

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 3)

Proceedings before the HONORABLE CHRISTINE M. ARGUELLO, Judge, United States District Court, for the District of Colorado, commencing at 9:11 a.m. on the 28th day of September 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.

1 for Mr. Castleberry, Your Honor.

2 THE COURT: All right. Mr. Banks?

3 **CROSS-EXAMINATION**

4 **BY MR. BANKS:**

5 Q. Mr. Castleberry, during your initial meeting with IRP
6 Solutions, what was that meeting about, and what did it
7 entail?

8 A. The initial meeting with IRP Solutions?

9 Q. Yes. When you attended the meeting at their office.

10 A. IRP Solutions was proposing a business venture with
11 Idea Integration.

12 Q. What type of business venture?

13 A. They were looking for someone who could assist with
14 software development. They also had proposed some
15 up-front financial investment in the company.

16 Q. Did you receive any document from them with a
17 proposal?

18 A. You know, as I recall, there was some information
19 about IRP supplied to us at that time.

20 Q. You don't recall what information was supplied to
21 you?

22 A. You know, I would call it a prospectus. It was about
23 what IRP did; what their software program was.

24 Q. Okay. And what did that prospectus say, to the best
25 of your recollection? What did that prospectus outline?

1 document before.

2 Q. (BY MR. BANKS) Did you ever see this document?

3 A. I don't know.

4 Q. You don't know?

5 A. I don't know.

6 Q. A minute ago you said you thought that the meeting
7 was related to this document.

8 A. I believe that there was some prospectus information
9 provided. I don't recall looking at this, no. I couldn't
10 tell you whether I did --

11 MR. BANKS: Okay. One moment, Your Honor.

12 Q. (BY MR. BANKS) So we'll get back to your
13 recollection of the meeting of the day in question. I am
14 going to ask you again, at least for my clarification,
15 because I don't remember the answer, what did that meeting
16 entail?

17 A. I was asked by Vince Rosales to accompany him to a
18 meeting at the IRP offices in Colorado Springs. That
19 David Banks and Gary Walker had requested a meeting to
20 explore a business partnership.

21 Q. And after exploring that business partnership -- let
22 me ask this first. Did you agree to the business
23 partnership set forth in the meeting?

24 A. After that meeting -- there was nothing decided in
25 that meeting.

1 Q. When was something decided?

2 A. A contractual agreement was entered into in April.
3 That would have been 3 months later.

4 Q. So it is your testimony that this document was
5 received, and you met regarding this document, but no
6 business between Idea Integration and IRP Solutions was
7 engaged in for 3 months after that?

8 A. What I can say is that this is a letter that you sent
9 to Mr. Rosales. It states that on the first page. It did
10 not come to me. Nothing was agreed to. No contracts were
11 entered into. No signatures were done in the meeting that
12 I had with you in January.

13 Q. Correct. So you, your company, at the time -- what
14 was your title there, sir?

15 A. I was president.

16 Q. President of Idea Integration?

17 A. I was regional president of a series of offices.

18 Q. So if a business proposal came to you, you would have
19 to say "aye" or "nay" if a company was looking, say, for 6
20 months of staffing investment on your part, you would have
21 to be the approving authority to engage in that business;
22 is that correct?

23 A. I was very clear in the meeting in January that Idea
24 Integration was in no position to make any investments to
25 IRP.

1 Q. Did you offer any other alternatives at that time?

2 A. We offered that we could put people to work; that we
3 could provide programming resources to IRP.

4 Q. Okay. So, in other words, you need to -- IRP would
5 have to work through your normal staff augmentation
6 business --

7 A. That's correct.

8 Q. -- if they wanted to participate in that?

9 A. That's correct.

10 Q. So was there any, at that time, mention -- obviously,
11 you were provided a prospectus, Mr. Rosales was. Was
12 there any mention of --

13 Let me ask you this. Do you agree that this
14 document was provided to Mr. Rosales?

15 A. What I can tell you is it says, "Hello, Vince," on
16 the first page.

17 Q. Do you remember receiving any type of prospectus?

18 A. I do not recall receiving a prospectus.

19 Q. Do you remember viewing --

20 A. It appears this prospectus, if this is correct, went
21 to Vince Rosales.

22 Q. Do you remember Mr. Rosales providing you with a copy
23 of the prospectus prior to your meeting?

24 A. No.

25 MR. KIRSCH: Objection, Your Honor, this is asked

1 and answered now.

2 THE COURT: Overruled.

3 THE WITNESS: I am sorry, I don't recall.

4 Q. (BY MR. BANKS) You don't recall. But you do recall
5 -- you don't recall what Mr. Rosales said to you, but you
6 recall everything that Mr. Walker and Mr. Banks said to
7 you; is that correct?

8 A. I don't recall everything said by Mr. Walker, no.

9 Q. What about Mr. Banks?

10 A. You know, I can tell you the discussions that were
11 held during that day. I honestly couldn't tell you who
12 said what. There were both of you speaking that day.

13 Q. How did you prepare for your testimony here today?

14 A. How did I prepare for my testimony today?

15 Q. Yes.

16 A. I looked back over my notes.

17 Q. What notes would that be?

18 A. Notes from 2003, 2004.

19 Q. And none of those notes had any information
20 associated with what Mr. Rosales -- your conversation with
21 Mr. Rosales?

