

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SANTA BARBARA
3 SANTA MARIA BRANCH; COOK STREET DIVISION
4 DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

13

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18

19 THURSDAY, APRIL 28, 2005

20

21 8:38 A.M.

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23 (PAGES 7972 THROUGH 8028)

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27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 BY: Official Court Reporter

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1 I N D E X

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3 Note: Mr. Sneddon is listed as "SN" on index.

4 Mr. Zonen is listed as "Z" on index. Mr. Auchincloss is listed as "A"
on index.

5 Mr. Mesereau is listed as "M" on index. Ms. Yu is listed as "Y" on
index.

6 Mr. Sanger is listed as "SA" on index.

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9 PLAINTIFF'S WITNESSES DIRECT CROSS REDIRECT RECROSS

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11 JACKSON, Deborah Rowe 7977-Z 7988-M

12 (Contd.)

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1 Santa Maria, California

2 Thursday, April 28, 2005

3 8:38 a.m.

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5 (The following proceedings were held in

6 open court outside the presence and hearing of the

7 jury:)

8

9 THE COURT: Good morning, everyone.

10 COUNSEL AT COUNSEL TABLE: (In unison)

11 Good morning.

12 THE COURT: The reason I came in without the

13 jury is I was provided with a motion to strike the

14 testimony of Debbie Rowe this morning.

15 I assumed you anticipated I would take that

16 up at this moment. Or did you not?

17 MR. SANGER: We hoped you would, if you

18 would give us the time to do it, Your Honor.

19 THE COURT: Here's my sense of it: She
20 hasn't testified long enough for me to know, really,
21 what she's going to say, or anyone else. And your
22 motion might be well-taken. It might not. But I --
23 I understand what she said yesterday, but I don't
24 really understand what she has to say today. So I
25 would want to really hear more testimony, I think.

26 MR. SANGER: Very well. Well, we briefed
27 it, and Your Honor understands our position.

28 THE COURT: I understand your position.

1 I just think the -- she barely got started
2 yesterday. I mean, I really -- I think I'd have to
3 let it -- well, I would have to know more about what
4 she says than what I know already to know whether or
5 not your motion is well-taken.

6 MR. SANGER: Well, my concern was -- if I
7 may, my concern was to raise it at the earliest
8 possible moment --

9 THE COURT: I know.

10 MR. SANGER: -- because if it goes too long,
11 then we get into a position where it's hard to undo
12 it. And if --

13 THE COURT: I understand that, but --

14 MR. SANGER: I'm not arguing with the Court.

15 THE COURT: Okay.

16 MR. SANGER: I just want to let you know why
17 I think -- whenever you feel --
18 THE COURT: There is another side of the
19 coin, though. I let the testimony in based on their
20 representations in their written materials, which --
21 if the testimony is the exact opposite, I mean,
22 isn't that the testimony that would be relevant to
23 your side of the case?

24 MR. SANGER: Yes and no. And the problem --
25 I understand that. And we thought about it, but the
26 problem is that this will then lead to a tremendous
27 amount of other collateral testimony to put whatever
28 it is in context.

1 THE COURT: Okay.

2 MR. SANGER: And that's my concern. If we
3 go too far down the road, then we pretty much are
4 committed to doing the whole thing.

5 THE COURT: Okay. Well, let's go further
6 down the road before --

7 MR. SANGER: Thank you.

8 THE COURT: Is there anything you -- you
9 didn't get to say anything. I assume --

10 MR. ZONEN: Nor am I requesting to.

11 THE COURT: Huh?

12 MR. ZONEN: Nor am I requesting to.

13 THE COURT: Okay.

14

15 (The following proceedings were held in
16 open court in the presence and hearing of the
17 jury:)

18

19 THE COURT: I already said good morning to
20 everyone else, so I'll say good morning to you.

21 THE JURY: (In unison) Good morning.

22 THE COURT: You may proceed.

23 MR. ZONEN: Thank you.

24

25 DIRECT EXAMINATION (Continued)

26 BY MR. ZONEN:

27 Q. Miss Rowe, good morning.

28 A. Good morning.

1 Q. We left off, we were discussing the
2 interview that you had back in February of 2003 at
3 Marc Schaffel's home in Calabasas. And you recall
4 that interview, do you not?

5 A. Yes.

6 Q. And I believe that you had testified
7 yesterday that you were at his residence for some
8 time over nine or ten hours; is that correct?

9 A. Yes.

10 Q. Approximately how long were you at his
11 residence?

12 A. We started early in the morning and finished
13 around 9:00, 10:00 at night.

14 Q. Was your attorney there the entire time?

15 A. Yes.

16 Q. Was she in your presence the entire time?

17 A. No, she was not.

18 Q. Were there times when you were separated
19 from her?

20 A. Yes.

21 Q. All right. What was the purpose of that?

22 A. To -- I didn't want to see the interviewer
23 before the interview. And the best way to do that
24 was to leave where everything was that was happening
25 in the living room off to the side of the main
26 entrance of the house, so Mr. Schaffel and I went
27 upstairs in his office.

28 Q. And did you have a conversation with Mr.

1 Schaffel at that time?

2 A. Yes.

3 Q. Did you discuss the interview?

4 A. No.

5 Q. At some point in time, did you take a look
6 at a script?

7 A. No.

8 MR. MESEREAU: Objection; leading.

9 THE COURT: Overruled. The answer was, "No."

10 Q. BY MR. ZONEN: All right. At some point in
11 time, did you see one in somebody else's possession?

12 MR. MESEREAU: Objection; leading.

13 THE COURT: Overruled.

14 THE WITNESS: Mr. Drew had questions; I
15 assume they were questions. He had a number of
16 pages and asked if I wanted to see them. And I said
17 no.

18 Q. BY MR. ZONEN: Do you know how many

19 questions were on that script?

20 A. He told me 105.

21 Q. Do you know if he went over all of those
22 questions during the course of that interview?

23 A. My understanding is we did.

24 Q. And the number of hours that you spent in
25 actual interview was approximately what?

26 A. Nine.

27 Q. Was Mr. Schaffel there the entire time?

28 A. Yes.

1 Q. Was Mr. Schaffel saying anything during that
2 time?

3 A. He was hearing sounds in the background,
4 thought it was being picked up on audio, wanted to
5 change what the back --

6 MR. MESEREAU: Objection; hearsay.

7 THE COURT: Overruled.

8 Q. BY MR. ZONEN: Go ahead.

9 A. Wanted to make sure what the background
10 looked like and everything. He occasionally -- not
11 "occasionally," frequently would interject to
12 rephrase a question or an answer. And I told him if
13 that did not --

14 MR. MESEREAU: Objection. Nonresponsive;
15 narrative.

16 THE COURT: Sustained at this point.

17 Q. BY MR. ZONEN: Tell us specifically what he
18 said to you with regards to either questions or
19 answers.

20 MR. MESEREAU: Objection. Calls for a
21 narrative; hearsay; foundation.

22 THE COURT: Sustained as to narrative.

23 MR. ZONEN: All right.

24 Q. Tell us if he -- let me change that.

25 With regards to answers to your questions,
26 did he make any comments as to answers to your
27 questions?

28 A. Yes.

1 Q. What kinds of comments did he make?

2 A. He --

3 MR. MESEREAU: Objection. Vague;
4 foundation; calls for a narrative.

5 THE COURT: Overruled.

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6 Q. BY MR. ZONEN: Go ahead and answer the
7 question, if you recall.

8 A. He would ask me if I would rephrase an
9 answer or he would ask Mr. Drew to rephrase a
10 question.

11 Q. And what types of questions or answers would
12 he ask you to rephrase?

13 MR. MESEREAU: Objection; vague.

14 THE COURT: Sustained.

15 Q. BY MR. ZONEN: Do you remember any specific
16 questions that he asked you to rephrase?

17 MR. MESEREAU: Objection. Misstates the
18 evidence and vague.

19 THE COURT: Overruled.

20 You may answer.

21 Q. BY MR. ZONEN: You can answer.

22 A. I don't remember a specific -- there were so
23 many, I don't remember any specific. I remember at
24 the end he wanted us to add stuff to clarify what he
25 thought might be misunderstood or something.

26 Q. And did you, in fact, make changes in your
27 interview in accordance with his request?

28 A. Only if it didn't change the meaning of what

1 I had to say.

2 Q. And what was the meaning of what you had to
3 say?

4 MR. MESEREAU: Objection; vague.

5 THE COURT: Sustained.

6 Q. BY MR. ZONEN: All right. What is it that
7 you were intending to represent in this interview?

8 A. Michael as a wonderful person and as a great
9 father and generous and caring.

10 Q. All right. Did you have information as to
11 Michael Jackson as a wonderful father?

12 A. As I've known him?

13 Q. Yes.

14 A. Yes.

15 Q. When was the last time you'd actually talked
16 with him?

17 A. In 1999.

18 Q. All right. This was in early 2003; is that
19 correct?

20 A. Correct.

21 Q. When was the last time you saw him interact
22 with the children?

23 A. 1991. I'm sorry, 1999.

24 Q. In the course of this interview, did you
25 represent yourself as still being part of the
26 family?

27 A. Yes, I did.

28 Q. Was that true?

1 A. No, it was not.

2 Q. Why did you do it?

3 A. To protect the children and to try to keep
4 the media and questions away and out of their focus.
5 And to make sure that I could do whatever I could
6 even at a distance.

7 Q. Did you feel that you were enthusiastic
8 during this interview?

9 A. I --

10 MR. MESEREAU: Objection; leading.

11 THE COURT: Sustained.

12 Q. BY MR. ZONEN: How did you approach this
13 interview in terms of your affect?

14 A. I was excited to do it.

15 Q. Why?

16 A. Because I would get to see my children and
17 possibly renew a relationship with Mr. Jackson.

18 Q. Why did you want to do that?

19 A. They're my family.

20 Q. Did you consider them your family?

21 A. Yes.

22 Q. Did you consider Mr. Jackson to be your
23 family to the same extent as your children?

24 A. I don't think anyone is as much as your
25 children, but, yes.

26 Q. How long had it been since you had seen your
27 children?

28 A. About two and a half years.

1 Q. At the conclusion of the interview, did you
2 have a conversation with anybody about when you
3 would be able to see your children?

4 A. Mr. Schaffel said that he was excited, and
5 that we'd be going up to Neverland soon. And I
6 said, "Fine." I said, "Let me know as soon as you
7 can."

8 Q. Was that something that you wanted to do?

9 A. Very much. Very much.

10 Q. When was the last time you had been to
11 Neverland?

12 A. Years. I couldn't tell you. Probably .99,
13 .98.

14 Q. Did you make any contact with anybody about
15 seeing your children within the next, say, 30 days
16 or beyond?

17 MR. MESEREAU: Objection; leading.

18 THE COURT: Overruled.

19 You may answer.

20 THE WITNESS: Mr. Schaffel. I would call --

21 Q. BY MR. ZONEN: How often -- I'm sorry?

22 A. I would call him almost weekly. I didn't
23 want to be a noodge, or piss him off, so I would
24 call him and chat him up, and say, "By the way," you
25 know, "Are they back?" You know, "When can I see
26 them?" Because it was my understanding they were

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27 out of town.

28 Q. For what period of time did you continue to

1 contact Mr. Schaffel about that?

2 MR. MESEREAU: Your Honor, we object. Make

3 a motion to exclude.

4 MR. ZONEN: I'd like to respond to it, even

5 if at sidebar.

6 THE COURT: The objection is overruled.

7 You may answer.

8 Q. BY MR. ZONEN: Go ahead.

9 A. About nine months.

10 Q. Did you ever see your children?

11 A. No, I did not.

12 Q. To this day, have you seen your children?

13 A. No, I have not.

14 Q. Have you gone back to court?

15 A. Yes.

16 Q. Have you reinstated parental rights --

17 A. Yes.

18 Q. -- for yourself?

19 MR. MESEREAU: Objection. Leading;

20 foundation.

21 THE COURT: Sustained.

22 MR. MESEREAU: Relevance.

23 Q. BY MR. ZONEN: What did you accomplish in

24 court?

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25 MR. MESEREAU: Objection. Leading;
26 foundation; relevance; vague; and calls for improper
27 opinion.

28 THE COURT: The objection to "What did you

1 accomplish..." is sustained as vague. That question
2 is vague.

3 Q. BY MR. ZONEN: All right. Were you able to
4 get a ruling in regards to your custody of your
5 children?

6 MR. MESEREAU: Objection; relevance; motion
7 to exclude.

8 THE COURT: Overruled.

9 Q. BY MR. ZONEN: Go ahead.

10 A. Not regards to custody, but my parental
11 rights were reinstated.

12 Q. At this time you have parental rights again,
13 is that right?

14 A. Yes, I do.

15 Q. Have you seen your children?

16 A. No, I have not.

17 Q. Are you still in court making an effort to
18 do so?

19 A. Very much so. Actively.

20 Q. Have you ever seen yourself on television or
21 any part of that interview that was conducted at Mr.
22 Schaffel's house?

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23 A. Yes.

24 Q. Where did you see it?

25 A. I reviewed it last night. I hadn't seen it.

26 I didn't watch it when it was on television, so I
27 saw a video last evening.

28 Q. All right. That was the same video that you

1 had reviewed once previously?

2 A. Yes.

3 Q. But on the occasion last night, you viewed
4 it with greater detail?

5 A. Yes.

6 Q. Did you ever see the Maury Povich film that
7 was featured at a later time?

8 A. I don't remember watching it.

9 Q. Did you ever receive any money for your
10 participation --

11 A. No.

12 Q. -- in this interview?

13 A. No.

14 Q. What was your motivation to participate in
15 this interview?

16 A. To see my children.

17 MR. ZONEN: Thank you. I have no further
18 questions.

19 THE COURT: Cross-examine?

20 MR. MESEREAU: Your Honor, we'd like to

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21 renew our motion to exclude testimony into these
22 areas.

23 THE COURT: I'll give you an indicated,
24 subject to full argument, but at this point I would
25 probably not grant that motion.

26 THE WITNESS: Good morning, Mr. Mesereau.

27 //

28 //

1 CROSS-EXAMINATION

2 BY MR. MESEREAU:

3 Q. Good morning, Ms. Rowe.

4 We've never spoken before, correct?

5 A. No, we have not.

6 Q. Okay.

7 A. I'm Debbie.

8 (Laughter.)

9 Q. The prosecutor asked you some questions

10 about your, for lack of a better word, current

11 dispute with Michael Jackson in Family Law Court,

12 correct?

13 A. I wouldn't call it a dispute, but if that's

14 the legal term, okay.

15 Q. Well, the prosecutor asked you about whether

16 you obtained rights or not - okay? - and I believe

17 you said you have obtained parental rights but not

18 custody rights; is that true?

19 A. I corrected him, and said that my parental
20 rights had been reinstated --

21 Q. Okay.

22 A. -- when he mentioned custody.

23 Q. Okay. Okay. Now, when did you first meet
24 Mr. Schaffel?

25 A. When Mr. Jackson asked me to do the
26 interview.

27 Q. Okay. And did you first meet him at the
28 interview?

1 A. Yes. Personally -- I had spoken to him on
2 the phone. But personally, yes.

3 Q. And I gather you developed some type of
4 friendship with him; is that true?

5 A. I wouldn't call it a friendship. More of an
6 acquaintance. More than an acquaintanceship, but
7 not a friendship.

8 Q. And you were calling him approximately every
9 week; is that true?

10 A. For about three months, yes.

11 Q. Okay. And at some point you were in contact
12 with the Santa Barbara sheriffs about this case,
13 correct?

14 A. They had called me, yes. And I did not
15 return the first call.

16 Q. And eventually, you developed somewhat of a

17 dialogue with Santa Barbara sheriffs about this
18 case, right?

19 A. When they caught me on my cell phone on my
20 way home from Palm Springs, yes, the number they got
21 from Marc Schaffel.

22 Q. And you agreed to make what you called some
23 pretext phone calls for the sheriffs, correct?

24 A. Correct.

25 Q. And a pretext phone call means basically you
26 agreed to work with the sheriffs, telephone people
27 and talk to them while the sheriffs were recording
28 those calls; is that correct?

1 A. Correct.

2 Q. And the idea was that the people you would
3 call would not know they were being recorded, right?

4 A. Correct.

5 Q. Only you and the sheriffs would know there
6 were recordings, right?

7 A. Correct.

8 Q. Now, how many of these pretext phone calls
9 do you think you made with or for the sheriffs?

10 A. I think there were a total of four to six.

11 I'm not sure.

12 Q. And who were those pretext phone calls with?

13 A. Marc Schaffel. Ian Drew. And I think I may
14 have tried to do one with Dieter.

15 Q. Were you able to do that one?

16 A. I don't remember.

17 Q. Okay. So the only people you recall

18 actually speaking with when they didn't know the

19 call was being recorded are Schaffel and Drew; is

20 that right?

21 A. And Dieter, if I did one with him, he

22 wouldn't have known.

23 Q. Now, Schaffel and Drew were there when you

24 were interviewed?

25 A. Yes, they were.

26 Q. And when you arrived for the interview had

27 you ever spoken to Mr. Drew before?

28 A. No, I had not.

1 Q. Did you meet him for the first time at the

2 interview?

3 A. Yes, I did.

4 Q. So you met Ian Drew for the first time at

5 Marc Schaffel's home, right?

6 A. Correct.

7 Q. And after you met him, did you develop an

8 understanding as to whether or not Mr. Drew would

9 have a role in your interview?

10 A. I was told he was the one that would be

11 doing the interviewing.

12 Q. And did he, in fact, do that?

13 A. Yes, he did.

14 Q. Okay. And is he the one that had the list
15 of questions you've described?

16 A. Yes, he did.

17 Q. And I believe you said you thought there
18 were about 105 questions, right?

19 A. He told me there were 105.

20 Q. Mr. Drew told you that?

21 A. Yes, he did.

22 Q. Did he ever show you the list of questions?

23 A. He offered to.

24 Q. And you refused, right?

25 A. Correct.

26 Q. You refused because you wanted to give a
27 spontaneous type of response to whatever he asked
28 you, right?

1 A. Correct.

2 Q. Okay. And I think it's fair to say that
3 your responses were very favorable about Michael
4 Jackson, right?

5 A. Yes.

6 Q. You answered questions for approximately
7 nine hours; is that true?

8 A. Yes. It was a very long day.

9 Q. And you were asked all sorts of questions
10 about what kind of person Mr. Jackson was, right?

11 A. Yes.

12 Q. You were asked about what kind of a father

13 he was --

14 A. Yes.

15 Q. -- right?

16 You were asked whether or not he was a good

17 family person?

18 A. Yes.

19 Q. You were asked about whether he was a good

20 friend of yours, right?

21 A. Yes.

22 Q. And you, throughout that nine-hour period,

23 were very positive about Michael Jackson, right?

24 A. Yes.

25 Q. And when you got there for the interview,

26 your understanding was you were going there to help

27 do a very positive, favorable piece about Michael,

28 right?

1 A. Correct.

2 Q. And your understanding was that one of the

3 purposes of this interview was to counteract the

4 negative stuff that appeared in the Bashir

5 documentary, right?

6 A. I didn't know what the video was. I had

7 never heard of Bashir. It was regarding something

8 that had played in Europe and was going to be played

9 in the United States. I didn't want to see the
10 video. I didn't want to see the transcripts from
11 the video. I didn't want to know anything about it.

12 Q. Okay. Okay. But you knew there was -- the
13 purpose was to respond to something in the media
14 that had been negative about Michael, right?

15 A. Negative, twisted, misunderstood, whatever
16 it was.

17 Q. Okay. And I believe you testified you were
18 more than eager to help Michael in this area, right?

19 A. Absolutely.

20 Q. And as far as you're concerned, you did help
21 him, right?

22 A. I hope I did.

23 Q. You spoke favorably about him and some of
24 your comments were placed on a T.V. documentary,
25 right?

26 A. The show that -- whatever it was that aired
27 for it, yeah. I think they said the Povich thing.

28 Q. And you kept calling Mr. Schaffel for a

1 number of months?

2 A. Yes.

3 Q. And you would see him from time to time,
4 right?

5 A. No, I never saw him. I saw him one time --

6 Q. You had lunch with him one time?

7 A. He set me up. Yes, I had lunch with him one
8 time.

9 Q. Where was that?

10 A. The Ivy.

11 Q. Okay. And you say Schaffel set you up?

12 A. Yeah.

13 Q. And what do you mean by that?

14 A. Apparently there was a meeting going on with
15 Michael and some of his people, and I later found
16 out that Schaffel and Dieter were not included. And
17 so Marc had called me up and said, "Do you want to
18 go to lunch?" And I said, "Sure." I said, "Do you
19 want me to meet you in the valley halfway? Do you
20 want to come over here? I'll pick you up." You
21 know, "What do you want to do?" And he said, "Well,
22 why don't I pick you up." And I said, "Fine. Where
23 are we going to go?" And he said, "The Ivy. Is
24 that okay?" I said, "Sure." I never had any
25 problems at The Ivy before. So we went to The Ivy.

26 Q. And would Schaffel call you from time to
27 time?

28 A. Yes.

1 Q. Okay. And you have previously commented
2 that you thought Mr. Schaffel was using Mr. Jackson,
3 true?

4 A. Oh, yeah.

5 Q. You thought he was using him, manipulating
6 him?

7 MR. ZONEN: I'm going to object as lack of
8 foundation. She said she just met him. Also
9 improper opinion.

10 THE COURT: Overruled.

11 Q. BY MR. MESEREAU: You told the sheriffs
12 that, in your opinion, Marc Schaffel was continually
13 trying to take advantage of Michael Jackson, true?

14 A. Correct.

15 Q. And you thought he was manipulating Michael
16 Jackson to make lots of money, right?

17 A. Yes.

18 Q. Now, you met Dieter at some point, true?

19 A. Yes.

20 Q. And when did you meet Dieter?

21 A. I don't remember if I met him anytime before
22 The Ivy incident, but I met -- he was with us at
23 lunch.

24 Q. Okay. And did you meet Konitzer at some
25 point?

26 A. Years ago on tour, when he was doing "Those
27 Cool Sunglasses."

28 Q. During the period of the interview -- I say

1 "during the period." That's a little bit vague.

2 Let me withdraw that.

3 Around the time of the interview, did you
4 talk to Konitzer at all?

5 A. I spoke with him when I spoke with Mr.
6 Jackson to arrange it. And he and Dieter and Marc
7 had been on the phone. They had been on the phone
8 to tell me about problems that were going on, yes.

9 Q. And you've also made statements to the
10 sheriffs that you thought Dieter and Konitzer were
11 manipulating Michael Jackson, correct?

12 A. Yes.

13 Q. You thought Dieter and Konitzer were taking
14 advantage of Michael Jackson, true?

15 A. Yes.

16 Q. And you thought they were trying to
17 manipulate Michael Jackson to make a lot of money,
18 right?

19 A. Yes.

20 Q. Was it your perception, based upon what you
21 observed of Schaffel, Dieter and Konitzer, that
22 those three were working together?

23 A. Oh, yeah.

24 Q. You definitely got that impression?

25 A. Oh, yeah.

26 Q. Okay. And was it your impression that those
27 three were working together to find ways to use
28 Michael Jackson's name so they could profit?

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1 A. Yes.

2 Q. And at one point you told the sheriffs that
3 you thought Michael Jackson was, in some ways, very
4 removed from what those guys were doing, right?

