

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 09-cr-00266-CMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. DAVID A. BANKS;
2. DEMETRIUS K. HARPER, a/k/a KEN HARPER;
3. GARY L. WALKER;
4. CLINTON A. STEWART, a/k/a C. ALFRED STEWART;
5. DAVID A. ZIRPOLO; and
6. KENDRICK BARNES,

Defendants.

REPORTER'S TRANSCRIPT
(Jury Trial Day 8)

Proceedings before the HONORABLE CHRISTINE M. ARGUELLO, Judge, United States District Court, for the District of Colorado, commencing at 10:34 a.m. on the 5th day of October 2011, Alfred A. Arraj United States Courthouse, Denver, Colorado.

A P P E A R A N C E S

FOR THE PLAINTIFF:

MATTHEW T. KIRSCH and SUNEETA HAZRA, U.S. Attorney's Office - Denver, 1225 17th St., Suite 700, Denver, CO 80202

FOR THE DEFENDANTS:

Pro Se

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OCTOBER 5, 2011

(Proceedings commence at 10:28 a.m.)

(The following is had in open court, outside the hearing and presence of the jury.)

THE COURT: You may be seated okay.

Are there any matters to discuss before we bring in the jury?

MR. KIRSCH: Not from the Government, Your Honor.

THE COURT: So the Government indicated that it would probably be calling its last witness today. Do you expect you will be done, or expect it will run over in to tomorrow?

MR. KIRSCH: Your Honor, I'm not -- if all we were doing today were direct, then I think we would finish today. I'm not certain whether we will finish today, because I'm not sure about the length of the cross. Really, for three of our four witnesses today, it is a little hard for me to predict what the length of the cross will be.

THE COURT: Okay. That is fine.

Any matters that need to be brought to my attention before we bring in the jury?

MR. BANKS: Not from us, Your Honor.

THE COURT: Ms. Barnes, please bring in the jury.

(The following is had in open court, in the hearing

1 and presence of the jury.)

2 THE COURT: All right, you may be seated.

3 Welcome back. Best made plans. You never know
4 what is going to happen out there in that world.

5 Is the Government ready to proceed?

6 MR. KIRSCH: We are, Your Honor. The Government
7 calls Eric Black.

8 COURTROOM DEPUTY: Your attention, please.

9 **ERIC BLACK**

10 having been first duly sworn, testified as follows:

11 COURTROOM DEPUTY: Please be seated.

12 Please state your name, and spell your first and
13 last names for the record.

14 THE WITNESS: Eric Black. E-R-I-C B-L-A-C-K.

15 **DIRECT EXAMINATION**

16 **BY MR. KIRSCH:**

17 Q. Mr. Black, could you tell the jury what you do for a
18 living, please.

19 A. My job title is a computer forensic examiner for the
20 FBI.

21 Q. How long have you been a forensic examiner for the
22 FBI?

23 A. I first came into the program in 2000.

24 Q. And prior to becoming a computer forensic examiner,
25 were you doing work in the information technology field?

1 A. Yes. About three years before I became an examiner,
2 I was an IT specialist for the FBI. And then before that
3 I was an IT person for various other companies.

4 Q. Can you explain a little bit more what the job of a
5 computer forensic examiner is?

6 A. Basically, we take a computer hard drive, thumb
7 drive, whatever type of media, and we make a copy of it,
8 and then run it through some forensic software and look
9 for whatever kind of case it is. If it is graphics, such
10 as in a child porn case, we try to find e-mails -- if it
11 is e-mails, we try to find those.

12 Q. Now, as part of your duties as a computer forensic
13 examiner, were you involved in a search on February 9th of
14 2005 at 7350 Campus Drive in Colorado Springs?

15 A. Yes, I was.

16 Q. And you were participating in that search as a
17 forensic examiner?

18 A. Yes.

19 Q. Do you know whether or not there were -- are you
20 familiar with the term "image"?

21 A. Yes.

22 Q. Can you tell the jury what an image is, please?

23 A. Basically, an image is an exact copy of the computer
24 hard drive. So, in this case, we made images of all of
25 the computers on site, and took those images back to our

1 evidence room.

2 Q. Were there servers at that site?

3 A. Yes, there were.

4 Q. And were you able to make images of the servers
5 there?

6 A. Yes, we were.

7 Q. Were there also desktop computers at that site?

8 A. Yes.

9 Q. Were you able to make these images that you have
10 described there?

11 A. Yes.

12 Q. Can you explain a little bit more what process was
13 used to create the images of those computers?

14 A. For the majority of the computers, we use an actual
15 physical device that is called a logic key. Basically,
16 what we did is we went in, turned the computer off,
17 removed the hard drive, took a blank hard drive and put it
18 inside of this logic cube device, attached that to the
19 evidence hard drive, and made an exact image of those hard
20 drives. Then we shut the device down, replaced the hard
21 drive back in the evidence computer, and moved on to the
22 next one.

23 Q. And do you have a process for confirming that the
24 image that you created on the blank -- on the previously
25 blank hard drive is, in fact, identical to the original

1 hard drive?

2 A. Yes. There is basically a mathematical algorithm
3 called MD5 hash value. The best way to look at that is
4 like a digital fingerprint. So just like a fingerprint is
5 unique for a certain individual, the MD5 hash value or
6 digital fingerprint is unique for a given hard drive. So
7 during the imaging hard drive, we get a digital
8 fingerprint of the hard drive, a digital fingerprint of
9 our copy, and if they are identical, we know we have an
10 exact copy of the hard drive.

11 Q. Do you know, in this case, whether that comparison
12 between the MD5 hash value was made for each of the images
13 that were created?

14 A. Yes.

15 Q. And did those values match?

16 A. Yes.

17 Q. What happened to those images that were created that
18 day after the search had been executed?

19 A. Basically, in a normal case, we would have the actual
20 computer in our evidence room. That would be our best
21 evidence. But, in this case, we made images of all of the
22 hard drives, brought that back to the FBI evidence room,
23 and that was our best evidence.

24 When we began an examination of those images, we
25 would make another copy, so that we were not working on

1 the original copy. We didn't want to alter that or do
2 anything to affect that, at all.

3 Q. Let me stop you for just a minute.

4 A. Sure.

5 Q. When you made that second copy, how did you determine
6 that that copy was an accurate copy?

7 A. We again ran the MD5 hash value and got the digital
8 fingerprint, and made sure they matched.

9 Q. All right. And then once you have this working copy,
10 what happens?

11 A. Basically, we take our forensic software, load the
12 image files into that software, and it goes through and
13 processes the image file. And what that does is it
14 basically takes a hard drive and categorizes it and breaks
15 it out into graphics. If you want to look at pictures,
16 you click on the tab called "graphics," and you view the
17 graphics.

18 There is a tab called "e-mails," so you can look at
19 the e-mails. You can do searches on terms, because this
20 forensic software indexes the whole hard drive. So every
21 word that is on that hard drive, we can search on it. If
22 you are looking for a certain name or e-mail address, you
23 put that in, it will give us hits on each of those files.

24 Q. And do you know whether or not that analysis was
25 performed on at least some of the images of the computers

1 that were made in connection with this search?

2 A. Yes, it was.

3 Q. And prior to coming to court today, were you provided
4 with a list of some items that had been marked as trial
5 exhibits in this case?

6 A. Yes, I was.

7 Q. Prior to coming to court today, did you have an
8 opportunity to go back and compare those exhibits to the
9 images that you have been describing?

10 A. Yes.

11 Q. Okay. And were you able to confirm whether or not
12 those items that had been marked as trial exhibits were
13 all contained on -- at least one of those various images
14 that were created during the search?

15 A. Yes, I was.

16 Q. You confirmed that that was true?

17 A. Yes.

18 Q. Okay. Did you have a system that was used that day
19 to associate particular computers or hard drives with
20 particular locations within the office?

21 A. Yes. When we first went into the office, we went
22 around and labeled each office with a letter. So you
23 start off with A through Z. Then start it again with AA.
24 So each office or cubicle was given a location so that
25 they could take photographs of each of those locations.

1 So we used that process for identifying which files came
2 from which office.

3 Q. And did the forensic examination, then, create a
4 title for those images that you were creating?

5 A. Yes.

6 Q. Was there a system for that?

7 A. Yes.

8 Q. Can you explain how that system works?

9 A. So, basically, say we were doing a computer out of
10 office T. We would name the image file "T," for the
11 office; "IRP," for the name of the company; "Q," which
12 means question, which is how we designate evidence in the
13 FBI; and then "1," if it was the first or only computer in
14 the office. If it was the second of two computers, it
15 would be "tirpq2." And so forth for all of the various
16 locations.

17 Q. All right. Now, I think you mentioned before that
18 there were also some servers that were imagined?

19 A. Yes.

20 Q. Was that same naming convention you just described
21 used for the servers, as well?

22 A. No. For the servers, they were labeled with names
23 when we went in there. So we used whatever name was on
24 the given server for the name of the image file.

25 Q. Okay. Then did you add the "Q" and the numeric

1 designation you described before?

2 A. Yes.

3 Q. Okay. I want to ask you first about the server, for
4 the purposes of your search, that was identified as
5 "rouge3q2"?

6 A. Okay.

7 Q. Is that one of the servers that was imaged that day?

8 A. Yes.

9 Q. And, again, prior to coming to court today, did you
10 review several exhibits that had been located on that
11 server?

12 A. Yes.

13 Q. I want to first direct your attention to what is
14 marked for identification as Government Exhibit 608.54.
15 You should have it in a folder there in front of you.

16 A. Yes.

17 Q. Do you recognize that exhibit?

18 A. Yes, I do.

19 Q. Is that an exhibit that was located on that server?

20 A. Yes.

21 Q. And what sort of a file is that?

22 A. I believe this is an Excel spreadsheet file.

23 Q. And do you recall where, within the server, that
24 particular spreadsheet was located?

25 A. Just by looking at it, no. But if I can refer to a

1 spreadsheet that I prepared, I can.

2 Q. Would that refresh your memory about where it came
3 from?

4 A. Yes.

5 Q. All right. I would ask you to look at that, please.

6 A. Okay.

7 Q. All right. Did that refresh your memory about where
8 it was?

9 A. Yes.

10 Q. Where was it?

11 A. Basically, it was found under a folder on the hard
12 drive called "D Harper. My documents."

13 Q. Okay. That is all I need.

14 MR. KIRSCH: Your Honor, I would move to admit and
15 publish Government Exhibit 608.54.

16 THE COURT: Any objection?

17 MR. WALKER: No objection.

18 THE COURT: Exhibit 608.54 will be admitted, and it
19 may be published.

20 (Exhibit No. 608.54 is admitted.)

21 MR. KIRSCH: Thank you, Your Honor.

22 Can you expand just that portion that says "Leading
23 Team" for us, Special Agent Smith.

24 Q. (BY MR. KIRSCH) Mr. Black, do we have displayed on
25 the screen now what is the top part of page 1 --

1 A. Yes.

2 Q. -- of this exhibit? And what is the caption for that
3 section?

4 A. "Leading Team, Inc."

5 Q. Okay. And then there are some dollar amounts on the
6 right; is that correct?

7 A. That's correct.

8 MR. KIRSCH: Could we now please expand the "DKH
9 Enterprises" section.

10 Q. (BY MR. KIRSCH) Do we now have a portion on the
11 screen with the caption of "DKH Enterprises"?

12 A. Yes.

13 Q. Does this portion, again, have a series of dollar
14 amounts next to a series of names?

15 A. Yes.

16 MR. KIRSCH: And then, Special Agent Smith, if we
17 can expand the "IRP Solutions Corp" section.

18 Q. (BY MR. KIRSCH) Are we now displaying the lower part
19 of that first page?

20 A. Yes.

21 Q. With a caption of "IRP Solutions Corp"?

22 A. That is right.

23 MR. KIRSCH: Can we go to page 2 of that document,
24 please.

25 Q. (BY MR. KIRSCH) And then what is on page 2 of this

1 document, Mr. Black?

2 A. Looks like perhaps a total for the last section, and
3 then a total of all sections.

4 Q. And what is that final total?

5 A. 5,073,073.98.

6 Q. Thank you. Can I ask you now to look, please, at
7 what is marked for identification as Government Exhibit
8 608.56. Do you recognize that exhibit?

9 A. Yes.

10 Q. Was that an exhibit that was located on the same
11 server, rouge3q2?

12 A. Yes, it was.

13 Q. What sort of a file does that appear to be?

14 A. Appears to be another Excel spreadsheet.

15 MR. KIRSCH: Your Honor, I would move to admit and
16 publish Government Exhibit 608.56.

17 THE COURT: Any objection?

18 MR. BANKS: No objection, Your Honor.

19 THE COURT: Exhibit 608.56 will be admitted, and it
20 may be published.

21 (Exhibit No. 608.56 is admitted.)

22 MR. KIRSCH: Thank you, Your Honor.

23 Q. (BY MR. KIRSCH) What's the caption on the top of
24 this document, Mr. Black?

25 A. It says "IRP badge access assignment."

1 Q. I am going to go ahead and direct your attention now,
2 Mr. Black, to what is marked for identification as Exhibit
3 608.57. Do you have that one in front of you?

4 A. Yes.

5 Q. And what sort of a document is that?

6 A. It is another Microsoft Excel spreadsheet.

7 Q. And do you recall where that particular document was
8 located within that server?

9 A. It was on the same server under a folder called "D
10 Harper. My documents."

11 MR. KIRSCH: Your Honor, I would move to admit and
12 publish Government's Exhibit 608.57.

13 THE COURT: Any objection?

14 MR. BANKS: No objection.

15 THE COURT: 608.57 will be admitted, and it may be
16 published.

17 (Exhibit No. 608.57 is admitted.)

18 MR. KIRSCH: Special Agent Smith, could you expand
19 the upper left corner of that document, please.

20 Q. (BY MR. KIRSCH) What appears to be in the first
21 column of that document, Mr. Black?

22 A. Looks like names of individuals that worked at IRP,
23 possibly.

24 Q. Then what is the title of the second column?

25 A. "Positions."

1 Q. And then what is the title of the third column?

2 A. "Aliases."

3 MR. KIRSCH: Thank you, Special Agent Smith.

4 Q. (BY MR. KIRSCH) I want to now direct your attention
5 to what is marked for identification as Government Exhibit
6 608.58. Is that also a document that was contained on
7 this server?

8 A. Yes.

9 Q. And what sort of a document is this?

10 A. Again, it looks like another Microsoft -- I don't
11 know if it is a spreadsheet or a document.

12 Q. Do you recall where, within the server, this document
13 was?

14 A. It was under -- again under the folder called "D
15 Harper. My documents."

16 MR. KIRSCH: Your Honor, I would move to admit and
17 publish Government's Exhibit 608.58.

18 THE COURT: Any objection.

19 MR. BANKS: No objection.

20 THE COURT: 608.58 is admitted, and it may be
21 published.

22 (Exhibit No. 608.58 is admitted.)

23 MR. KIRSCH: Just expand down to the bottom of that
24 list, please, Special Agent Smith.

25 Q. (BY MR. KIRSCH) What is the title on the top of page

1 1 here, Mr. Black?

2 A. It says "current/former companies used."

3 Q. And then in the second column, what are the two sets
4 of initials that appear in that second column?

5 A. "LTI" and "DKH."

6 MR. KIRSCH: Can we expand the bottom part of that
7 page now, please, Special Agent Smith.

8 Q. (BY MR. KIRSCH) What's the caption for this portion
9 of the document, Mr. Black?

10 A. It says "Companies contacted but no joy."

11 MR. KIRSCH: Will you please publish page 3 of that
12 exhibit.

13 Q. (BY MR. KIRSCH) I want to direct your attention --

14 MR. KIRSCH: Can you just expand the top quarter or
15 so of that for us, Special Agent Smith.

16 Q. (BY MR. KIRSCH) Do you see the entry for "COMSYS"?

17 A. Yes.

18 Q. What does it say next to that?

19 A. "Getting into our business."

20 MR. KIRSCH: Can we publish page 4 of that exhibit
21 now, please. Let's go ahead and go to page 6, please.
22 Can we just expand that top quarter again.

23 Q. (BY MR. KIRSCH) Do you see the entry for "Pro Staff
24 (AdvectA)"?

25 A. Yes.

1 Q. What is on the right next to that name?

2 A. It says "used already."

3 Q. I want to change images now, Mr. Black. I want to
4 ask you whether one of the images that was created that
5 day was one called firpq2?

6 A. Yes.

7 Q. And so, again, just can you remind the jury what that
8 name means, in terms of where that computer came from.

9 A. So, basically, we found that in a room that was
10 labeled F, and it was the second computer of two.

11 Q. Okay. I want to direct your attention now to what is
12 marked for identification as Government Exhibit 608.23.

13 Do you have that one in front of you?

14 A. Yes, I do.

15 Q. All right. Is that an exhibit that was contained on
16 that image that we just identified?

17 A. Yes, it was.

18 Q. And what sort of a document is that, or what sort of
19 a file is that?

20 A. This is an e-mail message.

21 Q. And can you explain where within the computer --
22 actually let me ask a different question.

23 Were you able to associate a particular user name
24 with that file?

25 A. Well, it was from Demetrius Harper to Clint Stewart.

1 On the computer, it was actually located under an archives
2 file under "CA Stewart," a folder on that computer.

3 MR. KIRSCH: Your Honor, I would move to admit and
4 publish Government Exhibit 608.23.

5 THE COURT: Any objection?

6 MR. BANKS: No objection.

7 THE COURT: 608.23 is admitted and it may be
8 published.

9 (Exhibit No. 608.23 is admitted.)

10 Q. (BY MR. KIRSCH) Now, you indicated that this is an
11 e-mail -- is it fair to say this is -- this actually
12 contains a couple of e-mails?

13 A. Yes. It looks like there was some replies to an
14 e-mail.

15 MR. KIRSCH: All right. Can we actually start by
16 expanding just the bottom of that, the original message
17 there.

18 Q. (BY MR. KIRSCH) So that original message says that
19 it came from who?

20 A. Demetrius Harper.

21 Q. To who?

22 A. Clint Stewart.

23 MR. KIRSCH: And then can we go to page 2, please.
24 And can you expand that message, please.

25 Q. (BY MR. KIRSCH) In the second paragraph -- it is on

1 the screen there -- what is the phrase that begins
2 "Esther's money"?

3 A. "Other hot tickets, Gary says that he is looking for
4 another W2. Let's put Gary and Esther on the next W2
5 ship. Esther's money will cover Brother Simmons, 35/hr.
6 for her on that."

7 MR. KIRSCH: Can we expand the bottom of that page
8 now.

9 Q. (BY MR. KIRSCH) What is this information that is
10 coming up on the screen now, Mr. Black? The Outlook
11 header information, what is that?

12 A. It is just basically indicating when the e-mail was
13 created, when it was delivered, who the sender was, who it
14 was received by.

15 Q. And how about the standard header information?

16 A. Again, it is indicating some of the same information;
17 the date, the subject, that it was an Outlook message.

18 Q. Is this information that's generated by the forensic
19 analysis program that you described before?

20 A. No. That information is contained in the e-mail
21 message.

22 Q. It is contained in the e-mail message?

23 A. Right.

24 Q. It is not something that a person who gets an e-mail
25 message would ordinarily see; is that right?

1 A. That's true.

2 Q. But does the forensic analysis program allow that
3 information to become visible?

4 A. Yes.

5 MR. KIRSCH: Okay. Can we now go back to the first
6 page of that exhibit, please. And then can we expand that
7 next message.

8 Q. (BY MR. KIRSCH) At the top of this message -- who is
9 this message from?

10 A. Clint Stewart.

11 Q. And the to line, what does it say?

12 A. Demetrius Harper.

13 Q. Is there a salutation within the e-mail, itself?

14 A. It begins with "Meat."

15 Q. Okay. And what does the last sentence of the second
16 paragraph say -- of the first paragraph, I am sorry?

17 A. "As you know, the success of this arrangement is
18 based upon perceptions by all parties involved."

19 MR. KIRSCH: And then if you can just expand the
20 message at the top of that screen, Special Agent Smith, so
21 the jury can see that.

22 Q. (BY MR. KIRSCH) All right. Mr. Black, now I want to
23 ask you about a server or an image called mirpql. Is that
24 another image that was created that day?

25 A. Yes, it is.

1 Q. And let me ask you to look now at what is marked for
2 identification as Government Exhibit 608.44.

3 A. Okay.

4 Q. Is that something that came from that particular
5 server? I am sorry, from that particular image?

6 A. Yes.

7 Q. And what sort of a file is that?

8 A. This is another e-mail message.

9 MR. KIRSCH: Your Honor, I would move to admit and
10 publish Government Exhibit 608.44.

11 THE COURT: Any objection?

12 MR. BANKS: No objection.

13 THE COURT: 608.44 will be admitted, and it may be
14 published.

15 (Exhibit No. 608.44 is admitted.)

16 MR. KIRSCH: Can we expand the message at the
17 bottom of that page first, please. Starting right there,
18 "original message."

19 Q. (BY MR. KIRSCH) Who does this message say it is
20 from?

21 A. Sylvia McGhee.

22 Q. To whom?

23 A. Demetrius Harper.

24 MR. KIRSCH: Give the jury a moment to read that.

25 Can we go ahead and expand the top part of that

1 message now, please.

2 Q. (BY MR. KIRSCH) This message coming up on the screen
3 now, who was this one from?

4 A. From Demetrius Harper to Sylvia McGhee.

5 Q. Are you familiar with the acronym "LOL"?

6 A. Yes. It stands for laugh out loud.

7 MR. KIRSCH: Your Honor, next I would move to admit
8 what I believe is a stipulated exhibit, Government Exhibit
9 158.01.

10 THE COURT: It is showing as stipulated. Is there
11 any objection?

12 MR. BANKS: Can we have one moment?

13 THE COURT: 158.01.

14 MR. BANKS: No objection.

15 THE COURT: 158.01 is admitted, and it may be
16 published.

17 (Exhibit No. 158.01 is admitted.)

18 MR. KIRSCH: Thank you, Your Honor.

19 Q. (BY MR. KIRSCH) While that is coming up, Mr. Black,
20 is this another item that was located on that same server,
21 mirpq1?

22 A. Yes, it is.

23 MR. KIRSCH: And then can we go ahead and expand
24 that top box please, "Message 0083" down to that box. All
25 of the way down through the text of the e-mail. Thank

1 you.

2 Q. (BY MR. KIRSCH) Who originated this message,
3 Mr. Black?

4 A. Demetrius Harper.

5 Q. And, then, am I right there is a list of a number of
6 different recipients?

7 A. That's correct.

8 MR. KIRSCH: Thank you, Special Agent Smith.

9 Q. (BY MR. KIRSCH) Mr. Black, now I want to direct your
10 attention to an image titled nnirpql. Is that also an
11 image created during the search that day?

12 A. Yes.

13 Q. Let me start by asking you about what is marked as
14 Government Exhibit 608.50. Is that an item that was
15 located on that image we just discussed?

16 A. Yes.

17 Q. Do you have -- during the course of reviewing
18 documents from that computer, did you -- were you able to
19 associate a particular user with that computer?

20 A. Actually, this message was found in the recycler's
21 folder. When that computer was made, it was put in the
22 recycle bin, but not yet emptied from the recycle bin.

23 Q. This particular message was in the recycle bin. Did
24 you look at other files that were contained on this same
25 image during the course of preparing for your testimony?

1 A. Yes.

2 Q. And during the course of that review, were you able
3 to identify files that were associated with a particular
4 user name?

5 A. Yes.

6 Q. What user name was that?

7 A. D. Banks.

8 MR. KIRSCH: Your Honor, I would move to admit and
9 publish Government Exhibit 608.50.

10 THE COURT: Any objection?

11 MR. BANKS: No objection, Your Honor.

12 THE COURT: 608.50 is admitted and it may be
13 published.

14 (Exhibit No. 608.50 is admitted.)

15 Q. (BY MR. KIRSCH) Now, what sort of a document was
16 this, Mr. Black?

17 A. This was another e-mail message.

18 Q. Why does this one look different than the e-mails
19 that we have looked at so far?

20 A. Well, back when we first started processing this
21 case, we were using a certain version of our forensic
22 software, and it did not interpret this type of e-mail
23 that well. So what I did was exported this file, and
24 imported it into a newer version of our forensic software,
25 which made it easily readable by anybody, just so we could

1 review it.

2 The previous version you would have had to take
3 this message and import it into the Outlook program,
4 itself, to be able to read it. So I just made it this way
5 so it was easy to read.

6 Q. Did that process change anything about the content of
7 the message?

8 A. No.

9 Q. Who did this message come from?

10 A. Charlisa B. Stewart.

11 Q. And who did it go to?

12 A. David Banks.

13 MR. KIRSCH: We'll just give the jury a moment to
14 read that.

15 Q. (BY MR. KIRSCH) I want to ask you now, Mr. Black,
16 about an exhibit marked as 608.13. Is that an exhibit
17 that was located on this same server?

18 A. Yes.

19 Q. Where was it on that server, if you recall?

20 A. I believe it was also in the recycler's bin.

21 MR. KIRSCH: Your Honor, I would move to admit and
22 publish Government's Exhibit 608.13.

23 THE COURT: Any objection?

24 MR. BANKS: No objection.

25 THE COURT: 608.13 is admitted, and it may be

1 published.

2 (Exhibit No. 608.13 is admitted.)

