

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20086

In the Matter of

GARY EDWARD HAYNES,

Respondent.

MOTION OF THE DIVISION OF ENFORCEMENT FOR AN OPINION OF THE
COMMISSION FINDING RESPONDENT IN DEFAULT, MAKING FINDINGS, AND
IMPOSING SANCTIONS

The Division of Enforcement hereby files its Motion for an Opinion of the Commission Finding Respondent in Default, Making Findings, and Imposing Sanctions and accompanying exhibits. On December 20, 2018, after a four-day trial, a jury convicted Respondent of one count of conducting a racketeering enterprise, one count of embezzlement from a vulnerable adult - \$100,000 or more, eight counts of embezzlement from a vulnerable adult - \$1,000 or more but less than \$20,000, and four counts of filing a false or fraudulent tax return or payment. *People v. Gary Edward Haynes*, Case No. 2018-004131-FH (State of Michigan, 14th Judicial Cir. Ct., Muskegon County). On February 12, 2019, a judgment in the criminal case was entered against Respondent and he was sentenced to serve 90 months to 20 years in prison. His conviction was placed on automatic appeal because the trial was by a jury. That appeal has not been decided yet.

As depicted below in the summary of the facts of the criminal trial, the victim was a vulnerable and trusting widow in her 90s who requested Respondent's help with paying her bills online. Respondent cashed out the victim's annuities and withdrew substantial amounts of money from her financial accounts by check and online transfers. He spent the embezzled funds on himself. Respondent did not deny withdrawing the funds, but claimed that the victim authorized the withdrawals and that the funds were for an investment in real estate or were loans from the victim to him. After hearing the evidence, the jury convicted Respondent.

HISTORY OF THIS PROCEEDING

Based on Respondent's criminal conviction, on September 28, 2020, the Commission instituted this follow-on administrative proceeding to determine what, if any, remedial action is appropriate in the public interest against Respondent. In accordance with Rule 141 of the Rules of Practice, Respondent was properly served with the Order Instituting Proceedings ("OIP") on March 26, 2021. To date, Respondent has not answered or otherwise responded to the Division's allegations.

FACTS

1. The Division obtained electronic copies in pdf format of the 7 transcripts of the jury trial and sentencing hearing in the Michigan State criminal prosecution of *People v. Gary Edward Haynes*, Case No. 2018-004131-FH (State of Michigan, 14th Judicial Cir. Ct., Muskegon County). The Division obtained the electronic copies of the transcripts through the cooperation of the court.

2. The Division is filing pdf versions of the 7 transcripts that comprise the record of the underlying criminal trial as Exhibits 1 through 7 to this brief.¹

THE TRIAL

3. The trial lasted four days. Together, the prosecution and defense called sixteen witnesses. The witnesses included the sole victim in the case, a Chase Bank branch manager, investigators from the Michigan Attorney General's Office, a doctor, caretakers for the victim, experts on taxation, and the defendant. The parties also introduced several exhibits, consisting primarily of checks and bank statements.

The Victim Was a Vulnerable Adult

4. The victim was 97 years old at the time of the trial in December 2018, and was between 90 and 94 years old at the time of the disputed withdrawals from her financial accounts - March 2011 through September 2015.² She is a widow,³ has no children,⁴ and lives alone, against her doctor's advice.⁵ According to a niece, the victim relies extensively on others for nearly everything, and the niece and neighbors take her for her medical appointments and grocery shopping, do her laundry, and look through her refrigerator for expired food items.⁶ According to her doctor, she has severe medical conditions and receives very strong medication which

¹ The exhibits are marked as follows: Exhibit 1 (*People v. Haynes*, Jury Trial Tr., vol. 1 of 4, December 17, 2018); Exhibit 2 (*People v. Haynes*, Jury Trial Tr., vol. 2 of 4, December 18, 2018); Exhibit 3 (*People v. Haynes*, Jury Trial Tr., vol. 3 of 4, December 19, 2018); Exhibit 4 (*People v. Haynes*, Jury Trial Tr., vol. 4 of 4, December 20, 2018); Exhibit 5 (*People v. Haynes*, Settlement Conference Tr., December 13, 2018); Exhibit 6 (*People v. Haynes*, Verdict Tr., December 20, 2018); Exhibit 7 (*People v. Haynes*, Sentence Tr., February 8, 2019). Sensitive personal information has been redacted from the exhibits as required by Rule of Practice 151(e).

