11 that data that she's keeping track of the diverted</p> <p>12 checks on that thumb drive, didn't you?</p> <p>13 A. Toby actually gave her the thumb drive. And</p> <p>14 I -- I didn't even know what a thumb drive is.</p> <p>15 Q. You told her to keep her work -- keep track</p> <p>16 of the diverted checks on the thumb drive, didn't</p> <p>17 you?</p> <p>18 A. That is not true.</p> <p>19 Q. And then when -- and the reason you did that</p> <p>20 is because you knew that thumb drive contained a</p> <p>21 whole second set of books of Agriprocessors's</p> <p>22 accounts receivable, didn't you?</p> <p>23 A. I think April testified that there's nothing</p> <p>24 on the thumb drive that had any importance.</p> <p>25 Q. My question to you, sir, is that the reason</p>	<p>1 all of the unposted checks that were -- had been</p> <p>2 diverted in -- at that point, isn't that right?</p> <p>3 A. That -- that is not true, because you can't</p> <p>4 delete anything off a computer. A computer always</p> <p>5 retains everything that's on there.</p> <p>6 Q. And you told April to shred any copies of</p> <p>7 the diverted checks you still had at her desk,</p> <p>8 isn't that right?</p> <p>9 A. Again, not true.</p> <p>10 Q. And you talked --</p> <p>11 MR. COOK: Are you using that exhibit,</p> <p>12 Mr. Williams?</p> <p>13 (Mr. Williams indicated.)</p> <p>14 MR. COOK: Thank you.</p> <p>15 MR. WILLIAMS: I'm sorry about that.</p> <p>16 Q. You also talked to Wendy about the same</p> <p>17 thing, didn't you, sir?</p> <p>18 A. No -- you know, I was -- after -- after the</p> <p>19 raid, I was sitting down in John Tona's office,</p> <p>20 the FBI came in, I think, that Tuesday and turned</p> <p>21 that place over, and I would expect they had taken</p> <p>22 any document that meant anything to anybody. And</p> <p>23 Wendy was trying to clean up over there. And I'm</p> <p>24 on the phone, and she came to me -- she came and</p> <p>25 said, "Can I clean" -- "Can I," you know, "throw</p>

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<p>1 things out?" And I said, "If it's not important, 2 then throw it out." 3 Q. Sir, you knew Wendy kept track of the 4 customer statements that went to Doheny and House 5 of Glatt reflecting -- I'm sorry, not House of 6 Glatt -- to City Glatt, reflecting what their true 7 payment history was? 8 A. The statements and -- was statements that 9 she wanted to collect at that period of time that 10 she felt was due and trying to prod them to pay. 11 Q. All right. My question to you, sir, is that 12 you knew Wendy generated statements reflecting the 13 true payments received by those customers and she 14 would provide those statements to the customers, 15 didn't -- 16 A. That's not an accurate description. 17 Q. And you knew that she had those at her desk, 18 that she kept copies of those, didn't you? 19 A. I think the FBI took that when they came in 20 on Tuesday. 21 Q. And after you were charged, you went to 22 Wendy and you told her to shred those documents? 23 A. That's not -- that's not Wendy's testimony. 24 Q. Sir, the reason you took the thumb drive and 25 you had the employees and you took -- I'm sorry,</p>	<p>1 to give an answer, and Mr. Williams said you could 2 wait until I asked you questions. Do you recall 3 that? 4 A. Yeah, I do. 5 Q. What, if anything, is missing from his 6 summary, in your opinion? 7 A. First of all, when -- when you -- besides 8 showing the money, where it came from, you have to 9 look at why did it come. There is -- what was 10 going on with my account was an open book. Marks, 11 Peneth & Shron, the company's accounting firm, had 12 set up for myself, like I said, and Heshy, and 13 Yossi Gourarie -- 14 MR. WILLIAMS: Objection, Your Honor, as 15 a narrative and unresponsive to the question. 16 THE COURT: It appears to be 17 unresponsive. 18 Ms. Murray, could you possibly read back 19 the question. 20 MR. COOK: I'll ask another question to 21 speed it up, Your Honor. 22 THE COURT: Okay. 23 Q. Did Mr. Bolt's summary reflect money that 24 you had brought into Agri? 25 A. Definitely not.</p>
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<p>1 the reason you took the thumb drive and you took 2 the files from Darlis Hendry is because you knew 3 they had incriminating information on them, isn't 4 that right? 5 MR. COOK: Objection, Your Honor, 6 argumentative. 7 THE COURT: Overruled. 8 A. That is not true. 9 Q. And the reason you had April and Wendy 10 destroy documents is because you knew they had 11 incriminating information on them? 12 MR. COOK: Objection, argumentative, 13 misstates the record. 14 THE COURT: The witness may answer. 15 Overruled. 16 A. I never destroyed any documents or asked 17 anybody to do that. 18 MR. WILLIAMS: One moment, Your Honor. 19 No further questions, Your Honor. 20 THE COURT: Any redirect? 21 MR. COOK: Yes, thank you, Your Honor. 22 REDIRECT EXAMINATION 23 BY MR. COOK: 24 Q. Sir, you were asked about Mr. Bolt's summary 25 and the calculations that he did. And you tried</p>	<p>1 Q. Is that what was missing from his summary? 2 A. That -- that's the main thing. The main 3 thing is that -- it's missing the money that I 4 brought in. Only has the money going out. 5 Q. And these monies, in part, that are on 6 Mr. Bolt's summary, would they also be reflected 7 on the general ledger of Agriprocessors? 8 A. Most definitely, and everything is recorded 9 on the general ledger at Agri. 10 Q. You were asked about this Government Exhibit 11 5217, which is some sort of the North Fork Bank 12 resolution. Looking at Page 3 of the exhibit, can 13 you even make out what it says? 14 A. Actually, no. It's illegible. 15 Q. And then the last page bears your signature 16 and someone has written your name in and then 17 written -- also spelled the word "president"? 18 A. Right. 19 Q. Did -- is that your handwriting? 20 A. No. 21 Q. Did you write those things? 22 A. The -- I wrote -- the top could be my 23 handwriting, and the signature could be -- it 24 probably is, but the -- the "president" part is 25 not my handwriting for sure.</p>