3 MR. KIRSCH: Can I ask you, Special Agent Smith, to
4 start even lower than that, at the very bottom.

5 Q. (BY MR. KIRSCH) We are going to try to start with
6 the first message in this string, Mr. Black. Who was it
7 from?

8 A. Demetrius Harper.

9 Q. And who was it sent to?

10 A. Clint Stewart.

11 MR. KIRSCH: Can we go to page 2 of that exhibit,
12 now, please.

13 Q. (BY MR. KIRSCH) Is this the text of that original
14 message?

15 A. Yes.

16 Q. Is this similar to one we had on -- is this the same
17 message we had on the screen earlier in a different
18 exhibit?

19 A. Yes.

20 MR. KIRSCH: If we can go back to page 1 now,
21 please. Let's go ahead and get the next two messages on
22 the screen. You were in the right place, Special Agent
23 Smith.

24 Q. (BY MR. KIRSCH) So do we have the initial response
25 to that message on the screen now?

1 A. Yes.

2 Q. That came from who?

3 A. David Banks.

4 Q. From David Banks or to David Banks?

5 A. From David Banks to Demetrius Harper.

6 Q. Let's start with the message on the bottom of the
7 screen.

8 A. Oh, I am sorry. From Demetrius Harper to David
9 Banks.

10 Q. Okay. And after the word "Clint" in that message, is
11 there another name in parentheses?

12 A. "Shaun."

13 Q. After the word "myself," is there another name in
14 parentheses?

15 A. "Rico."

16 Q. You were then describing another message that we have
17 on the screen now.

18 A. Yes.

19 Q. That one was from who?

20 A. That was from David Banks to Demetrius Harper.

21 MR. KIRSCH: Okay. And then if we can please
22 expand the top of page 1.

23 Q. (BY MR. KIRSCH) Now I would like you to look,
24 please, Mr. Black, at what is marked for identification as
25 Government Exhibit 608.49. Do you have that one?

1 A. Yes.

2 Q. Is that an exhibit that came from this same server
3 starting with NN?

4 A. Yes.

5 Q. What type of file was that -- was this one?

6 A. This is an e-mail message.

7 MR. KIRSCH: Your Honor, I would move to admit and
8 publish Government Exhibit 608.49.

9 THE COURT: Any objection?

10 MR. BANKS: No objection, Your Honor.

11 THE COURT: 608.49 is admitted, and it may be
12 published.

13 (Exhibit No. 608.49 is admitted.)

14 Q. (BY MR. KIRSCH) Mr. Black, do we have the different
15 appearance on this message again? What is the explanation
16 for that with this message?

17 A. This was -- this has this format because this is an
18 easier to read format than the original message.

19 Q. Same as the one you gave before?

20 A. Has the same content.

21 Q. And this message came from whom?

22 A. Charlisa B. Stewart.

23 Q. And then in the "To" line it says -- it looks like it
24 says "In-House." Is there any information on the screen
25 that allows you to understand what "In-House" was?

1 A. Based on what I am seeing there, it looks like this
2 was a group set up that contained -- because it says
3 "first administrative group," I would guess this is just a
4 group that has several individuals in it. So instead of
5 typing each individual name, they just created a group.

6 Q. And then would everyone who was in that group receive
7 that e-mail?

8 A. Yes.

9 Q. All right. Mr. Black, now I want to direct your
10 attention to the image with the title pirpql, and I want
11 to then have you look at what is marked for identification
12 as Government Exhibit 608.05. Do you recognize that
13 exhibit?

14 A. Yes.

15 Q. Did that exhibit come from that image, pirpql?

16 A. Yes.

17 Q. And what sort of file is 608.05?

18 A. It is another e-mail message.

19 MR. KIRSCH: Your Honor, I would move to admit and
20 publish Government Exhibit 608.05.

21 MR. BANKS: No objection, Your Honor.

22 THE COURT: 608.05 is admitted, and it may be
23 published.

24 (Exhibit No. 608.05 is admitted.)

25 Q. (BY MR. KIRSCH) This message is from who, Mr. Black?

1 A. Demetrius Harper.

2 Q. And then, again, in the "To" it says "CSF." Do you
3 know what that is?

4 A. I would guess that is probably another e-mail group
5 that was created that contains several individuals in it.

6 Q. Is there any information on the bottom of -- that
7 information at the bottom -- it is not on the screen right
8 now.

9 MR. KIRSCH: Maybe we can expand the bottom.

10 Q. (BY MR. KIRSCH) Is there anything down there that
11 lets you know whether that is a group?

12 A. Not really seeing anything definite.

13 MR. KIRSCH: Okay. Can we go back up to the
14 original message there, please.

15 Q. (BY MR. KIRSCH) All right. Mr. Black, now I want to
16 ask you about an image called pirpq3. Was that an image
17 that was created during this search?

18 A. Yes.

19 Q. Again, why would that one have a "3" at the end
20 instead of the "1"?

21 A. There must have been three computers in the office
22 that was labeled "P."

23 Q. Okay. I want to start, for these purposes, with what
24 we have marked for identification as Government Exhibit
25 608.03. Do you recognize that exhibit?

1 A. Yes.

2 Q. Was it contained on that image pirpq3?

3 A. Yes.

4 Q. What sort of exhibit is it?

5 A. It is an e-mail message.

6 MR. KIRSCH: Your Honor, I would move to admit and
7 publish 608.03.

8 MR. BANKS: No objection, your honor.

9 THE COURT: Exhibit 608.03 is admitted, and it may
10 be published.

11 (Exhibit No. 608.03 is admitted.)

12 MR. KIRSCH: Special Agent, can you start at the
13 bottom.

14 Q. (BY MR. KIRSCH) Do we have a header for the first
15 e-mail in this string on the screen now, Mr. Black?

16 A. Yes. It was from Gary Walker to Demetrius Harper.

17 MR. KIRSCH: Can we go to page 2 of that exhibit
18 now, please.

19 Q. (BY MR. KIRSCH) What is the question posed in this
20 e-mail, Mr. Black?

21 A. It is asking, "Have we had any dealings with any of
22 these companies already?"

23 MR. KIRSCH: Can we go back now, please, to page 1
24 of that exhibit.

25 Q. (BY MR. KIRSCH) This one was from who?

1 A. From Gary Walker to Demetrius Harper and Clint
2 Stewart.

3 MR. KIRSCH: Then can we just display the message
4 at the top of that, please.

5 Q. (BY MR. KIRSCH) This final message, is that a
6 response to the message below?

7 A. Yes.

8 Q. From who?

9 A. From Demetrius Harper to Gary Walker.

10 Q. Okay. Can I now ask you to look at what we've marked
11 for identification as Government Exhibit 608.22.

12 A. Okay.

13 Q. Is that another item that was contained on this same
14 image?

15 A. Yes.

16 Q. And what sort of a file is 608.22?

17 A. It is an e-mail file.

18 MR. KIRSCH: Your Honor, I move to admit and
19 publish Government Exhibit 608.22.

20 THE COURT: Any objection?

21 MR. BANKS: No objection, Your Honor.

22 THE COURT: 608.22 is admitted, and it may be
23 published.

24 (Exhibit No. 608.22 is admitted.)

25 MR. KIRSCH: Can we start with page 2 of that

1 exhibit, please. I am sorry, we do need to start with
2 page 1 of that exhibit. First of all, can you highlight
3 that very top.

4 Q. (BY MR. KIRSCH) Who is this message from, Mr. Black?

5 A. From Demetrius Harper.

6 Q. Who received it?

7 A. Gary Walker, David Banks, Cliff Stewart, Ken Barnes.

8 Q. Were there two Stewarts that were listed?

9 A. There is a Cliff Ja Stewart and Clint Stewart.

10 MR. KIRSCH: Can we expand the text on the first
11 page of this exhibit.

12 Q. (BY MR. KIRSCH) Under -- do you see on the screen
13 now where it says "Advecta"?

14 A. Yes.

15 Q. Is there a name in parentheses next to the name Rico
16 Howard?

17 A. Yes.

18 Q. What name is that?

19 A. Clint Stewart.

20 Q. Is there a name in parentheses next to the name Shaun
21 Haughton?

22 A. Yes.

23 Q. What name is that?

24 A. Demetrius Harper.

25 Q. I want to direct your attention now, Mr. Black, to

1 what is marked for identification as Government Exhibit
2 608.24. Do you have that exhibit?

3 A. Yes.

4 Q. Do you recognize it?

5 A. Yes.

6 Q. Did it come from this same image?

7 A. Yes, it did.

8 Q. And what type of a file is it?

9 A. It is another e-mail message.

10 MR. KIRSCH: Your Honor, I would move to admit and
11 publish Government Exhibit 608.24.

12 MR. BANKS: Without objection, Your Honor.

13 THE COURT: 608.24 is admitted, and it may be
14 published.

15 (Exhibit No. 608.24 is admitted.)

16 MR. KIRSCH: Can we start with page 2, please.

17 Q. (BY MR. KIRSCH) Who does this message come from,
18 Mr. Black?

19 A. Larry Iverson.

20 Q. Directed to who?

21 A. To Clint Stewart, and also copied to David Banks and
22 Gary Walker.

23 MR. KIRSCH: Can we go to page 1 of that exhibit
24 now. And let's expand that message on the bottom, please.

25 Give the jury a chance to read that message.

1 Q. (BY MR. KIRSCH) This message that is on the screen,
2 by the way, was from who?

3 A. Clint Stewart.

4 Q. And who received it?

5 A. Larry Iverson, and also David Banks and Gary Walker.

6 MR. KIRSCH: And then, Special Agent Smith, if you
7 could publish the top part of the message there.

8 Q. This message is from whom?

9 A. David Banks.

10 Q. And is there a reference in this message to "applying
11 the hours owed in arrears"?

12 A. Yes.

13 MR. KIRSCH: Thanks, Special Agent Smith.

14 Q. (BY MR. KIRSCH) Now I want to direct your attention,
15 Mr. Black, to an image called tirpql. Is that also an
16 image that was created during the execution of the search
17 warrant you have been describing?

18 A. Yes.

19 Q. Can I ask you to look, please, at what is marked for
20 identification as Government Exhibit 608.01.

21 A. Okay.

22 Q. Is that an item that was located on that image,
23 tirpql?

24 A. Yes.

25 Q. And based on the file path of that particular --

1 associated with that item, are you able to associate this
2 item with a particular user?

3 A. Yes, under a folder called "D Harper."

4 MR. KIRSCH: Your Honor, I would move to admit and
5 publish Government Exhibit 608.01.

6 MR. BANKS: No objection.

7 THE COURT: 608.01 is admitted, and it may be
8 published.

9 (Exhibit No. 608.01 is admitted.)

10 MR. KIRSCH: Go ahead and expand that message for
11 us at the top, please, Special Agent Smith.

12 Q. (BY MR. KIRSCH) Who originated this message,
13 Mr. Black?

14 A. Demetrius Harper.

15 Q. And who received it?

16 A. Barbara McKenzie, Charlisa B. Stewart, Cliff Ja
17 Stewart, Clint Stewart, Craig Simmons, David Banks, Gary
18 Walker, Judith Gordon, Kendra Haughton, Robert Anderson,
19 Samuel Thurman, Samuel K. Thurman, Sharon Ruff and Sylvia
20 McGhee.

21 Q. Who got copied on it?

22 A. David Zirpolo and Ken Barnes.

23 Q. Can I ask you to look now at what is marked for
24 identification as Government Exhibit 608.02. Do you have
25 that one?

1 A. Yes.

2 Q. Was that an item that was located on this same image?

3 A. Yes.

4 MR. KIRSCH: Your Honor, I would move to admit and
5 publish Government Exhibit 608.02.

6 THE COURT: Any objection?

7 MR. BANKS: No objection, Your Honor.

8 THE COURT: 608.02 is admitted, and it may be
9 published.

10 (Exhibit No. 608.02 is admitted.)

11 Q. (BY MR. KIRSCH) This message came from whom,
12 Mr. Black?

13 A. Demetrius Harper.

14 Q. Who received it?

15 A. Ken Barnes, and with a copy to Demetrius Harper.

16 Q. And when was this sent?

17 A. 12/10/2003.

18 Q. Can you just read the reference about not receiving
19 checks?

20 A. "Let's still try to move forward with the following
21 companies. We currently have 8 people out that are not
22 receiving checks. These companies are in California, so
23 they might be willing to play ball."

24 Q. Thank you. Can I ask you to look now at what is
25 marked as Government's Exhibit 608.09. Is this an item

1 that was located on that same image?

2 A. Yes.

3 Q. What sort of a file is it?

4 A. E-mail message.

5 MR. KIRSCH: Your Honor, I move to admit and
6 publish Government Exhibit 608.09.

7 THE COURT: Any objection?

8 MR. BANKS: No objection, Your Honor.

9 THE COURT: 608.09 is admitted, and it may be
10 published.

11 (Exhibit No. 608.09 is admitted.)

12 Q. (BY MR. KIRSCH) Who is this message from?

13 A. Demetrius Harper.

14 Q. And it was directed to who?

15 A. Clinton Stewart.

16 Q. And, again, is there a word in parentheses after the
17 name Shaun Haughton?

18 A. Yes it says "YOU."

19 Q. When was this message sent?

20 A. November 25, 2003.

21 Q. Can I ask you to look now at what is marked for
22 identification as Government Exhibit 608.16. Do you have
23 that one in front of you?

24 A. Yes.

25 Q. Is this another item that came from that same image?

1 A. Yes.

2 Q. Were you able to identify a particular folder in
3 which this item was contained?

4 A. Well, it was found underneath a folder called "DKH
5 Enterprises."

6 Q. Was there a sub folder under that?

7 A. Ken's Staffing.

8 MR. KIRSCH: Your Honor, I would move to admit and
9 publish Government's Exhibit 608.16.

10 THE COURT: 608.16 is admitted, and it may be
11 published.

12 (Exhibit No. 608.16 is admitted.)

13 Q. (BY MR. KIRSCH) Who did this message come from?

14 A. Demetrius Harper.

15 Q. Who received it?

16 A. Ken Barnes.

17 Q. This was when?

18 A. November 19, 2003.

19 MR. KIRSCH: Just give the jury a chance to look at
20 that?

21 Q. (BY MR. KIRSCH) All right. Mr. Black, last one, I
22 think, for this image. Can I ask you to look at 608.26.

23 A. Okay.

24 Q. Is that, in fact, another item that came from this
25 same image?

1 A. Yes.

2 Q. And what sort of a file is it?

3 A. It is another e-mail message.

4 MR. KIRSCH: Your Honor, I move to admit and
5 publish Government Exhibit 608.26.

6 THE COURT: Any objection?

7 MR. BANKS: No objection, Your Honor.

8 THE COURT: 608.26 is admitted, and it may be
9 published.

10 (Exhibit No. 608.26 is admitted.)

11 Q. (BY MR. KIRSCH) So there are actually two messages
12 on the screen now, Mr. Black.

13 A. Yes.

14 Q. Let's start with the lower one. Who is that from?

15 A. Charlisa B. Stewart.

16 Q. It went to whom?

17 A. Looks like a group called "In-House."

18 Q. What does that message say?

19 A. "All, Anyone who is attempting to be staffed will
20 need to be aware that you cannot fax any paperwork from
21 IRP's fax, just as you are unable to e-mail from IRP. Get
22 it?"

23 Q. Then there was a reply to that message that is also
24 on that screen?

25 A. Yes.

1 Q. That came from who?

2 A. Demetrius Harper.

3 Q. Where did it go?

4 A. Same group, "In-House."

5 Q. And what does that response say?

6 A. "All, please keep in mind that goes for the DKH

7 Enterprises fax, as well!"

8 Q. Now, Mr. Black, was there an image created during the
9 search that day title xirpql?

10 A. Yes.

11 Q. Let me ask you to take a look at what is marked for
12 identification as Government Exhibit 418.01. What sort of
13 an item is that?

14 A. E-mail message.

15 MR. KIRSCH: Your Honor, I move to admit and
16 publish Government Exhibit 418.01.

17 THE WITNESS: Any objection?

18 MR. BANKS: No objection, Your Honor.

19 THE COURT: 418.01 is admitted, and it may be
20 published.

21 (Exhibit No. 418.01 is admitted.)

22 MR. KIRSCH: Can we start with the message on the
23 bottom of that screen, please.

24 Q. (BY MR. KIRSCH) Actually, I forgot to ask you,

25 Mr. Black, were you able to associate this file with a

1 particular user of that computer?

2 A. Yes. It was under a folder called "K. Barnes."

3 Q. All right. Now, this message on the screen, this is
4 the first one contained in this item; is that right?

5 A. Yes.

6 Q. It was from whom?

7 A. Demetrius Harper.

8 Q. To whom?

9 A. Clint Stewart.

10 Q. Who was copied on it?

11 A. Ken Barnes.

12 Q. And is there a request contained in here that starts
13 "Please Ken"?

14 A. Yes.

15 Q. Can you read that please? Just where it starts at
16 "please Ken."

17 A. "Please Ken provide Clint with an appropriate number
18 that the folks @Talent Tree can reach you at."

19 MR. KIRSCH: Can we now look at the message on the
20 top of that screen please.

21 Q. (BY MR. KIRSCH) Who sent this message?

22 A. Ken Barnes.

23 Q. Was there a reply to that message we just looked at?

24 A. Yes, a phone number.

25 Q. A phone number is what is in the contents of the

1 reply?

2 A. I believe so, yes.

3 MR. KIRSCH: Can I have just a moment, please, Your
4 Honor.

5 THE COURT: You may.

6 Q. (BY MR. KIRSCH) Mr. Black, just to try to make sure
7 that I asked you a clear questions, the server that you
8 described appeared to have a different naming convention,
9 at least partially, in the other images we looked at. Can
10 you explain again how those -- how the server was named?

11 A. Basically, we used the names that were actually on --
12 the names on the servers, themselves. There were labels.
13 There was like "Bandit6." "Wildeye." There were two
14 "Rogues." So we used that for the first part of the name.
15 If it was more than one, we would use q1, q2.

16 Q. Okay. Those were not -- that was not a name -- the
17 one we looked at, rogue3, that was not a name that you or
18 other people from the FBI assigned to that server?

19 A. No.

20 MR. KIRSCH: Thank you, Mr. Black.

21 That is all I have, Your Honor.

22 THE COURT: Mr. Banks, you may proceed.

23 MR. BANKS: Thank you, Your Honor.

24 **CROSS-EXAMINATION**

25 **BY MR. BANKS:**

1 Q. Good day, Mr. Black.

2 A. Good morning.

3 Q. I am not going to actually publish these particular
4 exhibits, but I will ask you some general questions about
5 them.

6 First, I want to ask you, in your experience in IT,
7 you have known naming conventions for IT geek
8 professionals typically span across various different
9 types of cartoonist type of server names. Is that your
10 experience.

11 A. I have been in locations where servers are named a
12 lot of different things.

13 Q. A lot of strange type cartoonist and different type
14 of things; correct?

15 A. Correct.

16 Q. Now, with regards to -- I take you to exhibit -- all
17 those exhibits are there in front of you.

18 A. Uh-huh.

19 Q. 608.54.

20 A. Okay.

21 Q. Was there any -- did that e-mail have any
22 representations made to staffing companies?

23 A. This was just an Excel spreadsheet listing companies.

24 Q. Okay. But no representations, no staffing companies
25 listed there, as far as -- there was not an e-mail sent to

1 a staffing company. That was not an e-mail sent to a
2 staffing company; correct?

3 A. Correct.

4 Q. Go to 608.23 if you would.

5 A. Okay.

6 Q. Was that an e-mail with any type of representation
7 that was sent to a particular staffing company?

8 A. It looks like it was just internal.

9 Q. Thank you. And if you can go to Exhibit 158.01.

10 A. Okay.

11 Q. Is that an e-mail to a staffing company, or is it an
12 internal e-mail?

13 A. I don't know all of the people listed in the "To"
14 lines, so I can't say if they were internal or not. But
15 there is no specific company name there.

16 Q. Okay. Thank you. Can you go to Exhibit 608.13,
17 please.

18 A. Okay.

19 Q. Are you familiar with the definition of "alias" in
20 computer terms, for a computer definition?

21 A. I am familiar with it as far as Linux.

22 Q. How would you describe the term "alias." Obviously,
23 alias has two different definitions. One is -- what would
24 be your two different definitions of "alias" based in the
25 computer world, as well as in the normal business world?

1 A. Well, in the computer world, you could have a name
2 that actually calls a program that does something
3 different than what the name means --

4 Q. Correct.

5 A. -- I guess is what I am familiar with. As far as the
6 business world, I don't know.

7 Q. Now, are you familiar with host names as aliases are
8 concerned?

9 A. I am familiar with host names. I am not familiar
10 with aliases as host names.

11 Q. So you are not familiar with that?

12 A. But I am not a server expert, so --

13 Q. Okay. Can you go to Exhibit 608.49.

14 A. Okay.

15 Q. Can you read who that e-mail is to and from?

16 A. It is to In-House, from Charlisa Stewart.

17 Q. Would you say that was not an e-mail sent to a
18 staffing company?

19 A. Right. I would guess it is probably an internal
20 group created by the company.

21 Q. Okay. Thank you. Now, if you could take your
22 attention to 608.05 --

23 A. Okay.

24 Q. -- and the contents of that particular e-mail --
25 sorry about that. Let me rephrase. Is that e-mail -- to

1 and from -- who does that e-mail come from? Who did it go
2 to?

3 A. It came from Demetrius Harper to CSF, which could be
4 an alias for Robert Days, perhaps, or a group containing
5 him. Because down below it says received by Robert Days.

6 Q. Okay. And that does not appear to be an e-mail to a
7 staffing company; correct?

8 A. I don't know who Robert Days is, so I can't say.
9 But, yeah, it doesn't look like it.

10 Q. Okay. Thank you. If you go to 608.03.

11 A. Okay.

12 Q. Does that appear to be an e-mail to a staffing
13 company?

14 A. No. It appears to be e-mails between Demetrius
15 Harper and Gary Walker.

16 Q. Thank you. On average -- I am going to stop right
17 there. On average for the actual e-mails that the
18 Government has just presented and that you have just
19 testified to, were any of those e-mails, did they appear
20 to go to staffing companies, or did they appear to be
21 internal e-mails?

22 A. I don't really know a percentage.

23 Q. Then I will have to continue to go down the line.

24 MR. BANKS: Can you bring up 608.22, please.

25 THE COURT: Do you want it on the screen?

1 MR. BANKS: No. I only want him to read it.

2 THE WITNESS: I have it.

3 Q. (BY MR. BANKS) Who is that e-mail to and from?

4 A. From Demetrius Harper, to Gary Walker, David Banks,
5 Cliff Stewart, Clint Stewart, Ken Barnes.

6 Q. And in that e-mail, you see the name in parentheses
7 next to Rico Howard called Clint Stewart?

8 A. Yes.

9 Q. Do you know what that means?

10 A. No, I don't.

11 Q. What about Shaun Haughton and Demetrius Harper? Do
12 you know what that means, as far as that name next to it
13 in parentheses?

14 A. No.

15 Q. Okay. Does that e-mail appear to have gone -- is
16 that an internal e-mail, or was it an e-mail sent to a
17 staffing company?

18 A. If all of the people listed on the "To" line were
19 internal, then it was an internal e-mail.

20 Q. Thank you.

21 MR. KIRSCH: Your Honor, I am sorry to interrupt,
22 but if it would assist Mr. Banks, the Government would be
23 willing to stipulate that none of these e-mails were sent
24 to staffing companies.

25 THE COURT: Mr. Banks?

1 MR. BANKS: That would be fine, Your Honor.

2 THE COURT: You accept the stipulation.

3 MR. BANKS: No further questions, Your Honor.

4 THE COURT: All right. Anything further from the
5 defendants?

6 Any redirect?

7 MR. KIRSCH: No, thank you, Your Honor.

8 THE COURT: May this witness be excused?

9 MR. KIRSCH: Yes, please.

10 THE COURT: All right. Thank you very much.

11 THE WITNESS: Thank you.

12 THE COURT: All right. The Government may call its
13 next witness.

14 MS. HAZRA: Thank you, Your Honor. The Government
15 calls Jeff Smith.

16 COURTROOM DEPUTY: Your attention, please.

17 **JEFFREY SMITH**

18 having been first duly sworn, testified as follows:

19 COURTROOM DEPUTY: Please be seated.

20 Please state your name, and spell your first and
21 last names for the record.

22 THE WITNESS: My name is Jeffrey Smith.

23 J-E-F-F-R-E-Y S-M-I-T-H.

24 THE COURT: Mr. Smith, if you could speak right
25 into the microphone.

1 You may proceed.

2 **DIRECT EXAMINATION**

3 **BY MS. HAZRA:**

4 Q. Morning, Mr. Smith.

5 A. Good morning.

6 Q. Where are you currently employed?

7 A. I am a contract employee for the FBI.

8 Q. Are you in a particular division or branch of the
9 FBI?

10 A. I support the finance division.

11 Q. Prior to being a contractor for the FBI, were you
12 employed by the FBI?

13 A. Yes, ma'am, I was.

14 Q. How long were you employed by the FBI?

15 A. For 34 years.

16 Q. And both as an FBI employee and as a contractor, have
17 you been in the similar financial division?

18 A. Yes. The same division, yes, ma'am.

19 Q. And are you the administrator for the financial
20 division database?

21 A. The financial system, yes.

22 Q. What kind of information is reported in this
23 database?

24 A. This database is responsible for recording all
25 financial events that are handled by the FBI, including

1 contract awards, procurement requests, payments,
2 invoicing. The entire gamut of any financial activity
3 conducted by the FBI.

