

1 defendants accountable. Your turn to hold them
2 accountable for the false statements, for their deception,
3 for their fraud, for their stealing through their scheme
4 over \$5,000,000 from these staffing companies.

5 Ladies and gentlemen of the jury, I ask that you do
6 no more and no less than what justice requires, and find
7 these six defendants guilty of the crimes charged in the
8 Indictment. Thank you.

9 THE COURT: Thank you, Ms. Hazra.

10 Which of the defendants would like to go first?

11 MR. WALKER: I will, Your Honor.

12 THE COURT: All right. Mr. Walker, you may
13 proceed.

14 **CLOSING ARGUMENT**

15 **BY MR. WALKER:**

16 If it please the Court. Ladies and gentlemen of
17 the jury. By now you know that I am Gary Walker. I am
18 the person that Ms. Hazra just spoke about as the head of
19 all of this. And you saw evidence throughout the case
20 that I am the president of IRP Solutions and the president
21 of Leading Team, Inc.

22 You were also told that these companies are alleged
23 to have participated in a conspiracy. You were shown
24 bullet points about three things, and more, that we were
25 alleged to have done. We were alleged to have entered

1 into an agreement with each other. That is absolutely
2 true. We entered into an agreement to build software;
3 software that you saw evidence of throughout the trial.

4 We entered into an agreement to try to sell that
5 software to law enforcement agencies. You saw evidence of
6 that, as well. We entered into an agreement to work long,
7 hard hours. Time sheets illustrate proof of that
8 agreement.

9 We were also accused of knowingly and voluntarily
10 being involved in a plan. That's absolutely true. We all
11 knew when we got into this, we would be working long, hard
12 hours, as evidenced by those time sheets.

13 We also voluntarily and knowingly entered into a
14 plan to compete against large companies. You heard
15 testimony from Mr. Paul Tran of DHS. You heard testimony
16 from Mr. Price Roe, at the Department of Justice, telling
17 you that they often worked with very large companies. And
18 so it's true, we entered into a plan to compete with these
19 large companies.

20 But what is not true is that we entered into a plan
21 to commit a crime. Throughout the last few days and
22 weeks, and as illustrated just a few minutes ago by
23 Ms. Hazra, you saw many elements of a small company
24 operating over time. You saw, throughout the course of
25 the trial, people who were fulfilling multiple job tasks

1 and roles. You saw instances where I sent e-mails, where
2 I say I was the president. Absolutely true. President of
3 IRP Solutions.

4 You saw e-mails where my signature line said Chief
5 Technology Officer. Absolutely true. You saw evidence of
6 many people working in many roles. Again, evidence of a
7 small business in operation.

8 You saw evidence, and Ms. Hazra pointed it out,
9 that the co-defendants were friends of each other.
10 Mr. Dave Zirpolo, DZ. Mr. Ken Barnes, KB to me. And so
11 that's absolutely true. Demetrius Harper, Meat. I have
12 known these men for many years. It is absolutely true.
13 We were friends working together, coming together to work
14 long and hard to achieve a goal.

15 That goal was not one of criminal intent. That
16 goal was one of fulfilling our common dream of getting
17 this software out there. You also saw evidence of other
18 family members being involved. None of these things do we
19 deny. A small company working hard to try to make
20 something happen, with limited resources.

21 My sister-in-law, Lisa Stewart, my executive
22 administrative assistant, and Clint Stewart's
23 sister-in-law. My wife, Yolanda Walker. You saw on the
24 Government's own witness list, her name associated with
25 many different financial transactions. My wife helped to

1 pay the bills.

2 You also saw that myself and the co-defendants
3 worked as executives of the company. You saw the titles
4 associated with each of the companies. We were vice
5 presidents. We were Chief Operating Officers, CEOs. Vice
6 presidents of professional services. And you also saw
7 these same names of each of the co-defendants involved in
8 project work. You saw them involved in helping to deliver
9 products that they had helped to build, and helping to
10 manage the products and the projects associated with these
11 companies.

12 You just heard accusations of false assurances.
13 Again, let's talk about a small business. What the
14 Government asserts as false assurances, we assert as
15 belief in your company. Belief in your product, which was
16 affirmed by statements from many people outside of our
17 companies. If you recall the testimony of Mr. John
18 Shannon, a former NYPD detective, his quote is, at that
19 time, this was the best software he had seen.