5 A. In my past knowledge, he's removed from the
6 handlers, the people who are taking care of
7 business, and they make all the decisions. There's
8 a number of times they don't consult him.

9 Q. And you thought these three guys, Schaffel,
10 Dieter and Konitzer, were doing just that, didn't
11 you?

12 A. Very strongly.

13 Q. Do you recall if around this time you ever
14 tried to warn Michael Jackson about Schaffel,
15 Konitzer and Dieter?

16 A. I did. I tried to go through my -- my --
17 I'm sorry, my old boss. And actually, when I did
18 call, I was told that, "Be careful of Marc."

19 Q. And your old boss was Dr. Klein?

20 A. Arnold Klein, yes. K-l-e-i-n.

21 Q. What you're saying, you tried to communicate
22 with Michael, through Dr. Klein, to warn him about
23 what these three characters were doing to Michael?

24 A. Or to look and see if he was aware of what
25 was going on, if he even knew that I was still
26 trying to see the children.

27 Q. Okay. And one of the problems you had was

28 that because of the custody issues, you were

1 supposed to talk through attorneys, right?

2 A. Correct.

3 Q. And that created a problem in your ability

4 to communicate with Michael, right?

5 A. It was difficult, yes.

6 Q. Okay.

7 A. It was easy with Mr. Spiegel, Lance Spiegel.

8 Q. And Mr. Spiegel was a prior lawyer for Mr.

9 Jackson?

10 A. For family, yes.

11 Q. Okay. Okay. Now, approximately when did

12 you -- when were you divorced from Mr. Jackson? Was

13 it 1999?

14 A. Yes.

15 Q. And at that point you gave up custody of the

16 children?

17 A. No, not at that point. A year and a half

18 later.

19 Q. Okay. A year and a half later you gave up

20 custody of the children, and you had the visitation

21 rights that you identified yesterday, right?

22 A. Right. No, I'm sorry, I misunderstood.

23 I gave up custody at the divorce. I gave him full

24 custody. I had visitation - I'm sorry, I

25 misunderstood - every 45 days.

26 Q. Approximately how long was your marriage to

27 Mr. Jackson?

28 A. Three and a half years.

1 Q. Okay. And I believe you said yesterday

2 you've stayed his friend, right?

3 A. I've always considered him my friend.

4 Q. And you still do, right?

5 A. Yeah. If he'd talk to me. Sorry.

6 Q. And without question, the communicating

7 through lawyers has created problems with --

8 A. Have you met Mr. Hall? Extreme problems.

9 Q. Okay. Okay. You're blaming the lawyers for

10 a lot of that, right?

11 A. Have you met Mr. Hall? You don't want to.

12 Q. Okay. All right. How many times did you

13 meet Dieter personally?

14 A. Like -- I know for sure the one time.

15 Q. Did you talk to Dieter on the telephone?

16 A. Yes.

17 Q. How many times do you think you talked to

18 Dieter on the telephone?

19 A. I think once or twice.

20 Q. Okay.

21 A. I don't remember. They weren't eventful

22 calls.

23 Q. Did he call you or did you call him?

24 A. He's -- I know he called me once, and I
25 believe I called him.

26 Q. Now, did you learn at some point -- excuse
27 me. Before I get into that, how many calls do you
28 think you had with Drew, if any?

1 A. From when to when?

2 Q. Oh, around the time of the interview.

3 A. I met Mr. Drew, he went back to Florida, I
4 didn't see him for about a year. When he came back
5 to Los Angeles, he called me and said he was back in
6 town.

7 Q. Did you develop a friendship with him?

8 A. Yeah.

9 Q. Okay. Now, did you learn at some point that
10 Schaffel was trying to make millions of dollars from
11 the footage of your interview?

12 A. Yes, I --

13 MR. ZONEN: I'm going to object as lack of
14 foundation.

15 THE COURT: Overruled.

16 THE WITNESS: Yes.

17 Q. BY MR. MESEREAU: How did you learn that
18 Schaffel was trying to make millions of dollars from
19 the footage of your interview?

20 A. He told me he was paid for it. He told me
21 that part of the money that was made from it went

22 for a debt that Mr. Jackson had owed him. I later
23 found out that he took -- he told Ronald and Dieter
24 that I wanted \$100,000 for doing the interview. And
25 I believe a check was cut - not to me. I wouldn't
26 have taken it - and he kept it.

27 Q. And how did you learn this information?

28 A. Some of it was from Ian. Some of it was

1 from Marc himself.

2 Q. And at one point Schaffel told you he was
3 going to sue Michael Jackson, didn't he?

4 A. Yes, he did.

5 Q. He told you he wanted over a million dollars
6 from Michael Jackson, true?

7 A. He said Michael owed him a million dollars.

8 Q. And approximately when did Marc Schaffel
9 tell you he was going to sue Michael Jackson?

10 A. Six months ago maybe. It may have been
11 longer than that, but I'm not really good with -- if
12 you could give me something to refer to at a time, I
13 could say yes, it happened then. But I think it was
14 about six months ago. And then he told me, about
15 three months ago, that he and his lawyer were filing
16 papers.

17 Q. And did you ever learn at some point that he
18 had actually sued Michael Jackson?

19 A. He told me that they'd filed the papers.

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20 Q. Okay. Did Schaffel ever ask you for
21 assistance in his suit against Michael Jackson?

22 A. No.

23 Q. Did he ever ask you for information to help
24 him in his business dealings with Michael Jackson?

25 A. I wouldn't have given it to him.

26 Q. Okay. Did he ever ask you for help, though?

27 A. I'm sorry?

28 Q. Did Schaffel, in your mind, ever ask you to

1 help him in his business dealings with Mr. Jackson?

2 A. No. He just bragged about either how he
3 took advantage of an opportunity that I'm sure he
4 knew nothing about or how he was going to do this,
5 that or the other thing to make sure that Michael's
6 career was saved, and things of that nature.

7 Q. Did Schaffel tell you that he was involved
8 in business matters with Dieter?

9 A. Yes.

10 Q. Did Schaffel tell you he was involved in
11 business matters with Konitzer?

12 A. Yes. In Europe.

13 Q. Okay. And did you ever get the impression
14 he was not giving Michael Jackson all the
15 information about what he was up to?

16 A. He was like everybody else around Mr.
17 Jackson. Yeah, he wasn't telling him everything.

18 Q. Why did you think Schaffel was calling you?

19 A. To placate me. To say that, "Oh, no, I'm

20 working on it. You'll be seeing the kids.

21 Michael's very excited about it. Everything's going

22 to be great. They're still in Florida." You know,

23 "As soon as they get home you guys will be

24 together."

25 Q. And you didn't think he was being truthful,

26 right?

27 A. Obviously he's full of shit. Sorry.

28 I'm sorry, Your Honor.

1 Q. You consider Marc Schaffel a liar, don't

2 you?

3 A. Yes.

4 Q. You consider Dieter a liar, don't you?

5 A. Yes.

6 Q. You consider Konitzer to be a liar, don't

7 you?

8 A. Yes.

9 Q. Did Mr. Drew appear to you to want to

10 interact with Schaffel?

11 MR. ZONEN: I'll object as speculative.

12 THE COURT: Sustained.

13 Q. BY MR. MESEREAU: You met Mr. Drew at

14 Schaffel's residence, right?

15 A. Yes.

16 Q. And you were introduced to him through

17 Schaffel, right?

18 A. Yes.

19 Q. Was it your belief at that time that the two

20 of them had some type of business relationship?

21 A. Marc told me that Ian was a plant at one of

22 the tabloids to run interference for bad publicity

23 for Michael.

24 Q. And did you believe that?

25 A. I didn't know, didn't care, didn't want to

26 be there, but was there for the kids and for him.

27 I -- you know, I wanted to get in and get out. I'm

28 having about as much fun here as I had there.

1 Q. Was it your understanding that Schaffel was

2 using Ian Drew for a particular purpose?

3 A. Yes.

4 Q. And that purpose was to sew publicity that

5 he wanted in the tabloids?

6 A. To get information out. I don't know if I

7 knew that it was -- if I knew that it was The Globe

8 then that he was the plant for, or if Marc told me

9 shortly thereafter. I think Marc told me at the

10 day, the day that it was, so I knew that I was

11 supposed to expect something coming out in the

12 tabloids.

13 Q. Right.

14 A. "Shockingly" was misinterpreted.

15 Q. And was it your impression that Schaffel was
16 using Drew to promote Schaffel's business interests?

17 A. If I'm considered a commodity to Mr.

18 Jackson, then yes.

19 Q. And as far as you were concerned, Schaffel
20 was using you as a commodity, right?

21 A. Schaffel was talking out both sides of his
22 mouth, telling me one thing, telling Mr. Jackson
23 something else.

24 Q. You thought he was using the two of you,
25 didn't you?

26 A. Yes.

27 Q. Schaffel bragged to you about the large sums
28 of money he was going to make off of Michael

1 Jackson, didn't he?

2 A. Yes, he did.

3 Q. He bragged about making millions of dollars
4 off of Michael Jackson, didn't he?

5 A. Yes, he did.

6 Q. He did that many times, didn't he?

7 A. Constantly.

8 Q. Did Dieter brag as well about the millions
9 he was going to make off of Michael Jackson?

10 A. He wasn't as -- he was more subtle about it
11 and spoke of it as plans for Michael, not actually

12 to take from Michael. So it's a matter of
13 semantics, I'm saying, you know, "I'm going to do it
14 for Michael."

15 Q. Did Konitzer brag about all the money he was
16 going to make off of Michael Jackson?

17 A. He had big plans. So -- but they -- I
18 didn't speak with him as often as I spoke with Marc.
19 So those conversations weren't about that with
20 Ronald. It was getting this project started and how
21 they were going to -- how everything was going to be
22 much better.

23 And then I think I had another conversation
24 with Ronald and Dieter afterwards when they called
25 to say that everything was fine with the video, and
26 "Thank you," and "Things will be fine. We have big
27 plans," and stuff like that. I think there's only
28 two times I spoke with Konitzer.

1 Q. Did Dieter ever tell you that he and
2 Konitzer were going to take over all of Michael
3 Jackson's affairs?

4 A. That was their plan, because he'd been
5 mishandled.

6 Q. Did Dieter ever tell you, "Don't call
7 Michael Jackson. If you have any question about
8 him, talk to me"?

9 A. I wouldn't be allowed to call him. But if I

10 had any concerns I would -- he said, you know,

11 "Please call me."

12 Q. Did Schaffel ever show you any written

13 agreements that he said concerned projects he was

14 going to do with the Jackson name?

15 A. The song. Didn't show me the contract, but

16 that was one thing that he spoke to me about is that

17 they were doing a song for Clear Channel or

18 something.

19 Q. How many times have you been to Schaffel's

20 home?

21 A. Once for the interview, and once to pick him

22 up, and I have to remember where we were going. We

23 had to drop a friend of his off in Hollywood

24 someplace. Oh, we went to see Parviz, this guy

25 Parviz. That's what we did.

26 Q. Okay. And did Schaffel talk to you about an

27 attorney named Mr. Geragos?

28 A. Uh-huh.

1 Q. Did he tell you that he had picked Mr.

2 Geragos?

3 A. I don't know who picked him, but whoever did

4 made a huge mistake. Come on. He pleads out or

5 loses.

6 Q. Well, in your discussions with the sheriffs,

7 you made negative comments about Mr. Geragos, didn't

8 you?

9 A. Oh, yeah.

10 Q. And didn't you also comment that you thought

11 Mr. Geragos was doing --

12 MR. ZONEN: I'm going to object as hearsay

13 and speculative and irrelevant and beyond the scope

14 of the direct.

15 THE COURT: Sustained.

16 Q. BY MR. MESEREAU: Do you know why you were

17 asked by the sheriffs to record phone conversations

18 with Ian Drew?

19 MR. ZONEN: Objection; speculative.

20 THE COURT: Sustained.

21 Q. BY MR. MESEREAU: Did any representative of

22 the sheriff's department ever tell you why they

23 wanted you to record phone conversations with Ian

24 Drew?

25 A. It was very frustrating working with the

26 sheriff's department. They don't give you any

27 information. That's why I wanted to find out for

28 myself what was going on.

1 Q. And did you ever record conversations

2 yourself and then just give those recordings to the

3 sheriff?

4 A. No, that's illegal.

5 Q. You just did it always with a sheriff

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6 involved with you?

7 A. Yes.

8 Q. Okay. When did you last talk to Mr.

9 Schaffel?

10 A. Conversation-conversation? Probably two
11 weeks ago. Probably right before he got the
12 transcripts from the conversation. But he had sent
13 me e-mails that I had not opened. They're still on
14 my account before I came up here.

15 Q. So a couple of weeks ago you talked to him?

16 A. Spoke with him, yes.

17 Q. Okay.

18 A. He was out of town and wouldn't be back for
19 a couple of weeks. He said there was a family
20 crisis or something. I was hoping his family wasn't
21 ill.

22 Q. Did you call him?

23 A. I don't have a cell phone number for him
24 anymore. I lost it. So when he was in town, the
25 conversations were less and less after I had spoken
26 with the sheriff's department and found the
27 information out that I had found and the way I had
28 been treated. And it's a little difficult for me to

1 be civil to someone that I dislike.

2 Q. Well, I gather you tried your best to let

3 Mr. Schaffel think he could still communicate with

4 you?

5 A. Yes.

6 Q. Up until two weeks ago, right?

7 A. Yes.

8 Q. Was that at the request of the sheriffs?

9 A. No, that was more me. If he did get in

10 touch with me, I did tell them.

11 Q. And when did you last talk to Ian Drew?

12 A. He got promoted from his job just after the

13 first of the year. I had dinner with him. There's

14 a group of us that go out on Wednesday nights, and I

15 think it was a month ago that I last talked to him.

16 It was getting close to my uncle's birthday, so we

17 did -- everybody has to come on this Wednesday night

18 to not miss my uncle's birthday.

19 Q. Your last communication with Dieter was

20 when?

21 A. Oh, a long time ago. Not within the last

22 year, I don't think. Well, I think The Ivy incident

23 was the last time that I spoke to him. I may -- oh,

24 no, no, no, no. I did try to call him. Sorry. I

25 did try to call him afterwards. And I may have made

26 the one phone call. I don't remember if I made it

27 or not. I haven't seen any of the stuff.

28 So if there's something there, I'd be happy

1 to look at it and tell you what was done and what

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2 was said and what was meant, if you'd like.

3 Q. I'm just asking you.

4 A. Blonde.

5 I don't remember the day, you know. I think

6 I did, but I can't totally swear to it.

7 Q. How about Konitzer. When do you think you

8 last talked to him?

9 A. If I did, it was very shortly after the

10 video.

11 Q. Okay. Would it be accurate to say that your

12 impression was that Schaffel, Konitzer, and Dieter

13 were trying to profit off problems Mr. Jackson had?

14 MR. ZONEN: I'm going to object again as

15 speculative and lack of foundation.

16 THE COURT: Sustained.

17 Q. BY MR. MESEREAU: Did Schaffel tell you that

18 he and Dieter and Konitzer were going to make a lot

19 of money off of the problems that came out of the

20 Bashir documentary?

21 A. They said they were going to fix the problem

22 and bragged that they had made money.

23 MR. ZONEN: Objection; nonresponsive. "They

24 said."

25 THE COURT: Overruled.

26 Q. BY MR. MESEREAU: That bothered you, didn't

27 it?

28 A. Yeah.

1 Q. Did you ever tell Schaffel, "I don't like
2 what you're doing to Michael," or words to that
3 effect?

4 A. If I had said that, then I wouldn't have
5 been able to find out what he was doing and try to
6 get word to whoever was handling him, "You guys are
7 going to get screwed."

8 Q. So what you were trying to do was make
9 Schaffel think he could maintain a friendship with
10 you, but what you really wanted to do was get
11 information from him?

12 A. Yeah. He was out to hurt Michael, in
13 addition would hurt my children.

14 Q. And did you feel Dieter was trying to hurt
15 Michael and also your children?

16 A. I think they're opportunistic vultures.

17 Q. Would that be Dieter, Konitzer and Schaffel?

18 A. Okay. You can do them alphabetically if
19 you'd like.

20 Q. You're talking about the three of them,
21 right?

22 A. All of them.

23 Q. Who else are you referring to as vultures,
24 besides those three?

25 A. If it's a personal opinion, does it count?

26 MR. ZONEN: I'm going to object as beyond

27 the scope of the direct examination and speculative
28 and improper opinion.

1 THE COURT: Sounds like she's got a long
2 list. I think I'll sustain the objection.

3 (Laughter.)

4 THE WITNESS: Thank you.

5 Q. BY MR. MESEREAU: Okay. Ms. Rowe, at some
6 point, did you learn that Santa Barbara sheriffs had
7 recorded a discussion with you?

8 A. You did? You did?

9 No, I didn't know that.

10 Q. Okay.

11 A. Damn you guys. You don't share anything.

12 Q. Did you ever learn that any discussion you
13 had with the Santa Barbara sheriff was, in fact,
14 recorded?

15 A. Well, if -- if you're referring to I was
16 with them and, yeah, they were recording, so that's
17 what I thought was recording.

18 Did you bug my phone?

19 Q. So at some point you knew they were
20 recording -- at some point you knew they were
21 recording a discussion with you --

22 A. Yes.

23 Q. -- right?

24 A. It was a discussion with me with Marc

25 Schaffel or with Ian Drew.

26 Q. Okay. How about with you just alone with an
27 officer?

28 A. Oh, when I was speaking with an officer,

1 yes, there was a -- an interview that was done.

2 Q. Okay. And where did that interview take
3 place, if you know?

4 A. Calabasas. And I can't give you the name of
5 the place because I don't remember.

6 Q. Do you know what officer that was?

7 A. Officer Steve Robel. Sergeant Steve Robel,
8 actually.

9 Q. Do you know approximately when that
10 interview took place?

11 A. Not off the top of my head, no.

12 Q. Do you recall, at one point, you mentioned
13 the possibility of going to The Enquirer? Do you
14 remember that?

15 A. Me?

16 Q. Yes. I don't know if it was -- you were
17 joking or not, but do you recall saying something
18 like that?

19 A. It would have been totally joking and
20 sarcastic and, "Let's see if we can mess with them."

21 Q. Well, you talked about at one point Ms.

22 Arvizo's orchestrating lawsuits. Do you remember

23 that?

24 A. Yeah.

25 Q. And you referred to the J.C. Penney case,

26 correct?

27 A. Probably.

28 Q. Did you do your own research into what Janet

1 Arvizo had done in the J.C. Penney case?

2 A. Just by asking people who had heard

3 something on the news. And I hadn't sat down at the

4 computer and actually properly researched it, no.

5 Q. And you told the officer that you --

6 MR. ZONEN: I'm going to object as hearsay

7 and irrelevant, exceeding the scope of direct.

8 THE COURT: Sustained.

9 Q. BY MR. MESEREAU: When you spoke to the

10 officer in that interview, were you trying to in

11 some way protect Michael from the Arvizos?

12 A. Yes.

13 Q. And that's because you thought the Arvizos

14 were taking advantage of Michael, right?

15 MR. ZONEN: I'm going to object as lack of

16 foundation, exceeding the scope of direct.

17 THE COURT: Sustained.

18 Q. BY MR. MESEREAU: At one point you told

19 Officer Robel that Schaffel had made seven and a

20 half million dollars off your interview. Do you

21 remember that?

22 A. Yes.

23 Q. Did Schaffel tell you that?

24 A. Yes.

25 Q. Did you have any reason not to believe that

26 he'd made seven and a half million?

27 A. I don't know what shows go for. Michael

28 doesn't do interviews, so I'm sure that anything

1 that was televised or produced was worth a lot of

2 money.

3 Q. Did Schaffel offer you any of that money?

4 A. No, and I wouldn't have taken it.

5 Q. Did you know -- did you have any idea why

6 Schaffel told you he made seven and a half million

7 off your interview?

8 A. He likes to brag. "Look what I have. Look

9 what I've done."

10 Q. Did Schaffel tell you any of that money went

11 to Dieter?

12 A. He didn't. The way he spoke about it was

13 all him.

14 Q. Did he tell you any of that money went to

15 Konitzer?

16 A. No, again, all to him.

17 Q. Was it your understanding that Schaffel,

18 Dieter and Konitzer worked together or -- what was

19 your understanding of their relationship?

20 A. Michael had a previous relationship with
21 Dieter and Ronald, so if Marc wanted to get in touch
22 with Michael he could go through them, if he
23 couldn't get ahold of him himself. But I think Marc
24 felt that he handled everything in the United
25 States. And that they were involved in the European
26 things and in marketing or something.

27 Q. Did you think Dieter, Konitzer and Schaffel
28 were competing with each other at all?

1 A. There was some --

2 MR. ZONEN: I'm going to object as
3 irrelevant, exceeding the scope of direct.

4 MR. MESEREAU: Sustained.

5 Q. Did Schaffel ever tell you he was in any
6 company with Dieter and Konitzer?

7 MR. ZONEN: I'm going to object as exceeding
8 the scope of direct and hearsay.

9 THE COURT: Sustained.

10 Q. BY MR. MESEREAU: Do you remember telling
11 the officer who interviewed you, "Michael is very,
12 very easily manipulated especially if he's scared"?

13 A. Yes.

14 Q. You were trying to tell the officers that
15 Michael was being taken advantage of by these
16 people, weren't you?

17 MR. ZONEN: Objection; asked and answered.

18 THE COURT: Overruled.

19 You may answer.

20 THE WITNESS: I'm sorry?

21 Q. BY MR. MESEREAU: You were trying to tell
22 the officer that you thought Michael was being taken
23 advantage of by these people, right?

24 A. Yes.

25 Q. Now, you indicated in your interview you
26 were there for about nine to ten hours, right?

27 A. Yes.

28 Q. How much of that time do you think you were
1 answering questions?

2 A. It was -- we were on that stupid couch for
3 seven hours, with no breaks except to change film.

4 Q. And was that you and Mr. Drew?

5 A. I was on the couch. Drew -- Ian was
6 opposite me, either in a chair -- I think he was in
7 a chair.

8 Q. Okay. So if you think you know, how many
9 hours of actual interview do you think there was
10 with you?

11 A. The full seven hours. Except for the -- the
12 time that it took to change videotapes.

13 Q. Okay.

14 A. I'm sorry. We didn't break for anything.

15 Q. And you have before today, I believe you
16 said last night the most recent time, seen a DVD of
17 what purports to be that interview, right?

18 A. It's not the whole interview.

19 Q. And is that about two and a half to three
20 hours long, the one you saw?

21 A. It was about three hours.

22 Q. And who gave you that DVD to watch?

23 A. I asked for a copy from Mr. Zonen.

24 Q. And you watched it last night, right?

25 A. Yes, I did.

26 Q. And correct me if I'm wrong, I think what
27 you're saying is that many hours of your interview
28 don't appear in that DVD, right?

1 A. I don't see how I could have sat there for
2 seven hours and only had three hours on tape. I
3 don't remember any breaks except for when the
4 cameras were -- the film was being changed. I
5 interrupted the interview to tell them the film
6 was -- the camera was blinking, the light. I didn't
7 want to be in the middle of the statement and have
8 to start over again, to tell them that the lights
9 were blinking, to change the film.
10 I saw cuts in that film, in that tape, that
11 were -- had nothing with me saying, "It's blinking,
12 take it off," so there's -- there is stuff missing

13 from that video.