4 Q. Does the FBI have any laws or policies governing its
5 procurement for contracts?

6 A. Yes, ma'am. The governing law for conducting
7 contract activities is governed by the FAR, Federal
8 Acquisition Regulation.

9 Q. Is that a federal statute?

10 A. Yes, ma'am, followed by all agencies.

11 Q. Does the FBI keep a record of anyone whom it has
12 contracted for goods or services or entered into
13 procurements with?

14 A. Yes, ma'am. That information is stored in this
15 database.

16 Q. Is it a central database?

17 A. Yes, ma'am.

18 Q. Why does the FBI keep this database?

19 A. We are required by law to maintain this information,
20 as well as report any financial events that are conducted
21 by the federal government. This is the database where
22 they record it.

23 Q. Is the information that is input into that database
24 by someone with knowledge about to whom the contracts were
25 rewarded?

1 A. That information is directly entered by hand by the
2 contracting officer awarding the contracts.

3 Q. Is that information input at or near the time of the
4 contract assigned to the supplier or the vendor?

5 A. Yes, ma'am, just prior to award.

6 Q. And it is part -- as I think you already mentioned,
7 part of the regular business of the FBI to maintain this
8 database; is that right?

9 A. Yes, ma'am.

10 Q. Have you had the opportunity to check this financial
11 management system database to see whether or not certain
12 entities entered into a contract with the FBI between 2002
13 and 2005?

14 A. Yes, ma'am.

15 Q. Based on your search, did the FBI make a purchase or
16 contract in any manner with IRP Enterprises (sic)?

17 A. No, ma'am.

18 Q. Based on your search, did the FBI make a contract or
19 make a purchase or contract with a company known as
20 Leading Team?

21 A. No, ma'am.

22 Q. Based on your search, did the FBI purchase anything
23 or make a contract with an entity known as DKH
24 Enterprises?

25 A. No, ma'am.

1 Q. Did you also search that database to see whether the
2 FBI procured or entered into a contract with individuals
3 associated with those entities?

4 A. Yes, ma'am.

5 Q. Based on your results of the search, did the FBI
6 enter into a contract or procure anything from an
7 individual named David Banks?

8 A. No, ma'am.

9 Q. How about an individual named Demetrius Harper?

10 A. No, ma'am.

11 Q. David Zirpolo?

12 A. No, ma'am.

13 Q. Did the FBI make a purchase or enter a contract with
14 an individual named Gary Walker?

15 A. No, ma'am.

16 Q. Kendrick Barnes?

17 A. No, ma'am.

18 Q. Or Clinton Stewart?

19 A. No, ma'am.

20 Q. Just to clarify, in addition to these names, do you
21 have additional identifying monikers or information
22 associated with these individuals?

23 A. In our database?

24 Q. When you conduct -- the time you conducted your
25 search, did you search just for those names, or did you

1 have additional identifying information associated with
2 those names?

3 A. There was additional identifying information provided
4 to conduct additional searches.

5 Q. And what was that?

6 A. There were Social Security numbers.

7 Q. The Social Security numbers for those individuals?

8 A. Yes, ma'am.

9 Q. And I believe I may have misspoken, so I will go back
10 and ask you again. Did you conduct a search of that
11 database to see whether the FBI made a purchase or entered
12 into a contract with a company called IRP Solutions?

13 A. I did search, ma'am, and there were no results.

14 Q. Which means the FBI did not enter into a contract or
15 make a purchase from IRP Solutions?

16 A. Correct. Yes, ma'am.

17 MS. HAZRA: Nothing further, Your Honor.

18 MR. BANKS: Just a couple questions, Your Honor.

19 THE COURT: All right. Thank you. Mr. Banks?

20 MR. BANKS: One moment.

21 **CROSS-EXAMINATION**

22 **BY MR. BANKS:**

23 Q. Mr. Smith, you said you are a contractor with the
24 FBI?

25 A. Yes, sir.

1 Q. Just what type of --

2 MR. BANKS: No further questions, Your Honor.

3 THE COURT: All right. Anybody else?

4 May this witness be excused?

5 MR. KIRSCH: Yes, Your Honor. Thank you.

6 THE COURT: Thank you, Mr. Smith, you are excused.

7 Government may call its next witness.

8 MR. KIRSCH: Your Honor, the Government calls

9 Samuel K. Thurman.

10 Ms. Barnes, I believe all of our exhibits are
11 admitted that we need with this witness already.

12 COURTROOM DEPUTY: Your attention, please.

13 **SAMUEL K. THURMAN**

14 having been first duly sworn, testified as follows:

15 COURTROOM DEPUTY: Please be seated.

16 Please state your name, and spell your first and
17 last names for the record.

18 THE WITNESS: My name is Samuel Keenan Thurman,
19 First name is S-A-M-U-E-L. Last name is T-H-U-R-M-A-N.

20 **DIRECT EXAMINATION**

21 **BY MR. KIRSCH:**

22 Q. Mr. Thurman, where do you live?

23 A. I live in Falcon, Colorado.

24 Q. Do you have a job?

25 A. I do.

- 1 Q. Where do you work?
- 2 A. For a company called Booz Allen Hamilton.
- 3 Q. What do you do for them?
- 4 A. Graphic artist.
- 5 Q. Where did you grow up?
- 6 A. Grew up here in the Springs.
- 7 Q. Are you familiar with companies known as Leading
- 8 Team, IRP and DKH Enterprises?
- 9 A. Yes, sir.
- 10 Q. How is it that you know about those companies?
- 11 A. I worked for IRP Solutions.
- 12 Q. Okay.
- 13 A. And then I actually made a logo for DKH Enterprises.
- 14 Q. Okay. How about Leading Team, how do you know about
- 15 Leading Team?
- 16 A. Leading Team was a company before IRP Solutions. I
- 17 did some limited work under the Leading Team name, but
- 18 mostly under IRP.
- 19 Q. All right. And did you have any association with the
- 20 people who ran those companies, other than through working
- 21 for them?
- 22 A. Yes.
- 23 Q. What was the nature of that association?
- 24 A. Just personal association through a church we went
- 25 to.

1 Q. Okay. You mentioned that you had created the logo
2 for a company called DKH?

3 A. Yes, sir.

4 Q. Do you know a particular person that is associated
5 with that company?

6 A. Demetrius Harper.

7 Q. The Demetrius Harper that you know, do you see him
8 anywhere in the courtroom today?

9 A. Yes.

10 Q. Could you point him out and describe what he is
11 wearing, please.

12 A. Second seat from my side, the left side of the table.
13 He is wearing a brown sport coat. That is about all I can
14 see. White shirt.

15 MR. KIRSCH: Your Honor, I would ask the record
16 reflect identification of Mr. Harper.

17 THE COURT: It will so reflect.

18 Q. (BY MR. KIRSCH) Demetrius Harper, do you know his
19 middle name?

20 A. I don't recall at this point.

21 Q. Okay. Do you know what his middle initial is?

22 A. It is K. I remember that from designing the logo.

23 Q. Okay. Have you ever heard Mr. Harper called by any
24 other name besides Demetrius?

25 A. No. Not when I knew him.

1 Q. Okay. Have you ever heard of the nickname Meat?

2 A. Yeah, that rings a bell.

3 Q. You mentioned earlier, I think, that you had also
4 worked at IRP?

5 A. Uh-huh.

6 Q. What sort of work did you do at IRP?

7 A. Graphic design, and worked on their web interface,
8 graphic user interface for software that they were
9 developing.

10 Q. Okay. Was that something that you had training in?

11 A. Yes.

12 Q. And when you were working at IRP, did you have a
13 chance to meet some of the other people that were
14 associated with that company?

15 A. Yes.

16 Q. Did you know a person named Gary Walker?

17 A. Yes.

18 Q. Did you have an understanding about what role
19 Mr. Walker played at that company?

20 A. I believe he was the CEO of the company.

21 Q. Did Mr. Walker -- did you know Mr. Walker before you
22 started working there, as well?

23 A. Yes, sir.

24 Q. The Mr. Walker that you know, do you see him in the
25 courtroom today?

1 A. Yes, sir.

2 Q. Could you please point him out and describe what he
3 is wearing.

4 A. From where I am sitting, the third seat back on the
5 left, wearing a blue suit, white shirt, glasses.

6 MR. KIRSCH: Your Honor, I would ask the record to
7 reflect identification of Mr. Walker.

8 THE COURT: It will so reflect.

9 Q. (BY MR. KIRSCH) Did you know Mr. Walker to have any
10 association with the other company you mentioned, Leading
11 Team?

12 A. Yes. He was also the CEO at the company, as well.

13 Q. How about a person named David Banks. Do you know
14 David Banks?

15 A. Yes, sir.

16 Q. Did you understand him to have an association with
17 any of those companies?

18 A. Yes.

19 Q. What was that association?

20 A. I don't remember his exact position. I know it was
21 an executive position.

22 Q. Which company are we talking about?

23 A. With both actually. I believe IRP and Leading Team.

24 Q. The David Banks you associate with those companies,
25 do you see him in the courtroom today?

1 A. Yes, sir.

2 Q. Could you point him out and describe what he is
3 wearing.

4 A. Sitting at the middle of the table on back, with the
5 red tie -- red tie, white shirt.

6 MR. KIRSCH: I would ask the record reflect
7 identification of David Banks.

8 THE WITNESS: The record will so reflect.

9 Q. (BY MR. KIRSCH) Do you know a person named Clinton
10 Stewart?

11 A. Yes.

12 Q. Did you know him to have any association with those
13 companies?

14 A. I knew he worked at IRP Solution. Not sure about the
15 position.

16 Q. Not sure about the position. Did you have a previous
17 association with Mr. Stewart, as well?

18 A. The same as the others; through the church.

19 Q. Did the Mr. Stewart that you knew to be associated
20 with IRP, do you see him in the courtroom?

21 A. Where I am sitting, he is on the left side of the
22 table, first seat. Gray suit, black glasses.

23 MR. KIRSCH: I would ask the record to reflect
24 identification of Mr. Stewart.

25 THE COURT: It will so reflect.

1 Q. (BY MR. KIRSCH) Did you come into contact, while
2 working at IRP, with a person named David Zirpolo?

3 A. Yes.

4 Q. Did you have an understanding about what role
5 Mr. Zirpolo played there?

6 A. David Zirpolo signed my time sheets. Outside of
7 that, I am not sure his role within the company. But I
8 know he signed my time sheets.

9 Q. The Mr. Zirpolo who signed your time sheets, do you
10 see him anywhere in the courtroom today?

11 A. Yes, sir.

12 Q. Could you please describe where he is and what he is
13 wearing?

14 A. From where I am sitting, right side of the table,
15 last seat, wearing a gray suit, gray tie, white shirt.

16 MR. KIRSCH: I would ask the record reflect
17 identification of Mr. Zirpolo.

18 THE COURT: The record will so reflect.

19 Q. (BY MR. KIRSCH) How about Kendrick Barnes, did you
20 know a person named Kendrick Barnes?

21 A. Yes, sir.

22 Q. Did you know him to play any role with respect to
23 either Leading Team, IRP or DKH?

24 A. He handled the IT side of the business; information
25 technology, all of the computer networks, that sort of

1 thing.

2 Q. The Mr. Barnes that played that role, do you see him
3 anywhere in the courtroom today?

4 A. Yes, sir.

5 Q. Could you please describe where he is and what he is
6 wearing.

7 A. Where I am sitting, on the right side of the table,
8 second seat. First seat is empty. Gray suit, blue tie,
9 looks like maybe a gray/blue shirt.

10 MR. KIRSCH: I ask the record to reflect
11 identification of Mr. Barnes.

12 THE COURT: The record will so reflect.

13 Q. (BY MR. KIRSCH) Was there another person who worked
14 at IRP who was also named Samuel Thurman?

15 A. Yes.

16 Q. Who was that.

17 A. My dad.

18 Q. Was there a way that your name was typically
19 distinguished from your father's name when you were both
20 there at IRP?

21 A. Back then, I was called Sam Jr. Usually I was Jr.
22 But I am not a junior. I have a middle name, my father
23 does not. So any record would have had Samuel Keenan for
24 myself, and just Samuel Thurman for my dad.

25 Q. Is it fair to say, then, that if a record has a "K"

1 or the full middle name of "Keenan," that record pertains
2 to you?

3 A. Yes.

4 Q. While you were there at IRP or Leading Team,
5 actually, was there a particular office where you worked?

6 A. I worked for IRP in their office on Campus Drive.

7 Q. Campus Drive?

8 A. I just had a cubicle there.

9 Q. Was that in Colorado Springs, as well?

10 A. It was in Colorado Springs, yes, sir.

11 Q. Did you know, while you were there, a person named
12 Lawanna Clark?

13 A. Yes.

14 Q. Do you know whether or not Ms. Lawanna Clark has any
15 sort of expertise with respect to computers?

16 A. I don't know. I don't think so. But I don't know
17 for sure.

18 Q. Did you know a person named Amos Clark?

19 A. Yes.

20 Q. Do you know what job Mr. Amos Clark -- well, let me
21 back up. Did Mr. Amos Clark perform any jobs at IRP?

22 A. I don't know for sure. I don't recall.

23 Q. Okay. How about a person named Esther Banks? Do you
24 know who that is?

25 A. I do.

- 1 Q. Who is that?
- 2 A. She is David Banks' wife.
- 3 Q. Do you know whether or not Esther Banks has any IT
- 4 background or training?
- 5 A. I don't know.
- 6 Q. Okay. Do you know, while you were there, a person
- 7 named Charlisa Stewart?
- 8 A. Yes, sir.
- 9 Q. Do you know who that is?
- 10 A. Uh-huh.
- 11 Q. Does she have any relationship to any of those
- 12 people?
- 13 A. She is Clint Stewart's sister-in-law.
- 14 Q. Okay. And do you know whether or not she performed
- 15 any work at IRP?
- 16 A. I believe she was the EA; executive assistant.
- 17 Q. Who was she assisting, do you recall?
- 18 A. As far as I know, David and Gary. The desk where she
- 19 sat was right in front of their offices.
- 20 Q. All right. Now, you have indicated that you worked
- 21 at this IRP, as well?
- 22 A. Yes, sir.
- 23 Q. When you began working at IRP, was that a full-time
- 24 job for you?
- 25 A. Not when I first started.

1 Q. What happened -- what was happening when you first
2 started?

3 A. When I first started, I wasn't actually getting paid
4 for the work. It was kind of volunteer. So I did the
5 logo, package design and eventually was brought on full
6 time after that.

7 Q. And when you were brought on, were you actually hired
8 by IRP?

9 A. If you are asking where I was paid through, it was
10 through a staffing agency.

11 Q. You were paid through a staffing agency?

12 A. Yes.

13 Q. Did you talk to a particular person in order to make
14 arrangements to get paid through the staffing agency?

15 A. Usually, that stuff we, would go through Demetrius.
16 He would set up whatever staffing agency we were with and
17 do paperwork, then we would get paid from there.

18 Q. While you were doing work at IRP, were you employed
19 by more than one staffing agency?

20 A. Yes.

21 Q. Do you remember working for a staffing company called
22 Snelling?

23 A. Yes, sir.

24 Q. Do you recall approximately when that was?

25 A. I want to say the earlier part of 2004.

1 Q. Okay. Do you remember anything about how it was that
2 you first came to be working through Snelling?

3 A. Essentially, the first part of it seemed just like
4 any normal job. You do some paperwork. Fill out your
5 W-4, and send them a resume. Then we got paperwork
6 specifically for Snelling to do our time sheets on, and
7 those would be faxed out to wherever their headquarters
8 was to get paid.

9 Q. How is it that you got to the point of filling out
10 and providing paperwork to the company Snelling?

11 A. I don't remember the exact circumstances.

12 Q. Okay. Was it your idea to submit paperwork to
13 Snelling?

14 A. No.

15 Q. Was that an idea that was supplied to you by someone
16 else?

17 A. Uh-huh.

18 Q. Do you remember who gave you that idea?

19 A. I remember a lot of that type of dealings went
20 through Demetrius Harper, as far as staffing goes.

21 Q. All right. But you don't remember the specifics
22 about that company?

23 A. But I don't remember the specifics about that
24 company, no.

25 Q. Okay. Did you get hired by Snelling for some period

1 of time?

2 A. I did.

3 Q. And at some point were you laid off, or did you stop
4 working for Snelling?

5 A. Yes. The contract ended, essentially.

6 Q. And did you get any information about why it was that
7 the contract ended?

8 A. Not really. I was pretty sure we would continue
9 working on another contract.

10 Q. Who gave you that reassurance?

11 A. It came from various people. I mean, Demetrius was
12 mainly the person I was talking to as far as staffing
13 stuff goes.

14 Q. Did you get that reassurance from anybody besides
15 Demetrius Harper?

16 A. It was just kind of understood between various
17 meetings and conversations with all of the individuals,
18 all of the executives, that we would continue working.

19 Q. At some point did you work through a company called
20 Spherion?

21 A. Yes.

22 Q. Was that after you had worked for Snelling?

23 A. I believe so.

24 Q. Okay. And how is it that you came to be -- were you
25 payrolled through Spherion? Do you know that term?

1 A. Yes, I know that term. And if I understand it
2 correctly, then, yes.

3 Q. How is it you came to be payrolled through Spherion?

4 A. It was a similar situation. The contract had ended
5 with the first contracting agency, and so we just -- I was
6 handed another contracting agency and said, you know, give
7 us your resume, fill out my report, and continue working,
8 and we'll get you paid.

9 Q. And, again, what was the source of your information
10 that you should provide documents or information to
11 Spherion?

12 A. It was usually through Demetrius.

13 Q. Okay. Did you work for Spherion for a period of
14 time?

15 A. Uh-huh.

16 Q. And then did that relationship end?

17 A. It did.

18 Q. Did you have any advance knowledge that that
19 relationship was going to end?

20 A. I don't recall on that one.

21 Q. Okay. Did you have any conversation with Mr. Harper
22 after you stopped working at Spherion?

23 A. Yes.

24 Q. What was the nature of that conversation?

25 A. It was the same type of conversation; that we were

1 going to continue to get the work done, and not to worry
2 about the staffing part of it, because they were
3 continuing to work on getting more companies to fund the
4 payments of the employees.

5 Q. At some point were you payrolled at a company called
6 Kelly?

7 A. Yes.

8 Q. How is it that you came to get payrolled by Kelly?

9 A. The same situation. A new contracting agency was
10 presented. I signed paperwork, and then we continued to
11 work for the company.

12 Q. Did that -- were you terminated by Kelly, or did that
13 contract end, as well?

14 A. That contract ended, as well.

15 Q. And then, finally, were you staffed through a company
16 called Boecore?

17 A. Yes.

18 Q. And, now, by the time you were working for Boecore,
19 do you recall where we are chronologically?

20 A. Maybe 7 months in. It was a relatively short amount
21 of time.

22 Q. Towards the end of 2004?

23 A. It was towards the end of 2004. Probably fall,
24 because I remember it was still quite warm outside. It
25 wasn't cold yet.

1 Q. Okay. Now, do you remember the circumstances around
2 you first getting hired by Boecore?

3 A. I do.

4 Q. Okay. What do you remember about that?

5 A. Boecore was a little bit different because their home
6 office was located in the Springs. And so their office
7 was right downtown Colorado Springs. And I actually ended
8 up going to their office to do the paperwork and fill out
9 the payment information. And that part of it was done at
10 their offices, as opposed to the IRP offices.

11 Q. Do you recall also having a meeting with someone from
12 Boecore at the IRP office?

13 A. I don't recall.

14 Q. All right. Let me ask you a different question. Do
15 you recall any instances in which people from these
16 staffing companies where you were going to be placed, were
17 going to come to the IRP offices?

18 A. Yes.

19 Q. Did you ever receive any particular directions around
20 the time that those staffing company employees were going
21 to come to the office?

22 A. The direction that was given normally was that if the
23 staffing agency was going to be in the office, and you
24 were the one being staffed, that you were either to come
25 in and work that morning and then leave prior to them

1 getting there, or to not come in until you were coming in
2 to talk to that staffing agency.

3 Q. Was there an explanation for why it is that you
4 would, for instance, have to leave after you had already
5 been working there in the morning before the staffing
6 company employee arrived?

7 A. Well, I think the explanation I was given was that
8 you didn't want it to look like you had already been
9 working on something if you weren't staffed for the
10 company.

11 Q. Do you recall getting e-mails while you were there
12 that were consistent with that direction?

13 A. Yes, sir.

14 MR. KIRSCH: Your Honor, could I ask to publish,
15 please Government Exhibit 608.01.

16 THE COURT: You may.

17 MR. KIRSCH: Can we expand the top part of that,
18 please.

19 Q. (BY MR. KIRSCH) I want to start just with that "To"
20 information on the screen, Mr. Thurman. Do you see that?

21 A. Yes, sir.

22 Q. We have both Samuel Thurmans on the screen now; is
23 that right?

24 A. Right.

25 Q. You would be the latter one?

1 A. I would be the latter.

2 Q. So you received this e-mail?

3 A. Yes.

4 Q. So this is back in 2003?

5 A. Okay.

6 Q. But you were -- at least had an e-mail account there
7 at that time?

8 A. I guess, or my timing might be off. It was 7, 6
9 years ago, so --

10 Q. Okay. This e-mail says "We have Mr. Dave Zirpolo and
11 Mr. Ken Barnes joining us tomorrow. They will be up front
12 in the lobby. Tomorrow will be their official
13 'start-date,' so act accordingly."

14 A. Okay.

15 Q. How did you interpret that e-mail when you got it?

16 A. Well, exactly what I just said. "Act accordingly"
17 was if they're being staffed, then logic says that they
18 hadn't worked yet. And so you were to act as if they
19 hadn't worked there.

20 MR. KIRSCH: Okay. Can we please publish now
21 Government Exhibit 608.05.

22 THE COURT: You may.

23 MR. KIRSCH: Can you expand the message at the top
24 there.

25 Q. (BY MR. KIRSCH) This message, Mr. Thurman, was sent

1 to an acronym "CSF." Is that an acronym you recognize?

2 A. Yes, sir.

3 Q. What is that?

4 A. It could stand for Colorado Springs Fellowship, which
5 was the church we all went to.

6 Q. And in this message there is a reference to "the
7 above individuals please take down any name plates and
8 correspondence that will associate you to the building."
9 Are you able to interpret that for us?

10 A. Uh-huh. I remember a couple of times that happening,
11 where we would be instructed to either turn around the
12 name plates on the executive offices or remove them
13 completely, so that the names of the people being staffed
14 were not already on a door, if that makes sense.

15 MR. KIRSCH: Can I please publish now, Your Honor,
16 Government Exhibit 608.49.

17 THE COURT: Yes, you may.

18 MR. KIRSCH: And go ahead and expand the text of
19 that, please.

20 Q. (BY MR. KIRSCH) This is a message from 2004,
21 Mr. Thurman, and there is another reference to ensuring
22 that name plates are off of your doors?

23 A. Uh-huh.

24 Q. Is this in the same category of activity that you
25 have been describing?

1 A. Yes, sir.

2 MR. KIRSCH: Okay. And, finally, Your Honor, could
3 I please publish Government Exhibit 608.26?

4 THE COURT: You may.

5 MR. KIRSCH: Go ahead and expand the text of those
6 two e-mails, please. Starting at the top, very top.

7 Q. (BY MR. KIRSCH) Mr. Thurman, this message was sent
8 to In-House?

9 A. Uh-huh.

10 Q. Do you recognize that?

11 A. Not really.

12 Q. All right. Do you know whether or not there were any
13 distribution lists that were used while you were at IRP?

14 A. Yeah.

15 Q. Okay. Then there is the message at the bottom. It
16 is from Charlisa Stewart, and it references not faxing any
17 paperwork from IRP's fax or e-mailing from IRP. Do you
18 recall getting messages or instructions like this?

19 A. I recall the faxing instruction.

20 Q. Okay. Why was it that you couldn't fax your
21 information from the IRP fax to a staffing company?

22 A. Because it would -- logically, you wouldn't have
23 access to IRP's fax machine if you didn't work for IRP.

24 MR. BANKS: Objection speculation.

25 THE COURT: Overruled.

1 Mr. Kirsch, it is past noon, and we have been going
2 for more than an hour and a half. How much longer do we
3 have. Should we break? I am thinking we should break.

4 MR. KIRSCH: I think I can finish my direct in less
5 than 10 minutes.

6 THE COURT: I have a 12:15 meeting, however. Why
7 don't we go ahead and break for lunch. And we will
8 reconvene -- I have a 12:15 to 1:15 meeting, so we won't
9 reconvene until 1:30.

10 So court will be in recess until 1:30.

11 MR. KIRSCH: Thank you, Your Honor.

12 (Lunch break is taken from 12:08 p.m. to 1:32 p.m.)

13 (The following is had in open court, outside the
14 hearing and presence of the jury.)

15 THE COURT: You may be seated. All right. Are you
16 ready for the jury to be brought in?

17 MR. KIRSCH: Yes, Your Honor.

18 THE COURT: All right. Ms. Barnes, would you
19 please bring in the jury.

20 (The following is had in open court, in the hearing
21 and presence of the jury.)