20 You heard testimony from Mr. Paul Tran and saw
21 evidence in the form of an e-mail where he approved IRP
22 Solutions to go to the next round of vetting for the
23 Department of Homeland Security. You may consider that
24 delivering false assurances, when in reality it's taking
25 input from the people you are attempting to sell to, and

1 providing that as information to the people who you have
2 obligations to.

3 Other elements that you saw of small business
4 operations; we had skin in the game. Of all those time
5 sheets you saw, many hours reported and worked, many hours
6 were not reported. You saw evidence of skin in the game
7 by myself and my co-defendants in the form of personal
8 guarantees and promissory notes. That's what small
9 businesses do when they believe in their product. When
10 they believe in what people they are trying to sell to
11 tell them about the quality of their product. That's what
12 small businesses do.

13 Another element of a small business in operation is
14 a business having both a physical address and a mailing
15 address. You heard through the testimony of Agent Smith
16 that the FBI had difficulties in finding DKH or LTI.
17 That's because they were trying to find them at the
18 mailing address. And we saw evidence in the form of
19 invoices where companies would mistakenly use the mailing
20 address, which was provided to them, as the physical
21 address.

22 If you show up at a Mail Boxes Etc., you are not
23 going to find anybody at LTI there. You are not going to
24 find anybody from DKH or IRP at the Mail Boxes, Etc. But
25 when you send mail to that addresses, it will reach the

1 companies.

2 Another element of a small business in action, and
3 any business, is persistence. You saw where the companies
4 were engaged in selling product -- attempting to sell
5 product to small, medium and large agencies. You heard
6 testimony from Sam Thurman, the vice president of
7 marketing and sales for IRP Solutions, where he said that
8 he utilized people in the company who had other roles as
9 their primary role to reach out to agencies. We were
10 resourceful. We had to be. We worked hard. We were
11 persistent. Those are elements of a small business.

12 Now, a large part of the Government's charges
13 against us and the allegations are false statements
14 concerning the status of IRP with various agencies. You
15 heard for yourselves that in many cases, these staffing
16 agency representatives said at one point, that they told
17 us they had a contract with the NYPD. Or they told us
18 they had a contract with DHS. But if you recall the
19 e-mails sent by IRP, DKH, LTI, zero occurrences of anyone
20 at these companies saying we had a contract with either of
21 these large agencies.

22 But you will hear them say, in our initial meetings
23 with them, when we talked about what we were doing, when
24 we talked about our product, that they said we were very
25 confident. To quote one, we "put on a good show." If you

1 are a small business person with a product that you've
2 worked long and hard to build, you are going to be proud
3 of it. That came across in the staffing company
4 representations. Their big show is pride and hard work.
5 It is pride in what we built.

6 And although we said in our e-mails that we were
7 working to close business with these agencies, recall what
8 you heard from the staffing companies. In many cases they
9 would say, I assumed they had a contract when I read that
10 e-mail. I thought that e-mail meant that they had a
11 contract.

12 And you will also note, if you think back, that
13 after the staffing companies were re-approached by the
14 Government to do interviews, that's when we saw more
15 statements about them saying, I thought they had a
16 contract. Where in the earlier representations, you can
17 look and see the e-mails said, we were working on a
18 product to try to sell to the NYPD. We were working on a
19 project that would be sold to DHS.

20 We were optimistic. We believed in the positive
21 statements we heard from law enforcement agencies. You
22 will not see a single instance in that evidence chain
23 where we lied to anybody, anybody, about having a contract
24 with those agencies.

25 Now, a lot of the focus has been on the NYPD and

1 DHS, because that is where we expected to make money from.
2 But, in his testimony, Mr. Sam Thurman, the VP of Sales
3 and Marketing, told you that we reached out to agencies of
4 all sizes; small agencies, medium agencies and large
5 agencies.

6 You saw from his testimony that we weren't only
7 relying on the large agencies of the NYPD and DHS.
8 Mr. Thurman also named cities where we were talking to
9 large agencies. In his testimony he mentioned Detroit, El
10 Paso, Philadelphia, Dallas, our own home state here,
11 Denver, the Orange County Sheriff's in Florida.