² Ex.1, 205:20

³ Ex.1, 206:19

⁴ Ex.3, 116:13-15

⁵ Ex.2, 233:11 – 234:8

⁶ Ex.2, 207:5 – 208:16

affects her mental acuity.⁷ Her doctor added that she went into a nursing home for a month in July 2013.⁸

Relationship between Victim and Respondent

5. The victim and Respondent had a relationship that was both professional and social, and indicated a strong bond of trust between them.⁹ They met initially in 2007 at a financial seminar Respondent conducted for senior citizens and, shortly thereafter, Respondent came by the victim's house to draw up an estate plan for her.¹⁰ Within six to eight months, at the victim's request, Respondent began helping her pay her bills online.¹¹ Over time, when the victim's tax preparer died, Respondent took over that job as well.¹² Along the way, Respondent offered the victim financial advice, such as converting the victim's six certificates of deposit to a tax-deferred annuity, to prevent her social security income from being taxed.¹³ Respondent did not charge for any of these professional services.¹⁴ At the social level, they took each other to a Mexican restaurant on their birthdays and they attended Respondent's children's school activities.¹⁵ According to Respondent, he did everything for the victim that needed to be done, such as change light bulbs, install screen doors, and install handrails in Respondent's bathroom.¹⁶

Respondent's Withdrawals of Funds from the Victim's Financial Accounts

⁷ Ex.2, 227:17 – 228:23

⁸ Ex.2, 232:8-13

⁹ Ex.3, 108:1-5

¹⁰ Ex.3, 96:19 – 97:5

¹¹ Ex.3, 116:16-20

¹² Ex.3, 104:18 – 105:15

¹³ Ex.3, 115:4-14

¹⁴ Ex.3, 105:6

¹⁵ Ex.3, 108:7-21

¹⁶ Ex.3, 106:21 – 107:20; Ex.1, 210:16-17

6. In September 2016, the victim attempted to take money out of her bank account but could not. This incident began an inquiry by the bank manager which revealed that the victim appeared to have endorsed an annuity check to Respondent in a suspicious manner.¹⁷ In a phone discussion between the manager and Respondent, Respondent promised to repay the amount in a few days, but he never did.¹⁸

7. A full-blown investigation of the victim's finances by the Office of Michigan Attorney General discovered that Respondent had withdrawn substantial sums of money from the victim's accounts between March 2011 and September 2015. Respondent cancelled two annuities valued at \$107,735.10 and \$117,490.42, and deposited the proceeds in the bank account of a company he controlled. He also withdrew substantial amounts by checks and online transfers.¹⁹ The evidence showed that Respondent withdrew a total of \$303,656.34 from the victim's accounts.²⁰

8. Respondent did not deny making the withdrawals but insisted that the victim knew about the withdrawals and authorized them²¹ and that the withdrawals were for an investment in real estate²² or were personal loans²³ from the victim to him. He pointed out that the victim signed all documents necessary to effect a transfer of funds from her account and that he never forged the victim's signature.²⁴ He also testified that the victim kept a journal of all withdrawals from her account, and that he counter-signed journal entries that evidenced the loans to him.²⁵ He testified about a \$116,353.90 promissory note he created on April 5, 2011 to memorialize the

¹⁷ Ex.2, 62:16 – 68:13

¹⁸ Ex.2, 68:3-4

¹⁹ Ex.2, 128:4-10; 138:5-16; 139:9-16

²⁰ Ex.3, 208:10-15

²¹ Ex.3, 123:8-18

²² Ex.3, 126:8 – 127:14; 152:14-18

²³ Ex.3, 135:24 – 136:10; 160:4-20

²⁴ Ex.3, 123:1-4

²⁵ Ex.3, 123:22; 141:23 – 142:4

personal loans he took from the victim, which was originally due on April 5, 2015.²⁶ He added that the note was orally modified to extend the due date to April 2019, by which time the victim would be 98 years old.²⁷ Respondent kept the promissory note to himself.²⁸

9. Though Respondent claimed that his reason for cashing out the victim's annuity and investing the proceeds in real estate in 2013 was because real estate was a better investment, he admitted that real estate investments have been bad investments beginning in 2008.²⁹

10. Respondent's claim that some of the withdrawals were for a real estate investment was not consistent with the evidence.³⁰ The Michigan Attorney General's investigation found that Respondent did not spend any part of the funds on any type of investments.³¹ They found that Respondent spent the funds exclusively on such expenditures as car repairs, sunglasses, restaurants, hotels, air travel, retailers, payments to family members, and college expenses.³²

11. Respondent knew that the victim gave her niece a power of attorney, pursuant to an estate plan he created for the victim in 2008, but he never discussed with the niece the purported real estate investments and personal loans, all of which occurred between 2011 and 2015.³³

12. On her part, the victim, who was 97 years old at the time of the trial,³⁴ testified that she did not know about the transfers and did not authorize them.³⁵ She added that she never intended to loan money to Respondent or go into any type of business with him,³⁶ though she identified