14 Q. When Schaffel told you he'd made seven and a
15 half million dollars off your interview, did he ever
16 tell you who he made the money from?

17 A. I think he said it was FOX Network. And
18 someone in Europe. But I don't remember who it was
19 in Europe.

20 Q. And was it your understanding that he kept
21 all the footage of your interview?

22 A. Yes. It was all taken upstairs to a bedroom
23 where they did the editing that night.

24 Q. Okay. How did you know they did the editing
25 that night?

26 A. I was there for about an hour when they were
27 doing it.

28 Q. Were you upstairs in the bedroom while they

1 were doing it?

2 A. Yes.

3 Q. And who is "they"?

4 A. Marc was in and out. I don't remember --
5 I think it was Christian that was doing the editing.

6 Ian told me he was going to be there all night to
7 get the video done.

8 Q. Now, Mr. Jackson wasn't there for any of
9 that interview, was he?

10 A. No.

11 Q. Were you being asked to assist in the
12 editing upstairs?

13 A. No, I wanted to see what they were putting
14 down. I'm a bit of a control freak.

15 Q. So did they ever object to you being
16 upstairs and watching what they were doing?

17 A. No, it just got to be too late and too long
18 a day and I had to go home. I had school.

19 Q. But during the hour that you were upstairs
20 watching the editing, what did you see them do?

21 A. The very beginning of the interview talking
22 about Michael, me speaking about Michael and what
23 kind of a person he is. And the -- I gave them a
24 list, not a written list, but a verbal list of
25 things that I wanted included to make sure.

26 Q. In that interview, what kind of a person did
27 you say Michael was?

28 A. Generous. To a fault. Giving and kind.

1 Q. Anything else do you recall saying?

2 A. Good father. Great with kids. Put other
3 people ahead of him. Things like that.

4 Q. If you can, do you remember anything else
5 you said about Michael?

6 A. He's a brilliant businessman. There's
7 different Michaels. There's, like, my Michael.

8 Q. Do you want some water?

9 A. And the Michael that everyone else sees.

10 Q. And that would be the public Michael?

11 A. Yes.

12 Q. That would be Michael the entertainer,

13 right?

14 A. Michael the entertainer, yeah.

15 Q. When did you first meet Michael?

16 A. In the .80s.

17 Q. And how did you meet Michael?

18 A. Through my office when I worked with Dr.

19 Klein.

20 Q. Okay. And what was your position with Dr.

21 Klein at the time?

22 A. I was an assistant.

23 Q. And Michael went to Dr. Klein for various

24 treatments, right?

25 A. Yes.

26 Q. And do you recall when he first went to Dr.

27 Klein?

28 A. Yes. The very first day, yes. I was not

1 his nurse then.

2 Q. And what was the treatment he was receiving;

3 do you know? Was it a skin condition he had?

4 MR. ZONEN: I'm going to object at this

5 point. The question is, What was the treatment he

6 was receiving?"

7 MR. MESEREAU: I'll withdraw it. I'll

8 withdraw it.

9 THE COURT: All right. It's withdrawn.

10 Q. BY MR. MESEREAU: You met him in the early

11 .80s?

12 A. Yes.

13 Q. And you continued to know him through the

14 .90s until you were married, right?

15 A. Yes.

16 Q. And how long did you work for Dr. Klein?

17 A. From .79 to 2001, I think it was, or 2000.

18 Q. Okay.

19 A. I don't remember the exact dates.

20 Q. Okay. Do you recall ever going on tour with

21 Michael?

22 A. Uh-huh.

23 Q. And when did you first go on a tour with

24 Michael?

25 A. What was the tour after "Bad"? Was it the

26 "History" tour, or "Dangerous"?

27 It was the "Dangerous" tour, I'm sorry.

28 MR. ZONEN: I'm going to object to

1 communications between the witness and the defendant

2 and ask that that be stricken.

3 THE WITNESS: Sorry.

4 THE COURT: Stricken.

5 Q. BY MR. MESEREAU: Let me try and ask it
6 again. What was the first tour that you went on
7 with Michael?

8 A. "Dangerous."

9 Q. And approximately when was that?

10 A. I don't remember. That was -- all those
11 tours. And they all just ran together, because it
12 was a long schedule.

13 Q. Okay. Was it in the .80s or .90s; do you
14 know?

15 A. I think it was in the early .90s.

16 Q. Okay. And where did that tour go to?

17 A. I think it started in Bangkok, and went
18 throughout Asia, Japan, Singapore. Then there was a
19 break. And then it went to Europe.

20 I did go to the last concert in Gutenberg, I
21 think on the tour previous to that. Because
22 Gutenberg wasn't on the "Dangerous" tour.

23 Q. And were you traveling with Michael along
24 with his physician?

25 A. Yes.

26 Q. Okay. And you then went on another tour
27 after that?

28 A. Yes.

1 Q. And what tour was that?

2 A. "History."

3 Q. Okay. And approximately when was that?

4 A. It seemed like it was right after

5 "Dangerous," within a year or two after "Dangerous."

6 It could have been a little bit longer than that.

7 Q. And you were on that tour along with the

8 physician as well, right?

9 A. We were married when that was going on.

10 Q. Okay.

11 A. So, no. Klein would come every once in a

12 while, but I was there every three weeks to see

13 little Michael and Michael and to see how everybody

14 was, because I was still working. I couldn't more

15 often than that.

16 Q. When did you first meet Mr. Sneddon?

17 A. The day before yesterday. Two days ago.

18 When did I come up here? I came up here Tuesday.

19 Today's Thursday. I came up here Tuesday.

20 Q. I mean, your first time you ever met Mr.

21 Sneddon was the early .90s, wasn't it?

22 A. I don't remember. I remember I did a

23 deposition. I thought it was for a woman. I don't

24 remember. I don't remember any of that part. I

25 tend to block out unpleasanties. I don't remember

26 any of that part. I don't remember if Mr. Sneddon

27 was there or not.

28 Q. Okay.

1 A. I think -- I think I just met him.

2 Q. Okay. Do you know when you were first
3 contacted about this particular case by anyone
4 associated with the sheriffs or the prosecution?

5 A. It was -- there was a voice mail on my car
6 phone, which I don't give out because it's stupid to
7 give out a car phone if you're not in the car all
8 the time. And they had gotten it through -- somehow
9 probably through Schaffel, because that's how the
10 tabloids got it. Because Marc Schaffel handed out
11 that phone number, because that was the only one he
12 had, because I had to call release from that line to
13 call his house. So there was a message left, and I
14 did not return the call.

15 And then on a trip back from Palm Springs,
16 probably eight or nine o'clock at night, it was
17 dark, I'm going to guess it could have been a little
18 bit later, but eight o'clock or 9:00 the phone rang,
19 and I thought it might have been someone --
20 something wrong with one of my animals or something.
21 And I answered it, and it was Sergeant Robel.

22 Q. Okay. And do you know approximately when
23 that was?

24 A. I don't. I'm sorry.

25 Q. Was it like a year ago?

26 A. Oh, yeah. Yeah. Yeah.

27 Q. Now, you said Schaffel was giving

28 information to the tabloids?

1 A. Yes.

2 Q. Was he giving information to the tabloids
3 about Michael Jackson, to your knowledge?

4 A. He was leaking information.

5 Q. To your knowledge, was he trying to profit
6 from the tabloids with information about Michael
7 Jackson?

8 A. I don't think monetarily. I think maybe
9 through manipulation, you know, "Maybe I can stop
10 this," or "I can talk to so and so and fix it."

11 Q. Has it been your belief that Schaffel has
12 been trying to create problems for Michael Jackson
13 so he could profit from them?

14 MR. ZONEN: Objection. Asked and answered
15 and speculative, lack of foundation.

16 THE COURT: Sustained.

17 Q. BY MR. MESEREAU: Did Schaffel ever tell you
18 in your conversations that he was going to generate
19 crises around Michael Jackson so he could then find
20 ways to profit?

21 A. Just this lawsuit. And I don't know the
22 details of the lawsuit.

23 Q. Did he tell you he intends to make millions
24 from his lawsuit against Michael Jackson?

25 MR. ZONEN: Objection; asked and answered.

26 THE COURT: Sustained.

27 Q. BY MR. MESEREAU: Did he tell you whether or
28 not Dieter or Konitzer are still doing business with

1 him when you last talked to him?

2 A. When I was speaking with him, he didn't say
3 anything about business.

4 Q. But he said --

5 A. He was more concerned about
6 self-preservation at this point.

7 Q. He said he's still talking to them?

8 A. I think he is, yes. I think he is. I don't
9 know.

10 MR. ZONEN: The question is did he say.

11 THE WITNESS: I don't --

12 THE COURT: Is that an objection?

13 MR. ZONEN: That's an objection,
14 nonresponsive.

15 THE COURT: Sustained. Stricken.

16 Q. BY MR. MESEREAU: You met with Mr. Zonen
17 last night; is that correct?

18 A. Yes.

19 Q. Did you have a long meeting with him?

20 A. I watched the video there. And I spoke with
21 him for maybe 20, 25 minutes.

22 Q. Did Mr. Zonen talk to you about what he was
23 going to ask you today?

24 A. No.

25 Q. He just asked you pretty much to watch the

26 video?

27 A. Yes.

28 Q. And where did this meeting take place?

1 Don't give me an address, if it's where you were --

2 A. Oh. It's in an office that they had.

3 Q. That's the District Attorney's Office?

4 A. Yes.

5 Q. Okay.

6 A. I don't know the address. So I'm lost.

7 Q. When was the last time any representative of

8 the sheriff's office asked you to record somebody?

9 A. I want to say last year.

10 THE COURT: Let's take our break.

11 MR. MESEREAU: Yes, Your Honor.

12 (Recess taken.)

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1 REPORTER'S CERTIFICATE

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THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
Plaintiff,)
-vs-) No. 1133603
MICHAEL JOE JACKSON,)
Defendant.)

12 I, MICHELE MATTSON McNEIL, RPR, CRR,
13 CSR #3304, Official Court Reporter, do hereby
14 certify:
15 That the foregoing pages 7975 through 8027
16 contain a true and correct transcript of the
17 proceedings had in the within and above-entitled
18 matter as by me taken down in shorthand writing at
19 said proceedings on April 28, 2005, and thereafter

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20 reduced to typewriting by computer-aided

21 transcription under my direction.

22 DATED: Santa Maria, California,

23 April 28, 2005.

24

25

26

27 MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA BARBARA

3 SANTA MARIA BRANCH; COOK STREET DIVISION

4 DEPARTMENT SM-2 HON. RODNEY S. MELVILLE, JUDGE

5

6

7 THE PEOPLE OF THE STATE OF)

8 CALIFORNIA,)

9 Plaintiff,)

10 -vs-) No. 1133603

11 MICHAEL JOE JACKSON,)

12 Defendant.)

13

14

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16

17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

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19 THURSDAY, APRIL 28, 2005

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21 8:38 A.M.

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23 (PAGES 8029 THROUGH 8156)

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27 REPORTED MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 BY: Official Court Reporter

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1 I N D E X

2

3 Note: Mr. Sneddon is listed as "SN" on index.

4 Mr. Zonen is listed as "Z" on index. Mr. Auchincloss is listed as "A" on index.

5 Mr. Nicola is listed as "N" on index. Mr. Mesereau is listed as "M" on index.

6 Ms. Yu is listed as "Y" on index. Mr. Sanger is listed as "SA" on index.

7

8

9 PLAINTIFF'S VOIR

10 WITNESSES DIRECT CROSS REDIRECT RECROSS DIRE

11 JACKSON,

12 Deborah Rowe 8033-Z

13 FINSILVER, Iris Joan 8052-Z
14 DIETZ,
15 Andrew R. 8058-SN 8100-SA 8109-SN 8095-SA
16 SCHWARTZ,
17 Jeffrey 8110-N 8121-SA
18 DANKO, Crystalee 8131-N
19 SIMMONS,
20 Jennifer 8141-N
21 CORRAL, JR. Joe J. 8147-N

22
23
24
25
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28

1 E X H I B I T S

2 FOR IN PLAINTIFF'S NO. DESCRIPTION I.D. EVID.

3

4 223-249 Records of Air Apparent, Inc. 8061 8066

5 450 Nextel records 8141 8146

6 455 Sprint records 8132 8137

7 457 Verizon California

8 records 8147 8151

9 458 Talk America records 8111 8112

10 459 Verizon New York records 8147

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11 852 Air Apparent, Inc.
12 Itinerary/Invoice Record 8066 8068
13 853 Five-page Air Apparent, Inc., record 8067 8068
14 854 Three-page Client Summary,
15 February 5 through February 12, 2003 8080 8097
16
17 855 Thirteen-page Client Summary, February 12
18 through March 31, 2003 8080 8097
19
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1 THE COURT: Counsel?
2 MR. MESEREAU: Thank you, Your Honor.
3 Your Honor, we have no further questions,
4 and we withdraw our motion.
5 THE WITNESS: Thank you.
6
7 REDIRECT EXAMINATION
8 BY MR. ZONEN:

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9 Q. How many conversations did you have with

10 Ronald Konitzer?

11 A. One or two.

12 Q. Over the telephone?

13 A. Yes.

14 Q. And the length of each of those

15 conversations?

16 A. Minutes.

17 Q. Minutes? Did you ever see Ronald Konitzer

18 interact with Michael Jackson?

19 A. Not since I had met him in Europe on tour

20 years before.

21 Q. So you're talking about conversations that

22 may have taken place when, in the early .90s?

23 A. Yes.

24 Q. All right. Since the early .90s, have you

25 seen him interact with Mr. Konitzer?

26 A. Physically, no. Just on the phone.

27 Q. Did you hear him interact with him on the

28 telephone, in other words, conversations where you

1 were present?

2 A. When Mr. Schaffel was setting up the

3 interview --

4 Q. Yes.

5 A. -- Ronald was there with Michael.

6 Q. Was that the only conversation that you had,

7 were party to --

8 A. No.

9 Q. -- involving Mr. Jackson and Mr. Konitzer?

10 A. No. There was one or two after that.

11 Just -- after the interview, thanking me, saying
12 everything was going to be fine, and I don't recall
13 if there was another one after that.

14 Q. Was Mr. Jackson involved in those
15 conversations?

16 A. No, he was not.

17 Q. That was just a conversation with you and
18 Mr. Konitzer?

19 A. No, Marc would have been on the phone. He
20 did not have my phone number.

21 Q. All right. So it was a conversation
22 involving you, Marc Schaffel and Ronald Konitzer?

23 A. Yes.

24 Q. And the subject of that conversations was
25 what?

26 A. Superficial. About the video.

27 Q. Nothing about Mr. Jackson's business
28 affairs?

1 A. No. Not with Michael on the phone, no.

2 Q. Did any of them talk to you about issues
3 dealing with the Martin Bashir video?

4 A. Before or after the interview?

5 Q. After the interview.

6 A. When the interview aired, it did, and they
7 said that the interview that I had done would help
8 deflect and do damage control.

9 Q. Did they say that to you more than once?

10 A. Yes.

11 Q. Did Mr. Konitzer say positive things to you
12 about your involvement in this interview?

13 A. About my possible involvement?

14 Q. No.

15 A. I'm sorry.

16 Q. Did he say positive things to you about your
17 involvement?

18 A. Yeah. Yeah.

19 Q. Did he say that you were helpful?

20 A. Yeah.

21 Q. Did you believe that you were?

22 A. Yeah.

23 Q. Was that your intent?

24 A. Yes.

25 Q. All right. Do you still like Michael

26 Jackson?

27 A. I have very strong memories and feelings for
28 the Michael that I have known but haven't seen since

1 1999. But those are based on my feelings. We

2 haven't spoken.

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3 Q. All right. Is it the case that the sum
4 total of your communication with Mr. Jackson since
5 1999, six years ago, was a two-and-a-half-minute
6 conversation that you described?

7 A. Correct.

8 Q. And that was a conversation where he asked
9 you to participate in this video; is that correct?

10 A. To work with Ronald, Dieter, and Marc.

11 Q. Is it clear to you that he understood that
12 you wanted to see your children?

13 A. Yes.

14 Q. All right. Did he ever call you to say
15 that --

16 A. No.

17 Q. -- or to invite you up to come see the
18 children?

19 A. No, he didn't.

20 Q. Who do you believe is responsible for your
21 not being able to see the children?

22 MR. MESEREAU: Objection. Relevance;
23 foundation.

24 THE COURT: Overruled.

25 Q. BY MR. ZONEN: You can answer the question.

26 A. He's their father. Ultimately it's his
27 decision. I don't want to believe that. I want to
28 believe that it's other people. I want to believe

1 it's Marc Schaffel threatening him that I want to
2 take the children, things like that.

3 Q. How long has Marc Schaffel been involved
4 with Michael Jackson? When do you believe was the
5 end of Mr. Schaffel's involvement with Michael
6 Jackson?

7 A. I think The Ivy incident was probably what
8 tore it.

9 Q. All right.

10 A. Marc told me he was on the outs and wanted
11 to do what he could to get back in.

12 Q. When did he file the lawsuit against Michael
13 Jackson?

14 A. I don't know how long it takes to actually
15 get to court when you file a paper, or whatever, but
16 he had talked about it about three months ago.

17 Q. All right.

18 A. So I don't know if he was filing the papers
19 then, if he was getting ready to file the papers.

20 Q. All right. But your understanding is that
21 Marc Schaffel hasn't had anything to do with Michael
22 Jackson for a number of months now; is that correct?

23 A. Correct.

24 Q. All right. And yet you're still being
25 denied access to your children?

26 MR. MESEREAU: Objection. Leading;

27 relevance; foundation.

28 THE COURT: Overruled.

1 Q. BY MR. ZONEN: Is that true?

2 A. We're -- yes, yes.

3 Q. All right. Well, then who do you think is
4 responsible for that, if it's not Marc Schaffel?

5 MR. MESEREAU: Objection. Relevance;
6 foundation; leading; and opinion.

7 THE COURT: It's argumentative. Sustained.

8 Q. BY MR. ZONEN: Tell us, in your opinion, who
9 is responsible at this time for your not being able
10 to have access to your children?

11 MR. MESEREAU: Same objection.

12 THE COURT: Overruled.

13 THE WITNESS: When I was first promised to
14 see the kids, when Michael -- he called me, for me
15 to show up when they were at that age of three and
16 four, four and five, I could be introduced as a
17 friend, as a friend of daddy's. And you don't
18 confuse a child by saying, "Oh, this is your
19 mother."

20 I can't do that now. They're too old. To
21 do something like that, it would be too traumatic.
22 I would not walk in and say, "Hey, I'm your mom,"
23 you know, "Want to go out?"

24 It's -- it's so much more complicated than
25 that when reintroducing yourself to children who may

26 or may not remember me.

27 Q. BY MR. ZONEN: Are you saying that you

28 believe that Mr. Jackson is amenable to your seeing

1 your children; it's just a question of how?

2 MR. MESEREAU: Objection. Leading;

3 argumentative; no foundation.

4 MR. ZONEN: It's impeachment, Your Honor, as

5 to the leading issue.

6 MR. MESEREAU: Improper opinion.

7 THE COURT: The objection is overruled.

8 Do you want the question read back?

9 THE WITNESS: No. Thank you.

10 I'm hoping in my heart that he is. But we

11 haven't spoken, so I don't know. I get to deal with

12 Abrams and Hall.

13 Q. BY MR. ZONEN: Why do you believe he hasn't

14 spoken with you?

15 MR. MESEREAU: Objection. Leading;

16 argumentative; foundation; relevance.

17 THE COURT: Overruled.

18 THE WITNESS: I don't know if he is

19 concerned about this case. I don't know what his

20 concerns are, if he thinks I'm going to take the

21 children from him. I don't know. I haven't spoken

22 to him. I don't know.

23 Q. BY MR. ZONEN: How many conversations have

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24 you had with Dieter Weizner?

25 A. The last conversation I had with Dieter I
26 think was at The Ivy.

27 Q. And how many conversations prior to that?

28 A. One or two.

1 Q. You said that you were set up, is that

2 correct, at that --

3 A. In my opinion --

4 Q. -- lunch?

5 A. -- yes.

6 Q. What does that mean, "set up"?

7 A. You don't go to lunch and then call the
8 paparazzi to come and take a picture of you while
9 you're trying to have a salad, and then someone runs
10 across the street and almost gets hit by a car
11 because they're taking my picture.

12 Q. You didn't mention that in cross-examination
13 when you said that to Mr. Mesereau.

14 A. Oh, sorry. I thought --

15 Q. Is that what it was that you believe to be
16 the set-up?

17 A. Yes, because Michael was having a meeting
18 with his -- some group of people at the Beverly
19 Hills Hotel or something. And Marc and Dieter were
20 not included. So they were going to show him.

21 Q. All right. What does the presence of

22 paparazzi have to do with that?

23 A. I'm assuming because Marc Schaffel could not
24 get to Michael, that if someone were to see it on
25 T.V. or something, then it would be detrimental to
26 him.

27 Q. How long has Michael Jackson had an
28 association with Ronald Konitzer?

1 A. I know that he knew him in the .90s doing
2 marketing and things like that in Europe. I don't
3 know, I haven't -- I haven't had any involvement
4 with Michael since .99, so I don't know.

5 Q. All right. You offered the opinion that you
6 believe that this group of people are taking
7 advantage of him.

8 A. Yes.

9 Q. Have you ever actually seen them interact
10 with him?

11 A. No.

12 Q. Are you aware of any of the transactions
13 that have taken place between Mr. Konitzer and
14 Michael Jackson?

15 A. Just when Konitzer was on the phone with
16 Michael to tell me that it was okay to work with
17 these people to do what needed to be done for the
18 project.

19 Q. And would you consider that to be a

20 conversation for Mr. Jackson's benefit?

21 MR. MESEREAU: Objection. Foundation;

22 vague.

23 MR. ZONEN: It's her opinion.

24 THE COURT: Sustained.

25 Q. BY MR. ZONEN: The conversation that you had

26 over the telephone with Mr. Konitzer involving your

27 involvement in a rebuttal was supposed to defuse a

28 difficult situation that Mr. Jackson was in; is that

1 correct?

2 A. That was my understanding.

3 Q. So that was for his benefit, for Mr.

4 Jackson's benefit?

5 A. Correct.

6 MR. MESEREAU: Objection; argumentative.

7 Same objection. Foundation; opinion.

8 THE COURT: Overruled.

9 THE WITNESS: Correct.

10 Q. BY MR. ZONEN: And that's correct.

11 How many conversations have you been party

12 to between Mr. Konitzer and Mr. Jackson?

13 A. Just the one.

14 Q. That was the only one?

15 A. Yes.

16 Q. So you don't really know what extent of

17 communication they had between each other; is that

18 correct?

19 MR. MESEREAU: Objection. Assumes facts not
20 in evidence; foundation; move to strike.

21 THE COURT: Overruled.

22 THE WITNESS: Only what I was told.

23 Q. BY MR. ZONEN: Ahh. And told by whom?

24 A. By Marc.

25 Q. Only Marc; is that right?

26 A. And Dieter.

27 Q. Okay. Marc is the person you believe to be
28 an inveterate liar; is that correct?

1 A. Yes.

2 Q. He told you that he was making seven and a
3 half million dollars off of this production, the
4 Maury Povich production?