22 THE COURT: You may be seated.

23 Mr. Kirsch, you may proceed.

24 MR. KIRSCH: Thank you, Your Honor.

25 Q. (BY MR. KIRSCH) Mr. Thurman, when we took a break,

1 you had looked at several e-mails related to this idea
2 about acting like a new employee. Did IRP have a guest
3 book or a visitor's log?

4 A. Yes.

5 Q. And did you get any instructions related to that
6 visitor's log that were, again, in this same sort of
7 category of directions about acting like a new employee?

8 A. I do recall on one occasion getting instruction to
9 sign into the guest book, to not badge into the doors. We
10 had badges. And to wait to be brought back to the
11 conference room in front of the staffing agency.

12 Q. You had an access badge at that time already?

13 A. Yes, sir.

14 MR. KIRSCH: Could I publish 608.76. Specifically,
15 if we can start with page 6.

16 THE COURT: You may.

17 MR. KIRSCH: Do the members of the jury have that
18 yet?

19 Can you expand to the top part of that, of the
20 text, Special Agent Smith.

21 Q. (BY MR. KIRSCH) Can you see that on your screen,
22 Mr. Thurman?

23 A. Yes, sir.

24 Q. What is the date there?

25 A. That is May 6, 2004.

1 Q. Okay. And then over on the middle it looks like
2 Samuel K. Thurman?

3 A. Yes, sir.

4 Q. Is that your writing?

5 A. That is my handwriting.

6 Q. And then there is a badge number listed there. Now,
7 is that the badge that you were talking about having just
8 a minute ago, or is that a different badge?

9 A. No, that would have been a visitor's badge. You
10 wouldn't log your employee badge on a sheet.

11 Q. Okay. And then the name that is immediately under
12 yours, do you recognize that name, Jennifer Stephens?

13 A. No, but I recognize the company.

14 Q. The company is Spherion?

15 A. Yes, sir.

16 Q. Is that a company where you worked?

17 A. Yes, sir.

18 MR. KIRSCH: Your Honor, could I ask now to publish
19 Government Exhibit 361.00, page 23.

20 THE COURT: You may.

21 MR. KIRSCH: Could you expand that for us, Special
22 Agent Smith.

23 Q. (BY MR. KIRSCH) Can you see that on the screen now,
24 Mr. Thurman?

25 A. Yes, sir.

1 Q. Is that your time card for you completed for
2 Spherion?

3 A. It would be.

4 Q. And there is only one day reflected on this one. Do
5 you recall whether or not that was your first -- the first
6 time card you completed for Spherion?

7 A. Honestly, I don't know.

8 Q. What is the date on -- the day you reported working
9 there, what is the day?

10 A. That is May -- the date? This is May the 7th, it
11 looks like.

12 Q. Do you remember how that compares to the date that
13 you signed into the visitor's log?

14 A. What was the date on the visitor's log?

15 Q. Yeah. Do you remember that?

16 A. No. What was it?

17 MR. KIRSCH: Can we go back to Government Exhibit
18 608.76, page 6.

19 THE WITNESS: May 6th.

20 Q. (BY MR. KIRSCH) Would that be consistent with the
21 practice you described of signing in before you got signed
22 up to work with a company?

23 A. Right. Right.

24 MR. KIRSCH: If we could -- I am sorry, if we can
25 go back to 361 page 23.

1 Q. (BY MR. KIRSCH) You had mentioned before,
2 Mr. Thurman, that Mr. Zirpolo had approved time sheets?

3 A. Uh-huh.

4 Q. Is that Mr. Zirpolo who signed off on this one?

5 A. I don't recognize the signature. But the printed
6 name is not. That is Mr. Banks.

7 Q. Okay. Do you remember, as you sit here today,
8 whether or not Mr. Banks ever approved any of your time
9 sheets?

10 A. Honestly, I don't remember.

11 MR. KIRSCH: Okay. Could we go back now, please,
12 to Government Exhibit 608.76, and go to page 64. Just
13 enlarge that top part for us again, please.

14 Q. Now, what's the date on this sheet, Mr. Thurman?

15 A. It says October 2004.

16 Q. And the name on the top line, Sam K. Thurman, is that
17 your writing?

18 A. That is my writing.

19 Q. Why would you have been signing in in October of 2004
20 for a meeting with Dave Zirpolo?

21 A. I don't remember.

22 Q. Okay.

23 A. Could have been any -- well, at that point I had been
24 working there. So I don't know why I would have signed
25 the guest log. But -- I don't know.

1 Q. Let me ask you to take a look at a different exhibit.

2 MR. KIRSCH: Can we publish 13.00, page 1?

3 THE COURT: You may.

4 MR. KIRSCH: Can you highlight the top part of that
5 for us, please.

6 Q. (BY MR. KIRSCH) Can you see that document on your
7 screen, Mr. Thurman?

8 A. Yes, sir.

9 Q. The company Boecore, was that one of the companies
10 through which you were staffed?

11 A. Yes, sir. I believe that was the last one.

12 Q. Okay. And this invoice down on the bottom there, it
13 says services for 10/16/2004, through 10/29/2004?

14 A. Uh-huh.

15 Q. Do you think that you might have followed the same
16 routine about signing out and then signing in as a visitor
17 in connection with beginning your employment at Boecore?

18 A. That was generally the way it happened.

19 MR. ZIRPOLO: Objection, assumption.

20 THE COURT: Sustained. Please rephrase.

21 MR. KIRSCH: Yes, Your Honor.

22 Q. (BY MR. KIRSCH) Did you -- do you recall getting the
23 instructions or following the procedure about leaving and
24 signing in on more than one occasion?

25 A. Yes.

1 Q. Okay. While you were working for these various
2 companies at IRP, did you receive paychecks?

3 A. Yes, sir.

4 Q. Okay. And did you -- did you contribute any of the
5 money from those paychecks to IRP?

6 A. We did, on occasion.

7 Q. How is it that you would do that?

8 A. Usually just put money in an envelope and then give
9 it to -- I think usually we would give it to Charlisa.

10 Q. This was cash?

11 A. Usually cash. My bank was right around the corner.

12 Q. When is it you would provide that cash?

13 A. It really varied. It could be whenever we got paid,
14 we'd bring cash over. Or just whenever you had the money
15 with you.

16 Q. You used the term "we" in that answer. Were you
17 aware that other people were providing cash from paychecks
18 back to IRP?

19 A. It was understood we were all doing that.

20 MR. BANKS: Objection, Your Honor, he can't speak
21 to other people.

22 THE WITNESS: Well, on one occasion I was giving my
23 money --

24 THE COURT: I will overrule the objection. You may
25 answer.

1 THE WITNESS: On one occasion I was giving my money
2 and another employee was there doing the same thing.

3 Q. (BY MR. KIRSCH) Do you remember who that was?

4 A. I want to say Sylvia McGhee.

5 Q. All right. But you are not sure?

6 A. I am not a hundred percent sure on who it was.

7 Q. You also mentioned that you -- that at least you had
8 an understanding that that was supposed to happen.

9 A. Yes, sir.

10 Q. What was the basis for your understanding that some
11 of that money was supposed to go back to IRP?

12 A. Well, we were putting the money back in the company
13 to cover overhead expenses and that type of thing as the
14 company was getting established, because we hadn't yet
15 made an actual sale, as far as I knew, on the software
16 that we were developing.

17 Q. Okay. At some point while you were working at IRP,
18 did you find out that staffing companies weren't getting
19 paid?

20 A. No. I found out after the fact.

21 Q. Okay. While you were working at IRP, did you ever
22 ask anyone why it was that the staffing contracts you were
23 working on kept getting terminated?

24 A. Not really. I was -- I just kind of trusted the
25 people I was with, so --

1 Q. Did it seem unusual to you at the time?

2 A. At the time, I didn't have a whole lot of real world
3 corporate working experience, so I didn't know what usual
4 was.

5 MR. KIRSCH: Can I have just a moment, please, Your
6 Honor?

7 THE COURT: You may.

8 MR. KIRSCH: Your Honor, those are all of my
9 questions.

10 Thank you, Mr. Thurman.

11 THE COURT: Thank you. Cross-examination?

12 MR. WALKER: Yes, Your Honor.

13 THE COURT: Mr. Walker?

14 **CROSS-EXAMINATION**

15 **BY MR. WALKER:**

16 Q. Mr. Thurman, you mentioned that you were staffed with
17 a staffing company called Snelling to work at IRP
18 Solutions?

19 A. Yes, sir.

20 Q. And in being staffed through Snelling at IRP
21 Solutions, what were your roles and duties?

22 A. Roles and duties were graphic artist and work as a
23 graphic designer. As far as web development, I was
24 working with another individual who was actually the lead.
25 But I was a graphic artist due to my abilities in

1 designing the logos prior to that.

2 Q. When you worked at Boecore, what were your roles and
3 your duties?

4 A. It was the same.

5 Q. And when you worked at -- I believe you said you
6 worked at a staffing company called Spherion --

7 A. Uh-huh.

8 Q. -- for IRP Solutions?

9 A. Yes, sir.

10 Q. What were your role and responsibilities there?

11 A. It was the same thing. I was doing the same job the
12 whole time I was there.

13 Q. And prior to working at IRP Solutions, did you do
14 graphics and web offerings?

15 A. I did on a freelance basis. IRP Solutions was my
16 first corporate job in that position.

17 Q. Now, you said you initially worked part time at IRP
18 Solutions?

19 A. Yes, sir.

20 Q. And in that part-time work, did you get paid?

21 A. At first, no, I did not. I volunteered my services.

22 Q. And were you subsequently paid for part-time work?

23 A. No.

24 Q. So the part-time work you did, you weren't paid, you
25 were volunteering?

1 A. Right. I wasn't expecting to get paid at that time.

2 Q. So why did you work for free?

3 A. Because the group of people in front of me I
4 considered my friends. I knew them outside of this
5 business venture, and so I wanted to be part of something
6 that I thought was going somewhere, something that I
7 thought was a really cool idea. And I saw the opportunity
8 to use the skills that I had as a graphic designer,
9 whereas before I was working jobs in information
10 technology, working with computers still, but not doing
11 the graphic design part that I wanted to do.

12 So I saw an opportunity there to do graphic design,
13 and that opportunity presented itself.

14 Q. You just said you wanted to be part of something that
15 you thought would be really big and was going somewhere.
16 Can you give details about the something you are talking
17 about?

18 A. At that time, it was just the fact of the company.
19 It looked like it was doing some really interesting stuff
20 with software, with what I later found out was a tool that
21 was going to be used for law enforcement. I mean, at the
22 time, being 23 years old, anything bigger than doing what
23 I was doing was something bigger.

24 So it is all about perspective. But at the time it
25 was something that I thought would be a really exciting

1 opportunity to work on.

2 Q. And do you recall the name of the software you worked
3 on when you were hired for IRP Solutions?

4 A. CILC. The acronym is CILC; Case Investigative Life
5 Cycle.

6 Q. Is that the law enforcement software you were
7 referring to earlier?

8 A. Yes, sir.

9 Q. While you worked at IRP Solutions through these
10 staffing companies, were you aware of efforts to sell that
11 software that you worked on?

12 A. Yes, sir.

13 Q. Were you aware of efforts to sell that software at
14 large agencies in the U.S.?

15 A. Yes. I remember one large agency in particular.

16 Q. What was that agency?

17 A. The New York Police Department.

18 Q. Were you aware, during your time at IRP Solutions, of
19 attempts to sell the software to the Department of
20 Homeland Security?

21 A. That does ring a bell.

22 Q. Were you aware of the efforts to sell the software to
23 other agencies in the U.S.?

24 A. I remember us working on an educational version that
25 could have been used at institutions -- law enforcement

1 institutions. As far as specific clients, I don't know.

2 That wasn't my job.

3 Q. And going back to your statement about you
4 volunteered because you thought it was something good and
5 going somewhere, were you aware of others who volunteered
6 their time at IRP Solutions?

7 A. I believe so. I know my dad, in fact, volunteered
8 quite a bit of time before we started getting paid. Other
9 individuals, I don't know. My father I know, because we
10 were close at the time.

11 Q. And would you know why he would volunteer his time at
12 IRP Solutions?

13 A. The same reasons. We were -- it was people that we
14 considered friends, family. You wanted to help out the
15 bigger cause and towards something that seemed to be going
16 in a good direction.

17 Q. So you believed that he volunteered because he also
18 thought it was a good thing to do and the software of the
19 company was going somewhere?

20 A. Sure.

21 Q. In the course of working for Snelling at IRP
22 Solutions, did you submit time sheets?

23 A. I would assume so. Honestly, I don't remember. But
24 I would assume if I was under contract with that agency
25 that I worked, I submitted at least one time sheet.

1 Q. And so in your work experience, time sheets are the
2 typical way that you would record your work hours so you
3 could get paid?

4 A. Yes.

5 Q. And in recording your time worked, to the best of
6 your knowledge, did you work the hours as you reported
7 them on the time reporting system?

8 A. Yes, sir.

9 Q. And you did that for Snelling?

10 A. Yes.

11 Q. Do you recall if you also did that for Spherion?

12 A. Yes.

13 Q. Did you do that for Boecore?

14 A. Yes.

15 Q. For Kelly?

16 A. Yes.

17 Q. And subsequent to submitting those time cards, did
18 you get paid for doing work at IRP Solutions?

19 A. Based on the time cards?

20 Q. Yes.

21 A. Yes. I got paid from each staffing company per the
22 time cards.

23 Q. Each staffing company we just named, you submitted
24 time sheets and were paid for that work?

25 A. I received some sort of compensation based on the

1 time I worked, yes.

2 Q. Did you receive compensation other than moneys;
3 paychecks associated -- moneys associated with paychecks?

4 A. No.

5 Q. And going to the staffing company, you accurately
6 reported the hours you worked to the staffing companies?

7 A. Yes, sir.

8 Q. And you also said that you worked at, I believe it's
9 four or five staffing companies at IRP Solutions?

10 A. Yes, sir. I believe it was four.

11 Q. Four. And upon being staffed at a new staffing
12 company, did you have any concerns about moving on to a
13 new staffing company once your job ended at the previous
14 staffing company?

15 A. No. I was always reassured by management and by my
16 friends that we were being taken care of. And my focus,
17 honestly, during that time period, was doing the work I
18 was tasked to do, which was developing the graphic
19 interface for the web version of CILC.

20 Q. Was there ever an occasion in moving from one
21 staffing company to another, that you were not put on the
22 staffing company, as you recall?

23 A. I don't know. I don't recall it. It has been a long
24 time, so I don't know.

25 Q. And if that were the case, would you have continued

1 to work, and work as a volunteer?

2 A. Probably. I had started off as a volunteer. And my
3 understanding was that we were working as friends and
4 family to accomplish this project. And so, yes.

5 Q. So would it be accurate to say that even after being
6 staffed multiple times at different companies, you still
7 had the same good feeling about the software and where the
8 company was going?

9 A. I have to be honest, that I started to wonder why the
10 staffing agencies were coming and going so much. But
11 these were people that I had known for 20-plus years.

12 Q. Did you ever express any concerns to --

13 MR. KIRSCH: Objection, Your Honor. He didn't let
14 Mr. Thurman finish his answer.

15 THE COURT: Sustained. Did you have anything
16 further?

17 THE WITNESS: I don't think so. Not on that point.

18 Q. (BY MR. WALKER) Did you ever express any concerns to
19 IRP Solutions' management or executives about being
20 staffed to more than one staffing company at any time?

21 A. I did not, because it was a constant reassurance that
22 things were taken care of, and that everything was okay.
23 And at 24 years old, if someone in your charge, your
24 senior is telling you that, why not believe it, especially
25 someone that you have known for most of your life.

1 Q. When you moved from, for example, Spherion to, I
2 believe the next company you mentioned was Kelly, and you
3 were presented with paperwork, did you voluntarily fill
4 out that paperwork for Kelly?

5 A. Yes.

6 Q. So it would be accurate to say you weren't in any way
7 forced or coerced?

8 A. No. Nobody ever forced me to fill out any paperwork
9 or do any of that.

10 Q. Let's go back to the actual work you were doing. You
11 mentioned that you were doing graphics and web offering?

12 A. Yes.

13 Q. There was a senior person supervising you?

14 A. Yes.

15 Q. Do you recall the name of that person?

16 A. I only recall his first name.

17 Q. What was his first name?

18 A. Paul.

19 Q. If I give you a last name -- I will give you a last
20 name to see if I change your memory. Would it be Paul
21 Pinkney?

22 A. Actually, that does sound familiar.

23 Q. You and Mr. Pinkney worked together to produce
24 graphics and web pages for the CILC solution?

25 A. Uh-huh.

1 Q. And in doing that work together, do you recall any
2 types of functionality that you might create or web pages?

3 A. Any type of functionality --

4 Q. Web pages.

5 A. -- for web pages?

6 MR. KIRSCH: Objection to the relevance, Your
7 Honor.

8 MR. WALKER: Your Honor, I am establishing that
9 Mr. Thurman did actual work that was for a software for
10 law enforcement.

11 THE COURT: What is the relevance to this?

12 MR. WALKER: Well, Your Honor, I wanted to dispel
13 earlier comments by staffing companies that some had some
14 questions.

15 THE COURT: I will give you some leeway, but I
16 don't want to spend too much time. Overruled.

17 MR. WALKER: Your Honor, this is my only question.

18 THE WITNESS: Yes, we did do some job strip
19 programming. To my understanding, everything that we did
20 was notional. Nothing was tied to any type of database.
21 So all of the information we had in the web version that
22 we were creating was all notional information. None of it
23 was actual data.

24 Q. (BY MR. WALKER) So what do you mean by "notional"?

25 A. I mean notional, in the fact that it was not actual

1 data. It was just dummy data we were using to insert and
2 to convey the functionality of the program. I didn't
3 personally do any of the programming, per se, of the
4 software, but I did the graphical part.

5 Q. So let me make sure we have a clear understanding.
6 So you are saying that you worked on the front end of the
7 web application?

8 A. Yes.

9 Q. And you had no task to work on the back end or middle
10 tier connected to the database?

11 A. Correct.

12 Q. Would it also be safe to say you had no experience or
13 expertise in that area and would not be able to perform
14 that type of program?

15 A. Correct.

16 Q. And in the course of doing that work, did you know
17 other programmers at IRP Solutions who had other skills
18 other than web front ends and graphics?

19 MR. KIRSCH: Your Honor, I object to the relevance
20 again.

21 THE COURT: Overruled.

22 THE WITNESS: Yes.

23 Q. (BY MR. WALKER) And do you know if those programmers
24 had the skills and abilities to connect your front end to
25 a middle tier or back end?

1 A. I don't know, because I don't fully understand the
2 complexities of that relationship. So I can't speak to
3 that. But my expertise is in graphic design. So I know I
4 did that part of it.

5 MR. WALKER: Your Honor, I will turn it over to my
6 next co-defendant.

7 THE COURT: All right. Mr. Banks?

8 MR. BANKS: Thank you, Your Honor.

9 Your Honor, may I publish 608.01, please?

10 THE COURT: You may.

11 MR. BANKS: May I have a moment, Your Honor?

12 THE COURT: You may.

13 MR. BANKS: 608.01.

14 **CROSS-EXAMINATION**

15 **BY MR. BANKS:**

16 Q. Mr. Thurman, you testified a minute ago that the
17 relationships at IRP was one of friends; correct?

18 A. Yes, sir.

19 Q. You also testified with regard to this e-mail that
20 you were told to act accordingly; correct?

21 A. Yes, sir.

22 Q. Were you -- let me ask you this. Did you have any
23 ownership stake in IRP Solutions?

24 A. No, sir.

25 Q. Now, would you agree that "act accordingly" would

1 suggest, don't act like we are all friends, because
2 friends and business don't mix; correct?

3 A. I don't think that is necessarily correct. Because
4 if we're all friends, why would we act any different?

5 Q. If you were -- let me ask you this. Were you in an
6 official capacity as a contract employee when you were
7 volunteering?

8 A. Restate the question, please.

9 Q. Were you in an official capacity working for a
10 staffing company, getting paid, when you were
11 volunteering?

12 A. If I was volunteering, I would not have been getting
13 paid.

14 Q. Okay. So we have established that. So in your
15 official capacity as a contractor, you would have to work
16 in an official capacity; correct?

17 A. Yes.

18 Q. And you would not be working in a volunteer capacity
19 with friends; correct?

20 A. I don't understand that question. Because I work
21 with friends every day. So I don't understand what that
22 question means.

23 Q. Let me ask it this way. As a volunteer -- you
24 testified a minute ago that as a volunteer, you
25 volunteered because everybody was friends; correct?

1 A. Yes.

2 Q. And you didn't require payment at that time; correct?

3 A. Correct.

4 Q. Because, as you stated, you felt like something great
5 and positive was going on at this company; correct?

6 A. Correct.

7 Q. So when you are in an official capacity, working as a
8 contractor, you are not a volunteer, would you agree with
9 that?

10 A. Yes. But why would that change the relationship
11 between the people I am working with?

12 Q. Did I say that?

13 A. No, but that is what you are implying.

14 Q. No. In your official capacity as a contract
15 employee, did you go through an interview process?

16 A. Yes, multiple times.

17 Q. When you volunteered, did you go through an interview
18 process?

19 A. No. I volunteered my services because I saw a need.
20 There was a desire expressed that there was design work
21 that needed to be done, and I offered my services.

22 Q. Thank you. Now, as a contractor --

23 MR. BANKS: Let me withdraw that, Your Honor.

24 MR. BANKS: Your Honor, may I publish 608.01,
25 please?

1 THE COURT: You may.

2 MR. BANKS: May I have a moment, Your Honor?

3 THE COURT: You may.

4 Q. (BY MR. BANKS) Now, during your time at IRP
5 Solutions, did you have occasion to meet with Mr. Banks
6 regarding some of the tasking that you were tasked with?

7 A. I do recall later on in the employment that we would
8 meet on occasion, yes.

9 Q. So Mr. Banks, at times, would be supervising and
10 reviewing some of the things that you had produced;
11 correct?

12 A. Of course.

13 Q. So Mr. Banks signing your time sheet as you report to
14 him would be nothing unusual; correct?

15 A. I don't think so. I do remember that for the most
16 part Dave Zirpolo was my direct manager, though.

17 Q. Okay.

18 A. But to answer your question, sure.

19 Q. Would you say that you had more than one manager,
20 obviously, at IRP?

21 A. I would say that there was more than one person in
22 management. But my direct manager I understood to be Dave
23 Zirpolo.

24 Q. In Dave Zirpolo's capacity as your manager, he would
25 be authorized to execute your time sheet; correct?

1 A. Yes.

2 Q. And Mr. Banks, as a higher authority in the company,
3 would also be authorized to execute a time sheet; correct?

4 A. I don't see why not.

5 Q. Now, are you aware of the people -- you mentioned
6 that you worked for a company called Spherion; correct?

7 A. Yes, sir.

8 Q. Are you aware of some other people that worked with
9 you at Spherion?

10 A. For IRP?

11 Q. For IRP.

12 A. I don't recall everybody that would have been
13 staffed.

14 Q. Do you recall anybody that worked?

15 A. No. I kept track of my own.

16 MR. BANKS: Your Honor, may I publish --

17 Q. (BY MR. BANKS) Let me ask you this first. Do you
18 recall that it was more than you -- more than two people
19 that were working for Spherion, or do you?

20 A. I don't recall the number. I know that there would
21 have been more than me. I do remember that most of those
22 cases, if not all of those cases, it was more than one
23 person being staffed at any particular staffing company.

24 MR. BANKS: May I have a moment, Your Honor?

25 THE COURT: You may.

1 MR. BANKS: Your Honor, permission to publish
2 Exhibit 362.00.

3 THE COURT: You may.

4 Q. (BY MR. BANKS) Mr. Thurman, are you able to view
5 that exhibit?

6 A. Yes, sir.

7 Q. Would you -- is this a Spherion invoice, as far as
8 from what you can see?

9 A. It has Spherion on it. I don't know, I have never
10 seen this before.

11 Q. Okay. Now, can you read some of the names that are
12 on this Spherion invoice?

13 A. Demetrius K. Harper, Kendra L. Haughton, Barbara J.
14 McKenzie, Cliff Stewart. Looks like David Zirpolo.

15 Q. That would be fine. You mentioned that you were
16 instructed to sign in as a visitor on the date of your
17 interview; correct?

18 A. Uh-huh.

19 Q. Would you say that this was -- you also said that
20 this was sort of standard operating procedure as you knew
21 it for all contract employees; correct?

22 A. As I knew it, yes.

23 MR. BANKS: Your Honor, permission to publish
24 608.76.

25 THE COURT: You may.

1 MR. BANKS: Go to page 6, please.

2 Q. (BY MR. BANKS) Now, Mr. Thurman, after reviewing the
3 Spherion time sheet, and looking at some of the names on
4 that invoice -- or, I am sorry, after reviewing the
5 invoice and looking at some of the names on that invoice,
6 how many of those people do you see on this visitor time
7 sheet?

8 A. There are none of them there.

9 Q. So if those people were to say that this was not
10 standard operating procedure, what would you say to that?

11 A. I don't know. That's their perspective of it. They
12 could have been interviewed on a different date for all I
13 know. I don't know.