12 That is representative of a company that had many
13 products, able to fit the needs of small to large
14 agencies. You heard the testimony of software developers
15 that we brought in. They talked about the work that they
16 did. They talked about the evolving nature of the
17 products. They talked about how we would go to meetings
18 and come back and have a requirement for them to build.
19 They talked about that work. They talked about the need
20 to customize the products for these different agencies.

21 You also heard the testimony of Agent Colin Reese
22 from the Colorado Bureau of Investigations, CBI. And in
23 his testimony, Agent Reese related the fact that CBI began
24 engaging with, initially, LTI in about the late 2002, 2003
25 time frame. That also is about the time that the

1 companies started to utilize staffing resources. And
2 those staffing resources were utilized, as you heard
3 developers say, we were building a larger product from the
4 initial smaller product, and we had the potential to sell
5 it.

6 And so in order to satisfy the needs, and not lose
7 the CBI opportunity, we made a decision to bring in
8 additional people. We staffed them, the same time we were
9 talking with CBI. You also heard from Agent Reese that
10 there was serious interest in the CILC product within the
11 CBI.

12 You saw the e-mail from Agent Reese, who was a
13 technical representative at the Colorado Bureau of
14 Investigations, where he recommended to his superiors that
15 they bring the CILC software in-house for a 6-month review
16 period. He also stated to his superiors that the price of
17 \$375,000 was more than they had budgeted for. Agent Reese
18 also relayed to you in his testimony that they were
19 willing to go out and request a grant for those funds in
20 order to hopefully procure the CILC software.

21 Mr. Reese also noted to you that they weren't
22 successful in obtaining that grant, therefore, they did
23 not purchase the solution.

24 Now, the Government's allegations include that time
25 cards had hours that were claimed as worked but not

1 worked. And they state the reason for their assertions
2 that those hours couldn't have been worked because there
3 were simultaneous hours for the same person across more
4 than one job, as represented by more than one staffing
5 company.

6 We all heard several IT professionals, under oath,
7 testify to you that they have worked multiple engagements
8 simultaneously. We heard testimony from these IT
9 professionals that they used technology, itself, to enable
10 them to do that job, to empower them to do that
11 simultaneous work.

12 There is not one piece of evidence that refutes
13 those individuals doing multiple roles successfully. We
14 heard testimony from Mr. Mike McKinley. Mr. McKinley was
15 the supervisor of an IRP contract employee by the name of
16 Shaun Haughton. You heard, in Mr. McKinley's testimony,
17 that he supervised Mr. Haughton for a period of several
18 years; I believe it was 3 years, at two companies, as the
19 company made changes from being Benesight to Fiserv. And
20 you heard him say that he didn't care if Mr. Haughton had
21 another job, as long as he got his work done.

22 You also heard Mr. McKinley say Mr. Haughton was an
23 excellent employee, and he didn't have any problems with
24 him. And in regards to that situation and that scenario,
25 you heard no complaints from the staffing company about

1 Mr. Haughton's "activity."

2 You also heard testimony, in the form of an expert,
3 an expert brought in by the defendants, Mr. Joe Thurman, a
4 director at a large staffing company. And in his
5 testimony, Mr. Thurman provided statements that
6 corroborated what you heard from previously mentioned IT
7 professionals; that oftentimes staffing companies will
8 encourage some of their various performers to take on
9 other roles. Oftentimes, these large contracting
10 companies, staffing companies, don't care if a consultant
11 is doing other work on the side, as long as it does not
12 impact their client, which is the bottom line, he said.

13 The bottom line is providing service to the client
14 and bringing in revenues for the staffing company. You
15 also saw evidence provided by the Government's own witness
16 of payments made to staffing companies. That witness, a
17 financial analyst, acknowledged and showed you specific
18 line items where there were payments, but she also
19 acknowledged that there may have been other payments
20 related to certain withdrawals that were not recognized as
21 payments, due to the inability to further pursue
22 investigating of those. No way to track down that
23 information in detail.

24 And so you saw the intent of the company to pay.
25 You saw the intent of the company to pay, because the

1 company -- neither company -- none of the three companies,
2 filed bankruptcy. And you also saw that, as witnessed by
3 the staffing companies, themselves, the companies did not
4 deny the fact that they incurred debt with the staffing
5 companies.