5 A. Correct.

6 MR. MESEREAU: Objection; assumes facts not
7 in evidence.

8 THE COURT: Overruled.

9 Q. BY MR. ZONEN: Is that correct?

10 A. Yes, that's what I was told.

11 Q. Did you believe he was profiting from that
12 production?

13 A. Yes.

14 Q. Did you understand that production to be a
15 production for profit?

16 A. I didn't care.

17 Q. But did you understand it to be a production
18 for profit?

19 A. If I assumed that, you know, if you're going
20 to make it and sell it, yes, it's for profit.

21 Q. And you understood it was being sold?

22 A. Yes.

23 Q. You understood it was being marketed?

24 A. Yes.

25 Q. And that, in fact, was Marc Schaffel's job,
26 was to market that film?

27 A. Yes.

28 Q. And your involvement in it was to make it

1 more marketable; is that true?

2 A. Correct.

3 Q. Do you think it was inappropriate for Marc
4 Schaffel to make a profit off that film?

5 MR. MESEREAU: Objection. Improper opinion;

6 calls for speculation; foundation.

7 THE COURT: Sustained.

8 Q. BY MR. ZONEN: In your opinion, should he
9 have made some profit off that film?

10 MR. MESEREAU: Same objection.

11 THE COURT: Sustained.

12 Q. BY MR. ZONEN: Do you have any reason to

13 brief that Michael Jackson didn't receive any profit

14 off that film?

15 MR. MESEREAU: Same objection.

16 THE COURT: Sustained.

17 Q. BY MR. ZONEN: Are you aware that Michael
18 Jackson was given over a million dollars in cash by
19 Marc Schaffel during that period of time?

20 MR. MESEREAU: Objection. Assumes facts not
21 in evidence; foundation; move to strike.

22 THE COURT: Sustained.

23 Q. BY MR. ZONEN: Now, I'd asked you your
24 number of conversations with Dieter Weizner. Is
25 Weizner somebody you knew back in the early .90s as
26 well?

27 A. He said I'd met him. I don't remember.

28 I met a lot of people when Michael was on tour.

1 There was a ton of people involved.

2 Q. Did you have a face-to-face conversation
3 with Dieter Weizner in 2003?

4 A. For the inter -- at The Ivy. Not for the
5 interview or anything.

6 Q. And The Ivy was just the lunch that you had
7 with them?

8 A. Yes.

9 Q. Did you stay and actually have a lunch?

10 A. I was -- yeah, I was a wreck. They moved us
11 inside until it was completely out of control, and

12 it had -- I had to leave.

13 Q. So you didn't really have a conversation
14 with him?

15 A. We did talk.

16 Q. About what?

17 A. About how they were going to -- that the
18 people that were on the other side of town were
19 inching them out and not including them, and that
20 this would show them and get their attention because
21 I was with -- with them.

22 Q. All right. Now, this was in 2004; is that
23 right?

24 A. I think -- I don't remember the date.

25 Q. This is well after the Indictment was
26 returned against Mr. Jackson; is that correct?

27 A. No. It was -- I believe it was before.

28 Q. Were you --

1 A. I don't -- I don't remember the date.

2 Q. Were you already involved in having given
3 information to law enforcement regarding this
4 investigation?

5 A. I think so. I don't remember.

6 Q. You described Mr. Jackson as a brilliant
7 businessman.

8 A. Yes.

9 Q. Is that a true statement?

10 A. In my opinion, yes.

11 Q. During the years that you knew him, you
12 understood him to be very talented at the business
13 end of his career; is that correct?

14 A. I thought so.

15 Q. He was successful in making an awful lot of
16 money during the years you knew him; is that right?

17 A. Yes.

18 Q. And he knew Mr. Konitzer and Mr. Weizner for
19 over ten years, didn't he?

20 A. I don't know how long they'd known each
21 other. I don't remember when they met. I remember
22 meeting -- like I said, I remember meeting Ronald
23 when he was showing marketing things to Michael.
24 I don't even remember what city we were in.

25 Q. But it was the early .90s, was it not?

26 A. Yeah. Yeah. It would have had to have
27 been. So, yeah, I guess that would be ten years.

28 Q. Would the same be true as to Dieter Weizner?

1 A. I don't remember meeting Dieter. Even
2 though he said I did, I don't remember.

3 Q. So when did you understand Mr. Weizner's
4 involvement with Michael Jackson to begin?

5 A. The man carried six cell phones. I wasn't
6 quite sure what -- I wasn't sure if he was a
7 liaison, if he was doing the European marketing and

8 working with Marc Schaffel doing the American
9 things. All I knew is that the three of them
10 were --

11 Q. Who are we talking about right now?

12 A. Ronald, Marc and Dieter were involved in --
13 directly in the video and saving Michael after this
14 documentary came out.

15 Q. All right. Is there anything that you saw
16 that was put out to any of the tabloids or any of
17 the newspapers by any of the three of them that you
18 felt was negative to Michael Jackson?

19 A. What do you mean?

20 Q. Well, you talked about Mr. Schaffel giving
21 information out to the tabloids; is that right?

22 A. Yes, but he did it to -- he said he could
23 run interference. That was why he had Ian Drew as a
24 plant at The Globe, to run interference, because --
25 I didn't know this, but I guess the magazines are
26 all owned by the same company and they shuffle the
27 stories around.

28 Q. What kind of interference?

1 A. To keep bad stories or gossip, or whatever,
2 out, so he would release good information to someone
3 he thought was more reputable.

4 Q. Bad stories about whom?

5 A. Michael.

6 Q. All right. So the work that they were doing
7 was trying to boost his reputation?

8 A. Correct.

9 Q. And improve his reputation?

10 A. Correct.

11 Q. Not destroy him.

12 A. After this documentary, correct.

13 Q. All right. Was it your understanding that
14 the more money Michael Jackson was capable of making
15 translated to the more money those three men were
16 capable of making?

17 MR. MESEREAU: Objection. Foundation;
18 relevance.

19 THE COURT: Sustained.

20 Q. BY MR. ZONEN: Did you know Frank Cascio?

21 A. Yes.

22 Q. How did you know Frank Cascio?

23 A. I met his family years ago.

24 Q. Years ago?

25 A. Yeah.

26 Q. How old was Frank Cascio when you met his
27 family?

28 A. It was just after little Michael had been

1 born. He must have been middle teens maybe. He was
2 the oldest of the boys.

3 Q. You didn't know him as a person who was

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4 involved in Mr. Jackson's relationships or business
5 affairs?

6 A. No.

7 Q. He was a teenager?

8 A. This is years ago. We're talking --

9 Q. Yes.

10 A. Yeah. No, no, no.

11 Q. Did he visit Mr. Jackson regularly?

12 A. The family came up -- I knew him with the
13 family, when Mr. and Mrs. Cascio were there with the
14 kids, with the boys.

15 Q. Did you understand Frank Cascio's
16 relationship with Michael Jackson to be very close?

17 A. He was close with all the Cascios.

18 Q. Did you know Vinnie Amen?

19 A. No.

20 Q. You made the statement, "If I'm considered a
21 commodity of Mr. Jackson." What did that mean?

22 MR. MESEREAU: Objection. Misstates the
23 evidence. She was talking about Mr. Schaffel.

24 THE COURT: Overruled.

25 You may answer.

26 Q. BY MR. ZONEN: Do you remember making that
27 statement?

28 A. Yes.

1 Q. What did that mean?

2 A. I was sellable.

3 Q. Do you mean in conjunction with your giving
4 this interview?

5 A. Yeah. I don't do interviews.

6 Q. Did you ever give an interview for the
7 press?

8 A. I did a couple of things with Chuck Henry in
9 the late .70s. He was a newscaster for NBC in Los
10 Angeles.

11 Q. You've given no interviews other than that?

12 A. Not personally, no.

13 Q. Did you believe that made you more
14 marketable?

15 A. To do the interviews?

16 Q. Yes.

17 A. I don't want to be marketable.

18 Q. I didn't ask that. I said, do you believe
19 that it made you more marketable; in other words,
20 for somebody else?

21 A. Yeah.

22 Q. Do you believe that you were asked to
23 participate in this interview because it would make
24 the film more marketable?

25 MR. MESEREAU: Objection. Calls for
26 speculation; foundation.

27 MR. ZONEN: It's her opinion.

28 MR. MESEREAU: And improper opinion.

1 THE COURT: Sustained for speculation.

2 Q. BY MR. ZONEN: Did any of the three of them,
3 Konitzer or Weizner or Schaffel, talk to you about
4 your participation in this video in terms of
5 mentioning that it would make the film more
6 marketable?

7 A. Yes, and that it would help Michael.

8 Q. Help Michael Jackson in terms of its
9 marketability?

10 A. Of the damage control from the Bashir
11 document -- documentary thing, show.

12 MR. ZONEN: Thank you. I have no further
13 questions.

14 MR. MESEREAU: No further questions, Your
15 Honor.

16 THE COURT: All right. Thank you. You may
17 step down.

18 THE WITNESS: Thank you, Judge.

19 THE COURT: Call your next witness.

20 MR. ZONEN: Iris Finsilver, please.

21 Your Honor, I'm sorry, I believe this may
22 take a moment. I believe she's upstairs.

23 THE COURT: When you get to the witness
24 stand, please remain standing.

25 BAILIFF CORTEZ: Remain standing.

26 THE COURT: Please remain standing.

27 THE WITNESS: Oh, yes, Your Honor. I'm
28 sorry. 8051

1 THE COURT: Face the clerk and raise your
2 right hand.

3

4 IRIS JOAN FINSILVER

5 Having been sworn, testified as follows:

6

7 THE WITNESS: I do.

8 THE CLERK: Please be seated. State and
9 spell your name for the record.

10 THE WITNESS: Iris Joan Finsilver. I-r-i-s.

11 J-o-a-n. F-i-n-s-i-l, V as in "Victor," e-r.

12 THE CLERK: Thank you.

13 THE WITNESS: Thank you.

14

15 DIRECT EXAMINATION

16 BY MR. ZONEN:

17 Q. Miss Finsilver, good morning.

18 A. Good morning.

19 Q. You're not used to being on that side of the
20 witness stand, are you?

21 A. No, I'm not.

22 Q. What is your occupation?

23 A. I'm a lawyer.

24 Q. How long have you been an attorney?

25 A. I was admitted to the bar of Michigan in or
26 about 1986.

27 Q. In then California?

28 A. In California, I believe I was admitted in 8052

1 1989.

2 Q. What kind of a practice do you have?

3 A. Family law.

4 Q. And family law means what?

5 A. Divorce, custody, child custody, support,
6 family matters.

7 Q. All right. Is Debbie Rowe Jackson your
8 client?

9 A. Yes.

10 Q. How long has she been your client?

11 A. Since in or about 1996.

12 Q. Did you represent her in her divorce with
13 Michael Jackson?

14 A. Yes, sir.

15 Q. Do you continue to represent her?

16 A. Yes, sir.

17 Q. Were you present at the filming of an
18 interview that took place in Calabasas at the
19 residence of Marc Schaffel back in February of 2003?

20 A. Yes, sir.

21 Q. Prior to doing that, had you engaged in any
22 legal work to be able to allow Deborah Rowe to

23 participate in that interview?

24 A. Yes, sir.

25 Q. What was the purpose of that?

26 A. It was -- she had signed a confidentiality
27 agreement, and in order for her to speak of Mr.

28 Jackson, she would have to be released from the 8053

1 confidentiality agreement for the express purpose of
2 speaking about Mr. Jackson.

3 Q. Did you draft that waiver of
4 confidentiality?

5 A. I think it was a mutual effort between Mr.
6 Jackson's lawyers and myself. It was in fact, yes.

7 Q. But it was one that was drafted as a
8 document?

9 A. Yes, sir.

10 Q. And was it one that required signatures?

11 A. Yes, sir.

12 Q. Whose signatures were required on that
13 document?

14 A. Mr. Jackson's and Deborah Rowe Jackson's.

15 Q. And did Debbie Rowe sign the document?

16 A. Yes, sir.

17 Q. And to your knowledge, did Mr. Jackson sign
18 the document?

19 A. Yes, sir.

20 Q. And following the signing of that document,

21 did Miss Rowe participate in an interview?

22 A. Yes, sir.

23 Q. Were you present during the interview?

24 A. Yes, I was.

25 Q. Were you present during the entirety of the

26 interview?

27 A. Yes.

28 Q. Approximately how long did that interview 8054

1 last?

2 A. Well, I can tell you the whole day was about

3 nine hours. And I can't exactly tell you how long

4 the filming took place. It was many hours of

5 filming throughout a nine-hour day.

6 Q. All right. Was there a man by the name of

7 Marc Schaffel present?

8 A. Yes, sir.

9 Q. Did you know Marc Schaffel prior to that

10 day?

11 A. I had never met him prior to that day.

12 Q. Did you know his name prior to that day?

13 A. I believe I did.

14 Q. In what context?

15 A. In that he would be --

16 MR. MESEREAU: Objection. Relevance and

17 foundation.

18 THE COURT: Overruled.

19 Q. BY MR. ZONEN: Go ahead.

20 THE COURT: Go ahead.

21 Q. BY MR. ZONEN: Oh, you don't need to be told
22 that, do you?

23 A. In that he would be part of the interview
24 that was going to be taking place, so that's how I
25 heard of his name. And I knew that we were going to
26 be going to Marc Schaffel's home, where the filming
27 was conducted.

28 Q. And was that where it was conducted, at his 8055
1 home?

2 A. Yes, sir.

3 Q. Was he present during the interview?

4 A. Yes, sir.

5 Q. Was he present during the entirety of the
6 interview?

7 A. Yes.

8 Q. Did he periodically make comments with
9 regards to the answers or questions that were given?

10 MR. MESEREAU: Objection; leading.

11 THE COURT: Overruled.

12 You may answer.

13 THE WITNESS: Thank you.

14 Yes.

15 Q. BY MR. ZONEN: Did you hear any
16 representations from Mr. Schaffel at any time during

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17 the course of the filming that dealt specifically
18 with the subject of Ms. Rowe's children?

19 A. Yes.

20 MR. MESEREAU: Objection; leading.

21 THE COURT: Overruled. The answer was,

22 "Yes." Next question.

23 Q. BY MR. ZONEN: What were those
24 representations?

25 MR. MESEREAU: Objection; hearsay.

26 MR. ZONEN: Relevant for prior stated
27 purposes.

28 THE COURT: Overruled. 8056

1 You may answer.

2 Q. BY MR. ZONEN: Go ahead.

3 A. I heard him, in connection with her answers,
4 when she would give a favorable answer, "Oh, Michael
5 will be very, very pleased about this. You're
6 really helping him out of a big jam, and you'll go
7 to Neverland and you'll see Michael and your kids."

8 Q. On how many occasions did he give an answer
9 of that nature?

10 A. I recall two specific times. There may have
11 been more. I just --

12 MR. MESEREAU: Objection; move to strike.

13 THE COURT: The last sentence is stricken.

14 MR. ZONEN: Thank you. I have no further

15 questions.

16 THE COURT: Mr. Mesereau?

17 MR. MESEREAU: No examination, Your Honor.

18 THE COURT: Thank you. You may step down.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Call your next witness.

21 MR. SNEDDON: Your Honor, I want to get an

22 exhibit book.

23 THE COURT: All right.

24 MR. SNEDDON: I was going to ask permission

25 to go between there, but I'll....

26 MR. ZONEN: I apologize, Your Honor.

27 I thought it would be a little faster than we

28 expected, but we are moving ahead of schedule. 8057

1 THE COURT: That's fine.

2 MR. SNEDDON: Call Andrew Dietz, Your Honor.

3 THE COURT: Come forward, please.

4 When you get to the witness stand, remain

5 standing. Face the clerk and raise your right hand.

6

7 ANDREW R. DIETZ

8 Having been sworn, testified as follows:

9

10 THE WITNESS: I do.

11 THE CLERK: Please be seated. State and

12 spell your name for the record.

13 THE WITNESS: Andrew R. Dietz, D-i-e-t-z.

14 THE CLERK: Thank you.

15

16 DIRECT EXAMINATION

17 BY MR. SNEDDON:

18 Q. Good morning.

19 A. Good morning.

20 Q. Mr. Dietz, you have a business -- you're

21 going to have to lean into that mike. Okay?

22 A. Good morning.

23 Q. Good morning. Do you have a business?

24 A. Yes, I do.

25 Q. And what is the name of your business?

26 A. Air Apparent, Inc.

27 Q. And where is your business located?

28 A. Los Angeles, California. 8058

1 Q. And what is the nature of the business?

2 A. It's a retail travel agency.

3 Q. And basically could you describe for us what

4 that means? What's a retail travel agency do?

5 A. We arrange transportation.

6 Q. And any other services you provide in

7 addition to transportation?

8 A. Not that I can think of.

9 Q. In connection with that transportation, you

10 make reservations at hotels and things like that?

11 A. Yes. Certainly.

12 Q. Now, in that particular business, what is
13 your position?

14 A. I'm the president.

15 Q. And how long have you been associated with
16 that business?

17 A. Since 1980.

18 Q. Now, is one of your clients MJJ Productions?

19 A. Yes.

20 Q. And how long has MJJ Productions been a
21 client of yours?

22 A. I believe around 15 years.

23 Q. And what is the nature of the business
24 services that you provide to MJJ Productions?

25 A. We arrange hotel, air transportation,
26 commercial air transportation, car reservations for
27 many of the people that he employs and engages in
28 work for himself. 8059

1 Q. What is the -- can you describe to the jury
2 what the business relationship is in terms of how
3 the services, once they're provided, how they're
4 invoiced and paid and how that works?

5 A. A call -- I think if you're asking how is
6 business conducted --

7 Q. Yes.

8 A. -- a call's typically made and a reservation

9 is usually made, a ticket is usually generated.

10 It's then invoiced and sent to the client.

11 Q. Now, at the time that the ticket is made,

12 do you have to -- do you have to pay for the ticket

13 yourself?

14 A. The minute the ticket is issued, it's my

15 obligation to pay the carrier.

16 Q. Okay. I guess that was the question. And

17 then you pay it and then invoice the client?

18 A. Correct.

19 Q. And then the client repays you?

20 A. Correct.

21 Q. Was that the type of business arrangement

22 that you had with MJJ Productions?

23 A. Yes.

24 Q. Now, at some point back in 2004, did members

25 of the sheriff's department come to your business

26 and execute a search warrant with regard to your

27 records?

28 A. Yes, they did. 8060

1 Q. And those records involved MJJ Productions;

2 is that correct?

3 A. Yes.

4 Q. And the time period covered by that was

5 March -- February and March of 2003?

6 A. I believe that's correct.

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7 MR. SNEDDON: Your Honor, may I approach the
8 witness?

9 THE COURT: Yes.

10 Q. BY MR. SNEDDON: All right. Mr. Dietz, I'm
11 going to hand you a book, and there are a number of
12 exhibits in the book. And the first exhibit I'd
13 like you to look at begins with 223 and I'd like you
14 to look just quickly through 249, and ask you if you
15 examined those documents yesterday, just to ensure
16 they're the documents that you examined.

17 A. Through what number?

18 Q. 249.

19 A. Did you say 239?

20 Q. 249.

21 A. I believe these are all the records that we
22 reviewed last night.

23 Q. And those records are records from your
24 business; is that correct?

25 A. That is correct.

26 BAILIFF CORTEZ: Excuse me, sir.

27 THE WITNESS: That is correct.

28 Q. BY MR. SNEDDON: And these records generally 8061

1 deal with what type of transactions?

2 A. Airline reservations, or airline tickets.

3 Q. And are they records dealing with your

4 business relationships with MJJ Productions?

5 A. They are invoices which reflect transactions
6 that we did.

7 Q. I think you're going to have to lean into
8 that mike a little bit.

9 A. Those are invoices that relate to tickets
10 that were issued to MJJ Productions.

11 Q. Now, are these generally the records that
12 are kept in the regular course of your business?

13 A. Yes, but not in the manner in which they
14 were given to you.

15 Q. What do you mean by that?

16 A. I mean the invoices are separated from the
17 copies of the tickets.

18 Q. Okay. We'll get to that. But both of those
19 documents are kept in the regular course of your
20 business; is that correct?

21 A. Yes.

22 Q. And the transactions that are reflected in
23 those documents, do those reflect transactions that
24 were made at or about the time that those events
25 occurred?

26 A. I believe they do.

27 Q. By people who are in your organization who
28 are responsible for documenting those? 8062

1 A. Yes.

2 Q. Let's turn -- if you could get that exhibit

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3 book and put it back in front of you, I'm going to
4 ask you a couple of questions.

5 A. Okay.

6 Q. With regard to -- let's turn to Exhibit No.
7 224, if we can.

8 A. Okay.

9 Q. All right. On --

10 A. 2-2-4?

11 Q. Yeah, 2-2-4. 224.

12 A. Gotcha. All right.

13 Q. 224 has two pages in it, correct?

14 A. Yes.

15 Q. Now, with regard to the first page, what is
16 the title of that document?

17 A. It's called an "Itinerary/invoice number."

18 Q. Do you recognize that document?

19 A. Yes, I do.

20 Q. Can you explain to us how that document's
21 generated?

22 A. An agent in the office will book a
23 reservation. The reservation system will then, at
24 the agent's queue, ticket the reservation for the
25 itinerary in question, and then an e-ticket is
26 basically created for a passenger to be picked up at
27 Los Angeles International Airport.

28 Q. And then with regard to that particular 8063

1 document, how do you use that in your business?

2 A. To collect money.

3 Q. To collect money. That's the invoice part

4 of it?

5 A. That's the invoice part. The itinerary part

6 is related to the -- for the accountant, business

7 manager, to see the nature of the -- see the actual

8 details of the flight, as would the ticket show you

9 the same things, as relates to dinner or how long

10 the flight was, things like that.

11 Q. All right. So these are generated at or

12 about the time of the transaction, contemporaneous

13 with the transaction?

14 A. Yes. In most cases.

15 Q. And you say the invoice part of it. How

16 does it serve as an invoice? How do you use that in

17 your business practice?

18 A. I mail them out for my services, and I

19 expect them to get paid in a timely manner.

20 Q. Okay. Now, the second part of that

21 Exhibit 224 has what is called an agent coupon,

22 correct?

23 A. Correct.

24 Q. All right. Would you explain to us what the

25 agent coupon is?

26 A. The agent coupon I believe represents our

27 copy of the transaction for purposes of maintaining

28 it for our regulatory people. In the airline 8064

1 business, you have to report your weekly sales of
2 airline tickets.

3 Q. So that would be a record used by you to be
4 audited --

5 A. We present the, quote, "auditor's coupon,"
6 and we retain the agent coupon. A ticket has many
7 different -- has flight coupons, as well as agent
8 coupons, passenger coupons, and auditor coupons.

9 Q. And how is the document -- agent coupon
10 generated or prepared?

11 A. It's one of -- as I just stated, it's I
12 think a five-part document.

13 Q. But internally that document is generated
14 within your business?

15 A. Within our reservation system.

16 Q. Now, within your company, with regard to the
17 agent coupon document, are those located in a
18 separate place in your business?

19 A. Yes.

20 Q. So they're not located exactly with the
21 invoice and the itinerary information?

22 A. Definitely not.

23 Q. But they're both located and kept for
24 business purposes?

25 A. Correct.

26 Q. And are the exhibits contained in the ones
27 that you reviewed, 223 through 239 (sic), are those
28 records regularly relied upon by you to conduct 8065

1 business?