14 MR. BANKS: Your Honor, I would like to bring that
15 exhibit back up.

16 THE COURT: You may.

17 MR. BANKS: Can we go to page 64, please.

18 Q. (BY MR. BANKS) Now, Mr. Thurman, in October of 2004,
19 -- let me ask you this. Was it the policy of IRP that if
20 you forgot your badge you would have to get a visitor's
21 badge, to the best of your recollection?

22 A. I don't know. I would assume so. That sounds like
23 standard policy, but I don't know.

24 Q. Okay. Do you recognize any of the other names on
25 this visitor's sign-in sheet?

1 A. Yes, sir.

2 Q. To the best of your recollection, do you remember
3 these individuals that were contract employees?

4 A. I don't know.

5 Q. Okay. Now, did you ever meet -- where did you
6 actually meet Scott Boe of Boecore?

7 A. I don't know who Scott Boe is. But I remember going
8 down to the Boecore office, I believe, to receive my last
9 paycheck from them. I remember the situation
10 specifically, because I got a Boecore pen. It was a
11 wooden block pen. It was the only really piece of
12 something that I had taken from any of the staffing
13 agencies. But I remember that. I remember that
14 situation.

15 Q. Do you recall a minute ago you said you went down
16 there to sign paperwork?

17 A. Uh-huh. Yeah.

18 Q. But you just said you only remember going down there
19 to pick up your last check.

20 A. Well, I went down there -- I do remember going down
21 on those two occasions; to sign paperwork and to get my
22 last check. As far as meeting Scott Boe, I don't know.
23 So that part of your question, I don't know. But I do
24 remember meeting a man on the day I picked up my last
25 check, which is why I said that situation.

1 Q. I want to go back to and just cover that you were
2 only responsible for developing, in your capacity, graphic
3 design and pages associated with maybe some marketing
4 materials there at IRP; correct?

5 A. Yes, sir.

6 Q. And you also testified that you didn't have any idea
7 of what the other roles that the other developers played
8 with regards to connecting your work to the back end?

9 A. I didn't say "any idea." I said I don't understand
10 all of the roles of programming. But I do remember
11 certain people with programming roles.

12 Q. People like who?

13 A. Enrico Howard is one name that comes to mind.
14 Particularly, I remember he was doing database
15 administration, I believe. That could be wrong. That
16 could be wrong, but that is what I remember. As far as
17 other programmers, I remember a couple of other people,
18 but I don't remember their names.

19 Q. Would you say that Gary Walker is a technology
20 professional?

21 A. Gary Walker is, yes.

22 Q. Would you say David Banks is a technology
23 professional?

24 A. Yes.

25 Q. Would you say Demetrius Harper is a technology

1 professional?

2 A. I don't know Demetrius' background.

3 Q. What about Clint Stewart?

4 A. I don't know his technology background, either.

5 Q. Ken Barnes?

6 A. Yes, I do. I told you he was the IT person.

7 Q. And David Zirpolo?

8 A. I don't know his technology background.

9 Q. But he was your manager, so he didn't -- did he have
10 any sort of input or review of your work that you did
11 there?

12 A. Really, all review, for the most part, was going
13 through Paul, because he was my senior at that time. So
14 Paul was the lead on the interface design, then I was
15 following his lead.

16 Q. Who else was with you, if you can recall, going to
17 Boecore?

18 A. I don't remember. But I do remember one other
19 person. I remember at least one other person.

20 Q. Who is the one other person?

21 A. I don't know. I said, I don't know.

22 Q. Would you say, given some of your testimony here
23 today, that you recalled certain events but you don't know
24 of any other events?

25 A. This was 2004. I would say that is fair.

1 Q. Would you say your memory has decayed some?

2 A. I think anybody's memory decays after a lot of years.
3 I think that is entirely true.

4 Q. Can you be 100 percent certain of everything you
5 testified to here today; of the testimony you provided
6 here today based on your memory?

7 A. Any details that I have given, I am 100 percent
8 certain of.

9 Q. Did you, on any occasion, have somebody else doing
10 your work and you got paid for it?

11 A. No.

12 MR. BANKS: No further questions, Your Honor.

13 THE COURT: Anybody else?
14 Redirect?

15 MR. KIRSCH: Yes, Your Honor. Thank you.

16 **REDIRECT EXAMINATION**

17 **BY MR. KIRSCH:**

18 Q. A couple other things I would like to go back over
19 with you, Mr. Thurman. The first is as far as you knew --
20 am I correct that as far as you knew, there were efforts
21 under way to sell the CILC software to various law
22 enforcement agencies?

23 A. Yes, sir.

24 Q. As far as you knew, were there any sales made while
25 you were there?

1 A. I don't know.

2 Q. And you left -- you stopped working for Boecore. Do
3 you remember when?

4 A. It would have been the late fall. It would have been
5 after November -- October, November.

6 Q. If the records show it was actually in January of
7 2005, would you have any reason to dispute that?

8 A. I don't see why not. I mean, like I said, details
9 come and go.

10 Q. Okay.

11 A. So I don't know specific dates. But I know it was
12 around that fall, wintertime.

13 Q. All right. You were also asked some questions about
14 -- you affirmed that you worked all of the hours you
15 reported?

16 A. Yes, sir.

17 MR. KIRSCH: Your Honor, could I please publish
18 Government's Exhibit 601.01?

19 THE COURT: You may.

20 MR. KIRSCH: Can I have one moment, please, Your
21 Honor?

22 THE COURT: You may.

23 Q. (BY MR. KIRSCH) While you were there, Mr. Thurman,
24 did you ever sign any time cards that were blank?

25 A. No, sir.

1 MR. KIRSCH: Can I please publish 609.03?

2 THE COURT: You may.

3 MR. KIRSCH: Go ahead, go to page 2, please.

4 Q. (BY MR. KIRSCH) Do you know any reason why
5 Mr. Haughton would have been signing time sheets that
6 were --

7 MR. BANKS: Objection, Your Honor, speculation.

8 THE COURT: Speculation.

9 MR. BANKS: He cannot -- speculation is correct.

10 THE COURT: Let the question be asked, then you can
11 object.

12 Q. (BY MR. KIRSCH) The question, Mr. Thurman, is do you
13 know of any reason why Mr. Haughton would have been
14 signing blank time sheets?

15 A. No, sir.

16 THE COURT: Now objection.

17 MR. WALKER: Objection, Your Honor, speculation.

18 THE COURT: Sustained.

19 Q. (BY MR. KIRSCH) Were you ever directed to sign any
20 blank time sheets?

21 A. No, sir.

22 Q. Would you have signed a blank time sheet?

23 A. I can't answer that question. I don't know.

24 Q. Okay. You also testified, I think, that you believed
25 that something good was going on at this company; is that

1 right?

2 A. Yes.

3 Q. What was the basis for your belief?

4 A. The prior relationship with all of the people working
5 there.

6 Q. Have you continued to hold that belief?

7 A. I don't know what I believe anymore, sir.

8 Q. All right. Fair enough. You were asked some
9 questions about whether people were technology
10 professionals, as well. I want to follow up on that a
11 little bit more. Was Lawanna Clark a technology
12 professional?

13 A. To my knowledge, no.

14 Q. How about Esther Banks?

15 A. I don't know.

16 Q. Michael Benjamin?

17 A. I don't know. Again, I don't know.

18 Q. Craig Simmons?

19 A. I want to say he had some technology background, but,
20 again, I am not sure.

21 Q. Do you know Norman Bowden?

22 A. Yes.

23 Q. Does Mr. Bowden work in the technology field?

24 A. I don't think so.

25 Q. How about Amos Clark?

1 A. No.

2 Q. Doesn't work in the technology field?

3 A. No, sir.

4 Q. Do you know what he does?

5 A. He is security operations.

6 Q. Finally, Mr. Thurman, I want to ask you to go back to
7 the questions that you got about Spherion, the company
8 Spherion?

9 MR. KIRSCH: Your Honor, can I start, please, by
10 publishing 362.00 starting, with page 8?

11 THE COURT: You may.

12 Q. (BY MR. KIRSCH) Have you ever seen this document
13 before, Mr. Thurman?

14 A. No, sir.

15 Q. Is your name on this document?

16 A. It is.

17 Q. And do you see other names of employees on that
18 document?

19 A. Yes, sir.

20 Q. Okay. Robert Anderson and Charlisa Stewart?

21 A. Yes, sir.

22 Q. Do you know -- do you know whether those were people
23 that were employed by Spherion?

24 A. I don't know.

25 Q. Okay.

1 A. I don't know.

2 MR. KIRSCH: Can we go to page 7 of that document
3 now, the preceding page. Can you expand the bottom part
4 of that -- I'm sorry go up one more page. There we go.

5 Q. (BY MR. KIRSCH) This was the list that you looked at
6 a minute ago.

7 A. Yes, sir.

8 Q. Does that appear to be the same format to you?

9 A. Looks the same.

10 Q. Okay. Do you know anything about this list of
11 people?

12 A. Aside from the fact that I know those people --

13 Q. Okay.

14 A. -- no.

15 Q. Do you see who that invoice is to; whose attention
16 that invoice is directed, under IRP Solutions Corporation?

17 A. It is David A. Banks.

18 MR. KIRSCH: Can we go down one page again, please.

19 Q. (BY MR. KIRSCH) How about this one?

20 A. This one is Sylvia McGhee.

21 Q. Okay. Now, did I understand you correctly to say
22 that it was your belief, perhaps, that other people from
23 Spherion might have interviewed on different days?

24 A. I don't know that. Honestly, it was just -- that
25 could have been what happened. I don't know.

1 Q. Okay.

2 MR. KIRSCH: Your Honor, can I please publish
3 Government Exhibit 608.76, starting with page 6.

4 THE COURT: You may.

5 Q. (BY MR. KIRSCH) Mr. Thurman, this is the page we
6 looked at before; right?

7 A. That's right.

8 Q. That is your name on that page.

9 MR. KIRSCH: Can we please publish page 3 of that
10 exhibit.

11 Q. (BY MR. KIRSCH) That is not from the same day, is
12 it, Mr. Thurman?

13 A. It doesn't have a specific date on it, so I don't
14 know.

15 Q. Is that the same person whose name appeared under
16 your name on that page we just looked at?

17 A. It looks to be the same.

18 MR. KIRSCH: Can we go to page 5 of that exhibit,
19 please. Can we expand the top four lines there, please,
20 and the date.

21 Q. (BY MR. KIRSCH) What is the date on that one,
22 Mr. Thurman?

23 A. That says May 4th.

24 Q. And what are the top four names there?

25 A. Cliff Stewart, Demetrius Harper, David Zirpolo and

1 Jennifer -- I can't pronounce -- I don't know how to say
2 the last name.

3 Q. Is that the same name -- is that, again, the same
4 name that we have seen on these other pages?

5 A. It is the same name.

6 Q. What does it say next to purpose of visit for
7 Mr. Stewart, Mr. Harper and Mr Zirpolo?

8 A. "Start date." "Start date." And "Starting."

9 MR. KIRSCH: Thank you, Mr. Thurman.

10 MR. BANKS: Cross?

11 THE COURT: Strictly on this?

12 MR. BANKS: Strictly on this.

13 THE COURT: Limited cross.

14 **RECROSS-EXAMINATION**

15 **BY MR. BANKS:**

16 Q. Mr. Thurman, when you were engaged and worked for a
17 staffing company, you actually had a start date in your
18 physical capacity as a contractor; right?

19 A. With the company, yes. With the staffing company.

20 Q. And in your role at IRP, your official capacity
21 working for that company started on that date, correct,
22 for that company?

23 A. Not necessarily. For that company, yes. There was
24 always a period of performance for that company.

25 Q. Correct. Now, in that exhibit you just saw with

1 Mr. Harper, Mr. Zirpolo and those names, you have no idea
2 in what capacity they were there; correct?

3 A. That's safe to say.

4 MR. BANKS: Thank you.

5 THE COURT: All right. May this witness be
6 excused?

7 MR. KIRSCH: Yes, please, Your Honor.

8 THE COURT: Thank you very much, Mr. Thurman, you
9 are excused.

10 All right. Government may call its next witness.

11 MR. KIRSCH: Thank you, Your Honor. The Government
12 calls Dana Chamberlin.

13 COURTROOM DEPUTY: Your attention, please.

14 **DANA CHAMBERLIN**

15 having been first duly sworn, testified as follows:

16 COURTROOM DEPUTY: Please be seated.

17 Please state your name, and spell your first and
18 last names for the record.

19 THE WITNESS: Dana Chamberlin. D-A-N-A
20 C-H-A-M-B-E-R-L-I-N.

21 **DIRECT EXAMINATION**

22 **BY MR. KIRSCH:**

23 Q. Ms. Chamberlin, can you tell the jury where you work,
24 please?

25 A. I am an auditor with the U.S. Attorney's Office here

1 in Denver, Colorado.

2 Q. How long have you held that position?

3 A. Since January of 2004.

4 Q. And before you joined the U.S. Attorney's Office,
5 where did you work?

6 A. I was a financial analyst with the FBI, also here in
7 Denver.

8 Q. How long did you hold that position?

9 A. I joined the FBI in December 1991.

10 Q. Did you work outside of the government before you
11 joined the FBI?

12 A. I did.

13 Q. What did you do?

14 A. I was a staff auditor for KPNG, Peat Marwick, which
15 is an international accounting firm, also here in Denver.

16 Q. How long did you hold that job?

17 A. About 2-and-a-half years.

18 Q. What sort of educational background do you have?

19 A. I have a bachelor's degree in accounting from the
20 University of Wyoming.

21 Q. And do you have any certifications related to
22 accounting?

23 A. I am a CPA in the State of Colorado since 1991.

24 Q. Any other certifications that relate to accounting or
25 auditing?

1 A. Then I also am a certified fraud examiner since 1999.

2 Q. Were you asked to create a number of summary charts
3 for use in connection with the trial of this matter as a
4 part of your duties at the U.S. Attorney's Office?

5 A. Yes.

6 Q. Let's start --

7 MR. KIRSCH: Ms. Barnes, I apologize, I didn't ask
8 you to get any of these documents out. Could I ask you to
9 please pull Exhibit 900 through, I believe it is 907. If
10 there is 908, we would need that, too. I can check that.

11 Q. (BY MR. KIRSCH) Let's start with what is marked for
12 identification as Exhibit 900.

13 A. Yes.

14 Q. Do you have that one in front of you?

15 A. I do.

16 Q. Do you recognize that exhibit?

17 A. I do.

18 Q. What is it?

19 A. This is the summary chart that I created showing the
20 timeline of the staffing companies used by Leading Team,
21 DKH or IRP, for the time period October 2002 through
22 February 2005.

23 Q. What were the sources of information that you used in
24 creating that chart?

25 A. My primary source were the time cards for the

1 staffing companies. And then for those staffing companies
2 that did not provide time cards, I used invoices or
3 payroll records.

4 Q. Have you had an opportunity to review a list of
5 exhibits that have been either admitted or ruled
6 admissible during the course of this trial?

7 A. I have.

8 Q. And are all of the documents that you used to
9 construct this chart, do they all fit into that category
10 of either having been admitted or ruled admissible?

11 A. They do.

12 Q. What was the information that you used -- that you
13 pulled out of those documents that you've described to
14 construct this chart?

15 A. I would have used the beginning date that the
16 staffing company was used, and the ending date, as well.

17 Q. And how is it that this information got represented
18 in this Exhibit 900.00, the information about the dates?

19 A. The dates would be represented by staffing company.
20 And then a bar shown for the beginning date and ending
21 date for the time period they were used.

22 MR. KIRSCH: Your Honor, at this time I would move
23 to admit and publish Government Exhibit 900.00.

24 THE COURT: Any objection?

25 MR. BANKS: No objection.

1 THE COURT: 900.00 is admitted, and it may be
2 published.

3 (Exhibit No. 900.00 is admitted.)

4 Q. (BY MR. KIRSCH) All right. I know that that is a
5 little -- it is too small to read at the moment
6 Ms. Chamberlin, but before we sort of focus in, can you
7 walk us through -- let's start with the columns. What are
8 the columns that are represented in this chart?

9 A. The columns represent the time periods shown by
10 quarter. So it begins with the fourth quarter of 2002, to
11 encompass October, November, December of 2002. And then
12 going by quarter through the first quarter of 2005, for
13 January and February and March of 2005.

14 MR. KIRSCH: Okay. And, Special Agent Smith, if
15 you could enlarge that column on the left first.

16 Q. (BY MR. KIRSCH) What is the information that is in
17 this column, Ms. Chamberlin?

18 A. Along the left side of the charts are the staffing
19 companies, and represented by not only their name, but
20 also by a reference number that I had given it.

21 Q. Okay. And then if we can -- so, if we were to, say,
22 take Robert Half, the first entry there, how is it that
23 this chart tells us when Robert Half was employed by one
24 of these companies?

25 A. So, Robert Half's bar begins approximately the middle

1 of October.

2 MR. KIRSCH: If you can enlarge that part.

3 THE WITNESS: Robert Half was used beginning about
4 the middle of October of 2002, going through about the end
5 of November of 2002?

6 Q. (BY MR. KIRSCH) What is on the screen now shows the
7 bar for Adecco appears to overlap with the bar for Robert
8 Half. Can you explain what that means?

9 A. That would mean both Robert Half and Adecco were
10 being used at the same time by either Leading Team, DKH or
11 IRP.

12 MR. KIRSCH: Can you please expand that out again.
13 Then can you start over there and expand over down through
14 about The Job Store over to about the fourth quarter of
15 2003, please.

16 Q. (BY MR. KIRSCH) Can you read that portion on your
17 screen now, Ms. Chamberlin?

18 A. I can.

19 Q. If we were to go into the third quarter of 2003 on
20 this chart, is there a period of time represented there
21 when seven or eight different staffing companies were
22 being used at the same time?

23 A. Yes.

24 MR. KIRSCH: Go ahead and expand that back out,
25 please. And then can we go down to the lower right-hand

1 quarter, as well.

2 Q. (BY MR. KIRSCH) What is the next to last column
3 there, Ms. Chamberlin?

4 A. The next to last would be the first quarter -- the
5 last column is the first quarter of 2005. Next to that is
6 the fourth quarter of 2004.

7 Q. And during both of those two periods, was there a
8 time when at least five different staffing companies were
9 being used at the same time?

10 A. Yes.

11 Q. Can you go out to the full screen again, please.
12 When you were doing this review, Ms. Chamberlin, were you
13 able to make any association between the companies that
14 had the relationship with the staffing companies, namely
15 Leading Team, DKH or IRP, and the location on this chart?

16 A. Yes.

17 Q. What was that? Tell the jury what that was, please.

18 A. Leading Team hired Robert Half and Kforce, which were
19 one of the first three -- two of the three companies.
20 From Adecco and Analysts International down to Lloyd's
21 staffing, No. 21, those companies were hired by DKH. And
22 then starting with No. 22, Manpower, Inc., and in
23 parentheses "Shannon," all of those staffing companies
24 after that were hired by IRP.

25 Q. I want to direct your attention now to what is marked

1 for identification as Government Exhibit 901.00.

2 A. Yes.

3 Q. Do you have that one in front of you?

4 A. I do.

5 Q. Is that another summary exhibit that you prepared?

6 A. It is.

7 Q. In general, what were the sources of information on
8 which you relied to prepare that exhibit?

9 A. The primary source, again, were the time cards
10 provided by the staffing company, and then my secondary
11 sources of information were payroll records or invoices.

12 Q. Again, did you undertake a review of exhibits that
13 had been either admitted or determined to be admissible as
14 a part of this trial in connection with this exhibit?

15 A. I did.

16 Q. And were all of the exhibits used to construct your
17 summary either admitted or found admissible during the
18 course of the trial?

19 A. They were.

20 MR. KIRSCH: Your Honor, I would move to admit
21 Government Exhibit 901.00.

22 THE COURT: Any objection?

23 MR. BANKS: No objection, Your Honor.

24 THE COURT: Exhibit 901.00 is admitted.

25 (Exhibit No. 901.00 is admitted.)

1 MR. KIRSCH: May it be published, Your Honor?

2 THE COURT: It may.

3 Q. (BY MR. KIRSCH) All right. Ms. Chamberlin, this is
4 titled Summary of Multiple Work Hours?

5 A. Yes.

6 Q. Okay. Can you explain how it is that you constructed
7 this chart for us?

8 A. I reviewed the time cards provided by the staffing
9 companies for the employees that they used, and I
10 determined when multiple staffing companies were given a
11 time card for the same employee for the same day or time
12 period.

13 Q. Okay. And then going through the columns on the
14 screen, what information did you reflect in the first
15 column?

16 A. The first column would be the employee whose hours
17 were reported to the staffing company.

18 Q. What about the second column? Well, let's talk about
19 columns 2, 3 and 4.

20 A. Those columns represent the staffing company who the
21 hours were submitted to.

22 Q. There appear to be a couple of instances where there
23 is an entry in the fourth column for "Staffing Company."
24 What does that mean?

25 A. That means that at least two or three staffing

1 companies were given time cards for the same employee for
2 the same date range.

3 Q. Okay. And then what's the information reflected in
4 the "Time Period" column?

5 A. The "Time Period" is the time period of the time
6 cards that I reviewed.

7 Q. Okay. Now, in these instances where there are three
8 different staffing companies listed --

9 A. Yes.

10 Q. -- does that time period mean that there were time
11 cards submitted to all three companies throughout that
12 entire period?

13 A. No.

14 Q. What does it mean?

15 A. It means that at least two -- two of the staffing
16 companies listed, or more, had been reported the same
17 hours for the same days for that employee.

18 Q. Okay. And did it necessarily mean they were
19 reporting the same hours, or that hours were reported for
20 the same employee?

21 A. Hours were reported.

22 Q. Okay. Now, what about the "Time Card Approved By,"
23 can you explain that part of the chart? Maybe we can
24 expand that part of the chart.

25 A. That section of the chart indicates the DKH or IRP

1 employee who approved the time card for the submission to
2 the staffing company.

3 Q. And what do the numbers that are in these columns
4 mean?

5 A. The numbers reference the reference number that I
6 gave to the staffing company. So, for example, if you
7 look at the very first line, Gary Walker had approved
8 staffing company No. 3. If you look back to the staffing
9 company columns, No. 3 was the time card for Analysts
10 International.

11 Q. Okay. What about several more lines down, I think it
12 is the sixth line down, under Mr. Harper's name, it says
13 "42, 9, 36." Then says, "9, 36" under Clint Stewart's
14 name. What does that mean?

15 A. So, Demetrius Harper approved time card for all three
16 of the staffing companies. And then Clinton Stewart had
17 approved two of the three time cards for the staffing
18 companies.

19 MR. KIRSCH: So if we could back out again.

20 Q. (BY MR. KIRSCH) So those were -- that line relates
21 to the employee David Banks?

22 A. Correct.

23 Q. Now, did you also create a series of exhibits for
24 essentially each one of the rows on this chart?

25 A. Yes.

1 Q. And how is it that you created those exhibits?

2 A. Again, using the time cards as my primary source or
3 payroll or invoices, I looked at each day that a time was
4 reported, the hours that they were reported, who approved
5 each time card, and I think that's it.

6 Q. Were there instances in which you didn't have a time
7 card available to review?

8 A. Yes.

9 Q. In that case, what was your source of information
10 that hours had been reported?

11 A. I would have used either a payroll record, in the
12 case of Ciber, which was one of the staffing companies, or
13 an invoice if I didn't have a time card or payroll
14 records.

15 Q. And if you had -- if you didn't have a time card or
16 payroll records, were you able to break out the hours by
17 day?

18 A. No.

19 Q. So what did you do when you weren't able to do that?

20 A. So, I would have, on the individual chart, I would
21 have grouped it based upon the time period that I was
22 looking at the document. For example, the payroll record
23 on Ciber show that for a two-week time period. So I put
24 the total for those days encompassed in that 2-week time
25 period. If I had an invoice, typically I could break that

1 out on a weekly basis.

2 Q. If you didn't have a time card available, were you
3 able to identify the approver?

4 A. No.

5 Q. Okay. And so did you indicate an approver in those
6 instances?

7 A. I typically would put the approver as "unknown," but
8 I would also make a notation as to what entity or
9 individual the invoice would have been sent to for that
10 time period that the employee was reporting the hours for.

11 Q. Were there instances in constructing these individual
12 summaries where you found that there were 24 or more hours
13 of work reported in a single day?

14 A. Yes.

15 Q. And did you indicate that in any way in constructing
16 these charts?

17 A. I would have highlighted those total hours that were
18 24 or more in yellow.

19 Q. Were there instances in which you had the -- say on
20 the sixth line we were looking at there, with the three
21 different companies --

22 A. Correct.

23 Q. -- I believe you testified before that this chart
24 does not indicate that time was being reported to all
25 three of those companies throughout that time period; is

1 that right?

2 A. That's correct.

3 Q. How is it that you would represent a period when time
4 wasn't being reported to a particular company on the
5 individual summaries?

6 A. If one of those three did not have any time being
7 reported, I would have shaded in gray those dates that no
8 time was reported for that staffing company and that
9 employee.

10 Q. Okay. Can I ask you to look now at what is marked
11 for identification as Government's Exhibit 901.01.

12 A. Yes.

13 Q. What is that exhibit?

14 A. This is the summary chart that I created for Ken
15 Barnes for the summary of hours worked May 22nd of '03
16 through June 13, '03, being reported to Analysts
17 International and Ciber.