6 Now, in reference to the time frame, the span of
7 time, I mentioned that CBI was the first early suitor of
8 the company's product. The company did not stop there,
9 and it did not end with the NYPD, DHS, or the other
10 agencies that I named. And, so, over time, the company
11 worked to be able to sell and market product across a law
12 enforcement spectrum. And in doing that, again, the
13 company heard many positive comments on the software,
14 which we took as confirmation that we were doing -- we
15 were on the right track with software.

16 And, so, as Ms. Sue Holland said in her testimony,
17 that Mr. Harper told her in their initial conversation,
18 "we will be closing business any day." She said in her
19 own words, he was very convincing. He was optimistic. He
20 believed what the agencies were telling him. He believed
21 that the companies would sell to large agencies and be
22 able to pay on the debts any day now.

23 And, if you recall statements from other staffing
24 representatives, they would tell you, they told us
25 that they said, we expected to close business any day. We

1 expected to be able to pay debts any day. And that's
2 reflected, as well, in -- as well, in the proposed
3 repayment plans.

4 And in talking to those large agencies, and getting
5 the positive feedback, the entrepreneur says this large
6 agency has told me they really like it. And, as
7 Mr. Thurman said, positive feedback, and they would work
8 on ways to get the money.

9 That, again, contributes to the entrepreneur
10 believing he's going to make that big sale any day. That
11 gives him the power to say to a creditor, I am going to be
12 able to pay you. And so when you hear that term "they
13 were very convincing," as Ms. Holland said, or "they put
14 on a good show," as another staffing company
15 representative said, those are not misrepresentations,
16 those are reliance and reconveyance of confidence in the
17 product.

18 Now, the same Ms. Holland I just spoke about, who
19 said that Demetrius Harper told her that we would be
20 closing any day -- be closing business any day, also said
21 later on that "They told me they had a contract with the
22 NYPD." And if you recall, upon her cross-examination,
23 Ms. Holland was not able to confirm any conversation nor
24 any e-mail where the company stated that "we had a
25 contract with NYPD."

1 Ms. Holland also said during her testimony that
2 when she received the proposed repayment plan from
3 Mr. Harper, she saw it as an indication that he was still
4 confident in being able to close business to pay the debt.

5 If you recall the testimony of Mr. Price Roe, who
6 worked in the Department of Justice as the assistant of
7 the head technology executive in the Department of
8 Justice, the Chief Information Officer, the highest
9 technology position at the DOJ. Mr. Roe related that he
10 told us, as he told many other small companies, "be
11 persistent." The company was persistent.

12 You heard the testimony of Mr. Tran, of DHS, of
13 Mr. Bill Witherspoon of DHS, that they were present for
14 many demonstrations from IRP Solutions of their product.
15 You heard from Mr. Steven Cooper just this morning from
16 DHS; that he would make suggestions to companies about how
17 to improve their product to meet the need of his agency.
18 You heard, from Mr. Cooper's testimony, that companies
19 would return to show results of implementing those
20 suggestions.

21 You heard testimony from Mr. Tran, in which he saw
22 multiple versions of the CILC software in subsequent
23 meetings after making changes to the software. And you
24 saw the persistence on the part of the company. You saw
25 that the company, and the people working there, believed

1 in their products. Not only just an innate belief in
2 their product, but because of what they were told by law
3 enforcement. In one case, that this was the best I had
4 seen at that point, from the NYPD.

5 Now, when you look at these actions and you see
6 what was done by the company, when you see payments,
7 although they may have been small, relative to some of the
8 debt, you see an intent to repay. When you see promissory
9 notes and personal guarantees, you see the intent to make
10 good on the debt. When you see the proposed payment
11 schedules, you see the intent to make good on the debt.

12 You received instructions from the Court that it's
13 the Government's job to prove that we actually entered
14 into an agreement to commit fraud, conspired to commit
15 criminal acts. She also said that that must be done by
16 the Government in a manner that is beyond a reasonable
17 doubt.

18 If, at the end of all of the trial, all of the
19 testimony, all of the evidence, you still have reasonable
20 doubt about IRP Solutions', Leading Team, Inc.'s, DKH
21 Enterprises' intent as businesses, rather than intent to
22 intentionally defraud or steal, then it is incumbent on
23 you to return verdicts of not guilty. Thank you.

24 THE COURT: Thank you, Mr. Walker.

25 Who would like to go next?