2 A. I believe they are, yes.

3 MR. SNEDDON: Your Honor, I'd move to admit
4 223 through 249 into evidence as business records.

5 MR. SANGER: No objection.

6 THE COURT: All right. They're admitted.

7 MR. SNEDDON: And with the Court's
8 permission, I'd like to remove a couple of the
9 documents to publish.

10 THE COURT: All right.

11 MR. SNEDDON: To ask some further questions.

12 I don't need the lights just yet, Your

13 Honor.

14 Q. There are two other documents that I want to

15 show you before we go through the publication

16 process. And I'm showing them to counsel.

17 These have been marked, Your Honor, as 852,

18 which is a three-page document from Air Apparent,

19 and 853, which is a five-page document, or five

20 pages in the document, which is also an Air Apparent

21 record.

22 And may I approach?

23 THE COURT: Yes.

24 Q. BY MR. SNEDDON: Mr. Dietz, I'm going to
25 hand you the exhibit marked as Exhibit 852. I'd
26 like you to take a look at that for just a moment.

27 A. Okay.

28 Q. Go ahead and take a look at the pages in 8066

1 that document. They're multiple pages.

2 Do you recognize those?

3 A. Yes.

4 Q. Those are also documents that were obtained
5 through the search warrant?

6 A. I believe so.

7 Q. And those are also records that are kept in
8 the normal course of your business?

9 A. I believe so.

10 Q. And it is also, just for the record, an
11 itinerary/invoice record, correct?

12 A. Correct.

13 Q. And let me show you 853 and ask you if you
14 recognize that. And the pages attached, there are
15 five pages.

16 A. Yes.

17 Q. Do you recognize those documents?

18 A. Yes, I do.

19 Q. And you were able to compare those documents
20 to your actual business records to ensure that they
21 were part of the records that were taken pursuant to

22 the search warrant, correct?

23 A. Yes.

24 Q. And with regard to those records, they were
25 also made at or about the time of the transaction?

26 A. Yes.

27 Q. By personnel --

28 A. Yes. 8067

1 Q. -- in your office and kept in the normal
2 course of business?

3 A. Yes.

4 Q. All right. Thank you.

5 Your Honor, I'd move to admit 852 and 853.

6 MR. SANGER: No objection.

7 THE COURT: They're admitted.

8 MR. SNEDDON: All right. Now, Your Honor,
9 if we could have the Elmo, I'd appreciate it.

10 Q. The document that's up there is 223, which
11 is in evidence, okay? Now, do you recognize this
12 document?

13 A. Yes.

14 Q. Now, at the top of the document I'm
15 indicating a customer number. Are the individuals
16 that you service assigned a customer number?

17 A. Yes.

18 Q. And that number carried over to all the
19 business transactions that you conduct with that

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20 particular individual or company?

21 A. Several accounts have different companies --
22 there is different -- there are some accounts that
23 have different customer numbers.

24 Q. In other words, an individual or a business
25 may have more than one account with you?

26 A. Correct.

27 Q. Okay. But wherever they are billed to, that
28 number is used, either on one of the accounts or on 8068

29 another account with regard to that business or
30 individual?

31 A. The MJJ Productions had more than one
32 account.

33 Q. Correct. Now, the information at the top,
34 it says, "MJJ Productions." What is that
35 information in terms of how you conduct your
36 business?

37 A. That's the mailing -- that's the mailing
38 address that we've been requested to send invoices
39 to.

40 Q. And with regard to the next line down, it
41 says "For," and has "Gavin Arvizo, Star Arvizo,
42 Janet Arvizo." Do you see that?

43 A. Yes.

44 Q. And what does that information reflect?

45 A. I believe it reflects the passengers' names.

18 Q. And obviously the next says, "Travel
19 Itinerary." This is the itinerary that was explored
20 for these individuals; is that correct?

21 A. Correct.

22 Q. And lastly, it indicates whether the ticket
23 is a one-way ticket or a round-trip ticket, correct?

24 A. Correct.

25 Q. In this case, this particular itinerary
26 that was looked into was a one-way ticket for those
27 individuals?

28 A. Correct. 8069

1 Q. Now, with regard to this particular
2 document -- look in the book, if you would, to the
3 document in front of you that's 224, okay?

4 A. Yeah.

5 Q. On that particular document, the heading on
6 it is "Itinerary and Invoice," correct? On 224?

7 A. Yes.

8 Q. And this particular document only reflects
9 the itinerary on the date of February the 5th,
10 correct, of 2003?

11 A. Correct.

12 Q. What is the difference, if there is one, in
13 the use between the document reflected in 223 and
14 the document that you just spoke about in 224?

15 A. Well, the itinerary typically is a document

16 which you would fax to somebody or e-mail somebody
17 to inform that -- to more or less confirm with the
18 person that requested the transportation that, "This
19 is the itinerary request" --

20 Q. Okay. And --

21 A. -- "correct?" And then we expect, you know,
22 "That's right. Ticket it."

23 Q. And with regard to the travel itinerary, I
24 want to go back to the date underneath where it
25 says, "Travel Itinerary," on 223, it says, "05
26 February, .03." That would be the date of travel?

27 A. That's correct.

28 Q. Okay. We can take that one down. 8070

1 All right. This is Exhibit 852, all right?

2 A. Yes.

3 Q. Could you explain to us what this particular
4 document is that is displayed as 852 and that has
5 the heading "Itinerary/Invoice Number"?

6 A. This is primarily what I refer to as an
7 invoice. And as I was relating before, besides
8 showing you how much the tickets cost, it also
9 provides an itinerary for the passenger, or for the
10 person paying the bill, so that they can see that --
11 whatever flight information they want to see from
12 that.

13 Q. All right. Now, in this particular

14 document, 852, it reflects that the customer -- it
15 has a customer number, correct?

16 A. Correct.

17 Q. Is that the customer number for one of the
18 accounts for MJJ Productions?

19 A. Yes.

20 Q. And then the "To" section on this particular
21 document, 852, is where you would send the bills to?

22 A. That's correct.

23 Q. Right below are a couple of names. What are
24 those names? Why are those names on that itinerary?

25 A. That probably represents the passengers
26 flying.

27 Q. And then under "Travel Itinerary," then that
28 is the flight information, correct? 8071

1 A. That is correct.

2 Q. And then on the Travel Itinerary it has,
3 above -- on the line where I'm showing, it shows
4 air -- "American Airlines Flight 1245," and then it
5 has across there "Business." What does that
6 reflect?

7 A. The type of service. Business class.

8 Q. Business class. And to your knowledge, how
9 many types of services or classes are there on
10 ordinary domestic flights?

11 A. Primarily coach and first class. They throw

12 in business as well.

13 Q. And then down at the bottom it would be the
14 total amount due on this particular invoice?

15 A. That's correct.

16 Q. All right. The second page of the Exhibit
17 852, what is that?

18 A. That's a copy -- that's the agent coupon.

19 Q. This is what you told the jury about earlier
20 in your testimony?

21 A. Yes.

22 Q. And with regard to this particular document,
23 the information that is on this document, does it
24 give flight information?

25 A. Yes.

26 Q. And does it give the name of the individual
27 on it?

28 A. Certainly. 8072

1 Q. So in this case, it says, "Christopher
2 Carter," correct?

3 A. Correct.

4 Q. And it also contains the amount of money
5 that's paid?

6 A. Correct.

7 Q. All right. The third and last document of
8 page 852 is another agent coupon, correct?

9 A. Yes.

10 Q. It reflects a different name on it; is that
11 right?

12 A. Correct.

13 Q. And the name being?

14 A. "Danny Crawford."

15 Q. And these two names are the same names that
16 are on the front page of the invoice/itinerary that
17 you earlier talked about as Exhibit 852. I don't
18 know if you have that in front of you. We can put
19 that back up. Here it is.

20 Same two names under the "For" section,

21 F-o-r, in 852, correct?

22 A. The first one said Christopher Carter. That
23 makes sense. The second one said Danny Crawford.

24 Q. And they correspond to the agent coupons
25 that go with this document?

26 A. Yes.

27 Q. The flight information matches up; is that
28 correct? 8073

1 A. That's -- hold on one second. If you go
2 back to the ticket, I can tell you.

3 Q. All right. Put the agent coupon back up.

4 You may want to heighten that up a little bit.

5 A. I'm trying to look first.

6 BAILIFF CORTEZ: Okay.

7 THE WITNESS: Can't see the flight

8 information. J. American Airlines. I'm sorry, I'm
9 not that familiar with these documents.

10 MR. SANGER: Your Honor, excuse me. I'm
11 sorry.

12 MR. SNEDDON: Let me --

13 MR. SANGER: I couldn't hear the witness's
14 last answer.

15 MR. SNEDDON: There was no question pending,
16 I don't think.

17 MR. SANGER: He was asked to look at the --
18 he said something about, "I'm not" -- sounded like
19 he said, "I'm not familiar," and I couldn't hear
20 what he said.

21 THE WITNESS: I said -- do you want me to
22 answer?

23 THE COURT: He said that he wasn't that
24 familiar with the document.

25 MR. SANGER: Thank you, Your Honor.

26 THE WITNESS: What are -- what do you want
27 me to tell you about this document?

28 MR. SNEDDON: Let me just put that down. 8074

1 Let's put 852 back up. This is....

2 Q. All right. On the document, 852, it has two
3 airline ticket numbers, correct, in the lower
4 left-hand corner?

5 A. I can tell you if they're the same ticket

6 numbers for sure --

7 Q. You have to turn into the microphone.

8 A. I can tell you if they're the same numbers

9 if you go back.

10 Q. You got ticket numbers on the invoice and

11 itinerary.

12 A. That I can see. 465, 466.

13 Q. Okay. And then if you put up the other

14 two --

15 A. 466 and 465.

16 Q. They match?

17 A. That matches.

18 Q. So they go with that flight?

19 A. I believe they do.

20 Q. All right. Wasn't supposed to be that hard.

21 It's hard to see from here. No problem.

22 Let's try 853. All right. Now, this 853 is

23 another document that's an itinerary/invoice,

24 correct?

25 A. Yes.

26 Q. For March 2nd?

27 A. Right.

28 Q. And it reflects that there are four people 8075

1 who are supposed to travel under this invoice?

2 A. Yes.

3 Q. And four tickets issued down in the lower

4 left-hand corner, correct?

5 A. Yes.

6 Q. With ticket numbers associated with that

7 flight?

8 A. Yes.

9 Q. All right. Now, I'm going to put up the

10 first agent coupon for that flight. And I'll tell

11 you what I'm going to do. I'm going to come up

12 there and hand you 852, the first page. Make this

13 easier.

14 A. Yes. Thanks.

15 Q. Now, looking at 852, and the front part of

16 it that has the ticket information for it, and

17 looking at the exhibit -- agent coupon, which is

18 part of that exhibit, does the ticket number on the

19 front of that invoice match the agent coupon on the

20 Exhibit 853? Or -- 853, yes.

21 A. Yes.

22 Q. All right. Let's put the second one up.

23 And -- excuse me. That was for an M. Jackson,

24 correct?

25 A. Yes.

26 Q. All right. Let's put the second one up, the

27 second agent coupon.

28 Now, this particular agent coupon has 8076

1 stamped in the middle of it "Void," v-o-i-d,

2 correct?

3 A. Correct.

4 Q. And could you look at the front of the
5 document, the first page with regard to the ticket
6 number? Does the ticket number on the agent coupon
7 for a Michael LaPerruque match the ticket number on
8 the front of the invoice for this particular
9 document, 853?

10 A. Yes.

11 Q. Now, with regard to your business practices,
12 what does it mean when you have an agent coupon that
13 has "Void" on it?

14 A. The ticket was not used.

15 Q. And how is it that you become informed, in
16 your normal business practices, that the ticket was
17 not used?

18 A. In our normal business practices?

19 Q. Right.

20 A. Either they don't show up at the airport, or
21 somebody calls in and tells us to cancel the
22 reservation.

23 Q. Are you also -- are you given any
24 information from the airlines themselves that
25 reflects whether the person was on the flight or
26 not?

27 A. No -- yes. For e-tickets, the person has to
28 pick up the e-ticket. 8077

1 Q. And if they don't, then you're notified?

2 A. Then we're notified.

3 Q. And --

4 A. To the best of my knowledge.

5 Q. And the particular stamp "Void" that's on
6 the ticket agent -- or the agent coupon, on this one
7 for Mr. LaPerruque, is that placed on there by your
8 staff in the regular course of your business in the
9 performance of their responsibilities?

10 A. Yes. Yes.

11 Q. Is this document used to adjust any billings
12 that may have occurred where a ticket wouldn't be
13 used?

14 A. Certainly.

15 Q. Let's go back to the document you have in
16 front of you, which is 853, okay?

17 A. Uh-huh.

18 Q. So we're all on the same page.

19 853 is a billing for four tickets in the
20 total amount of what?

21 A. \$6,644.

22 Q. And if this ticket -- if this particular
23 ticket to Mr. LaPerruque isn't used, then you have
24 to adjust your billings accordingly; is that
25 correct?

26 A. Yes.

27 Q. All right. Let's go to the next one. The
28 next agent coupon involves an individual by the name 8078

1 of Marie Cascio. Do you see that?

2 A. Yes.

3 Q. And on the exhibit that you have in front of
4 you, the itinerary invoice, does the name "Marie
5 Cascio" appear?

6 A. Yes.

7 Q. And is the ticket number assigned to her on
8 the exhibit number of the first age, 853, the same
9 as the ticket number on the agent coupon that the
10 jury's looking at?

11 A. Yes.

12 Q. And again, this one is stamped with "Void,"
13 correct?

14 A. Correct.

15 Q. Meaning she did not take the trip?

16 A. She did not make that trip.

17 Q. All right. Let's put up the last one.

18 The last agent coupon associated with the
19 invoice 853 is an Aldo Cascio, correct?

20 A. Yes.

21 Q. Does the ticket number on this particular
22 document, the agent coupon, match up with the ticket
23 number on the first page of 853?

24 A. Yes.

25 Q. And again, this one is stamped with "Void,"

26 correct?

27 A. Yes.

28 Q. Indicating the person did not make the 8079

1 flight?

2 A. Yes.

3 MR. SNEDDON: I think we can have the

4 lights, Your Honor. Thank you.

5 I have two more documents, Your Honor, that

6 I'd like to have marked for identification. 854 and

7 855 for identification purposes. I'm showing them

8 to counsel. He's seen them.

9 THE COURT: All right.

10 Q. BY MR. SNEDDON: All right. Mr. Dietz, I'm

11 going to take this back so we don't lose it. You

12 can swing around there.

13 I'm going to show you a document that --

14 it's actually a three-page document, front, back and

15 then front, entitled, "Client Summary," and ask you

16 to look at that document.

17 Do you recognize that document?

18 A. Yes, I do.

19 Q. And does that document for the time period

20 of - may I have it back just a second, just to make

21 sure I've got this right? - February 5th, 2003,

22 through February 12th, 2003, reflect the summary of

23 the transactions that -- and services provided by
24 your company to MJJ Productions?

25 A. Not this in front of us. This is only two
26 pages.

27 Q. No, the back page.

28 MR. SANGER: I'm sorry, I can't hear the 8080

1 witness.

2 MR. SNEDDON: He said --

3 Q. Lean into it and say what you said.

4 A. I'm sorry, I thought we did more
5 transactions than this in that time frame. There
6 must be another client summary.

7 Q. This is only for the 5th to the 12th.

8 A. Okay.

9 MR. SANGER: Objection. Leading and
10 argumentative.

11 THE COURT: Overruled.

12 Q. BY MR. SNEDDON: Go ahead and take the paper
13 clip off and look at all three pages.

14 Have you looked at all three pages?

15 A. Yes.

16 Q. Okay. You --

17 A. But they only reflect activity through
18 February 12th, when this is for February 1st through
19 March 31st.

20 Q. Okay. But the caption at the right is --

21 has a larger period, correct?

22 A. That's right.

23 Q. All right. Now, I want to show you --

24 A. And there's transactions that you've shown
25 me that are clearly not on here.

26 Q. Now I want to show you Exhibit 855.

27 A. Okay.

28 Q. And take the clip off and look at them front 8081

1 and back, if you would.

2 A. Okay. Okay.

3 Q. You've seen those documents before, correct?

4 A. Yes.

5 Q. You saw them last night?

6 A. Correct.

7 Q. Are those the other transactions that you
8 had in mind between this time period in question?

9 A. Yes.

10 MR. SANGER: Objection; calls for hearsay.

11 THE COURT: Overruled.

12 Q. BY MR. SNEDDON: And this particular
13 document, which is 13 pages in length, covers the
14 period 2-12-03 --

15 A. Uh-huh.

16 Q. -- correct? And ends at the end of March of
17 2003, correct?

18 A. Uh-huh. Yes.

19 Q. Now -- all right. Why don't you keep these
20 for just a second.

21 All right. Now, Mr. Dietz, with regard to
22 the Exhibit 854, does that have an account number on
23 it?

24 A. 854. Yes, it does.

25 Q. What's the account number?

26 A. 1359.

27 Q. What's the customer?

28 A. MJJ Productions, Inc. 8082

1 Q. You're going to have to lean into the mike.

2 A. MJJ Productions, Inc.

3 Q. All right. Now, let's look at Exhibit 855,
4 if we can.

5 A. Okay.

6 Q. What's the billing account on that
7 particular series of transactions?

8 A. MJJ Productions, Inc.

9 Q. That's the customer?

10 A. That's the customer.

11 Q. What's the account number?

12 A. 1656.

13 Q. It's a different account from the other --
14 from Exhibit 854, correct?

15 A. That's correct.

16 Q. Now, with regard to the information that is

17 reflected in those client summary forms - okay? -
18 the information reflected in those, is that
19 information that you keep in the normal course of
20 your business?

21 MR. SANGER: I'm going to object, Your
22 Honor. There's a lack of foundation as to who
23 prepared these and where they came from.

24 MR. SNEDDON: Well, that's what I'm trying
25 to do.

26 THE COURT: The objection is overruled.

27 You may answer.

28 Q. BY MR. SNEDDON: Is the information 8083

1 contained in these documents, Client Summary,
2 information that you utilized in your business to
3 bill clients and to keep a history on the services
4 you provide to those clients?

5 A. Is the information?

6 Q. Yes.

7 A. Yes, the information is.

8 Q. And then that information, in this
9 particular case with regard to MJJ Productions'
10 accounts during this time period, was put into this
11 format, correct?

12 MR. SANGER: Objection; lack of foundation.

13 THE COURT: I don't know what the question --

14 really what you're asking him. Maybe you do, but I

15 don't.

16 MR. SNEDDON: If you don't, the jury

17 doesn't, so I better start over again.

18 Q. The documents that you have, let's start

19 with them individually. 854, the Client Summary for

20 854, okay?

21 A. Yes.

22 Q. All right. Did your -- did your business

23 prepare those documents?

24 A. Yes.

25 Q. And -- you have to lean into the microphone.

26 A. Yes.

27 Q. And did your business -- did the information

28 contained on the document, 854, come from business 8084

1 entries of documents that you maintained in the

2 regular course of your business, information that

3 you maintained?

4 A. Yes. It's a computer-generated report.

5 It's something we made up. It's something that the

6 computer generates based on the subpoena we

7 received, which was to give us all the transactions

8 that occurred between February 1st and March 31st.

9 Q. And between the documents 8 -- in 855, the

10 document 855, look at that. That's a Client

11 Summary?

12 A. Uh-huh.

13 Q. Is that the same -- would you make the same
14 statement with regard to that document? It's
15 information generated from your computers?

16 A. That's correct.

17 Q. And --

18 A. For the purposes of the subpoena.

19 Q. Correct. Now, with regard to those
20 particular documents, do they cover the transactions
21 that are reflected in the Exhibits 223 through 249?

22 A. I haven't had time to do that, but I would
23 assume they do.

24 Q. Well, yesterday --

25 MR. SANGER: Excuse me. Move to strike as
26 speculation.

27 THE COURT: Sustained. Stricken.

28 Q. BY MR. SNEDDON: Yesterday, you were asked 8085

1 to look at those Client Summary forms and compare
2 them with certain transactions to confirm whether or
3 not particular invoices were sent in certain amounts
4 for certain flights, correct?

5 MR. SANGER: Objection; leading.

6 THE COURT: Overruled.

7 THE WITNESS: Can you say that again?

8 THE COURT: I can have it read back to you.

9 Just a moment.

10 (Record read.)

11 THE WITNESS: Yes, we briefly looked at this
12 Client Summary for a few -- for a few -- I would say
13 for less than 30 seconds. And I referred -- I
14 actually remember going back to it once or twice
15 with respect to one or two invoices on it.

16 Q. BY MR. SNEDDON: Right.

17 A. Rather than every one on them. So I
18 couldn't attest to every one. In general --

19 Q. We discussed in general --

20 A. We discussed the ones you've already brought
21 up.

22 Q. Let's just establish that, okay?

23 A. Okay.

24 MR. SANGER: I want to move -- Mr. Sneddon's
25 comments about what he discussed, move to strike
26 those.

27 MR. SNEDDON: I don't have a problem with
28 that, Judge. I'll just ask the question. 8086

1 THE COURT: All right. Go ahead.

2 Q. BY MR. SNEDDON: Mr. Dietz, with regard to
3 the Documents 854 and 855 --

4 A. Yes.

5 Q. -- yesterday you and I discussed how those
6 documents were prepared, correct?

7 A. Yes.

8 MR. SANGER: Objection; leading.

9 THE WITNESS: Yes.

10 THE COURT: Overruled. The answer is, "Yes."

11 Next question.

12 Q. BY MR. SNEDDON: And then I asked you to
13 take those documents and look at a couple of
14 specific flights, did I not?

15 A. Yes.

16 MR. SANGER: Objection. Leading, Your

17 Honor.

18 THE COURT: Overruled.

19 Q. BY MR. SNEDDON: Now, with regard to the
20 transaction reflected in the Document 853 --

21 A. Okay.

22 Q. -- all right? - were you asked to look at
23 your Client Summary form to determine whether or not
24 the invoice reflects a charge of 6,000 -- whatever
25 it is, \$6,600 for those four people, or whether it
26 reflects a flight of one person?

27 A. It reflects -- I believe it reflects the
28 price of one person. 8087

1 MR. SANGER: I'm going to move to strike
2 that answer on the grounds that it's based on
3 hearsay. And there's no foundation.

4 MR. SNEDDON: Your Honor, I think he's --
5 the records are before the Court, and he's simply
6 using this to verify the authenticity of those

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7 records.

8 MR. SANGER: Objection to speaking

9 responses.

10 MR. SNEDDON: Well --

11 THE COURT: Well, it seems to me you haven't

12 offered them as business records.

13 MR. SNEDDON: I was getting there. I was

14 trying to lay the foundation for that, as to the

15 relevancy first, and then I was going to go into

16 that. Perhaps if you --

17 THE COURT: I think if you go to the business

18 record foundation first, and then they're either

19 admitted or not admitted, then you're -- if they're

20 admitted, then you can question him in the way

21 you're questioning him.

22 MR. SNEDDON: All right.

23 THE COURT: And I know I might be not quite

24 understanding still the record that he's looking at.

25 MR. SNEDDON: Let me ask one other question.

26 It might help the Court guide us through this.

27 THE COURT: All right.

28 MR. SNEDDON: Make it a little clearer. 8088

1 Q. Mr. Dietz, you're going to have to lean into

2 the microphone there, okay?