18 Q. Does that relate to the first line item on the chart
19 we just examined?

20 A. It does.

21 Q. Did you construct it using the methodology just
22 described?

23 A. Yes.

24 MR. KIRSCH: I would move to admit 901.01.

25 MR. BANKS: No objection, Your Honor.

1 THE COURT: 9 01.01 is admitted, and it may be
2 published.

3 (Exhibit No. 901.01 is admitted.)

4 Q. (BY MR. KIRSCH) Okay. So the name in the top left
5 corner, that is what name?

6 A. That would be the employee for whom the hours were
7 being reported.

8 Q. Okay. In this case, Ken Barnes?

9 A. Correct.

10 Q. If we look in the Analysts International column,
11 underneath that name, Analysts International, you have
12 Gary Walker. What does that mean?

13 A. Mr. Walker approved the time cards represented by
14 this time period.

15 Q. If we go down to the bottom of that column, does that
16 represent one of the grayed out areas you described?

17 A. It does.

18 Q. Again, does that mean that there was no time reported
19 for Mr. Barnes to Analysts International in that section?

20 A. Correct.

21 Q. Now, on the Ciber column, again, there is a blank at
22 least for the hours worked next to the days.

23 A. Correct.

24 Q. Explain why that is again, please.

25 A. Because I did not have individual time cards that

1 showed me by day what the hours were being reported for
2 Mr. Barnes. All I had was a total for that time period
3 for Mr. Barnes.

4 Q. Is that the total reflected under each dark line?

5 A. Correct. So in this case, it would be 56 hours were
6 reported for that time period to Ciber, and 58 hours,
7 broken out by day, reported to Analysts International.

8 Q. Then the total you have in the right hand -- on the
9 far right-hand side of the screen --

10 A. Is the total for both Analysts International and
11 Ciber, for a total of 114 hours for that 8-day time
12 period.

13 Q. Can I ask you now to take a look at what we marked
14 for identification as Government's Exhibit 901.02.

15 A. Yes.

16 Q. Is this another exhibit that you've prepared using
17 the same methodology?

18 A. Yes.

19 Q. This pertains to what employee?

20 A. This would pertain to Enrico Howard, which would be
21 line No. 2 on Government's Exhibit 901.00.

22 MR. KIRSCH: Your Honor, I move to admit and
23 publish Government's Exhibit 901.02.

24 THE COURT: Any objection?

25 MR. BANKS: No objection, Your Honor.

1 THE COURT: 901.02 is admitted, and it may be
2 published.

3 (Exhibit No. 901.02 is admitted.)

4 Q. (BY MR. KIRSCH) This was for Enrico Howard, you
5 said. Who was it that was approving Mr. Howard's hours
6 for the staffing company Pro Staff/Advecta?

7 A. Clint Stewart.

8 Q. And then for Computer Task Group, you were not able
9 to determine who approved those hours?

10 A. Correct.

11 Q. All right. Can I ask you to look, please, at
12 Government's Exhibit 901.03.

13 A. Yes.

14 Q. Do you recognize that exhibit?

15 A. I do.

16 Q. What is it?

17 A. It is the summary chart for Sylvia McGhee for the
18 hours worked July 1, '03 through September 5th of '03,
19 which represents line 3 on Government's Exhibit 901.00.

20 MR. KIRSCH: Your Honor, I would move to admit and
21 publish 901.03.

22 THE COURT: Any objection?

23 MR. BANKS: No objection.

24 THE COURT: 901.03 will be admitted, and it may be
25 published.

1 (Exhibit No. 901.03 is admitted.)

2 Q. (BY MR. KIRSCH) Directing your attention there to
3 the Talent Tree column, who was approving Ms. McGhee's
4 hours for Talent Tree?

5 A. Demetrius Harper.

6 Q. Can I direct your attention now to Government Exhibit
7 901.04.

8 A. Yes.

9 Q. Is this another exhibit you prepared in this series?

10 A. I did.

11 Q. And what information does it capture?

12 A. It captures the hours submitted for Ken Barnes, the
13 time period July 14, '03 through September 19, '03
14 submitted to Ciber and Professional Consulting.

15 MR. KIRSCH: Your Honor, I move to admit and
16 publish 901.04.

17 THE COURT: Any objection?

18 MR. BANKS: No objection, Your Honor.

19 THE COURT: 901.04 is admitted, and it may be
20 published.

21 (Exhibit No. 901.04 is admitted.)

22 Q. (BY MR. KIRSCH) What were the companies that
23 Mr. Barnes was working for during this time period?

24 A. Ciber and Professional Consulting.

25 Q. And who was approving the hours for Professional

1 Consulting?

2 A. Both Demetrius Harper and Clint Stewart.

3 Q. Is there a way to look at this chart and tell who
4 approved a particular set of hours between the two of
5 them?

6 A. Yes.

7 Q. How does that work?

8 A. The column next to the hours worked for Professional
9 Consulting, I indicated the initials of who approved the
10 time card, being "CS" for Clinton Stewart or "DH" for
11 Demetrius Harper.

12 Q. Can I ask you to look now, please, at Government
13 Exhibit 901.05.

14 A. Yes.

15 Q. Do you recognize that one?

16 A. I do.

17 Q. Can you explain what it is, please?

18 A. It is the summary chart for Gary Walker for hours
19 submitted June 14, '03 through August 9th of '03,
20 submitted to Talent Tree or Today's Staffing.

21 MR. KIRSCH: Your Honor, I move to admit and
22 publish Government Exhibit 901.05.

23 THE COURT: Any objection?

24 MR. BANKS: No objection, Your Honor.

25 THE COURT: 901.05 is admitted, and it may be

1 published.

2 (Exhibit No. 901.05 is admitted.)

3 Q. (BY MR. KIRSCH) Ms. Chamberlin, who was approving
4 Mr. Walker's hours for these companies?

5 A. Both -- Demetrius Harper approved the time cards.

6 Q. And if we start at July 18th and go down through the
7 remainder of the exhibit, how did the hours that were
8 reported to those two companies compare?

9 A. They were the same hours each day.

10 Q. Can I direct your attention now, please, to what is
11 marked for identification purposes at 901.06.

12 A. Yes.

13 Q. Do you recognize that exhibit?

14 A. I do.

15 Q. Can you explain what it is, please?

16 A. It is the summary chart for David Banks for hours
17 worked July 21, '03 through September 15, '03, submitted
18 to Today's Staffing, Computer Horizons and Systems
19 Engineering.

20 MR. KIRSCH: Your Honor, I move to admit and
21 published 901.06.

22 THE COURT: Any objection?

23 MR. BANKS: No objection, Your Honor.

24 THE COURT: 901.06 is admitted, and it may be
25 published.

1 (Exhibit No. 901.06 is admitted.)

2 Q. (BY MR. KIRSCH) Is that large enough for you to be
3 able to see on the screen Ms. Chamberlin?

4 A. Yes.

5 Q. Now, I think this is the first time that we have seen
6 the yellow that you described before.

7 A. Yes.

8 Q. And would you remind us what that means, please?

9 A. The yellow indicates that the sum of the hours
10 reported to all of the staffing companies for a particular
11 day were 24 hours or more.

12 Q. And, again, on this period that is on the screen, at
13 the top, going down to July 28 of 2003, how many hours --
14 how many companies got reported hours for Mr. Banks?

15 A. Two.

16 Q. Then, again, what about starting on Saturday, August
17 9th, how many hours were reported -- how many companies
18 got reported hours for Mr. Banks?

19 A. Two.

20 Q. Am I correct that it is only during that period in
21 the middle of the exhibit when there were three hours
22 being reported to three different companies for Mr. Banks?

23 A. Correct.

24 Q. During that time period, were there any days when
25 Mr. Banks reported less than 24 hours of work?

1 A. No.

2 Q. And how many days were in that period?

3 A. Ten.

4 Q. Can I direct your attention now, please, to what is
5 marked for identification as Government Exhibit 901.07.

6 A. Yes.

7 Q. Do you recognize that exhibit?

8 A. I do.

9 Q. What is it, please?

10 A. This is a summary chart for Cliff Stewart, hours
11 worked for July 29, '03 through August 8, '03, reported to
12 Today's Staffing and Systems Engineering.

13 MR. KIRSCH: Your Honor, I move to admit and
14 publish 901.07.

15 THE COURT: Any objection?

16 MR. BANKS: No objection, Your Honor.

17 THE COURT: 901.07 is admitted, and it may be
18 published.

19 (Exhibit No. 901.07 is admitted.)

20 Q. (BY MR. KIRSCH) Did one person approve all of the
21 hours reported in this exhibit?

22 A. Yes.

23 Q. Who was that?

24 A. Demetrius Harper.

25 Q. I direct your attention now, please, to Government's

1 Exhibit 901.08.

2 A. Yes.

3 Q. Do you recognize that exhibit?

4 A. I do.

5 Q. What is it?

6 A. This is a summary chart for Shaun Haughton, for hours
7 worked August 11, '03, through August 15, '03, submitted
8 to Aquent and Pro Staff/Advecta.

9 MR. KIRSCH: Your Honor, I move to admit and
10 publish Government Exhibit 901.08?

11 THE COURT: Any objection?

12 MR. BANKS: No objection.

13 THE COURT: 901.08 will be admitted, and it may be
14 published.

15 (Exhibit No. 901.08 is admitted.)

16 Q. (BY MR. KIRSCH) Ms. Chamberlin, who was approving
17 the hours reported to these two staffing company?

18 A. Clint Stewart.

19 Q. Can I now ask you to look at Government's Exhibit
20 901.09, please.

21 A. Yes.

22 Q. Do you recognize that exhibit?

23 A. I do.

24 Q. What is it?

25 A. This is a summary chart for Barbara McKenzie for

1 hours worked September 29, '03, through November 8th of
2 '03, reported to Computer Task Group and The Job Store.

3 MR. KIRSCH: Move to admit and published Government
4 901.09.

5 THE COURT: Any objection?

6 MR. BANKS: No objection, Your Honor.

7 THE COURT: 901.09 will be admitted, and it may be
8 published.

9 (Exhibit No. 901.09 is admitted.)

10 Q. (BY MR. KIRSCH) Who was approving Ms. McKenzie's
11 time for the Computer Task Group?

12 A. Both Demetrius Harper and Clint Stewart.

13 Q. Then how about for The Job Store?

14 A. Demetrius Harper.

15 Q. So which entries on this spreadsheet -- well, are
16 there entries on this spreadsheet that indicate that
17 Mr. Harper approved the time submitted to both companies?

18 A. Yes. Mr. Harper submitted or signed the time cards
19 for Computer Task Group starting October 6th, through the
20 remainder of the time period. And then for The Job Store,
21 he approved all of the time cards for the time period
22 shown.

23 Q. And then does this exhibit actually carry over onto a
24 second page?

25 A. It does.

1 MR. KIRSCH: Could we publish that page as well,
2 please.

3 Q. (BY MR. KIRSCH) Can I ask you to look now at 901.10.

4 A. Yes.

5 Q. Do you recognize that exhibit?

6 A. I do.

7 Q. What is it, please?

8 A. This is the summary chart for Cliff Stewart for hours
9 reported 11/24/03 through December 9, '03, reported to
10 Personnel Plus and ETI.

11 MR. KIRSCH: Your Honor, I move to admit and
12 publish 901.10?

13 THE COURT: Any objection?

14 MR. BANKS: No objection.

15 THE COURT: 901.10 is admitted, and it may be
16 published.

17 (Exhibit No. 901.10 is admitted.)

18 Q. (BY MR. KIRSCH) Was the same person approving hours
19 on this for these two companies?

20 A. Yes.

21 Q. And who was that?

22 A. Demetrius Harper.

23 Q. And with the exception of the first day listed here,
24 was there any difference in the hours that were reported
25 to those two companies throughout that period?

1 A. No.

2 Q. And now I would ask you to look at Government Exhibit
3 901.11. Can you explain what that exhibit is, please.

4 A. This is a summary chart for Ken Barnes for hours
5 worked June 18, '04 through November 22 ' 04, reported to
6 ESG, Technisource and Staffmark.

7 MR. KIRSCH: Your Honor, I move to admit and
8 publish Government Exhibit 901.11?

9 MR. BANKS: No objection.

10 THE COURT: 901.11 is admitted, and it may be
11 published.

12 (Exhibit No. 901.11 is admitted.)

13 Q. (BY MR. KIRSCH) Now, on this page that is on the
14 screen, Ms. Chamberlin, how many staffing companies were
15 getting reported hours?

16 A. There were three during the entire time period. But
17 on this page, only the first two; ESG and Technisource had
18 hours reported to them.

19 Q. On this page with two companies, are there still
20 instances in which Mr. Barnes reported at least 24 hours
21 of work?

22 A. Yes. On June 30th and July 19th.

23 Q. And on the first day, June 30th, who was it that
24 approved the two time sheets?

25 A. David Zirpola approved the time sheet for ESG. And

1 David Banks approved the time sheet for Technisource.

2 Q. What about the day for July 19th?

3 A. David Zirpolo approved both.

4 MR. KIRSCH: Can we go to page 2 of that exhibit,
5 please.

6 Q. (BY MR. KIRSCH) Is there a point on this page during
7 which Mr. Barnes began to report time to three different
8 companies?

9 A. Yes, August 16th.

10 Q. And for what is on page 2 here, on any of those days
11 did Mr. Barnes report working less than 24 hours?

12 A. No.

13 MR. KIRSCH: Can we go to page 3 of that exhibit,
14 please.

15 Q. (BY MR. KIRSCH) On how many days, on page 3 of this
16 exhibit, did Mr. Barnes report working at least 24 hours
17 in a day?

18 A. Fourteen.

19 MR. KIRSCH: Go to page 4 of that exhibit, please.

20 Q. (BY MR. KIRSCH) On this page, how many staffing
21 companies were getting hours reported for Mr. Barnes?

22 A. Two.

23 MR. KIRSCH: And then can we go to page 5, please.

24 Q. (BY MR. KIRSCH) Same question for page 5,
25 Ms. Chamberlin. How many companies were getting hours

1 reported for Mr. Barnes on this page?

2 A. Two.

3 THE COURT: Mr. Kirsch, I think it would be a good
4 time to take a break.

5 MR. KIRSCH: Thank you, Your Honor.

6 THE COURT: We will be in recess until
7 approximately 3:20.

8 (A break is taken from 3:03 p.m. to 3:21 p.m.)

9 THE COURT: All right. You may be seated.

10 Ms. Barnes, could you please bring in the jury.

11 THE COURT: You may be seated.

12 Mr. Kirsch, you may proceed.

13 MR. KIRSCH: Thank you, Your Honor.

14 Q. (BY MR. KIRSCH) Ms. Chamberlin, I believe we were
15 ready to ask you to look at what is marked for
16 identification as Government Exhibit 901.12.

17 A. Yes.

18 Q. Can you identify that exhibit, please?

19 A. This is the summary chart for Enrico Howard for hours
20 reported August 27th of '04, through December 3rd of '04,
21 reported to Staffmark and The Judge Group.

22 MR. KIRSCH: Your Honor, I move to admit and
23 publish 901.12.

24 THE COURT: Any objection?

25 MR. ZIRPOLO: No objection.

1 THE COURT: 901.12 is admitted, and it may be
2 published.

3 (Exhibit No. 901.12 is admitted.)

4 Q. (BY MR. KIRSCH) Who was approving the hours for
5 Staffmark reported for Mr. Howard?

6 A. C. Alfred Stewart.

7 Q. How about for Judge Technical?

8 A. Ken Harper.

9 MR. KIRSCH: Can we go to the second page of that
10 exhibit, please.

11 Q. (BY MR. KIRSCH) Can I ask you to look now,
12 Ms. Chamberlin, at Government Exhibit 901.13.

13 A. Yes.

14 Q. Can you identify that exhibit for us?

15 A. This is the summary chart for David Zirpolo for hours
16 worked on September 20, 2004, reported to Kelly Services
17 and the Computer Merchant.

18 MR. KIRSCH: Move to admit and publish Government
19 Exhibit 901.13.

20 THE COURT: Any objection?

21 MR. ZIRPOLO: No objection.

22 THE COURT: 901.13 is admitted, and it may be
23 published.

24 (Exhibit No. 901.13 is admitted.)

25 MR. KIRSCH: Thank you, Your Honor.

1 Q. (BY MR. KIRSCH) Just one day of overlap on this
2 chart; is that correct?

3 A. Correct.

4 Q. And who approved the time cards submitted for
5 Mr. Zirpolo on that day?

6 A. Clint Stewart for card reporting to Kelly Services,
7 and C. Alfred Stewart for The Computer Merchants.

8 Q. Can I ask to you look now at 901.14.

9 A. Yes.

10 Q. And can you identify that exhibit for us, please?

11 A. This is the summary chart for Kendra Haughton for
12 hours reported September 27, '04, through January 12, '05,
13 reported to Computer Merchant and Judge Technical.

14 MR. KIRSCH: Your Honor, I move to admit and
15 publish Government Exhibit 901.14.

16 THE COURT: Any objection?

17 MR. ZIRPOLO: No objection.

18 THE COURT: 901.14 is admitted, and it may be
19 published.

20 (Exhibit No. 901.14 is admitted.)

21 Q. (BY MR. KIRSCH) Who was approving the hours
22 represented here, Ms. Chamberlin?

23 A. C. Alfred Stewart reported -- approved the time cards
24 for Computer Merchant, and Ken Harper approved the cards
25 for Judge Technical.

1 Q. On page 1 of this exhibit, are there any differences
2 in the hours reported to those two companies for
3 Ms. Haughton on any of those days?

4 A. No.

5 Q. Can we go to the next page of that exhibit, please.
6 Are there any differences in hours reported to the two
7 companies on page 2 of this exhibit?

8 A. November 22nd, 8 hours were reported to Computer
9 Merchant, and 9 hours were reported to Judge Technical.

10 Q. Any other differences?

11 A. No.

12 MR. KIRSCH: Can we go to page 3 of this exhibit,
13 please.

14 Q. (BY MR. KIRSCH) How about on this page,
15 Ms. Chamberlin, any difference in hours reported to the
16 two companies?

17 A. Differences for December 20th, 21st, 22nd, 23rd and
18 24th. Otherwise, no, they are the same hours.

19 Q. Can I ask you to look at Government Exhibit 901.15
20 now, please.

21 A. Yes.

22 Q. Can you identify it for us, please?

23 A. This is a summary chart for Cliff Stewart for hours
24 worked September 27, '04 through December 3, '04, reported
25 to Staffmark and Judge Technical.

1 MR. KIRSCH: Your Honor, I move to admit and
2 publish Government Exhibit 901.15.

3 THE COURT: Any objection?

4 MR. ZIRPOLO: No objection.

5 THE COURT: 901.15 is admitted, and it may be
6 published.

7 (Exhibit No. 901.15 is admitted.)

8 Q. (BY MR. KIRSCH) Who approved the hours reported for
9 Cliff Stewart to Staffmark?

10 A. C. Alfred Stewart.

11 Q. Who reported the hours reported to Judge Technical?

12 A. The approver was Ken Harper.

13 Q. What is the smallest number of hours for any given
14 day reported for Cliff Stewart during this time period on
15 the screen?

16 A. Eight hours for one day, or were you meaning for
17 both?

18 Q. What is the smallest total number of hours?

19 A. Looks like 18.

20 MR. KIRSCH: Could we go to page 2 of that exhibit,
21 please.

22 Q. (BY MR. KIRSCH) How about on page 2, what is the
23 lowest total number of hours in any given day reported for
24 Mr. Stewart?

25 A. Nineteen, December 3rd.

1 Q. Can I ask you to look now at Government Exhibit
2 901.16.

3 A. Yes.

4 Q. Can you identify it for us, please?

5 A. This is a summary chart for Enrico Howard for hours
6 report December 7, '04, through February 8, '05, reported
7 to Judge Technical and MSX.

8 MR. KIRSCH: Your Honor, I move to admit and
9 publish Government Exhibit 901.16.

10 THE COURT: Any objection?

11 MR. ZIRPOLO: No objection.

12 THE COURT: 901.16 is admitted, and it may be
13 published.

14 (Exhibit No. 901.16 is admitted.)

15 Q. (BY MR. KIRSCH) Was Mr. Howard, during this time
16 period reflected on page 1, reporting working at least 24
17 hours on any days?

18 A. Yes, December 20th, 21st and 22nd.

19 Q. And who was approving -- on those days, who was
20 approving Mr. Howard's time for Judge Technical?

21 A. Ken Harper.

22 Q. Who was approving his time for MSX on those days?

23 A. David Zirpolo.

24 MR. KIRSCH: Can we go to page 2 of that exhibit,
25 please.

1 Q. (BY MR. KIRSCH) What was the smallest total hours
2 reported by Mr. Howard on this page of the exhibit?

3 A. Fifteen for February 8th.

4 Q. Can I ask you to look now at Government Exhibit
5 9001.17.

6 A. Yes.

7 Q. Can you identify that exhibit for us?

8 A. This is a summary chart for Barbara McKenzie for
9 hours reported January 17, 2005, through February 14th,
10 2005, reported to Blackstone and MSX.

11 MR. KIRSCH: Your Honor, I would move to admit and
12 publish Government Exhibit 901.17.

13 THE COURT: Any objection?

14 MR. ZIRPOLO: No objection.

15 THE COURT: 901.17 is admitted, and it may be
16 published.

17 (Exhibit No. 901.17 is admitted.)

18 Q. (BY MR. KIRSCH) Ms. Chamberlin, who was approving
19 the hours reported to Blackstone for Ms. McKenzie?

20 A. David Zirpolo.

21 Q. How about the hours reported to MSX for Ms. McKenzie?

22 A. David Zirpolo.

23 Q. Can I ask you to look at Government Exhibit 901.18,
24 please.

25 A. Yes.

1 Q. Can you identify that one for us?

2 A. This is the summary chart for Kendra Haughton for
3 hours worked January 17, 2005, through February 8, 2005,
4 reported to Judge Technical and Blackstone.

5 MR. KIRSCH: Your Honor, I would move to admit and
6 publish Government Exhibit 901.18.

7 THE COURT: Any objection?

8 MR. ZIRPOLO: No objection.

9 THE COURT: 901.18 is admitted, and it may be
10 published.

11 (Exhibit No. 901.18 is admitted.)

12 Q. (BY MR. KIRSCH) Finally, Ms. Chamberlin, can I ask
13 you to look at 901.19.

14 A. Yes.

15 Q. Can you identify that document for us?

16 A. This is a summary chart for Cliff Stewart for hours
17 worked December 6, 2004, through February 8, 2005,
18 reported to Judge Technical and MSX.

19 MR. KIRSCH: Your Honor, I would move to admit and
20 publish Government Exhibit 901.19.

21 THE COURT: Any objection?

22 MR. ZIRPOLO: No objection.

23 THE COURT: 901.19 is admitted, and it may be
24 published.

25 (Exhibit No. 901.19 is admitted.)

1 Q. (BY MR. KIRSCH) Again, are there occasions reflected
2 on page 1 when Mr. Stewart was reporting working 24 hours
3 in a given day?

4 A. Yes. On December 30th and January 4th.

5 Q. Who was approving those time cards on behalf of Judge
6 Technical?

7 A. Ken Harper.

8 Q. How about on behalf of MSX?

9 A. David Zirpolo.

10 MR. KIRSCH: Can we publish page 2 of that exhibit,
11 please.

12 Q. (BY MR. KIRSCH) Is there another instance on this
13 page in which Mr. Stewart reported working 24 hours in a
14 day?

15 A. Yes, February 8th of 2005.

16 MR. KIRSCH: Thank you, Special Agent Smith.

17 Q. (BY MR. KIRSCH) Ms. Chamberlin, were you asked to
18 try to prepare a summary of -- summary calculation of
19 minimum amounts of payments that went from staffing
20 companies to the six defendants in this matter?

21 A. Yes.

22 Q. Can I ask you to look at what is marked for
23 identification as Government Exhibit 902.

24 A. Yes.

25 Q. Does that exhibit contain the results of that

1 summary?

2 A. It does.

3 Q. What sorts of information did you rely on in order to
4 try to prepare that summary?

5 A. I relied upon bank records for both Leading Team,
6 DKH, IRP, as well as some of the personal bank accounts,
7 as well as payroll records provided by the staffing
8 companies.

9 Q. Okay. Were some of those records that you relied on
10 to prepare this summary contained in Government Exhibit
11 609.07?

12 A. Yes.

13 Q. And, as far as you know, was that an exhibit that was
14 admitted into evidence during this trial?

15 A. Yes.

16 Q. You said that you also looked at some personal bank
17 accounts?

18 A. Correct.

19 Q. Did you have personal bank accounts for Kendrick
20 Barnes?

21 A. Yes.

22 Q. Did you have one for David Zirpolo, as well?

23 A. Yes.

24 Q. Are those both contained in what has been marked for
25 the purposes of this trial as Government Exhibit 806?

1 A. Yes.

2 Q. Those were records from the ENT Federal Credit Union;
3 is that correct?

4 A. It is.

5 Q. Do you know whether or not there was also a
6 declaration obtained from a custodian at ENT Federal
7 Credit Union related to those records?