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1 Q. And who is the other hand that appears on
 2 here?
 3 A. It looks like Toby's. It actually says
 4 "Yomtov Bensasson."
 5 Q. And you were asked some questions about
 6 accounts payable, accounts receivable, and
 7 overseeing accounts, and then you were asked some
 8 questions from the deposition you gave. Do you
 9 remember that?
 10 A. Yeah, from 2005.
 11 Q. That was many years before the date that
 12 we're here talking about in this case?
 13 A. Yeah, many, many years; talking about many
 14 years before too.
 15 Q. And the reference as to whether you were
 16 overseeing those accounts, you actually testified
 17 in the deposition that you were overseeing them in
 18 general, right?
 19 A. That's what it said, but he wasn't reading
 20 what it said.
 21 Q. Let's talk about the Packers & Stockyards
 22 Act. The jury has seen already there was an order
 23 issued against Agriprocessors, what's called a
 24 cease and desist order. That was against the
 25 corporation?

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1 A. Most definitely.
 2 Q. Was there ever a cease and desist order
 3 entered against you personally?
 4 A. No.
 5 Q. And did that cease and desist order relate
 6 to any of the time periods that are in the
 7 indictment in this case, February of '08 to April
 8 of '08?
 9 A. I'm not exactly sure what you're asking
 10 here.
 11 Q. Okay. The cease and desist order which is
 12 in evidence which was shown to the jury --
 13 A. Right, right.
 14 Q. -- that was -- that was before these dates
 15 that are in the indictment, right?
 16 A. Yeah, yes, it was before the date.
 17 Q. There's no cease and desist order issued
 18 against you personally or Agriprocessors from
 19 February to April of '08, is there?
 20 A. No.
 21 Q. What, if anything, did you do to
 22 intentionally cause someone to fail to pay
 23 livestock sellers from February of '08 to April
 24 of '08?
 25 A. Nothing.

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1 Q. You were asked about the no-match letters.
 2 This is something that you were working on to try
 3 to solve, isn't it?
 4 MR. WILLIAMS: Leading, Your Honor.
 5 THE COURT: Sustained.
 6 Q. What did you do to try to resolve the
 7 no-match issue?
 8 A. I spent days and days working on -- on
 9 giving a proposal to the powers that be how you
 10 can organize and have a plan drawn after we have
 11 to find these 200 people. A lot of time was
 12 spent, a lot of effort, which took me away from a
 13 lot of other things. And I can say clearly that I
 14 was -- I was the one that actually tried very hard
 15 to comply.
 16 Q. All right. Let's -- let's go to the raid
 17 then. The raid occurs, and then you've been asked
 18 some questions about interactions with Mr. Lykens
 19 after the raid, correct?
 20 A. Correct.
 21 Q. Specifically, you were asked about a meeting
 22 where, I think you've described, you told him
 23 "It's not about me," is that right?
 24 A. That's what I recall, yeah, I said to him.
 25 Q. Now, what, if anything, did you say to him