3 A. Uh-huh.

4 Q. Mr. Dietz, with regard to the Exhibit 853 -

5 okay? - that's the one that has the void tickets on
6 it.

7 A. Yes.

8 Q. -- does your business maintain information
9 that would reflect the adjustment as to whether or
10 not the original invoice is sent to your client for
11 payment or some subsequent amount is sent to reflect
12 the voids?

13 A. The original invoice may have definitely
14 been mailed out. Actually, no, I know that it was
15 not mailed out. It was adjusted to reflect that one
16 passenger -- that only one e-ticket was issued.

17 Q. Now, going to the Client Summary form, okay?

18 A. Yes.

19 Q. Do the Client Summary forms contain
20 information maintained by your business in the
21 normal course of business to reflect the
22 transactions that occurred on the exhibits that I
23 showed you, 223 to 249?

24 A. Yes.

25 Q. And that information is kept in the normal
26 course of your business, correct?

27 A. The information on that summary is.

28 Q. Yes. 8089

1 A. Yes.

2 Q. And with regard to the mode and time of the

3 preparation of that information as it's placed into
4 your computer, it's made at or about the time of the
5 transactions; is that correct?

6 MR. SANGER: Objection. That -- there's a
7 lack of foundation. That's the connection. Lack of
8 foundation.

9 THE COURT: Overruled.

10 You may answer.

11 THE WITNESS: Can you repeat the question?

12 THE COURT: Yes.

13 (Record read.)

14 THE WITNESS: Yes and no.

15 Q. BY MR. SNEDDON: Yes and what?

16 A. Reservations can be made. It's only -- an
17 invoice is generated only when the reservation is
18 turned into a ticket.

19 Q. Right. And that's what we're talking about
20 here.

21 A. Okay.

22 MR. SANGER: Objection. Move to strike
23 counsel's comment.

24 MR. SNEDDON: Well --

25 THE COURT: Overruled. Go ahead.

26 Q. BY MR. SNEDDON: Just so there will be no
27 question about it, the exhibits we're talking about,
28 except for the one exhibit, 223, all reflect 8090

1 transactions that occurred, correct, tickets were
2 issued?

3 A. Except for --

4 MR. SANGER: I'm sorry, I have to object.

5 What exhibits are we talking about, except for 223?

6 Vague.

7 MR. SNEDDON: I'll clarify it.

8 Q. I asked you to look at the documents 223

9 through 249, and then I asked you to look at 852 and

10 853, correct?

11 A. Yes.

12 Q. All right. Are those all transactions that

13 occurred between you, Air Apparent, your company,

14 and MJJ Productions?

15 A. Yes.

16 Q. And with regard to the information contained

17 on those transactions, is that the information

18 that's downloaded to your computers?

19 A. Yes.

20 Q. And you use that for your business purposes?

21 A. Yes.

22 Q. And with regard to the exhibits, now getting

23 back to 854 and 855 - all right? --

24 A. Yeah.

25 Q. -- they contain a client summary - correct? --

26 A. Yeah.

27 Q. -- of all of those transactions from

28 information that was loaded into your computers at 8091

1 or about the time of the transactions?

2 A. Correct.

3 MR. SNEDDON: All right. I move they be

4 admitted.

5 MR. SANGER: And I would object.

6 MR. SNEDDON: Let me ask one more question.

7 I want to ask one more question, and this may take

8 care of it.

9 Q. With regard to the Client Summary form -

10 okay? - and the information that's on that form -

11 okay? - does that information -- from that

12 information, are you able, in the due course of your

13 business, to be able to provide invoices to clients

14 to be paid that may be different than the original

15 invoices that were sent out?

16 A. Yes.

17 MR. SNEDDON: All right. Now I move they --

18 THE WITNESS: But not in that form.

19 Q. BY MR. SNEDDON: I understand that. But

20 that's what the information is used for, correct,

21 the information that's in your computer?

22 A. Yes.

23 MR. SANGER: I'm going to object. It's

24 leading; argumentative; statements of counsel.

25 THE COURT: Overruled.

26 Q. BY MR. SNEDDON: I think the point you're
27 trying to make -- and I think you made it, but let's
28 just make sure that the jury understands. What 8092

1 you're --

2 MR. SANGER: Move to strike comments of

3 counsel, Your Honor.

4 THE COURT: Sustained.

5 Q. BY MR. SNEDDON: The Client Summary form was
6 a form that was produced specifically to respond to
7 the search warrant, correct?

8 A. Yes.

9 Q. That form itself is not something that you
10 use ordinarily, correct?

11 A. Yes.

12 Q. All right. But the information on the form
13 is all information that you house at your place of
14 business to conduct business, correct? It was just
15 downloaded into a different format?

16 A. I -- yes.

17 MR. SANGER: Objection. Well -- I was going
18 to object, compound.

19 THE COURT: Sustained.

20 MR. SNEDDON: All right. We'll break it up.

21 Q. Is it information that you maintain at your
22 place of business to conduct business?

23 A. Is what, the --

24 Q. The information on those forms.

25 A. Yes.

26 Q. Is that input into your computer?

27 A. Yes.

28 Q. All right. And is that information -- 8093

1 A. That's the output. That is the output from

2 input.

3 Q. Well, let's go back. It's a matter of

4 semantics.

5 A. Okay.

6 Q. The information on the form is the output?

7 A. Correct.

8 Q. The information that went into the computer

9 is the input?

10 A. Correct.

11 Q. The information that's input is information

12 that you keep in the normal course of your business?

13 A. Yes.

14 Q. It happened to be output into this format

15 for this trial?

16 A. Yes.

17 Q. But reflects information that you keep?

18 A. Yes.

19 MR. SNEDDON: All right. Now I move that

20 they be admitted.

21 MR. SANGER: And I object and request either

22 to have an opportunity to voir dire or ask the Court
23 to reserve ruling until cross.

24 THE COURT: Well, I think he needs to ask him
25 some questions about this, so I'll let you voir dire
26 now, rather than wait. I don't think that's
27 productive.

28 MR. SANGER: That's fine. That's why I 8094

1 offered. Thank you.

2
3 VOIR DIRE EXAMINATION

4 BY MR. SANGER:

5 Q. Mr. Dietz, how are you doing?

6 A. Good. How are you doing?

7 Q. I'm doing fine, thank you.

8 On 854 and 855, it's my understanding that
9 you had not seen those document before they were
10 shown to you by the District Attorney; is that
11 correct?

12 A. Um, before last evening?

13 Q. Yes.

14 A. I might have looked at them in preparation
15 for coming up here.

16 Q. You're not sure?

17 A. I'm not sure.

18 Q. And those are not documents that you
19 downloaded from your computer; is that correct?

20 A. I don't believe I downloaded them. I

21 believe one of my accounting staff did.

22 Q. Okay. So you're assuming that that was

23 something somebody on your accounting staff did; is

24 that correct?

25 A. I'm pretty certain that it's something that

26 somebody did on my accounting staff.

27 Q. You have not had an opportunity to verify

28 whether or not the billing amounts, the invoice 8095

1 amounts to the particular client, are accurate in

2 each regard on those two exhibits; is that correct,

3 sir?

4 A. Do you mean the invoices to the statement?

5 Q. Yes. In other words --

6 A. To the Client Summary that's been presented?

7 Q. Let me withdraw it. Your question indicates

8 that my question was not clear.

9 A. All right.

10 Q. On 854 and 855 --

11 A. Yeah.

12 Q. -- these client billing summaries --

13 A. Yeah.

14 Q. -- they show invoice amounts to the client,

15 correct?

16 A. Correct.

17 Q. You have not had an opportunity to determine

18 whether or not the invoice amounts shown on those
19 documents are accurate in each case; is that
20 correct?

21 A. Not in each case.

22 Q. And these documents, as far as you knew,
23 were prepared for the purposes of this litigation;
24 is that right?

25 A. Yes.

26 MR. SANGER: I have no further questions on
27 voir dire, and I object.

28 THE COURT: Does that material on the 8096

1 printouts on 854, 855, is that a compilation of the
2 material that's in your computer on this particular
3 account?

4 THE WITNESS: Yes.

5 THE COURT: All right. Your objection is
6 overruled. They're admitted as a compilation. But
7 after that --

8 MR. SNEDDON: I should have let you ask the
9 questions, Your Honor. We'd be way ahead of the
10 game.

11 THE COURT: Well, I've just got to start
12 this break early. That was so painful.

13 (Laughter.)

14 (Recess taken.)

15 THE COURT: All right. Mr. Sneddon, go

16 ahead.

17 Q. BY MR. SNEDDON: Mr. Dietz, I placed in
18 front of you the document that's in evidence.

19 That's 853, all right?

20 And does that document have or bear an
21 invoice number?

22 A. Yes, it does.

23 Q. What is that invoice number?

24 A. 0143505.

25 Q. And the amount of money that's indicated on
26 that invoice number is what?

27 A. \$6,644.

28 Q. For four tickets? 8097

1 A. Correct.

2 MR. SNEDDON: I'm going to place on the
3 Elmo, Your Honor, if I might have it for just a
4 moment, page six of Exhibit 855.

5 No, the other one. Back. Back. There.

6 All right.

7 Q. The information contained on page six of
8 Exhibit 855 has the date in the far left-hand
9 corner; is that correct?

10 A. Correct.

11 Q. And moving down the date to March 1st, 2003,
12 in the second column over, what does the number
13 143505 refer to?

14 A. The invoice number.

15 Q. And with regard --

16 MR. SANGER: Excuse me.

17 Q. BY MR. SNEDDON: -- to the far right-hand
18 side of the exhibit at the top, it bears the word
19 "fare," correct, f-a-r-e?

20 A. Yes.

21 Q. And with regard to the flight on Invoice No.
22 143505, you billed \$1,661, correct?

23 A. Yes.

24 Q. Is the invoice number and trip reflected on
25 page six of the Exhibit 855 the same trip that's
26 represented by the invoice number on 853?

27 A. You got me there. Where is 855?

28 Q. 853, the one in your hands. 855 is the one 8098

1 on the board.

2 A. Okay.

3 Q. Is that the same trip?

4 A. That is the same trip, but the invoice
5 was -- the ticket was issued the weekend. It was
6 changed over the weekend, or reservations were
7 cancelled. Flights were issued, e-tickets were
8 issued. Three of the passengers did not travel --

9 Q. So this --

10 A. -- on this itinerary.

11 Q. Okay. So 855 reflects the fact that only

12 one person traveled on that itinerary that's been
13 marked as 853 that's in your hand, correct?

14 A. Correct.

15 Q. I couldn't hear you.

16 A. Correct.

17 MR. SNEDDON: All right. No further

18 questions.

19 MR. SANGER: Can I have the exhibits,

20 please?

21 MR. SNEDDON: I was going to put them back

22 together again. If you want to have them, here.

23 MR. SANGER: Why don't we keep them out for

24 now, please.

25 MR. SNEDDON: The rest of them are up there.

26 MR. SANGER: May I approach to retrieve the

27 exhibits?

28 THE COURT: Yes. 8099

1 MR. SANGER: I'm just a little concerned,

2 Your Honor. Mr. Sneddon said he was going to put

3 them back together, so I think I will give them to

4 Mr. Sneddon so they get in the right position there.

5 MR. SNEDDON: They're all in order except

6 for the one that was taken away from me.

7 MR. SANGER: All right. There it is.

8

9 CROSS-EXAMINATION

10 BY MR. SANGER:

11 Q. All right. First of all, on -- with regard
12 to these summaries you just saw up on the board,
13 particularly you took a look at one of the pages, I
14 think it was page six, and it showed the amount that
15 was billed, and it showed it was billed for one
16 person to travel, right?

17 A. Yes.

18 Q. Say a word so the court reporter can get it
19 down.

20 A. Sorry.

21 Q. That's okay.

22 You are assuming that that record was
23 accurately placed into the computer database by
24 whoever entered these things; is that correct?

25 A. Correct.

26 Q. All right. And you noted from the other
27 actual tickets that it appeared that three of the
28 tickets, the ones for the Cascios, I believe, were 8100

1 voided?

2 A. Yes.

3 Q. Okay. There was the Cascios and LaPerruque,
4 correct?

5 A. Yes.

6 Q. They were voided. You look at that, and you
7 pretty much figure, well, as far as your company was

8 concerned, the person that traveled on that

9 particular day was Mr. Jackson?

10 A. I would not necessarily assume that.

11 Q. Okay. I was going to ask you how you would

12 come to that conclusion. So you're saying you don't

13 know that?

14 A. Correct.

15 Q. All right. Now, I want to show you -- you

16 have the book in front of you there --

17 A. Yeah.

18 Q. -- with the exhibits in the 200 series. And

19 I'd ask you to turn to Exhibit 223, and I believe

20 that that is a two-page exhibit; is that correct?

21 A. Yes, it is.

22 MR. SANGER: All right. And, Your Honor,

23 with the Court's permission, I would like to put the

24 copy I was given of those two pages up on the -- on

25 the board, if I may.

26 THE COURT: Okay.

27 MR. SANGER: Or up on the machine.

28 Q. And I'm going to show you the first page of 8101

1 exhibit -- the 223. And that's already been up

2 there before, but I'll ask you to look at that

3 again. And this appears to be an itinerary that was

4 generated somehow, correct?

5 A. Yes.

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6 Q. That's not your usual format for itineraries

7 that are generated, is it?

8 A. For itineraries, I believe it is.

9 Q. Okay. All the other itineraries that you

10 have shown for Exhibits 224 through 249 are

11 generated on letterhead, with a different font, in a

12 different format; isn't that correct?

13 A. Yes, they're associated with an invoice.

14 Q. All right. Now, this particular one was not

15 associated with an invoice because it was not

16 sent -- an invoice was not sent for payment on this

17 flight; is that correct?

18 A. I cannot tell from what I see here.

19 Q. All right. Do you know whether or not that

20 flight took place?

21 A. I do not know.

22 Q. All right. And ordinarily when flights are

23 booked through your agency by MJJ Productions, who

24 is it that contacts you to book the flights?

25 A. Evvy.

26 Q. All right. And I'll tell you what. I'm

27 going to ask you to just turn around and look this

28 way, and I'll direct your attention to the board in 8102

1 a second when we put the next one up, but it's hard

2 for everybody to hear you.

3 A. Okay.

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4 Q. So Evvy Tavasci is ordinarily the person who
5 would be contacting your agency, correct?

6 A. Yes.

7 Q. All right. And she contacts your agency not
8 just for Mr. Jackson's travel arrangements, but for
9 other employees of MJJ Productions, correct?

10 A. Definitely.

11 Q. Okay. And to your knowledge, if some other
12 employee of MJJ Productions needs to travel for some
13 business-related purpose, they would contact her,
14 and she would in turn contact you; is that correct?

15 A. Yes.

16 Q. When you make a flight arrangement for Evvy
17 Tavasci, or at her -- at her request, do you fax a
18 confirmation?

19 A. I'm not sure. I don't know our daily
20 practices.

21 Q. You're not the person that actually does it?

22 A. Not at all.

23 Q. You just own the place?

24 A. Yes.

25 Q. There you go. All right. Well, let me show
26 you this anyway and see if this is -- this is the
27 second page I'm going to put up of this exhibit, and
28 I'd like you to read the top -- no, I'm kidding. 8103

1 (Laughter.)

2 Q. BY MR. SANGER: I'd like you just to look
3 down at the bottom there. There's a TX Result
4 Report.

5 A. Yes.

6 Q. Is that a fax report?

7 A. Yes, it is.

8 Q. Now, I am going to focus in on that a little
9 bit more here. Give you a fair chance.

10 Do you recognize the telephone or the fax
11 number that that was sent to as being a fax number
12 associated with anybody?

13 A. I do not.

14 Q. Okay. And it appears that this fax -- just
15 go a little wider there. The result on the right is
16 that it did not go through. It's "NG," correct?

17 A. That's what it looks like to me.

18 Q. And it says, "Redial, all failed," right?

19 A. That's what it looks like to me.

20 Q. Now, your business has regular
21 communications -- during this period of time, your
22 business had regular communications with Evvy
23 Tavasci, correct?

24 A. Yes.

25 Q. And you had a good fax number for her,
26 correct?

27 A. Yes.

28 Q. Is there any indication in these two 8104

1 documents -- and you can actually look at the
2 documents in front of you, since I just have a copy
3 here.

4 A. Okay.

5 Q. If you look at these two documents that are
6 marked as 223, is there any way to determine the
7 time of day on February 5th that these tickets were
8 requested?

9 A. Requested?

10 Q. Yes.

11 A. No. Prior to 11:31.

12 Q. You know it's prior to 11:31, because that's
13 when the fax first was attempted, the fax that
14 didn't work, correct?

15 A. That's correct.

16 Q. And ordinarily, your people would be pretty
17 prompt if they were setting up a ticket for the same
18 day. And I believe this is a ticket for the same
19 day, right? You can take a look at your --

20 A. Yes, it looks like that way. Yes, for a
21 flight at two o'clock in the afternoon.

22 Q. The flight was to depart at two o'clock in
23 the afternoon of February the 5th?

24 A. Correct.

25 Q. So if somebody were doing this and faxing it
26 out at 11:51 in the morning, they probably had made

27 the arrangements very shortly before that; is that
28 correct? 8105

1 A. That is correct.

2 Q. All right. Now, the fact that on the top
3 of -- you keep looking at what you're looking at
4 there.

5 A. They didn't necessarily make the reservation
6 at the time they called it in. I mean, on this day.
7 They could have -- they could have made the
8 reservation prior to this date.

9 Q. Okay.

10 A. If that's the question.

11 Q. Well, that's fair enough.

12 You look -- well, you're looking at your
13 copy there. You're on the first page?

14 A. Uh-huh.

15 Q. And at the top -- at the top there, it says,
16 "To MJJ Productions," and "Attention: Evvy,
17 Personal and Confidential"?

18 A. Uh-huh.

19 Q. Does that mean that Evvy was actually the
20 person that called this in?

21 A. Not necessarily.

22 Q. Somebody could have called it in and then
23 you would be dealing with Evvy Tavasci at MJJ
24 Productions, correct?

25 A. Yes.

26 Q. So, in essence, from the records that you
27 have before you, you do not have any idea who called
28 in this request for tickets? 8106

1 A. Let me clarify. Most of the tickets, to my
2 knowledge, were ordered or confirmed by Evvy.

3 Q. I understand.

4 A. Some of them were called in by other
5 employees of MJJ Productions.

6 Q. Okay.

7 A. But nothing was done without, typically,
8 getting Evvy's authorization.

9 Q. So theoretically, before this flight --
10 before the tickets would actually issue on this
11 flight, you would need to have Evvy's confirmation,
12 correct?

13 A. Typically, yes.

14 Q. Maybe Narcisse, who also worked there,
15 correct?

16 A. I'm not sure if Narcisse is on the -- she
17 definitely is calling some things in. I'm not sure
18 if she's a part of the approval process.

19 Q. But going back to my question originally,
20 here, you cannot tell who actually called this in.

21 In other words, somebody else -- somebody else
22 entirely different could have called it in?

23 MR. SNEDDON: I'm going to object. Calls

24 for speculation, Your Honor.

25 THE COURT: Overruled.

26 THE WITNESS: I cannot tell who called this

27 in.

28 Q. BY MR. SANGER: All right. And then if you 8107

1 look at the air fare there, that's economy air fare,

2 \$1,180.50 per person, right?

3 A. Yes.

4 Q. Does that tend to indicate to you that this

5 was a flight that was scheduled at the last minute?

6 A. I -- I can't speculate on that. I think it

7 was -- I mean, my gut feeling is yes, but --

8 Q. All right.

9 A. I don't know if it was called in last

10 minute.

11 Q. Okay. I'm going to take that down for a

12 moment.

13 A. You know, it might have been

14 contemporaneously, only because ticket fares are

15 good for only, you know, for a 24-hour period per

16 se. So the fare is only good for -- for a certain

17 time frame, and then it will move on. So --

18 Q. Now, you testified to some other documents

19 as to who might have been -- I'm sorry, you

20 testified to other documents as to whose names were

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21 on particular tickets or potential tickets. You do
22 not actually know who flew on a particular day; is
23 that correct?

24 A. I do not.

25 Q. And, of course, if you -- if somebody booked
26 flights independent of your agency, you would not
27 know about those flights; is that correct?

28 A. That is correct. 8108

1 MR. SANGER: Okay. I have no further
2 questions. And I have the exhibits that were handed
3 to me. I'm just going to leave them here.

4

5 REDIRECT EXAMINATION

6 BY MR. SNEDDON:

7 Q. Mr. Dietz, are you familiar with the
8 regulations that were put in place as a result of
9 9/11?

10 A. Yes.

11 Q. And given the regulations that are in place
12 as a result of 9/11, in your opinion, based upon
13 your experience in the travel industry, that another
14 person cannot travel on a ticket -- that a person
15 cannot travel on a ticket not issued to them without
16 proof of identification?

17 A. That's my understanding.

18 MR. SNEDDON: Nothing further.

19 MR. SANGER: No further questions.

20 THE COURT: Thank you. You may step down.

21 MR. NICOLA: People call Jeff Schwartz, Your

22 Honor.

23 THE COURT: Come forward, please.

24 When you get to the witness stand, please

25 remain standing.

26 BAILIFF CORTEZ: Right here, sir. Stand up

27 there. Face the clerk.

28 THE COURT: Face the clerk and raise your 8109

1 right hand. She's right here.

2

3 JEFFREY SCHWARTZ

4 Having been sworn, testified as follows:

5

6 THE WITNESS: I do.

7 THE CLERK: Please be seated. State and

8 spell your name for the record.

9 THE WITNESS: Jeffrey Schwartz.

10 J-e-f-f-r-e-y, S-c-h-w-a-r-t-z.

11 THE CLERK: Thank you.

12

13 DIRECT EXAMINATION

14 BY MR. NICOLA:

15 Q. Good afternoon, sir.

16 A. Good afternoon.

17 Q. Would you tell the jury, please, who you're
18 employed with?

19 A. My employer is Talk America.

20 Q. And what is Talk America?

21 A. We're a C-lite local and long-distance
22 Internet telephone provider.

23 Q. Are you here to testify today as their
24 custodian of records?

25 A. I am.

26 MR. NICOLA: May I approach the witness,
27 Your Honor?

28 THE COURT: Yes. 8110

1 Q. BY MR. NICOLA: I've placed in front of you
2 Exhibit 458, and I ask you if you recognize that
3 document, and if you do, what is it, please?

4 A. I do. It's subscriber information from a
5 customer of Talk America, Jay Jackson.

6 Q. And does that Exhibit 458 also contain toll
7 records for the period of January, February and
8 March of the year 2003?

9 A. It does.

10 Q. Is the information contained within that
11 exhibit material that is generated within the
12 regular course and scope of the business of Talk
13 America?

14 A. It is.

15 Q. Okay. And is the material that is in there,
16 the information that is in that exhibit, collected
17 at or near the time of the individual toll calls?

18 A. Yes, it is.

19 Q. And is it relied upon to conduct the
20 business of Talk America?

21 A. Yes, it is.

22 MR. NICOLA: Your Honor, we would offer 458
23 into evidence at this time.

24 MR. SANGER: I just have a technical
25 question. There's a different 458 that we were
26 provided. Has that been withdrawn or --

27 MR. NICOLA: That was never identified.

28 MR. SANGER: Never provided to the Court? 8111

1 MR. NICOLA: No.

2 MR. SANGER: Oh, okay. I'm just now
3 informed by counsel that what was provided to us was
4 not provided to the Court or marked. So....