8 A. There was.

9 Q. Is that found at Government's Exhibit 806.01?

10 A. Yes.

11 Q. I believe you mentioned that you also looked at some
12 business bank accounts?

13 A. Yes.

14 Q. Did those include bank accounts opened in the name of
15 a company, Leading Team?

16 A. Correct.

17 Q. Were those records contained in what had been marked
18 as Government Exhibits 807.00 and 807.01?

19 A. Yes.

20 Q. Do you know whether or not -- do you recall what bank
21 those records came from?

22 A. Key Bank.

23 Q. Do you know whether or not there was a declaration
24 obtained from a custodian of records at Key Bank related
25 to those records?

1 A. There was.

2 Q. And, finally, did you have bank records pertaining to
3 an account opened in the name of DKH Enterprises?

4 A. Yes.

5 Q. Is that contained in what has been marked as
6 Government's Exhibit 811.00?

7 A. I don't know if it is 811 or 810.

8 Q. Do you recall the bank?

9 A. U.S. Bank.

10 Q. U.S. Bank. U.S. Bank records, you are correct, those
11 are marked as 810.00.

12 A. Correct.

13 Q. Do you know whether there was a declaration obtained
14 from a U.S. Bank custodian related to those records, as
15 well?

16 A. Yes.

17 Q. And is that marked as Exhibit 810.01?

18 A. It is.

19 Q. You also mentioned that you had looked at payroll
20 records?

21 A. Yes.

22 Q. Were those payroll records that you examined, were
23 they all ruled to be admissible during the course of this
24 trial?

25 A. Yes.

1 Q. Were there instances when you were doing this review
2 where you saw -- let's talk about the business bank
3 accounts for a moment.

4 A. Okay.

5 Q. Were there instances in which there were checks
6 payable to the defendants from those business bank
7 accounts?

8 A. Yes.

9 Q. Were those checks that you included in your summary?

10 A. Yes.

11 Q. Were there instances in which there were deposits
12 from staffing companies into those business bank accounts?

13 A. Yes.

14 Q. And did you have a mechanism for attributing that
15 money to any of the particular defendants for purposes of
16 this summary?

17 A. Yes.

18 Q. How did that work?

19 A. When I look at a bank account, I create a spreadsheet
20 of all of the transactions in the bank account. And when
21 a deposit would come in from a staffing company, I would
22 look at what the beginning balance was before that deposit
23 was made, then I would also look at the checks that
24 cleared the account after the deposit was made, and see
25 who was paid, potentially, with those funds that came in

1 from the staffing company.

2 Q. Okay. Did you -- you also indicated that you had
3 some personal bank accounts?

4 A. Yes.

5 Q. And did you count, for this purpose, deposits of
6 checks from staffing companies into those personal bank
7 accounts?

8 A. Correct.

9 MR. KIRSCH: Your Honor, at this time I would move
10 to admit and publish Government Exhibit 902.00.

11 THE COURT: Any objection?

12 MR. BANKS: May we have a moment, Your Honor?

13 THE COURT: You may.

14 MR. BANKS: No objection, Your Honor.

15 THE COURT: 902.00 is admitted, and it may be
16 published.

17 (Exhibit No. 902.00 is admitted.)

18 MR. KIRSCH: Thank you, Your Honor.

19 Q. (BY MR. KIRSCH) Ms. Chamberlin, the totals that you
20 calculated here, do these totals account in any way for
21 any cash transactions?

22 A. No.

23 Q. Do they account for any transactions that would have
24 occurred outside of the bank accounts that you identified
25 a moment ago?

1 A. No.

2 MR. KIRSCH: All right. Thank you, Special Agent
3 Smith.

4 Q. (BY MR. KIRSCH) Were you asked, Ms. Chamberlin, to
5 try to prepare a summary of the losses to staffing
6 companies for the purposes of this trial?

7 A. Yes.

8 Q. And what -- on what information did you rely in order
9 to prepare that summary?

10 A. I relied upon the invoices of the staffing company.
11 In one instance, a staffing company was not able to
12 provide a copy of one invoice, but they had provided
13 copies of other invoices, as well as a listing; an account
14 statement showing all of the invoices that were owed. And
15 then I also took out any payments that were made by
16 Leading Team, DKH or IRP to the staffing companies, to
17 come up with a net loss amount for each staffing company.

18 Q. The invoices on which you relied for the purpose of
19 creating this summary, were those all invoices that were
20 deemed admissible during the course of the trial?

21 A. Admissible or admitted.

22 Q. Okay. And the bank records on which you relied for
23 the payments, were those records either in one of the
24 categories that you just described a minute ago, or
25 contained in exhibits that were admitted or deemed

1 admissible at trial?

2 A. Yes.

3 MR. KIRSCH: Your Honor, I would move to admit and
4 publish Government Exhibit 903.00.

5 THE COURT: Any objection?

6 MR. BANKS: Can we have a minute, Your Honor?

7 THE COURT: You may.

8 MR. BANKS: No objection, Your Honor.

9 THE COURT: All right. 903.00 is admitted, and it
10 may be published.

11 (Exhibit No. 903.00 is admitted.)

12 MR. KIRSCH: Thank you, Your Honor.

13 Can you just start, maybe with the first few lines
14 of that, Special Agent Smith. Let's see if we can make it
15 a little easier to read.

16 Q. (BY MR. KIRSCH) Can you see that on the screen in
17 front of you now, Ms. Chamberlin?

18 A. Yes.

19 Q. So, walk us through, again, the staffing companies.
20 They appear to be in a different order this time; is that
21 right?

22 A. Correct. They are all alphabetical, again, with the
23 reference number that I assigned it.

24 Q. Is that the same reference number that appeared in
25 the other summaries you created?

1 A. Correct.

2 Q. Then column A, "Owed to Staffing Company," how did
3 you calculate that?

4 A. That would be the sum of all of the invoices for the
5 particular staffing company.

6 Q. Then the entry on line 1 there, or the first entry
7 there is "Paid to Staffing Company: \$3,000." How did you
8 come up with that amount?

9 A. There was a check written from Leading Team, DKH or
10 IRP to Adecco, paying on one of the invoices.

11 Q. Then your "Net Loss Column" there?

12 A. Is just simply the subtraction of what was owed to
13 what was paid to get a net figure.

14 MR. KIRSCH: Okay. Can we go back out there again.

15 Q. (BY MR. KIRSCH) Then, so are there -- am I correct,
16 looking at this overall, that there are three companies
17 that received payments --

18 A. Correct.

19 Q. -- out of these 42?

20 A. Yes.

21 MR. KIRSCH: Can we expand in the middle of the
22 chart so we can see the next company that received a
23 payment there.

24 Q. (BY MR. KIRSCH) Do we have the next company that
25 received a payment on the screen now?

1 A. Yes.

2 Q. Who was that?

3 A. Kforce.

4 Q. What was their outstanding invoice total?

5 A. The gross figure was \$354,145.28.

6 Q. And they got a payment of what amount?

7 A. \$17,280.

8 Q. Do you recall, was that a total of payments to
9 Kforce?

10 A. Yes.

11 Q. Did they actually receive more than one?

12 A. Yes. They received two.

13 Q. And total outstanding balance, then?

14 A. \$336,865.28.

15 MR. KIRSCH: And could you go to the bottom of that
16 exhibit, please, Special Agent Smith. Maybe you can
17 capture from 32 down to the very bottom.

18 Q. (BY MR. KIRSCH) Do we have the third company that
19 received a payment on the screen now?

20 A. Yes. SOS Staffing.

21 Q. And how much were they paid?

22 A. \$1,365.

23 Q. So, using this methodology that you've described, do
24 you have -- you came up with a total of the difference
25 between the outstanding invoices and the payments that

1 were received for these 42 companies?

2 A. Yes.

3 Q. What was that amount?

4 A. \$5,018,959.66.

5 MR. KIRSCH: Your Honor, could I please publish now
6 Government Exhibit 608.54?

7 THE COURT: You may.

8 Let's start with the first page of that, please.
9 Can you go down to the last page of that document, now,
10 the next page.

11 Q. (BY MR. KIRSCH) And then did you look at the total
12 amount listed from this exhibit, Ms. Chamberlin?

13 A. Yes.

14 Q. How does that figure compare to the figure that you
15 came up with?

16 A. It's roughly the same amount. About \$40,000 --
17 \$40,000 to \$50,000 more.

18 Q. This figure is actually higher than yours?

19 A. It is.

20 MR. KIRSCH: Can we go back to page 1 of that
21 exhibit.

22 Q. (BY MR. KIRSCH) Did you have an opportunity to look
23 at the names of the staffing companies that are
24 represented here?

25 A. Yes.

1 Q. Are there any names on this list that aren't
2 contained in your calculation?

3 A. Yes.

4 Q. Were there any companies -- or were there any
5 companies in your calculation that weren't listed here?

6 A. Yes.

7 MR. KIRSCH: Thank you, Special Agent Smith.

8 Q. (BY MR. KIRSCH) You mentioned a moment ago that you,
9 as a part of your analysis, you created spreadsheets of
10 some of the bank records.

11 A. Yes.

12 Q. Did you do that for Leading Team accounts at Key Bank
13 that you described before?

14 A. I did.

15 Q. Okay. Can I ask you to look first at what we have
16 marked as Government's Exhibit 904.00.

17 A. Yes.

18 Q. Do you recognize that exhibit?

19 A. I do.

20 Q. What is it?

21 A. This is my spreadsheet for the Leading Team account
22 at Key Bank that ends in 0332.

23 Q. Were you able to determine who had signatory
24 authority over that account?

25 A. I did.

1 Q. How did you do that?

2 A. If I had the signature card, that would have been the
3 document I relied upon. But I believe this was the
4 account that the bank did not provide a signature card.
5 So what I relied upon were looking at the checks, the
6 cancelled checks that cleared the account, who signed
7 those, as well as the bank statement, to see if there was
8 any additional information as to who would have signing
9 authority on the account.

10 Q. And did you determine who signed the checks on this
11 account?

12 A. Yes.

13 Q. Who was that?

14 A. Yolanda Walker.

15 Q. Again, was this an account that is contained in the
16 records that would have been marked as Exhibit 807.00?

17 A. Yes.

18 MR. KIRSCH: Now, Your Honor, I would move to admit
19 Government Exhibit 904.00.

20 THE COURT: Any objection?

21 MR. BANKS: No objection, Your Honor.

22 THE COURT: 904.00 is admitted.

23 (Exhibit No. 904.00 is admitted.)

24 Q. (BY MR. KIRSCH) Was there another Leading Team
25 account you created a spreadsheet for?

1 A. Yes.

2 Q. Can I ask you to look at what is marked as 905.00?

3 A. Yes.

4 Q. Is that the spreadsheet you prepared for the other
5 Leading Team account?

6 A. It is.

7 Q. What did that account number end in?

8 A. 0431.

9 Q. Could you determine who had signatory authority over
10 that account?

11 A. Yes. The signature card was provided, and the
12 signors were Yolanda Walker and Gary Walker.

13 Q. Did you prepare a summary of the account that I think
14 you've previously referenced for DKH at U.S. Bank?

15 A. Yes.

16 Q. Can I ask you --

17 MR. KIRSCH: I am sorry, before I ask you about
18 that, I want to move to admit Government Exhibit 905.00.

19 MR. BANKS: No objection, Your Honor.

20 THE COURT: Exhibit 905.00 is admitted.

21 (Exhibit No. 905.00 is admitted.)

22 MR. KIRSCH: Thank you, Your Honor.

23 Q. (BY MR. KIRSCH) Now I want to ask you about what is
24 marked as Government Exhibit 906.00, Ms. Chamberlin.

25 A. Yes.

1 Q. Is that your summary of the DKH bank account at U.S.
2 Bank?

3 A. It is.

4 Q. Were you able to determine who had signatory
5 authority over that account?

6 A. I did. Again, this was an account with -- where the
7 bank did not provide a signature card. But based upon the
8 review of who signed the checks that cleared the account,
9 the signor appears to be Demetrius Harper.

10 Q. Okay. Did you, when you were preparing this exhibit,
11 did you rely on the records that are marked as Government
12 Exhibit 810.00?

13 A. Yes.

14 Q. Did you have any other bank records on which you
15 relied in order to prepare this summary?

16 A. Yes.

17 Q. Did you rely in part on American National Bank
18 records for an account in the name of SWV, Inc.?

19 A. For two items, yes.

20 Q. For two of the items?

21 A. For two of the items listed on 906.00.

22 Q. Are those records contained in what is marked for
23 identification as Government Exhibit 802.00?

24 A. Yes.

25 Q. Do you know whether or not there is also a

1 declaration from a custodian from that bank marked as
2 Government Exhibit 802.01?

3 A. There is.

4 Q. Did you rely on any records from ENT Federal Credit
5 Union in preparing this spreadsheet?

6 A. I did.

7 Q. Were those for bank accounts in the names of Barbara
8 McKenzie and Kendrick Barnes?

9 A. Yes.

10 Q. Are those records contained in what is marked for
11 identification purposes as Government's Exhibit 806.00?

12 A. Yes.

13 Q. Do you know whether there is a declaration for those
14 records marked as 806.01?

15 A. There is.

16 Q. And, finally, you had earlier, I think, referenced an
17 admitted exhibit, 609.07?

18 A. Yes.

19 Q. Did you rely on records from that exhibit in
20 preparing Government Exhibit 906.00?

21 A. I did.

22 MR. KIRSCH: Your Honor, I move to admit
23 Government's Exhibit 906.00.

24 THE COURT: Any objection?

25 MR. BANKS: Can we have a moment, Your Honor?

1 THE COURT: You may.

2 MR. BANKS: No objection, Your Honor.

3 THE COURT: Exhibit 906.00 is admitted.

4 (Exhibit No. 906.00 is admitted.)

5 MR. KIRSCH: Thank you, Your Honor.

6 Q. (BY MR. KIRSCH) Ms. Chamberlin, can I now ask you to

7 look at what is marked as 907.00.

8 A. Yes.

9 Q. Can you identify that exhibit for us?

10 A. This is my spreadsheet for the bank account activity
11 for the IRP solution account at Wells Fargo Bank that ends
12 in 7977.

13 Q. Were you able to determine who opened that account?

14 A. Yes.

15 Q. Who was that?

16 A. Yolanda Clark.

17 Q. Were you able to determine whether anyone else got
18 signatory authority over that account at any point?

19 A. Yes.

20 Q. Who was that?

21 A. David Banks.

22 Q. Are the records that you used to construct that
23 spreadsheet, are they contained in what has been marked
24 for identification as Government Exhibit 811.00?

25 A. Yes.

1 Q. Are those records from Wells Fargo Bank?

2 A. Yes.

3 Q. Do you know whether there is a declaration pertaining
4 to those records at Government Exhibit 811.01?

5 A. Yes.

6 MR. KIRSCH: Your Honor, I would move to admit
7 Government's Exhibit 907.00.

8 THE COURT: Any objection?

9 MR. BANKS: No objection, Your Honor.

10 THE COURT: 907.00 is admitted.

11 MR. KIRSCH: Thank you, Your Honor.

12 (Exhibit No. 907.00 is admitted.)

13 MR. KIRSCH: At this time, Your Honor, I would ask
14 for leave to publish Government Exhibit 905.

15 THE COURT: You may.

16 Q. (BY MR. KIRSCH) Could you -- first of all, I want to
17 ask you first about the column over on the right side --

18 A. Yes.

19 Q. -- Ms. Chamberlin. It says "Bates No." Can you
20 explain what that is?

21 A. The far column on the right titled "Bates No.," is
22 the Bates number the document that I relied upon to
23 generate that particular transaction on that line.

24 Q. Can you just explain what a Bates number is?

25 A. When we get documents in our cases and we're

1 preparing them for trial, we will scan them electronically
2 and assign a unique Bates number to each page of the
3 document.

4 Q. So those numbers would tie to a particular page or
5 pages in that overall group of documents; is that right?

6 A. Correct.

7 MR. KIRSCH: Okay. Now, can you expand, Special
8 Agent Smith, maybe let's say the first six lines there.
9 And just go over through "Description," please.

10 Q. (BY MR. KIRSCH) Now, can you explain what kind of
11 information you have in each of the columns that are on
12 the screen now, Ms. Chamberlin?

13 A. The first column, again, is just a "Reference Number"
14 for ease of reference.

15 The next column is the "Date" column. And that
16 date is going to be the date that is on the bank account
17 statement. So it would be the date the deposit was made
18 or a date that a check cleared the account.

19 The next column is a "Running Balance" column.

20 The "Deposit" column is each individual deposit
21 that was made into the account.

22 The "Method" column is the method by which the
23 deposit or the withdrawal was made. So that would
24 typically contain the check number of a check that was
25 deposited or a check number that cleared the account. It

1 could also contain "MO" for a money order, "CC" for a
2 cashier's check, "wire" if there was a wire transfer in or
3 out of the account.

4 The next column is the "Withdrawal." So any
5 withdrawal from the account, whether it be in the form of
6 a check, or maybe some type of service charge or fees.

7 Then the "Description" column is typically the
8 description on the check or the item. Or, in some cases,
9 where -- like in line No. 3, the description says "No.
10 5058 DKH Enterprises." That means that Check No. 2552
11 written off the DKH account that ends in 5058, was
12 deposited into this Leading Team account.

13 MR. KIRSCH: All right. And then perhaps you can
14 just scroll to the right, Special Agent Smith.

15 Q. The "Signor" column, what information would be in
16 there?

17 A. The signor column would be the initials of who signed
18 the check that cleared the account.

19 Q. Okay. And is that the -- that system or method of
20 construction that you just described there, is that -- is
21 that -- does that apply to each of the four summaries we
22 just talked about, Exhibits 904, 905, 906 and 907?

23 A. Correct.

24 Q. Before you came to court today, were you asked to
25 review all four of those exhibits; the two Leading Team

1 accounts, the DKH account and the IRP account, to look for
2 -- were you asked to view the deposit items for those four
3 accounts?

4 A. Yes.

5 Q. For those four accounts, did you review to determine
6 whether or not there were any deposits from the Federal
7 Bureau of Prisons?

8 A. Yes.

9 Q. Did you find any deposit from the Federal Bureau of
10 Prisons?

11 A. No.

12 Q. Were you asked to look for deposits from the
13 Department of Homeland Security?

14 A. Yes.

15 Q. Did you find any deposits into any of those four
16 accounts from the Department of Homeland Security?

17 A. No.

18 Q. Were you asked to review those four accounts for
19 deposits from the Federal Bureau of Investigation?

20 A. Yes.

21 Q. Did you see any deposits from the FBI in any of those
22 accounts?

23 A. No.

24 Q. Were you asked to review those four accounts for
25 deposits from the Department of Justice?

1 A. Yes.

2 Q. Did you see any deposits from the Department of
3 Justice in those four accounts?

4 A. No.

5 Q. Did you see any deposits from any federal government
6 agency into any of those accounts?

7 A. No.

8 Q. Did you look for deposits from the New York Police
9 Department?

10 A. Yes.

11 Q. Did you see any deposits from the New York Police
12 Department into those accounts?

13 A. No.

14 Q. Did you find any deposits from any entity that, as
15 far as you could tell, might have been a law enforcement
16 agency?

17 A. Possibly.

18 Q. Okay. Are any of those in Government Exhibit 905,
19 the one we were just looking at?

20 A. Can I look at my notes to refresh my memory?

21 MR. KIRSCH: How about if I just ask if I can
22 publish Government Exhibit 905 again, Your Honor.

23 THE COURT: You may.

24 MR. KIRSCH: And can you go to page 7 of that
25 exhibit, please. And can you focus in around line 220,

1 please.

2 Your Honor, I don't believe the jury can see that
3 again.

4 Q. (BY MR. KIRSCH) Can you see that on the screen,
5 Ms. Chamberlin?

6 A. I can.

7 Q. What is the line item at reference No. 220?

8 A. It is a deposit made on August 27, 2003, for \$3,500
9 from the State of Colorado Department of Public Safety.

10 Q. Okay. Do you recall whether or not you identified
11 any other deposits into this account that could have been
12 from a law enforcement agency?

13 A. No, there were not.

14 MR. KIRSCH: Can I now please publish, Your Honor,
15 Government Exhibit 907.00?

16 THE COURT: You may.

17 Q. (BY MR. KIRSCH) This is the summary of the IRP
18 Solutions' account; is that right, Ms. Chamberlin?

19 A. It is.

20 Q. Can we please go to page 6 of that exhibit. And can
21 we focus in around line 201, please. What is the deposit
22 item there, Ms. Chamberlin?

23 A. On June 7th, 2004, a deposit for \$5,060 from Rio
24 Grande County.

25 Q. Was that an item that you determined could perhaps

1 have come from a law enforcement agency or entity?

2 A. Yes.

3 MR. KIRSCH: Could we go to page 9 of that exhibit,
4 please. Focus in around line 341.

5 Q. (BY MR. KIRSCH) What is contained on that line?

6 A. Line 341, deposit made on January 28, 2005, for \$629
7 from the Dunklin County Law Enforcement Block Grant 2001,
8 and item in parentheses is what was shown in the memo
9 section indicating "Law enforcement software."

10 Q. Other than those three line items that we have just
11 looked at, were you able to identify any other deposits
12 into these accounts that you could potentially classify as
13 coming from a law enforcement agency?

14 A. No.

15 Q. Do you recall the time frame that was covered by
16 these accounts that you had?

17 A. It would have been the time frame October of '02
18 through February of '05.

19 Q. Okay. Did you make an attempt to try to identify
20 potential rent payments from the IRP account?

21 A. Yes.

22 MR. KIRSCH: Could we go back and publish again,
23 please, Your Honor, Government Exhibit 907.00, page 9?

24 THE COURT: You may.

25 Q. (BY MR. KIRSCH) And were you able to identify those

1 kind of payments?

2 A. Yes.

3 Q. And I think I may have asked you to go to the wrong
4 page. Can you go to page 6, please. Is there anything on
5 this page that you were able to identify as these
6 payments, Ms. Chamberlin?

7 A. Lines 202, line 219, line 230 were all checks payable
8 to Alcatel, with the memo section reading "DKH 7350 Campus
9 Dr, #200."

10 Q. And was there a standard amount to those payments?

11 A. Yes.

12 Q. What was that amount?

13 A. \$19,946.08.

14 Q. Was that amount paid on roughly a monthly basis?

15 A. Yes.

16 Q. When you were reviewing the various records that
17 you've described as you were creating these summaries, did
18 you identify situations where payments went from staffing
19 companies to one of these three entities; Leading Team,
20 DKH or IRP, rather than directly to the employees?

21 A. Yes.

22 Q. Was one of the entities for which that occurred a
23 company called Pro Staff or AdvectA?

24 A. Yes.

25 Q. Do you recall what entity received payment from

1 Pro Staff or Advecta?

2 A. I believe it was Leading Team.

3 Q. And do you recall -- did you review the time cards
4 for Pro Staff and Advecta?

5 A. Yes.

6 MR. KIRSCH: Your Honor, could we please publish
7 301.00?

8 THE COURT: You may.

9 Q. (BY MR. KIRSCH) Who was the employee for whom time
10 was reported on this first page of Government Exhibit
11 301.00?

12 A. Shaun Haughton.

13 Q. Who approved that time card?

14 A. Clint Stewart.

15 Q. And was this one of the time sheets that you looked
16 at for Pro Staff/Advecta?

17 A. Yes.

18 MR. KIRSCH: Can we page down.

19 Q. (BY MR. KIRSCH) The employee reflected on this time
20 card is who?

21 A. Enrico Howard.

22 Q. And who approved Mr. Howard's time card here?

23 A. Clint Stewart.

24 Q. And do you recall whether there were any other
25 employees, according to the time card records, that were

1 payrolled through Pro Staff or Advecta?

2 A. No. Those were the only two.

3 MR. KIRSCH: Your Honor, can we please publish now
4 302.00.

5 THE COURT: You may.

6 MR. KIRSCH: Sorry, Your Honor, can we take that
7 off, please. I'm not certain if that has been admitted or
8 just deemed admissible.

9 THE COURT: Let me check. 302, only been deemed
10 admissible.

11 MR. KIRSCH: I apologize, Your Honor.

12 Q. (BY MR. KIRSCH) Ms. Chamberlin, were you able to
13 determine the person to whom the invoices were directed
14 for Pro Staff and Advecta?

15 A. I believe those were directed towards Demetrius
16 Harper.

17 Q. Okay. And I think you indicated that those -- that
18 the payments from that staffing company went to Leading
19 Team?

20 A. Correct.

21 Q. Would those deposits then have been reflected in your
22 summary at Government Exhibit 905.00?

23 A. Yes.

24 Q. Did you make an attempt to --

25 MR. KIRSCH: Can I go ahead and publish Government

1 Exhibit 905.00, Your Honor?

2 THE COURT: I was getting sloppy. Let me make
3 sure. Yes, you may.

4 MR. KIRSCH: Thank you, Your Honor.

5 Can we go to page 4 of that exhibit, please. And
6 can we enlarge line 137.

7 Q. (BY MR. KIRSCH) Is that, as far as you remember,
8 Ms. Chamberlin, is that the first deposit that you
9 identified into this account from Pro Staff and Advecta?