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1 about being unaware workers were undocumented?
 2 A. I -- I don't have a clear statement. I -- I
 3 did not know the legal status. You know, if you
 4 get a mismatch letter, it doesn't tell you the
 5 legal status. You don't know if they are
 6 undocumented, not undocumented. So most likely I
 7 told him I don't know the legal status of these
 8 people.
 9 Q. Now, you were asked questions about the
 10 invoices and Darlis Hendry. Who did you
 11 understand was approving those instructions for
 12 those invoices?
 13 A. I understood it was Toby and Mitchell, and I
 14 had no idea that this is something which is --
 15 that the bank would frown on.
 16 Q. Now, by the way who is it that -- who made
 17 the daily calculations of the money needed from
 18 the bank?
 19 A. Toby.
 20 Q. And who made the daily requests for money?
 21 A. Toby.
 22 Q. Sir, you were asked about the KCG account
 23 and the TEP account, and I don't think you were
 24 able to give your full answer. I think you said,
 25 "It's not accurate" or "That's not the whole

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<p>1 picture." What is it that you wanted to say about 2 that subject? 3 A. I think just that it was one of Toby's ways 4 to manage the cash flow, by utilizing sort of a 5 credit line that these two entities had at the 6 bank, so if a bank -- sometimes if you have 7 overdraft protection or that type of thing, 8 they'll let you overdraft. So KCG had that 9 overdraft, so if he didn't have money for that 10 day, he would be able to cover the next day. And 11 that's -- that's -- that's why he was using, as I 12 understand, KCG and TEP. 13 Q. What concern, if any, did you have as to 14 whether or not those procedures were appropriate 15 or not appropriate? 16 A. I -- like I said, I was relying on -- on 17 their expertise and their explanation of what they 18 were doing, and I was plenty distracted with many 19 other side distractions, and I feel -- I -- I just 20 relied on their advice. 21 Q. You were shown on the overhead some 22 documents that had red circles on them. Who made 23 those red markings? 24 A. I was -- after -- after -- after the raid, I 25 sort of -- the following week, I decided I'm not</p>	<p style="text-align: center;">C E R T I F I C A T E</p> <p>2 I, Patrice A. Murray, a Certified Shorthand 3 Reporter of the State of Iowa, do hereby certify 4 that at the time and place heretofore indicated, a 5 jury trial was held before the Honorable Linda R. 6 Reade; that I reported in shorthand the 7 proceedings of said jury trial, reduced the same 8 to print to the best of my ability by means of 9 computer-assisted transcription under my direction 10 and supervision, and that the foregoing transcript 11 is a true record of all proceedings had on the 12 taking of said jury trial at the above time and 13 place. 14 I further certify that I am not related to 15 or employed by any of the parties to this action, 16 and further, that I am not a relative or employee 17 of any attorney or counsel employed by the parties 18 hereto or financially interested in the action. 19 20 IN WITNESS WHEREOF, I have set my hand 21 this 5th day of January, 2010. 22 23 <u>/s/ Patrice A. Murray</u> 24 Patrice A. Murray, CSR, RPR, RMR, FCRR 25 United States District Court, NDIA 4200 C Street S.W. Cedar Rapids, Iowa 52404</p>
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<p>1 going -- I'm not going to Agri. Basically, I stayed 2 home most of the week. And I think -- I can't tell 3 you about the red marking, but Toby's the one that 4 delivered me the -- the -- the statements. 5 Q. Now, you were asked about the search of your 6 home. What, if anything, was hidden in your home 7 at the time of the search? 8 A. Hidden? 9 Q. Hidden. 10 A. Nothing. Nothing was hiding, and they -- 11 Q. Finally, sir, you were here during the 12 testimony of Mr. Chaim Abrahams? 13 A. Yeah. 14 Q. And there's testimony in this record that 15 you were incompetent and in over your head. What 16 is your reaction to that? 17 A. Kind of sad but it's true. I feel stupid. 18 Sad, but true. 19 MR. COOK: Thank you, no further 20 questions. 21 THE COURT: Mr. Williams, anything else? 22 MR. WILLIAMS: Nothing, Your Honor. 23 THE COURT: Thank you. You may step down. 24 (This concludes the testimony of Sholom 25 Rubashkin.)</p>	

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