5 MR. NICOLA: We used a different exhibit
6 number for this.

7 MR. SANGER: So based on that, I have no
8 objection.

9 THE COURT: It's admitted.

10 MR. NICOLA: Thank you, Your Honor.

11 May I please have "Input No. 4," Your Honor?

12 Q. Mr. Schwartz, I would just like to go to the

13 first page of the toll records of that exhibit. I'm
14 going to project a few items up onto the screen, and
15 if you could please explain them to the jury once
16 they're up there, okay?

17 A. Okay.

18 Q. Let's begin with the headings in the columns
19 entitled A, B, C, D, et cetera. And I'm just going
20 to point with the laser. If you can speak next to
21 that second mike, please, it would be more
22 convenient for you, and everyone will be able to
23 hear you.

24 Could you tell the jury what's in this
25 section, the first line, Section A, please?

26 A. That's a number where the call would
27 originate from.

28 Q. Is that the number that corresponds to the 8112
1 subscriber?

2 A. Yes, it does.

3 Q. The customer?

4 A. Yes, that's correct.

5 Q. Okay. And is that a mobile phone number or
6 is that a landline?

7 A. That's a landline.

8 Q. Do you provide local service for that, or
9 did you during the time period in question?

10 A. We did not.

11 Q. Okay. What kind of service did you provide

12 to that particular landline?

13 A. We provided LD service only.

14 Q. And LD, for those of us who don't know?

15 A. Long distance.

16 Q. Long-distance service.

17 What's in Column B?

18 A. Column B is where the call would have

19 terminated.

20 Q. What does that mean?

21 A. That means where the receiver would have

22 been picked up on the other end.

23 Q. The number that was dialed by the person at

24 the 9279 number?

25 A. That's correct.

26 Q. Okay. Column C, is that the date of the

27 call?

28 A. The date and the time. 8113

1 Q. Do you know whether the time stamp is based

2 on a particular time zone?

3 A. It is on the time zone where the call

4 originated from.

5 Q. So if the phone number is registered in Los

6 Angeles, it's going to be in Pacific Coast time,

7 correct?

8 A. Correct.

9 Q. The next column seems to indicate a place.

10 A. That is the origination column date.

11 Q. Okay.

12 A. That is the origination which corresponds to
13 the Column A.

14 Q. Column E appears to be the state, obviously,
15 correct?

16 A. Correct.

17 Q. Correct?

18 A. Correct, I'm sorry.

19 Q. And of course there's Column H and Column I.

20 What is Column H, please?

21 A. Column H is actually the duration of the
22 call, from the time the call is received until the
23 call was terminated.

24 Q. So that's the actual time that the call
25 lasted?

26 A. Correct.

27 Q. And what is this over here, Column I?

28 A. That would be the time that the call was 8114

1 billed for.

2 Q. Okay. For example, in this column, H, on
3 the second line, a 34-second call results in one
4 minute worth of billing?

5 A. Correct. That is correct. Common practice
6 in the telecommunications industry.

7 Q. We've heard that, yes.

8 I'd like to direct your attention, please,

9 to the middle of this chart, if I may.

10 Beginning with the entry on line 25 --

11 A. Okay.

12 Q. -- this would be the calling number, Mr.

13 Jackson, correct?

14 A. That would be the origination of the call

15 for Mr. Jackson, correct.

16 Q. And this number here, (201) 213-0763, is the

17 number that was placed -- or dialed by whoever was

18 using this phone?

19 A. Placed and terminated at that number,

20 correct.

21 Q. Okay. And does this call on Item No. 24 --

22 excuse me, Item No. 25 indicate the call was a

23 completed call?

24 A. Yes.

25 Q. How can you tell that?

26 A. By the duration of the call.

27 Q. Over here, the 6:32?

28 A. That's correct. 8115

1 Q. Which on the bill appears to be what, seven

2 minutes?

3 A. What line are we looking at? 25?

4 Q. Yes, right where the pointer is.

5 A. That's correct. Well, six minutes and 32

6 seconds. Billed for seven minutes.

7 Q. Okay. And that's how Cingular bought AT&T.

8 Okay. Here we go. Line No. 27, same

9 number, to Morristown, New Jersey?

10 A. Correct.

11 Q. And that call lasted 15 seconds, correct?

12 A. Correct.

13 Q. Now, is that a completed call, if it lasts

14 15.3 seconds?

15 A. Yes. Any call -- I'm sorry.

16 Q. Explain that, please.

17 A. Well, any call that is entered into the

18 record, if the call was not answered, if there was

19 not an answer on the telephone, there wouldn't be a

20 record for the call because the call would not have

21 terminated. But once the call is received and

22 answered, regardless of one second or 20 seconds, or

23 as far as ten minutes, there would be a record of

24 the call.

25 Q. Okay. So does that mean that this call was

26 either answered on the other end or it got forwarded

27 to voice mail or something like that?

28 A. Any one of those possibilities is possible, 8116

1 correct.

2 Q. Okay. And this 15 seconds also costs a

3 minute, right?

4 A. That is correct also.

5 Q. Going down the list to Item No. 28 on the
6 left, same number was dialed to Morristown, New
7 Jersey, at 11:53?

8 A. That's correct.

9 Q. Is this military time?

10 A. Yes.

11 Q. So the next call down here at 1320 hours,
12 that's actually 1:20 p.m., correct?

13 A. That's also correct.

14 Q. And the 1:20 p.m. call lasted one minute and
15 eight seconds?

16 A. And billed for two minutes, if that's what
17 you're asking, yes. Yes, it did.

18 Q. This is my favorite one right here.

19 The next call appears to be the same number,
20 is that correct, on line 30?

21 A. Yes. That's correct.

22 Q. And that call was placed at 1324, 1:24 in
23 the afternoon, correct?

24 A. Yes, that's correct.

25 Q. To Morristown, New Jersey, for a period of
26 2.4 seconds?

27 A. That's correct.

28 Q. Immediately thereafter, at 1334 hours, that 8117

1 number was called again, correct?

2 A. That's correct.

3 Q. And that call lasted 3.1 seconds?

4 A. That's also correct.

5 Q. And in total, that was two minutes, in

6 telephone company time, right?

7 A. That's also correct, yes.

8 Q. You can tell I enjoy this, huh?

9 The remainder of these calls, at 1539 hours,

10 Item 32, Item 33 at 1407 hours, Item 34 at 2036

11 hours, Item 35 at 2043, and Item 36 at 2048, were

12 all to the same phone number in Morristown, New

13 Jersey, right?

14 A. That is correct.

15 Q. And they were all completed calls?

16 A. That is correct also.

17 Q. Now, I believe I misspoke and called 1359

18 1539. So Item 32 is actually a call placed at 1359

19 or nearly two o'clock in the afternoon, right?

20 A. That's correct.

21 Q. Okay. Now, beginning with Item 36 -- 37,

22 excuse me, on February 16th, 2003, at 4:07 in the

23 afternoon, was a call placed to a phone number in

24 Wyckoff, New Jersey?

25 A. That's correct.

26 Q. And what does your record reflect that phone

27 number to be?

28 A. (201) 847-7576. 8118

1 Q. Now, you have no way of knowing whether the
2 receiving phone call -- excuse me, the number dialed
3 is a cellular phone or a landline, correct?

4 A. You could gather the information. I do not
5 know. You could gather the information if you had
6 to gather it. You could do that.

7 Q. By some kind of a cell site?

8 A. Or a customer service record. You could
9 request what we call a "CSR," which would be a
10 Customer Service Record, for the receiving call.

11 Q. How long are those records kept?

12 A. I believe a record should be kept for eight
13 years, is what a telephone record is required to be
14 kept, so --

15 Q. Okay. Would the subscriber information on
16 this end of the phone call also tell you whether
17 it's a cell phone or a landline?

18 A. Yes, it could.

19 Q. Okay. Now, beginning with Item 37, and
20 continuing down to Item 41, there appear to be
21 four -- four calls in a row between four o'clock in
22 the afternoon and approximately 10:23 the following
23 day, February 17th, to the same number in Wyckoff,
24 New Jersey; is that correct?

25 A. That's correct.

26 Q. And were those completed calls?

27 A. Yes, they were.

28 Q. Proceeding to Item 42, was a different 8119

1 number called on February 17th of 2003 at 11:24 in
2 the morning?

3 A. Yes. Different between 41 and 42 is what
4 your -- is the question?

5 Q. Yes.

6 A. Yes, different.

7 Q. Is that the same phone number that was
8 called on the 15th to Morristown, New Jersey?

9 A. Yes, it is.

10 Q. Okay. And was that a completed phone call?

11 A. Yes.

12 Q. And how long did that one last?

13 A. Item 42?

14 Q. Yes, please.

15 A. It looks like 17 minutes and 39 seconds,
16 billed for 18 minutes probably.

17 Q. There you go. Okay.

18 And the item right below 42 is 43.

19 A. Right.

20 Q. Could you tell us about that phone call
21 including the location and duration, please?

22 A. It looks like it was 26 minutes and 15
23 seconds to Wyckoff, New Jersey. The (201) 847-7576

24 number.

25 Q. Would you turn the page, please? Okay. I'm
26 trying to get this up there. How about we just do
27 it verbally.

28 Items 45 through 48 -- excuse me, 45 through 8120

1 47, are they all telephone calls placed from the
2 Jackson residence, Jay Jackson residence, to the
3 7576 telephone number in Wyckoff, New Jersey?

4 A. Yes, they are.

5 Q. And were they all completed phone calls?

6 A. Yes, they were.

7 Q. And did they occur between February 18th of
8 2003 and February 19th of 2003?

9 A. Yes, they did.

10 MR. NICOLA: Your Honor, I have no further
11 questions of this witness.

12

13 CROSS-EXAMINATION

14 BY MR. SANGER:

15 Q. Mr. Schwartz, how are you?

16 A. Pretty well.

17 Q. Good. I think you need to kind of list more
18 towards that microphone, if you could.

19 A. This one?

20 Q. Yes, please.

21 The phone records that you just testified to

22 are in the name of Jay Jackson; is that correct?

23 A. Yes, that's correct.

24 Q. And there's a billing address in Los

25 Angeles; is that correct?

26 A. That's correct.

27 Q. Is this a land-based landline phone or is

28 this a mobile phone? 8121

1 A. It's a land-based phone.

2 Q. Is it your understanding this is a residence
3 phone?

4 A. It is. Our company only provides LD service
5 to residence phones. We don't provide any type of
6 cellular service.

7 Q. So this particular phone number -- let me
8 see if I can put one of these up here.

9 Your Honor, with the Court's permission,

10 I'll put up page -- I guess it's really just page
11 one. I'll put up my copy of page one and see if
12 this looks like your copy of page one of Exhibit
13 458.

14 A. That is.

15 Q. All right. So you can look at yours,
16 because it's a little hard to read.

17 A. Okay.

18 Q. But look up here first just so you can see
19 what I'm pointing at. I'm going to point on the

20 screen at a phone number up there. Is that the
21 phone number that is associated with this account?

22 A. Yes, it is.

23 Q. And the account is for Jay Jackson, correct?

24 A. That's correct.

25 Q. Now, I'm going to ask you to tell us what

26 the -- well, let me ask --

27 Your Honor, I need to ask for the actual

28 phone number. It's up there. Is that all right if 8122

29 I do that? I don't want to --

30 THE COURT: Yes. It was the other

31 information that we were concerned about, the Social

32 Security numbers, that kind of thing.

33 MR. SANGER: That's fine. Thank you. I

34 just want to make sure.

35 Q. Can you read that phone number from the

36 exhibit?

37 A. From your exhibit or my exhibit?

38 Q. You have the official exhibit. I'm putting

39 up a copy.

40 A. All right. Yes, I can.

41 Q. Please read it.

42 A. (213) 739-9279.

43 Q. All right. Now, your phone company provided

44 service, provided long-distance service to that

45 number; is that correct?

18 A. That's correct.

19 Q. Does that mean anytime that the phone was
20 picked up and a call was made on that telephone
21 number ending in 9279, anytime the phone was picked
22 up and a long-distance call was made, it would be
23 automatically billed to your carrier?

24 A. That's correct.

25 Q. Is there a way to bill it to some other
26 carrier?

27 A. No.

28 Q. All right. So I'm going to put up page two 8123

1 with the Court's permission. And if you can look in
2 the book there so you can actually read it. But
3 I'll also help you to stay closer to the microphone,
4 because we have that microphone issue here.

5 These records start when?

6 A. On page one is what we're talking about?

7 Q. Yeah. I mean the records you just --

8 A. January 1 of .03.

9 Q. January 1 of .03. And these appear to be
10 the comprehensive records for that period of time;
11 is that correct?

12 A. They are, correct.

13 Q. All right. Now, do you know what carrier
14 this customer, Jay Jackson, had for his regular
15 telephone services?

16 A. It would -- probably -- I don't know
17 specifically. It would probably be Pac-Bell.

18 Q. Pac-Bell. Okay. So if we had seen, for
19 instance, on February 4th a Pac-Bell record showing
20 a call from this number to Reseda, two calls to
21 Reseda on February 4th, they were logged in on the
22 Pac-Bell statement, those calls would not
23 necessarily show up here; is that right?

24 A. I'm not sure I understand your question.

25 Q. Well, let's do it this way. I'll just ask
26 you to look at yours, because I can't read mine from
27 the thing there.

28 If you look at the entries -- 8124

1 I'm going to put that page back up again,

2 Your Honor, if I may. Now that I've seen it, I'll
3 do it this way here.

4 I'll just try to look at the particular
5 entries here. If you look at the entries for --
6 starting at the top, it starts with 1-1-03, correct?

7 A. Correct.

8 Q. And it goes through the month of January.

9 There is a total of 11 calls through January,
10 correct? Well, no, I'm sorry, there's a total of
11 nine calls. It starts on line 3 and goes to line
12 11, correct?

13 A. Right.

14 Q. And --

15 A. 1-20-03 would be the last call in January.

16 Q. Okay. And then as far as your carrier is
17 concerned, the next charge you have is on 2-4-03,
18 correct?

19 A. To Newport News, Virginia.

20 Q. That is a call to Newport News, Virginia.

21 A. Talking about line 12, correct?

22 Q. Line 12, correct.

23 A. That's correct.

24 Q. And then on 2-5-03, there's a call to
25 Naples, I suppose.

26 A. I'm sorry. Yeah. Naples, Florida, correct.

27 Q. All right. Now, I'm going to show you

28 Exhibit 451, and I'm going to have to ask the clerk 8125

1 for that, if I may, please. Should be a book.

2 May I inquire of the government to see if
3 they have that book there, by any chance? We're
4 looking for an Exhibit 451, which is the Pac-Bell
5 records. You don't have it there at the counsel
6 table is what I was inquiring.

7 MR. NICOLA: I don't. It was released for
8 us to redact per the Court's instruction. I didn't
9 bring it down with me.

10 THE COURT: She couldn't hear what you said.

11 MR. NICOLA: I'm sorry, Your Honor. I took

12 that per the Court's instructions to redact. I

13 haven't brought it back.

14 THE COURT: Try to blame it on me, will you?

15 (Laughter.)

16 THE COURT: That's the book you have.

17 MR. NICOLA: Yes. It's one of several.

18 MR. SANGER: Okay. May I confer with

19 counsel, see if we can find a way around this?

20 THE COURT: Yes.

21 (Discussion held off the record at counsel

22 table.)

23 MR. SANGER: Your Honor, with the

24 stipulation of counsel, we'll use my copy and the

25 one that was provided to me of 451, Tab 6. It's

26 already been received into evidence. And that's

27 what we'll use in a second, if I may.

28 THE COURT: All right. Good. 8126

1 Q. BY MR. SANGER: Okay. Mr. Schwartz, let me

2 ask you, how long have you worked in the phone

3 business?

4 A. Nine years.

5 Q. And are you familiar with phone billing

6 records in general?

7 A. Yes, I am.

8 Q. And how many companies have you worked for

9 in that period of time?

10 A. Just one.

11 Q. Which one is that?

12 A. Talk America.

13 Q. Has Talk America been in existence all that

14 time?

15 A. Yes, that's correct.

16 Q. Oh, okay.

17 All right. I'm going to show you a phone

18 record that has been admitted into evidence, which

19 is 451, Tab 6, and it's page three of Tab 6. And

20 this was -- I think I can say for your benefit, to

21 orient you, this was provided by a Pac-Bell

22 representative.

23 And I'll put that up if I may, Your Honor.

24 THE COURT: Yes.

25 Q. BY MR. SANGER: Now, this is -- I'll let you

26 take a look at that for a second and see if you can

27 orient yourself and get a feel for that. That is --

28 A. It looks like a phone bill. 8127

1 Q. There you go. All right. And if you look

2 in the upper left-hand corner, the indication is

3 that this phone bill pertains to this phone number,

4 (213) 739-9279.

5 A. Okay.

6 Q. See that? Is that the phone number that's

7 referred to on your Exhibit 458, the Talk America

8 exhibit that's in front of you?

9 A. It is.

10 Q. I think you have to lean into the

11 microphone.

12 A. Yes, it is.

13 Q. Oh, that one works, too. All right.

14 Okay. And I guess what I was referring to

15 is there are a couple of entries here for February

16 the 4th at 6:11 p.m. and then 6:14 p.m., both

17 four-minute calls to a number apparently in Reseda,

18 an (818) number.

19 And my question to you is, assuming this is

20 the same telephone, why would there be two calls

21 billed to Pacific Bell on that date and another

22 long-distance call to - where did we say? - Newport

23 News billed to Talk America on the same date?

24 A. Why would there be?

25 Q. Yeah.

26 A. So you're asking why a long-distance call

27 would show up on a local phone bill?

28 Q. Yes. 8128

1 A. I'm not familiar with the geography of

2 California, but Reseda may be within the latta, and

3 it may not reflect as a long-distance call.

4 Q. Could you turn around and talk into the mike

5 there, please. You said -- I think everybody heard,

6 but you said "within the latta"?

7 A. Correct.

8 Q. And what is a latta? I'm afraid to ask.

9 A. For lack -- I guess to -- a layman term

10 would be an area code or a geographic area in which

11 the phone call would be billed in, so -- do you want

12 me to explain it or --

13 Q. Go ahead.

14 A. A latta is the area where the phone call --

15 you'd be charged different rates when you went

16 across a latta. And once you cross a latta, it

17 would be considered a long-distance call.

18 Q. All right. So your local phone bill might

19 have a call that crosses a latta but does not invoke

20 your carrier's business?

21 A. That's correct.

22 Q. All right. So if I then put 458 back up,

23 and this is page two, the calls that we've just

24 referred to there are not inconsistent with your

25 carrier providing service during that same period of

26 time; is that right?

27 A. No.

28 Q. Okay. Thank you. I just have a couple of 8129

1 more questions here. And let me look at this first.

2 Yes, all right. I'm going to put this up

3 and we'll again try to orient ourselves. Okay.

4 You're welcome to look at the actual exhibit in
5 front of you, but I'm going to refer to Line 17, 18,
6 and 19 from February the 11th, 2003. Do you see
7 those?

8 A. I do.

9 Q. Okay. And your bill would reflect only
10 outgoing calls, I suppose, unless somebody called
11 collect, correct?

12 A. Outgoing only, that's correct.

13 Q. So it appears on February the 11th, 2003,
14 there were three outgoing calls to Santa Barbara; is
15 that correct?

16 A. That's correct.

17 Q. And those three calls were at 2322 hours,
18 which would be 22 minutes after eleven o'clock at
19 night, correct?

20 A. Correct.

21 Q. And the next -- that's to one number. And
22 then the other two calls are to the same number. I
23 didn't say that correctly. The first call is to
24 a -- one number. And the second two calls are to
25 the same number?

26 A. The first one's to 2300, and the second two
27 are 2724.

28 Q. And the second two were placed at 11:23 at 8130

1 night and 11:49 at night, correct?

2 A. Yes.

3 MR. SANGER: Let me have just one more
4 second, if I may, Your Honor, please.

5 All right. I have no further questions.

6 MR. NICOLA: No questions, Your Honor. See
7 you "latta."

8 THE COURT: Call your next witness.

9 MR. NICOLA: Crystalee Danko.

10

11 CRYSTALEE DANKO

12 Having been sworn, testified as follows:

13

14 THE WITNESS: I do.

15 THE CLERK: Please be seated. State and
16 spell your name for the record.

17 THE WITNESS: Crystalee Danko.

18 C-r-y-s-t-a-l-e-e; Danko, D-a-n-k-o.

19 THE CLERK: Thank you.

20

21 DIRECT EXAMINATION

22 BY MR. NICOLA:

23 Q. Good afternoon, Miss Danko.

24 A. Good afternoon.

25 Q. I've placed in front of you Exhibit 454,
26 correct?

27 A. That's correct.

28 Q. Do you recognize that exhibit? 8131

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1 A. Yes, I do.

2 Q. Have you had an opportunity to review it and
3 its contents before you came to court today?

4 A. Yes, I have.

5 Q. Can you tell the jury, please, what exhibit
6 four fifty --

7 A. Five.

8 Q. -- five is? Excuse me.

9 A. Yes, these are Sprint cell phone records and
10 landline records, including subscriber information
11 and billing information.

12 Q. And are the contents of Exhibit 455 those
13 which are regularly made in the course of your
14 business?

15 A. Yes, they are.

16 Q. Would you open up Exhibit 455 in the index,
17 please?

18 A. Yes.

19 (Off-the-record discussion held at counsel
20 table.)

21 MR. NICOLA: Okay. Just want to make sure
22 we're all on the same page.

23 Q. With respect to Exhibit 455, did you compare
24 the contents of the table of contents with the
25 information contained in the corresponding tabs
26 within the binder?

27 A. Yes, I have.

28 Q. Okay. 8132

1 MR. SANGER: We're not on the same page.

2 We're not on the same page, I'm sorry. There is

3 no -- there's no -- there's no table of contents on

4 this one.

5 MR. NICOLA: You can use mine.

6 MR. SANGER: Okay. Thank you. Let's see

7 what you did here.

8 MR. NICOLA: You ready?

9 MR. SANGER: Excuse me just one second.

10 Q. BY MR. NICOLA: I'm sorry.

11 A. That's okay.

12 Q. With respect to the information contained in

13 Tab No. 1, is that subscriber information for a firm

14 listed in the table of contents?

15 A. Yes, it is.

16 Q. Okay. And are there telephone numbers that

17 your records show connected with that firm?

18 A. Yes.

19 Q. And are they also on the table of contents?

20 A. Yes, they are.

21 Q. Would you read those telephone numbers into

22 the record, please?

23 A. (702) 362-5118; (702) 222-2500; (702)

24 365-6940.

25 Q. If you would turn to Tab 1 of your exhibit,
26 and does the first page of the exhibit list the same
27 name that is under "Subscriber Name" in the table of
28 contents? 8133

1 A. Yes, it does.

2 Q. If you would turn to page two. And what is
3 page two?

4 A. It is listing information, listing address
5 and names for the information on the front page.

6 Q. Do those names correspond to the 222-2500
7 number?

8 A. Yes, they do.

9 Q. And is one of those names a David LeGrand?

10 A. Yes, it is.

11 Q. Would you please turn the page and go to the
12 page marked 3 of 11. Are you there?

13 A. Yes, I am.

14 Q. And on page 3 of 11 of what appears to be a
15 February 21, 2003, phone bill, is there a list of
16 telephone numbers which include the 362-5118 and
17 365-6940 numbers listed in the table of contents?