10 A. It is.

11 Q. Were you able to come up with a total of the amounts
12 deposited into this account from Pro Staff/Advecta?

13 A. Yes.

14 Q. Do you recall what that total was?

15 A. I do not.

16 Q. Do you have any documents with you that would refresh
17 your recollection about that?

18 A. Possibly.

19 Q. Did you prepare a document that contained that total?

20 A. Yes.

21 Q. And if you saw that document, would that refresh your
22 recollection about what that total was?

23 A. It would.

24 MR. KIRSCH: Your Honor, I am going to show this
25 document to the defense first.

1 Then if I could ask for it to be marked as whatever
2 Government exhibit Ms. Barnes feels is appropriate.

3 COURTROOM DEPUTY: Exhibit 703.

4 MR. KIRSCH: Okay.

5 COURTROOM DEPUTY: Wait, I am sorry, 1007.00.

6 MR. KIRSCH: Thank you very much.

7 COURTROOM DEPUTY: Government's Exhibit 1007.00.

8 Q. (BY MR. KIRSCH) Have you had a chance to look at
9 that document, Ms. Chamberlin?

10 A. I have.

11 Q. Does that refresh your memory about the total amount
12 of deposits from Pro Staff/Advecta into the Leading Team
13 account?

14 A. I does.

15 Q. What was that amount.

16 A. \$48,100.

17 Q. Did you review this account and this exhibit,
18 Government Exhibit 905.00, to look for payments to Enrico
19 Howard, the payrolled employee?

20 A. Yes.

21 Q. Did you find any payments to Enrico Howard, the
22 payrolled employee, from the Leading Team account?

23 A. No.

24 Q. Did you review it to find payments to Shaun Haughton,
25 the other payrolled employee?

1 A. I did.

2 Q. Did you find any payments to Shaun Haughton from this
3 account?

4 A. No.

5 Q. Did you look after those deposits came in from
6 Pro Staff/AdvectA to see whether or not there were
7 payments out of this account to any of the defendants in
8 this case?

9 A. Yes.

10 Q. Were there payments to Mr. Stewart after the
11 Pro Staff/AdvectA deposits came into this account?

12 A. Yes.

13 Q. What about to Mr. Harper?

14 A. Yes.

15 MR. KIRSCH: Can we go, please, to page 4 of that
16 exhibit, again. And can we go -- can we just expand from
17 there down to the bottom. Just go over to the
18 description, please. Right there.

19 Q. (BY MR. KIRSCH) I believe you identified line 137.
20 Did you say that that was the first deposit you
21 identified?

22 A. It was.

23 Q. Then two days later, was there a check written to
24 Mr. Harper?

25 A. There was a check that cleared, payable to

1 Mr. Harper.

2 Q. Okay. And what amount?

3 A. \$5,880.

4 MR. KIRSCH: Can we go to the next page, please.

5 And go to the top. First couple of lines there.

6 Q. (BY MR. KIRSCH) Was there a check that cleared to

7 Mr. Stewart around that same time?

8 A. Yes.

9 Q. For how much?

10 A. \$5,820.

11 MR. KIRSCH: Can we go down to line 152, and go

12 from there down to about 162, please.

13 Q. (BY MR. KIRSCH) Is there a deposit from that same

14 staffing company reflected there in line 152?

15 A. Yes.

16 Q. And are there checks payable to Mr. Stewart and

17 Mr. Harper that followed that deposit?

18 A. Yes.

19 Q. In what amounts?

20 A. \$3,300 to both of them.

21 MR. KIRSCH: Go back out of that, please. Go down

22 to line 170. I don't think we need to expand that.

23 Q. Is there another deposit from Pro Staff on 170,

24 Ms. Chamberlin?

25 A. There is.

1 MR. KIRSCH: Go to the top of the next page, page
2 6, please.

3 Q. (BY MR. KIRSCH) Were there checks written to
4 Mr. Stewart and Mr. Harper shortly after that deposit?

5 A. There were checks that cleared.

6 Q. I am sorry, that cleared?

7 A. Yes.

8 Q. And in what amounts?

9 A. \$3,240 to both Mr. Stewart and Mr. Harper.

10 MR. KIRSCH: Can you just scroll down a couple more
11 lines there, Special Agent Smith.

12 Q. (BY MR. KIRSCH) Line 184 is on the screen now. Does
13 that have the deposit from Pro Staff?

14 A. It does.

15 MR. KIRSCH: Can we go ahead and scroll down about
16 10 more lines there, Special Agent Smith.

17 Q. (BY MR. KIRSCH) Were there checks that cleared to
18 Mr. Stewart and Mr. Harper after that deposit?

19 A. Yes.

20 Q. In what amounts?

21 A. \$3,360 to Mr. Stewart, and \$3,300 to Mr. Harper.

22 MR. KIRSCH: Then, finally, can we go to the next
23 page, please. I am sorry, I think I took you one page --
24 I took it one page too quickly. Can we go back to page 6.

25 Q. (BY MR. KIRSCH) Is there another Pro Staff deposit

1 there on page 6?

2 A. There is.

3 Q. And were there checks that went out after that
4 deposit to Mr. Stewart and Mr. Harper?

5 A. Yes. They are on the next page.

6 MR. KIRSCH: Okay. Can we go to the next page,
7 please.

8 THE WITNESS: Line 213 and line 217.

9 Q. (BY MR. KIRSCH) What were the amounts of those
10 checks?

11 A. 3,300 to both Mr. Harper and Mr. Stewart.

12 Q. Did you add up the funds in this category that were
13 payable to Clinton Stewart?

14 A. Yes.

15 Q. Do you recall what that total was?

16 A. \$19,020.

17 Q. How about did you add up the funds for Mr. Harper?

18 A. Yes.

19 Q. What did that total?

20 A. The same amount, \$19,020.

21 MR. KIRSCH: Your Honor, can I please ask to
22 publish Government Exhibit 608.22?

23 THE COURT: Yes, you may.

24 MR. KIRSCH: Thank you, Your Honor.

25 Can you expand the text of that e-mail, please.

1 Just do the first half of it, actually.

2 Q. (BY MR. KIRSCH) Can you see that on the screen

3 now --

4 A. I can.

5 Q. -- Ms. Chamberlin, under the heading AdvectA?

6 A. Yes.

7 Q. Did the bank records that you reviewed, are they
8 consistent with Mr. Howard or Mr. Haughton getting
9 payments from AdvectA for the time that was reported in
10 their names?

11 A. Can you repeat the question, please?

12 Q. Yes. The bank records that you reviewed --

13 A. Yes.

14 Q. -- were they consistent with Mr. Howard or
15 Mr. Haughton getting paid for the time that was recorded
16 in their names to Pro Staff/AdvectA?

17 A. They did not get paid.

18 Q. Okay. Were the records you reviewed consistent with
19 Mr. Stewart and Mr. Harper getting paid for the time that
20 was reported in the names of Enrico Howard and Shaun
21 Haughton?

22 A. Yes.

23 MR. KIRSCH: Thank you, Special Agent Smith.

24 Q. (BY MR. KIRSCH) Was Analysts International another
25 company that issued payments to one of the entities, DKH,

1 Leading Team or IRP, rather than directly to employees?

2 A. Yes.

3 Q. And did you review records that identified the
4 payrolled employees through Analysts International?

5 A. Yes.

6 Q. Did those include the time cards for Analysts
7 International?

8 A. Yes.

9 MR. KIRSCH: Your Honor, at this point I'm going to
10 ask to publish Government's Exhibit 50.01, which I believe
11 has been admitted into evidence.

12 THE COURT: Yes, it has been. You may.

13 MR. KIRSCH: And can we have page 8 of that
14 exhibit, please. Can you expand that list of names,
15 please.

16 Q. (BY MR. KIRSCH) Can you see that list of names on
17 the screen, Ms. Chamberlin?

18 A. I can.

19 Q. Is that consistent with your understanding about the
20 employees in whose name time was reported to Analysts
21 International?

22 A. Yes.

23 Q. And do you recall from reviewing the time cards who
24 approved the time cards that were submitted to Analysts
25 International?

1 A. I do not recall.

2 MR. KIRSCH: Okay. Could we please publish
3 Government's Exhibit 51.00?

4 THE COURT: You may.

5 Q. (BY MR. KIRSCH) Does that help refresh your memory
6 Ms. Chamberlin?

7 A. Yes.

8 Q. Who was that?

9 A. Gary Walker.

10 Q. And did you review -- do you know the -- do you
11 recall the account into which payments from Analysts
12 International went?

13 A. I believe payments went into the DKH account.

14 Q. That would be your summary of that account, is
15 Government Exhibit 906.00?

16 A. Yes.

17 MR. KIRSCH: Can we please publish 906.00, Your
18 Honor?

19 THE COURT: You may.

20 MR. KIRSCH: And I want to go down to line 271, if
21 we could, please, Special Agent Smith. Can we just
22 highlight the bottom of that screen.

23 Q. (BY MR. KIRSCH) Is this an example, Ms. Chamberlin,
24 of a deposit into this account from Analysts
25 International?

1 A. It is, line 271.

2 Q. Now, did you make an attempt to determine whether
3 there were any employees in whose name time was reported
4 that didn't get checks written to them out of this DKH
5 account after there were deposits from Analysts
6 International?

7 A. Yes.

8 Q. Did you identify such employees?

9 A. I did.

10 Q. Who were they?

11 A. Esther Bailey was one. Willie Pee was another. And
12 I believe Michael Benjamin was the third.

13 Q. Okay.

14 MR. KIRSCH: Your Honor, at this point I'm going to
15 ask to publish Government Exhibit 609.04, which has been
16 admitted.

17 THE COURT: Yes, you may.

18 MR. KIRSCH: Thank you, Your Honor.

19 Q. (BY MR. KIRSCH) Starting with the first page here,
20 this is a folder marked "David Banks." Do you see that,
21 Ms. Chamberlin?

22 A. I do.

23 MR. KIRSCH: Can I ask you to go now, Special Agent
24 Smith, please, to page 26 of that exhibit.

25 Q. (BY MR. KIRSCH) Is that an Analysts International

1 time card in the David Banks folder, Ms. Chamberlin?

2 A. It is.

3 Q. And for what employee?

4 A. Esther Bailey.

5 MR. KIRSCH: Can you just page through, Special
6 Agent Smith, to page 31, there.

7 Q. (BY MR. KIRSCH) Were all of those pages that we just
8 looked at time cards for Esther Bailey?

9 A. Yes.

10 MR. KIRSCH: Your Honor, can I now please publish
11 Government Exhibit 609.05?

12 THE COURT: Yes, you may.

13 Q. (BY MR. KIRSCH) See, Ms. Chamberlin, the folder
14 marked "Gary Walker" on the screen now?

15 A. Yes.

16 MR. KIRSCH: Special Agent Smith, can you go to
17 page 34 of that exhibit, please.

18 Q. (BY MR. KIRSCH) Is that an Analysts International
19 time card, Ms. Chamberlin?

20 A. It is.

21 Q. In whose name?

22 A. Willie Pee.

23 MR. KIRSCH: Can we go to the next page, please.

24 Q. (BY MR. KIRSCH) How about that one?

25 A. Same.

1 MR. KIRSCH: Go to the next page, please.

2 Q. (BY MR. KIRSCH) How about that one?

3 A. Same.

4 MR. KIRSCH: Can we go to the next page, please.

5 That is the last one we have there?

6 May I have one moment, please, Your Honor?

7 THE COURT: You may.

8 MR. KIRSCH: Thank you, Special Agent Smith.

9 Q. (BY MR. KIRSCH) Ms. Chamberlin, did you attempt to
10 determine whether there were payments made to Gary Walker
11 from the DKH account after the deposits came in from
12 Analysts International?

13 A. Yes.

14 Q. Were there such payments?

15 A. Yes.

16 Q. Were you able to come up with a total of those?

17 A. Yes.

18 Q. Do you recall what that was?

19 A. It was a little over \$15,000, is my recollection.

20 Q. Did you determine whether there were payments made to
21 David Banks from the DKH account after the money was
22 deposited from Analysts International?

23 A. Yes.

24 Q. Do you recall what that total was?

25 A. Again, it was a little over 15,000.

1 Q. I want to ask you now about a company called Kforce.

2 Is that a company you reviewed records for?

3 A. It is.

4 Q. Is Kforce a company -- another company that sent
5 payments directly to one of the entities instead of to the
6 payrolled employees?

7 A. It is.

8 Q. Did Kforce also send its payment to the DKH account?

9 A. It did.

10 Q. Again, your summary is Government Exhibit 906.00?

11 A. Yes.

12 Q. Did you look at records to identify the payrolled
13 employees for Kforce?

14 A. Yes.

15 Q. Okay. Do you recall who those employees are?

16 A. There was a long list, is my recollection. I don't
17 think I can name them all off.

18 Q. I will ask you some names, and tell me if you
19 remember if they were Kforce -- reported time for these
20 employees. Esther Bailey?

21 A. Yes.

22 Q. Michael Benjamin?

23 A. Yes.

24 Q. Norman Bowden?

25 A. Yes.

- 1 Q. Amos Clark?
- 2 A. Amos Clark?
- 3 Q. Yes.
- 4 A. Yes.
- 5 Q. Damon Curnell?
- 6 A. Yes.
- 7 Q. Shaun Haughton?
- 8 A. Yes.
- 9 Q. Willie Pee?
- 10 A. Yes.
- 11 Q. Lisa Stewart?
- 12 A. Yes.
- 13 Q. Larry Iverson?
- 14 A. Yes.
- 15 Q. Diane Lithwich?
- 16 A. Yes.
- 17 Q. William Williams?
- 18 A. Yes.
- 19 Q. Do you remember who approved the time cards for those
- 20 employees for Kforce?
- 21 A. I don't recall.
- 22 Q. Okay.
- 23 MR. KIRSCH: Your Honor, can I please publish
- 24 Government Exhibit 211.00?
- 25 THE COURT: You may.

1 MR. KIRSCH: Thank you, Your Honor.

2 Can we go to the next page, please.

3 Q. (BY MR. KIRSCH) Can you see who approved this time
4 card?

5 A. Yes, Gary Walker.

6 MR. KIRSCH: Can you go to the next page, please.
7 Can we page forward past the date of March 14. Just page
8 down.

9 We are going to try that again, Your Honor. That
10 is all right we will go ahead and move on.

11 Q. (BY MR. KIRSCH) Did you analyze the deposits from
12 Kforce in the same way you described you analyzed the
13 deposits for Analysts International?

14 A. Yes.

15 Q. Did you try to determine whether there were any of
16 the employees on that list that we went through a moment
17 ago, who didn't get any checks from the DKH account after
18 the deposits came in from Kforce?

19 A. Yes.

20 Q. Were there employees in that category?

21 A. There were.

22 Q. Okay. Do you remember who they were?

23 A. Esther Bailey, Michael Benjamin, Shaun Haughton,
24 Willie Pee. There may have been one more, but I don't
25 remember.

1 Q. Okay.

2 MR. KIRSCH: Your Honor, could I please ask to
3 publish again Government Exhibit 609.04?

4 THE COURT: Yes, you may.

5 Q. (BY MR. KIRSCH) Just to orient you again,
6 Ms. Chamberlin, this is the "David Banks" folder?

7 A. Yes.

8 MR. KIRSCH: Can we go to page 12 of that exhibit,
9 please. Can you highlight the top part of that, please.

10 Q. (BY MR. KIRSCH) This is a time sheet for time
11 reported in whose name?

12 A. Esther Bailey.

13 Q. Is that one of the people that you said didn't get
14 any checks from DKH after Kforce deposited money?

15 A. Correct. She did not.

16 MR. KIRSCH: Can we back out of this.

17 Q. (BY MR. KIRSCH) Who approved this time card?

18 A. David Zirpolo.

19 MR. KIRSCH: Can you, Special Agent Smith, please
20 page through and publish up to page 25 of this exhibit.

21 Q. (BY MR. KIRSCH) Ms. Chamberlin, let me know if you
22 can't read the employee name as we are going through here,
23 please.

24 A. Okay.

25 Q. Could you identify the employee on those pages,

1 Ms. Chamberlin?

2 A. Yes.

3 Q. Who was it?

4 A. Esther Bailey.

5 MR. KIRSCH: Your Honor, can I please publish now
6 609.05?

7 THE COURT: You may.

8 Q. (BY MR. KIRSCH) Ms. Chamberlin, just to orient you,
9 this is the "Gary Walker" folder?

10 A. Yes.

11 MR. KIRSCH: Can we please go to page 12 of that
12 exhibit.

13 Q. Who's the employee listed here?

14 A. Amos Clark.

15 Q. And who approved this time sheet?

16 A. David Zirpolo.

17 Q. Did Mr. Clark get any payments from the DKH account
18 after the Kforce deposits were made?

19 A. Not that I can identify.

20 MR. KIRSCH: And can I ask you now to go to page 28
21 of that exhibit, please. Can you zoom in? Maybe you can
22 do it on the bottom for us.

23 Q. (BY MR. KIRSCH) Who is the employee for whom time
24 was reported on this card?

25 A. Willie Pee.

1 Q. Who approved that time?

2 A. David Zirpolo.

3 Q. And did Mr. Pee get any payments from the DKH account
4 after there were deposits made from Kforce?

5 A. No.

6 MR. KIRSCH: May I have one moment, please, Your
7 Honor.

8 THE COURT: You may.

9 MR. KIRSCH: Thank you very much, Ms. Chamberlin.

10 THE COURT: Do defendants anticipate their cross is
11 going to take longer than half an hour?

12 MR. BANKS: Yes, we do, Your Honor.

13 THE COURT: It has been a long day. I think we'll
14 just go ahead and recess for the day, and we'll start
15 fresh with the defendants' cross-examination tomorrow.

16 MR. WALKER: Very well, Your Honor.

17 THE COURT: All right. Ladies and gentlemen, you
18 are free to go home.

19 Ms. Barnes, do I have something scheduled for
20 tomorrow morning?

21 COURTROOM DEPUTY: Yes, Your Honor, 8:15.

22 THE COURT: So is it a change of plea?

23 COURTROOM DEPUTY: Supervised release.

24 THE COURT: Okay. Why don't we, to be safe, say
25 9:15 tomorrow. I don't want to keep you waiting.

1 Remember you are not to discuss this case with anyone.
2 You are not to do any research on it. Just go home,
3 relax, have a good evening. We will see you back here at
4 9:15. Jury is excused.

5 (The following is had in open court, outside the
6 hearing and presence of the jury.)

7 THE COURT: The witness is excused at this time.
8 I do need to speak to counsel.

9 THE COURT: All right. I need to get a sense for
10 where we are going to be at tomorrow. Is this your last
11 witness, or do you have other witnesses?

12 MR. KIRSCH: This is our last witness.

13 THE COURT: Last witness after the
14 cross-examination, you rest.

15 Do the defendants intend to make any motions
16 tomorrow?

17 MR. WALKER: Yes, Your Honor, we do.

18 THE COURT: How long do you think it is going to
19 take to argue those motions?

20 MR. BANKS: Maybe 30 minutes to an hour.

21 THE COURT: Okay. Is each defendant going to make
22 a motion?

23 MR. BANKS: No. I believe it will be a joint
24 motion, Your Honor.

25 THE COURT: Problem is, you can't represent the

1 others.

2 MR. WALKER: Your Honor, we would make separate
3 motions.

4 THE COURT: So it would have to be separate
5 motions. All right. We'll have to see how it goes. Then
6 you will be prepared once I rule on those motions to move
7 forward with your first witnesses?

8 MR. BANKS: Your Honor, the law requires we have to
9 give 48-hours notice. The initial conversation with
10 Mr. Kirsch, he expected to go into next week. We had made
11 some adjustments for some of those witnesses. Now we are
12 forced to try to make other adjustments based on the
13 information Mr. Kirsch provided us yesterday.

14 We would ask the Court for some leeway. We are not
15 sure what the Court -- what the position of the Court
16 would be, to be able to coordinate to get some of these
17 witnesses together and the plan we had to bring them.
18 They have kind of --

19 THE COURT: We are ahead of schedule, and I thank
20 them for that, actually. But do you have any subpoenas
21 that have been served?

22 MR. BANKS: Yes.

23 THE COURT: All right. So do we have any witnesses
24 that can appear tomorrow? I take it from the list of the
25 witnesses, there are some witnesses here that you would

1 not have to subpoena. So we would have witnesses who
2 would appear without subpoena.

3 MR. WALKER: Your Honor, there potentially are.
4 But in our scheduling and in our setting up of our
5 strategy, we have certain witnesses scheduled to appear in
6 order.

7 THE COURT: All right. If you don't have witnesses
8 ready to go tomorrow, you are going to have to go out of
9 order.

10 MR. BANKS: Do what, Your Honor.

11 THE COURT: Go out of order.

12 MR. WALKER: Your Honor, is there any flexibility
13 for us to call our first witnesses on Friday morning?

14 THE COURT: The problem is, I bring the jury in
15 just for your cross-examination, then they go home for the
16 rest of the day, which is not fair to them, and we lose a
17 trial day. So I think you are going to have to bring
18 whatever witnesses you have available, we will have to
19 take them out of the order so we can keep this trial
20 moving.

21 MR. BANKS: Your Honor, if we are able to commit to
22 a shortened schedule, could that provide you with any
23 more --

24 THE COURT: What do you mean, a shortened schedule?

25 MR. BANKS: If we don't expect to go the full --

1 Government obviously wrapped up in their case in short
2 order. We expect we will wrap up our case -- even though,
3 as the Government had planned in its case, for it to go
4 much longer, we anticipate our case will go shorter, as
5 well. Given that fact, would there be any sort of
6 flexibility with regards to the time we can call our first
7 witness? It is just --

8 THE COURT: Well, no, the problem is, we are
9 imposing on this jury. We are bringing them back tomorrow
10 to -- I don't know how long your cross-examination is
11 going to take. If that is all they are showing up for --
12 they are driving in from -- what was the guy that was
13 stuck on the highway this morning? He's from Yuma --

14 COURTROOM DEPUTY: Yuma.

15 THE COURT: -- to come into town. I think we need
16 a full day's worth. While I understand you are going to
17 shorten it, that is good news, because I think the jury
18 will be very happy, but that doesn't mean we can start
19 skipping days. They are not working. They are, you know,
20 taking time out of their schedule to hear this, and it is
21 not right for them to be sort of strung along because you
22 have a scheduling problem.

23 MR. WALKER: Your Honor, we understand that this
24 wasn't in the Government's plan, but them wrapping up
25 early does provide a bit of prejudice for us.

1 THE COURT: There is no prejudice. You can bring
2 in any witnesses. All you are going to do is not present
3 it in the order you want. So we need to have witnesses
4 ready to go after I hear the motions and rule on the
5 motions tomorrow.

6 MR. WALKER: All right, Your Honor.

7 THE COURT: That is not prejudice to you, it is a
8 little inconvenient. You don't get to tell the story in
9 exactly the same order that you wanted to. But that is
10 something that you should have prepared for. We were
11 moving right along, and I think the Government told us
12 yesterday -- well, told us the day before that they
13 thought they were going to be getting to their last
14 witnesses either yesterday or today.

15 MR. WALKER: Right, Your Honor.

16 MR. BANKS: Very well.

17 THE COURT: I will expect, and that is what I
18 wanted to have this talk with you all about. I will
19 expect we will finish up the cross and any redirect with
20 this witness, tomorrow. Immediately after that, we will
21 let the jury go, I will hear any motions. And then we
22 will come back. Hopefully, that won't be -- that won't
23 take up more than the morning. Then we will come back in
24 the afternoon, have an afternoon full of witnesses for the
25 defense.

1 MR. BANKS: Very well, Your Honor.

2 MR. KIRSCH: Can I bring up just two things very
3 briefly, Your Honor. First, just for the record, I would
4 agree that the defendants aren't prejudiced. The
5 Government has called its case out of its anticipated
6 order also because we were going more quickly than we had
7 expected to.

8 The second thing I wanted to bring to the Court's
9 attention is that we realized that the copy of Government
10 Exhibit 901.10, which we actually have in the original
11 exhibits up there, inadvertently included the Bates No.
12 References, so it looks different than the copies of the
13 other summaries in that series. We would -- that was
14 actually an older version that was on Sanction that didn't
15 have those that was shown to the jury. And what happened
16 is the version that was shown to the jury had a typo. It
17 said "Personal Plus" rather than "Personnel Plus."

18 When we corrected that and gave a copy to the
19 defense, we also put the Bates number references on, and
20 that is the copy that inadvertently got put in the
21 original exhibits. So what we would propose to do is
22 simply replace the copy in the original exhibits with a
23 copy that doesn't have the Bates numbers, so it is
24 consistent with the other exhibits in that series and
25 would have the correct spelling of the word "personnel."

1 THE COURT: All right. Any objection to that?

2 MR. BANKS: No objection, as long as there is no
3 content changed.

4 THE COURT: So, Ms. Barnes, if you will make sure
5 that change is made so the original exhibit that is
6 admitted is the one that we are referring to.

7 MR. KIRSCH: We will bring that copy over tomorrow,
8 morning.

9 THE COURT: All right. Anything further?

10 MR. BANKS: No, Your Honor.

11 THE COURT: All right. Then we will see you at
12 9:15 tomorrow morning.

13 (Court is in recess at 4:37 p.m.)

14

15 **R E P O R T E R ' S C E R T I F I C A T E**

16 I, Darlene M. Martinez, Official Certified
17 shorthand Reporter for the United States District Court,
18 District of Colorado, do hereby certify that the foregoing
19 is a true and accurate transcript of the proceedings had
20 as taken stenographically by me at the time and place
21 aforementioned.

22 Dated this 5th day of December, 2011.

23

24 _____
s/Darlene M. Martinez

25 RMR, CRR