22 A. Mr. Rosales worked for me. Mr. Rosales and I spoke
23 with each other numerous times each day. It was
24 Mr. Rosales who asked me to accompany him and Rich
25 Rosedale to the IRP offices in January.

1 Q. But you have no recollection -- detailed recollection
2 of the meeting, and nothing in your notes about that
3 particular meeting; is that correct?

4 A. Yes. He told me IRP was looking for a business
5 partner. That they were developing some case management
6 software, and that it would be worth my while to listen.
7 I accompanied Vince and Rich Rosedale. I met with David
8 Banks, Gary Walker and numerous things were talked about
9 that day.

10 Q. So, as you mentioned earlier, you were not in a
11 position to enter into any type of business partnership
12 with IRP?

13 A. My authorization would allow me to enter into a
14 business partnership with IRP, as long as that business
15 partnership entailed the use of Idea Integration resources
16 for a specified bill rate. I was in no position to offer
17 any sort of financial assistance.

18 Q. Now, would you normally have attended a meeting for
19 your traditional staffing arrangement?

20 A. For a new client, yes, I would.

21 Q. Would you normally -- so you attend all meetings if a
22 company just calls and says, I want you to staff two
23 people, you are going to take a meeting and go to their
24 office?

25 A. I elected to go to the meeting that day.

1 Q. Because you said a minute ago that Mr. Rosales
2 requested that you go to this meeting.

3 A. Yes.

4 Q. So the first offer you received from IRP Solutions
5 was a business partnership?

6 A. Yes. A business arrangement.

7 Q. Okay. In rejecting the business arrangement -- did
8 you reject the business arrangement?

9 A. I rejected --

10 Q. You mentioned --

11 A. I rejected what was proposed to Idea Integration,
12 yes.

13 Q. So as an alternative, IRP executives David Banks and
14 Gary Walker moved towards the alternative at that point;
15 to work with Idea Integration in a more traditional
16 staffing relationship?

17 A. Those discussions were held after my meeting in
18 January with Vince Rosales. They would not have been done
19 then. But, yes, that was my understanding.

20 Q. So IRP just didn't come to Idea Integration saying we
21 need you to staff four people originally?

22 A. Originally, they asked for some financial assistance,
23 and for -- if Idea Integration could provide programmers.

24 Q. What you just said a minute ago is the first thing
25 they asked for was a business partnership.

1 A. A business partnership that was on the foundation of
2 providing some financial resources up front; an
3 investment. I did reject them.

4 Q. When you say "financial resources," what does that
5 mean?

6 A. Money.

7 Q. So IRP asked Idea Integration for raw capital; is
8 that your testimony?

9 A. That is what I understood it to be. The discussion,
10 I believe, went something like, would Idea Integration be
11 interested in an investment in IRP? I said that Idea
12 Integration was not in a position of making investments
13 with client companies. That was not our business. We
14 would never do that.

15 Q. By the very nature of your business, you make an
16 investment in staffing people for companies; is that
17 correct?

18 A. No. We provide staffing to companies for a fee.
19 There is no investment.

20 Q. So is there any credit extended on that basis?

21 A. Only as long as the receivable is due. And it is due
22 upon receipt at that time.

23 Q. Did you have a particular credit policy at the time?

24 A. The credit policy was mandated out of our
25 Jacksonville office in Florida. I would not have known at

1 the time what that was. They managed all of the cash and
2 the receivables.

3 Q. As far as credit to engage a client in new business,
4 do you know what that policy is?

5 A. I do not know.

6 Q. So Idea Integration -- well, how does the process
7 work? Can you explain to me how the process works? A
8 company approaches you, and you have to send something to
9 your credit department in Jacksonville in order --
10 correct, to engage with a client to make some sort of
11 determination if they're credit worthy?

12 A. Normally it is the name of the company.

13 Q. Do you know what they do with the name of the
14 company?

15 A. I do not know what they do. That is somebody else's
16 responsibility in the credit department.

17 Q. Okay. You say your title was regional vice
18 president?

19 A. Regional president of the Denver office.

20 Q. Okay. Now, there were four people staffed by Idea
21 Integration. Do you know if Idea Integration did any
22 recruiting for positions for IRP?

23 A. Yes. Idea Integration did engage recruiters to look
24 for the positions that were told to us that were most
25 important at the time.

1 Q. So this was not a straight payrolling relationship;
2 correct?

3 A. You know, it is very interesting, because
4 simultaneous with us engaging our recruiters, we were
5 recommended or referred several people to bring on and
6 payroll.

7 Q. Were you involved in that transaction?

8 A. I was knowledgeable of that transaction. That would
9 have been Mr. Rosales who managed the Denver office.

10 Q. Okay. Are you aware of the e-mail that Rich Rosales
11 received from IRP Solutions with numerous job descriptions
12 for them to recruit on?

13 A. I am sorry, I don't know a Rich Rosales.

14 Q. Vince Rosales, I am sorry.

15 A. I don't recall.

16 MR. BANKS: Your Honor, I would like to refresh his
17 recollection to this particular document, see if he can
18 verify.

19 THE COURT: Was it sent to him?

20 MR. BANKS: No, it was sent to Mr. Rosales.

21 THE COURT: So your question is whether or not
22 Vince Rosales ever sent that to him?

23 MR. BANKS: Yes.

24 THE COURT: Mr. Kirsch, are you aware of the
25 document?