18 A. Yes.

19 Q. Okay. And do all those telephone numbers
20 belong to the firm of Hale Lane Peek Dennison and
21 Howard?

22 A. Yes, they do.

23 Q. If you would turn to Tab 2, please. Now,
24 does Tab 2 contain the subscriber information for a
25 business entitled, "Geragos & Geragos"?

26 A. Yes, it does.

27 Q. And is there a telephone number on the table
28 of contents which corresponds to the number you have 8134

1 on record for Geragos & Geragos?

2 A. Yes.

3 Q. And what is that number?

4 A. (213) 864-2100.

5 Q. If you would turn to page two, the second
6 page, do you find an additional number for the
7 business "Geragos & Geragos"?

8 A. Yes.

9 Q. And what is that number?

10 A. (213) 625-3900.

11 Q. Turning to Tab No. 3, does Tab No. 3 contain
12 subscriber and billing information for one Vincent
13 Amen?

14 A. Yes, it does.

15 Q. Is there a cellular number associated with
16 Mr. Amen in your subscriber records?

17 A. Yes.

18 Q. And what is that number, please?

19 A. (201) 838-4345.

20 Q. If you would turn, please, to Exhibit

21 No. -- excuse me, Tab 4 in Exhibit 455. Do you have
22 in Tab 4 the subscriber information for one Frederic
23 Marc Schaffel?

24 A. Yes, I do.

25 Q. And do the numbers in the table of contents
26 correspond to the subscriber information in your
27 Sprint records?

28 A. Yes, it does. 8135

1 Q. Is there an additional telephone number in
2 your subscriber information for Mr. Schaffel that is
3 not on the table of contents? If you would look at
4 page one.

5 A. Yes, there is.

6 Q. And what is that number?

7 A. (818) 876-0029.

8 Q. And can you tell if that is a cellular
9 number or a landline?

10 A. I cannot tell by these records.

11 Q. If you would turn briefly to Exhibit No. 5.

12 Does Exhibit 5 contain the subscriber information
13 for a Maria Farshchian?

14 A. Yes, it does.

15 Q. F-a-r-s-h-c-h-i-a-n?

16 A. Yes, it does.

17 Q. Okay. And does the Tab No. 5 also contain

18 the toll records -- excuse me, the billing for the

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19 period of January, February and March of 2003?

20 A. Yes, it does.

21 Q. Are the records contained within Exhibit 455
22 records which Sprint regularly relies upon in the
23 normal course and scope of their business?

24 A. Yes, they are.

25 MR. NICOLA: Your Honor, we would offer 455
26 into evidence at this time, please.

27 MR. SANGER: On these, we have the objection
28 of relevance as to, in particular, some of the 8136

1 subscribers. It's the same objection that I made
2 previously, that there's no foundation to show
3 relevance. And I think the Court --

4 THE COURT: I'll admit them, subject, as I
5 did the others, to the District Attorney tying up
6 the relevance.

7 MR. SANGER: Thank you.

8 MR. NICOLA: Thank you, Your Honor.

9 Your Honor, may I publish?

10 THE COURT: Yes.

11 Q. BY MR. NICOLA: Mrs. Danko? It's Missus?

12 A. Yes.

13 Q. If you would please turn to the billing
14 information for Fred Schaffel and find the page that
15 corresponds to February 7th of 2003, please.

16 A. Okay.

17 Q. Have you found it?

18 A. Yes.

19 Q. Okay. Does the billing for February 7th of
20 2003 begin on page eight of the February 21 bill?

21 A. Yes.

22 Q. Okay. I'd like to talk to you about a code
23 on your bills which is denoted as "CW."

24 A. Yes.

25 Q. Okay. On line -- excuse me. On Line No.

26 194, there's a "CW" next to the date and time stamp
27 of 10:17 a.m., entitled "Incoming." Can you explain
28 to us how an incoming call -- what an incoming call 8137

1 on your system means, call waiting?

2 A. Yes. Our subscriber was on the phone.

3 Either he had received an incoming call or he had
4 made an outgoing call. Either way, he was on a
5 phone call. And during that phone call, he received
6 another call. And when he received that second
7 call, he answered it. And that's what indicates
8 here, an incoming call. And a "CW" over there is
9 what indicates the call waiting was used.

10 Q. Okay. Now, after he received, he or she --

11 A. Or she.

12 Q. After the call came in at 10:17 a.m., can
13 you tell whether or not your subscriber stayed on
14 the phone with the call immediately preceding?

15 A. For one minute or less.

16 Q. Okay. How can you tell that?

17 A. Our corporation bills in one-minute
18 increments, and one minute is listed here next to
19 the call waiting indicator.

20 Q. So this could have actually been a

21 2.4-second call?

22 A. Yes.

23 Q. My question, however, is, if the caller was
24 on the phone to this number at 10:16 a.m., and it
25 lasted for six minutes, did this call actually
26 interrupt this call?

27 A. Yes, it does.

28 Q. Okay. So the Entry 193, did that continue 8138

1 after the entry on 194?

2 A. Yes, it did.

3 Q. If you could please turn to page nine, and
4 I'd like you to begin at line 215. I'll project
5 that.

6 There appears to be the same call -- excuse
7 me, the same code here a number of times. "CW" and
8 "CW"?

9 A. That's correct.

10 Q. There's also this code right here, what does
11 that mean, the "3W"?

12 A. The "3W" indicates that a three-way call was

13 initiated.

14 Q. And how does that work on your system?

15 A. You would need to be on the phone call in
16 the first place, just like the call waiting
17 situation. In this situation, if you look at 2-7 at
18 3:13 p.m., there was an outgoing call. Our
19 subscriber had made an outgoing call and was on the
20 phone for approximately 14 minutes. During that
21 time frame, at 3:22, our subscriber called out and
22 conferenced in another number.

23 Q. Let me stop you for a minute. Where are
24 you? Which line item?

25 A. I'm on line 230.

26 Q. Would you look at line --

27 A. Sorry.

28 Q. -- 218? 8139

1 A. That's kind of hard for you to see. How
2 about line 217?

3 Q. Okay. Explain how that came about.

4 A. Our customer had received a call, an
5 incoming call, at 3 -- at 1:13 p.m., and that lasted
6 for seven minutes. During that call, they made a
7 call out, three-waying into the (702) 222-2520
8 number.

9 Q. Okay. Would you expect, in a three-way
10 call, that when the user of Mr. Schaffel's phone

11 dialed the 222-2520 number, that would show as an
12 incoming call on their system, if they record such
13 things?

14 A. The receiver?

15 Q. Yes.

16 A. Yes.

17 MR. NICOLA: Okay. I think I have no
18 further questions. Thank you.

19 THE COURT: Counsel?

20 MR. SANGER: No questions, Your Honor.

21 THE COURT: Good.

22 You may step down.

23 THE WITNESS: Thank you.

24 THE COURT: Next witness.

25 MR. NICOLA: Our next witness is Ms.

26 Jennifer Simmons.

27 //

28 // 8140

1 JENNIFER SIMMONS

2 Having been sworn, testified as follows:

3

4 THE WITNESS: I do.

5 THE CLERK: Please be seated. State and
6 spell your name for the record.

7 THE WITNESS: Jennifer Simmons.

8 J-e-n-n-i-f-e-r, S-i-m-m-o-n-s.

9 THE CLERK: Thank you.

10

11 DIRECT EXAMINATION

12 BY MR. NICOLA:

13 Q. Good afternoon, Miss Simmons. I'd like to

14 hand you Exhibit No. 450, and ask if you recognize

15 that, please.

16 A. Yes.

17 Q. What is it?

18 A. It's records of Nextel statements from

19 Tavasci, Evvy; MJJ Productions.

20 Q. These are records of Nextel Phone Company?

21 A. Correct.

22 Q. Do you work for them?

23 A. Yes, I do.

24 Q. For how long?

25 A. Six years.

26 Q. And are you here today as their custodian of

27 records?

28 A. Yes. 8141

1 Q. He's going to adjust your microphone.

2 A. Oh.

3 Q. Are you familiar with the contents of

4 Exhibit 450?

5 A. Yes.

6 Q. And is there a three-page table of contents?

7 A. Yes.

8 Q. Have you gone through the subscriber
9 information, the corresponding telephone numbers
10 that are listed out in that table of contents?

11 A. Yes.

12 Q. And have you confirmed the accuracy of the
13 entries on the table of contents?

14 A. Yes.

15 Q. With respect to Tab No. 1, does that contain
16 account statements for the telephone numbers (310)
17 901-7487 and (818) 402-7087 for the billing period
18 of February of 2003?

19 A. Could you repeat the second number? The
20 first one was correct.

21 Q. (818) --

22 A. Uh-huh.

23 Q. -- 402-7087?

24 A. Yes.

25 Q. Okay. I have the same question about those
26 two phone numbers in Tab No. 2, and I ask if the
27 contents of Tab No. 2 are the billing statements for
28 the month of March for those two numbers? 8142

1 A. Yes.

2 Q. And the same question with respect to those
3 telephone numbers and the April billing statement.

4 Are those contained within Tab No. 3?

5 A. Yes.

6 Q. Is the bill address under Tab No. 1, 2

7 and 3 - you can look at Tab 1 first - Evelyn

8 Tavaschi --

9 A. Yes.

10 Q. -- MJJ Productions, P.O. Box 6034, Sherman

11 Oaks, California?

12 A. Yes.

13 Q. Is that the same on exhibits -- excuse me,

14 the bills on Tabs 1, 2 and 3?

15 A. Yes, they are.

16 Q. With respect to Tab No. 4, can you describe

17 what is in that exhibit, please?

18 A. This is a subscriber history, a description

19 of each unit. It will show the unit's phone number;

20 the user name of that unit that's listed in our

21 bill; the radio I.D.; an IMSI I.D., which is for our

22 network to identify each unit for billing purposes;

23 a serial number, which is a SIM identification,

24 which tells what piece of equipment it is, as well

25 as the effective date of the activation, and if

26 there was an expiration, meaning a cancellation of

27 that unit, if it cancelled.

28 It also includes the account number for the 8143

1 bill, the billing name, and the billing address.

2 Q. Are there a number of phones -- excuse me,

3 phone numbers registered to an Evelyn Tavasci --

4 A. Yes.

5 Q. -- that are listed in the table of contents

6 under Tab No. 4?

7 A. Yes.

8 Q. Did you confirm that each one of those

9 telephone numbers corresponds to the information in

10 Tab No. 4?

11 A. Yes.

12 Q. And with respect to the billing information,

13 do all the bills appear to go to the address at P.O.

14 Box 6034 --

15 A. Yes, they do.

16 Q. -- Sherman Oaks, California?

17 Are some entitled, "Ms. Evelyn Tavasci,

18 Attention: MJJ Productions"?

19 A. Yes.

20 Q. And some are not, correct?

21 A. Correct.

22 Q. But they're all going to the P.O. Box at

23 6034?

24 A. Yes.

25 Q. I'd like you to turn, please, to Tab No. 5.

26 A. Actually, there is no Tab No. 5 in this one.

27 Q. Oh, I'm sorry.

28 A. That's all right. 8144

1 Q. It's actually Tab No. 7. Does Tab No. 7
2 contain four additional phones registered to an
3 Evelyn Tavasci?

4 A. Yes.

5 Q. And are those phone numbers accurately
6 printed on the table of contents on Exhibit 450?

7 A. Yes.

8 Q. Are the billing statements attached for the
9 February billing cycle of the year 2003?

10 A. Yes.

11 Q. Okay. With respect to the final two tabs,
12 No. 8 and No. 9, are the numbers listed in the table
13 of contents and registered to an Evelyn Tavasci
14 contained within the Tabs 8 and 9 for the months of
15 March and April of 2003?

16 A. For 8 and 9, yes.

17 Q. And you confirmed both of those --

18 A. Yes.

19 Q. -- sections before you came to court?

20 A. Uh-huh.

21 Q. Now, with respect to the contents of
22 Exhibit 450, are these all records which record the
23 information contained at or near the time of each of
24 the events recorded?

25 A. Yes. Yes.

26 Q. Nextel is just a wireless company, correct?

27 A. Correct.

28 Q. And none of these telephones are landlines? 8145

1 A. Right, they are all wireless.

2 Q. Okay. And does Nextel rely on the
3 information contained within Exhibit 450 in the
4 regular course of their business?

5 A. Yes, they do.

6 MR. NICOLA: We would offer Exhibit 450 into
7 evidence.

8 MR. SANGER: I have the same objection.

9 THE COURT: All right. They're admitted,
10 subject to connection later.

11 MR. NICOLA: Thank you, Your Honor. I have
12 no further questions.

13 MR. SANGER: I have no questions, Your
14 Honor.

15 THE COURT: Thank you.

16 Call your next witness.

17 MR. NICOLA: It's going to be Joe Corral.

18

19 JOE J. CORRAL, JR.

20 Having been sworn, testified as follows:

21

22 THE WITNESS: I do.

23 THE CLERK: Please be seated. State and
24 spell your name for the record.

25 THE WITNESS: Joe J. Corral, Jr.,

26 C-o-r-r-a-l.

27 THE CLERK: Thank you.

28 // 8146

1 DIRECT EXAMINATION

2 BY MR. NICOLA:

3 Q. Good afternoon, Mr. Corral.

4 A. Afternoon.

5 Q. I'd like to show you Exhibit 457 and Exhibit

6 459, please. Do you recognize Exhibit 457?

7 A. Yes, I do.

8 Q. And what is it, please?

9 A. It's telephone records that were subpoenaed

10 from Verizon.

11 Q. Do you work for Verizon?

12 A. Yes, I do.

13 Q. For how long?

14 A. Approximately 27 years.

15 Q. And are you here to testify as Verizon's

16 custodian of records with respect to the California

17 and I think it's New York records?

18 A. Yes, I am.

19 Q. And are the New York records kept in

20 Exhibit 459?

21 A. Yes, they are.

22 Q. Okay. With respect to Exhibit 457, is there

23 a table of contents with a number of entries

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24 corresponding to tabs in the exhibit?

25 A. Yes, there is.

26 MR. NICOLA: Would you give us just a

27 moment.

28 MR. SANGER: Just one second, Your Honor, 8147

1 please.

2 THE COURT: Why don't we take our break now.

3 (Recess taken.)

4 THE COURT: Go ahead, Counsel.

5 MR. NICOLA: Thank you, Your Honor.

6 Q. Mr. Corral, we just started talking about

7 the two exhibits in front of you. Why don't we

8 start with the New York exhibit. Is that Exhibit

9 459?

10 A. Yes.

11 Q. And contained within that exhibit, is there

12 subscriber information and toll records for

13 Francesco Cascio?

14 A. Yes.

15 Q. Does he have a billing address in New

16 Jersey?

17 A. Yes.

18 Q. Are the records contained in Exhibit 459

19 those kept within the normal course and scope of the

20 business of Verizon?

21 A. Yes, they are.

22 Q. And is the information contained within that
23 exhibit gathered at or near the time of the event?

24 A. Yes, they are.

25 Q. And does Verizon rely upon those records to
26 conduct their business?

27 A. Yes, we do.

28 MR. NICOLA: Your Honor, we would move 459 8148

1 into evidence at this time.

2 MR. SANGER: Same objection. I take it same
3 ruling.

4 THE COURT: Same ruling, yeah. I'll allow it
5 with the proviso that it's connected up later.

6 Q. BY MR. NICOLA: If you would please turn to
7 Exhibit 457. Are those the records for Verizon
8 California?

9 A. Yes, they are.

10 Q. And with respect to the ten numbers listed
11 in the table of contents, are those landlines?

12 A. Yes, they are.

13 Q. I didn't ask you, but is it a landline in
14 Exhibit 459 as well?

15 A. Yes, it is.

16 Q. Okay. And listed within Exhibit 457, is
17 there a table of contents that lists five sections
18 where the subscriber is the Neverland Ranch?

19 A. Yes.

20 Q. Have you examined the exhibit and all of its
21 contents prior to your testimony today?

22 A. Yes, I have.

23 Q. And are the numbers listed for Neverland
24 Ranch which are listed on the table of contents -
25 those telephone numbers appear on your records
26 contained within Tabs 1, 2, 3, 4 and 6 - do those
27 numbers correspond to the information contained
28 within those tabs? 8149

1 A. Yes, they do.

2 Q. Do your records show that the numbers listed
3 for Neverland Ranch were active during the period of
4 January through April of 2003 -- excuse me, through
5 March of 2003?

6 A. Yes, they do.

7 Q. So those phone lines were active during that
8 period of time?

9 A. Yes.

10 Q. If you would turn your attention, please, to
11 the contents of Tab No. 5. Is that subscriber and
12 billing information for one Rudy Provencio?

13 A. I'm sorry? Could you repeat the question?

14 Q. Are the contents of Tab No. 5 the subscriber
15 and billing information for Rudy Provencio?

16 A. Yes.

17 Q. And is the corresponding telephone number

18 for him (301) 473-5702?

19 A. Yes, it is.

20 Q. Okay. I'm going to show you some records,

21 if you could please turn to page 22.

22 May I publish, Your Honor?

23 THE COURT: They're admitted, are they? Have

24 these been --

25 MR. NICOLA: Oh, I'm sorry. The rest of the

26 foundation.

27 Q. Are the contents of Exhibit 457 records

28 which are kept within the ordinary course and scope 8150

1 of your business?

2 A. Yes, they are.

3 Q. And are the entries recorded at or near the

4 times of the events recorded?

5 A. Yes.

6 Q. And are they records which Verizon regularly

7 relies upon in the normal course of their business?

8 A. Yes, they do.

9 MR. NICOLA: We'd make our proffer at this

10 time, Your Honor.

11 THE COURT: Are you asking that they be

12 admitted?

13 MR. NICOLA: May we admit 457 in evidence at

14 this time, Your Honor?

15 MR. SANGER: Same objection.

16 THE COURT: All right. Same ruling. It's

17 admitted.

18 Q. BY MR. NICOLA: If you could turn to Tab 4,

19 page 22 at the bottom, if I could direct your

20 attention to this section of the phone bill. And

21 maybe give us a little interpretation of what all

22 this means, this string of numbers and letters and

23 numbers. Start right here where it says, "0204," if

24 you could.

25 A. Yes, it's a record of billable calls, and in

26 this case, the first call on the very top shows the

27 date, which would be "0204," or February 4th. The

28 call that was made to would be Canoga Park - that's 8151

1 an abbreviation "CANO" - in California.

2 Q. Okay.

3 A. The time right after that is in military

4 time, which would be 2234, which would convert to

5 10:34 p.m.

6 Q. Okay.

7 A. The numbers after that would be the number

8 that was called, which would be (818) 876-0029.

9 Q. Okay. Is there a header column at the top

10 of this? I'll focus on that so you can see that one

11 more clearly.

12 A. Yes. It basically states calls billed to

13 (310) 473-5702.

14 Q. And that corresponds to the subscriber's

15 phone number, correct?

16 A. Yes, it does.

17 Q. Now, this column up here that says "Date,"

18 "Call," et cetera, that corresponds with the numbers

19 down this -- these columns here?

20 A. Yes, they do.

21 Q. Okay. So when someone wants to read these

22 records, if they want the phone number dialed, they

23 go to the end of this block and count backwards to

24 get to the area code, correct?

25 A. Yes. Or, on the very top, where it says,

26 "MPA," which basically is the area code, that's

27 where you can start, and in this case it's (818).

28 MR. NICOLA: Okay. Your Honor, I have no 8152

1 further questions.

2 THE COURT: Cross-examine?

3 MR. SANGER: Your Honor, I have no

4 questions.

5 THE COURT: Thank you.

6 Call your next witness.

7 MR. NICOLA: We have no other witnesses,

8 Judge.

9 THE COURT: Those are all the witnesses for

10 today?

11 MR. NICOLA: It is.

12 THE COURT: (To Mr. Sanger) Do you want to
13 go back and cross-examine? We've got some extra
14 time.

15 (Laughter.)

16 THE COURT: (To the jury) I'll see you
17 tomorrow morning at 8:30.

18 Counsel approach for just a moment. I want
19 to talk to you about our schedule for a moment.

20 (To the jury) You can go ahead.

21

22 (Discussion held off the record at sidebar.)

23

24 (The following proceedings were held in
25 open court outside the presence and hearing of the
26 jury:)

27

28 THE COURT: All right. Let me just put this 8153

1 on the record. We're going on the record.

2 The Court was just inquiring of counsel

3 about the schedule tomorrow, and there's anticipated

4 to be three witnesses tomorrow. Some will be

5 outside the presence of the jury and some will be in

6 the presence of the jury.

7 Do you think it will be a full day tomorrow?

8 Or what's your anticipation?

9 MR. SNEDDON: I anticipate it will not be,

10 Your Honor. But from there on, it will be.

11 THE COURT: They can't hear you back there.

12 Go ahead.

13 MR. SNEDDON: And I anticipate it will not
14 be a full day tomorrow. I anticipate on Monday and
15 Tuesday we will complete our case, and we will go
16 all the way through without a break until we finish.

17 THE COURT: And then you now anticipate we'll
18 complete the People's case Tuesday?

19 MR. SNEDDON: I believe, depending on
20 cross-examination, but we will not have any more
21 breaks. We will have all our ducks in order for
22 those two days.

23 THE COURT: Then the Court was addressing
24 with counsel Exhibits 809-A and 810-A, which are the
25 transcripts for -- 809-A is the transcript for the
26 CD tape of the phone conversation between Janet
27 Arvizo Jackson and Frank. And 810-A is the
28 transcript of the tape, CD, made during the Los 8154

1 Angeles Protective Services interview.

2 And they were previously accepted into
3 evidence, and the Court's pulling them from evidence
4 and having them lodged as transcripts, which is the
5 proper procedure when you file a transcript with the
6 Court. Unless the parties stipulate the transcript
7 may go to the jury, the transcript doesn't go to the

8 jury. So we're just correcting that.

9 The other transcripts all were lodged

10 properly, and those were the only two that we found

11 that were taken into evidence.

12 MR. SNEDDON: That's fine with us, Your

13 Honor.

14 THE COURT: Is there anything else to take

15 up before we recess for the day?

16 MR. SNEDDON: No, sir.

17 MR. MESEREAU: No, Your Honor.

18 THE COURT: All right. Court's in recess.

19 (The proceedings adjourned at 1:49 p.m.)

20 --o0o--

21

22

23

24

25

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28 8155

1 REPORTER'S CERTIFICATE

2

3

4 THE PEOPLE OF THE STATE OF)

5 CALIFORNIA,)

6 Plaintiff,)

7 -vs-) No. 1133603

8 MICHAEL JOE JACKSON,)

9 Defendant.)

10

11

12 I, MICHELE MATTSON McNEIL, RPR, CRR, CSR

13 #3304, Official Court Reporter, do hereby certify:

14 That the foregoing pages 8033 through 8155

15 contain a true and correct transcript of the

16 proceedings had in the within and above-entitled

17 matter as by me taken down in shorthand writing at

18 said proceedings on April 28, 2005, and thereafter

19 reduced to typewriting by computer-aided

20 transcription under my direction.

21 DATED: Santa Maria, California,

22 April 28, 2005.

23

24

25

26

27 MICHELE MATTSON McNEIL, RPR, CRR, CSR #3304

28 OFFICIAL COURT REPORTER 8156

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