²⁶ Ex.3, 147:14-22

²⁷ Ex.3, 157:7-23

²⁸ Ex.3, 149:19 – 150:5

²⁹ Ex.3, 176:25 – 177:25

³⁰ Ex.2, 133:7-10

³¹ Ex.2, 145:3-12; 130:6-15; 144:7 – 145:2

³² Ex.2, 142:4-25; 150:17-21

³³ Ex.3, 175:9-15

³⁴ Ex.1, 205:20; Ex.3, 184:1

³⁵ Ex.1, 215:8 – 221:12; Ex.2, 8:9-13

³⁶ Ex.1, 218:18 – 219:20; 220:2 – 221:12; 214:4-25

her signature on the withdrawal documents.³⁷ She insisted that she had no reason to make any type of payments to Respondent. When her attorney showed her documentation evidencing several withdrawals from her accounts, including two annuity checks for \$107,735 and \$117,490, and several online transfers from her bank accounts to Respondent's companies, which bore her signature, she testified that she did not know about them.³⁸ She recounted that, when she needed to temporarily go into a nursing home, Respondent attempted to persuade her to liquidate an annuity and give the proceeds to him for safekeeping, to prevent the nursing home from taking her money, but she rejected the idea.³⁹

Evidence of Prior Bad Acts

13. The Court admitted evidence from two retirees who entrusted funds to Respondent for investments, and could not get Respondent to return their funds when they needed their money back.⁴⁰ Here too, investigators from the Attorney General's Office found that Respondent never invested their funds but used them for personal purposes.⁴¹

Jury Instructions

14. With respect to the testimony about Respondent's prior bad acts, the Court told the jurors that if they believed the testimony, they may only think about whether the evidence tended to show that Respondent meant not to pay the victim her money when she asked for it, or that Respondent acted purposefully, that is, not by accident or mistake or because he misjudged the situation, or that Respondent used a plan, scheme, or characteristic scheme that he had used

³⁷ Ex.2, 13:17 – 17:20

³⁸ Ex.1, 218:18 – 221:8; Ex.2, 13:17 – 17:20

³⁹ Ex.1, 213:1 – 215:11

⁴⁰ Ex.3, 36:2-13; 16:18 – 19:7

⁴¹ Ex.2, 125:13-15; 150:17-21

before.⁴² The Court said they must not decide that it shows that Respondent was a bad person or was likely to commit crimes.⁴³

15. With respect to the charge of conducting a racketeering enterprise, the Court said that the jurors needed to determine whether the prosecution had proved beyond a reasonable doubt that Respondent was an employee of, or was associated with, an enterprise and that Respondent knowingly conducted or participated in the affairs of the enterprise through a pattern of racketeering.⁴⁴ The Court explained that the jurors could infer [racketeering] where Respondent served as the victim's agent, had money entrusted to his care because of the agency relationship, and failed to refund or deliver the money to the victim when requested.⁴⁵ The Court added that a pattern of racketeering required at least two acts of racketeering which, among other things, have the same or substantially similar purpose, result, participants, victim, or method of commission or are otherwise interrelated by distinguishing characteristics and are not isolated acts.⁴⁶

16. With respect to the charge of embezzlement from a vulnerable adult, the Court instructed the jurors that they needed to determine whether the prosecution had proved beyond a reasonable doubt that Respondent obtained or used the victim's money; that Respondent used fraud, deceit, or misrepresentation, coercion, or unjust enrichment to obtain or use money; that at the time, the victim was a vulnerable adult, meaning she was 18 years old or older and, because of age, developmental disability, mental illness, or physical disability, required supervision and personal care and lacked the personal and social skills required to live independently; that Respondent

⁴² Ex.3, 250:16 – 251:4

⁴³ Ex.3, 248:15-17

⁴⁴ Ex.3, 252:16-19

⁴⁵ Ex.3, 256:20 – 257:5

⁴⁶ Ex.3, 255:16 – 256:7

knew or should have known that the victim was a vulnerable adult; and the property was taken for the benefit of Respondent.⁴⁷

The Court then instructed the jury as to the crime of filing a false or fraudulent tax return or payment. The Court said to prove this charge, the prosecutor must prove that: Respondent either made or caused a tax return or payment to be made to Michigan Department of Treasury, the return or payment was false or fraudulent and, at the time of the return or payment, Respondent had the intent to defraud or evade payment of the tax or part of the tax.⁴⁸ The Court added that Respondent is required to report income on tax returns, that income includes any gain or money or property that Respondent obtained during the reporting tax period, and that it does not matter whether the money or property was gained in a legal or illegal manner.⁴⁹

The Verdict

17. The jury convicted Respondent on all fourteen counts: count one (conducting a racketeering enterprise), count two (embezzlement from a vulnerable adult - \$100,000 or more), counts three to ten (embezzlement from a vulnerable adult - \$1000 or more but less than \$20,000), and counts eleven to fourteen (filing a false or fraudulent tax return or payment).⁵⁰

Sentencing

18. The Court sentenced Respondent to 90 months to 20 years for counts one and two, and 30 months to 5 years for counts three to fourteen, to be served concurrently.⁵¹

ARGUMENT

Appropriateness of the Sanctions Sought against Respondent

⁴⁷ Ex.3, 257:6 – 258:8

⁴⁸ Ex.3, 259:12 – 260:3

⁴⁹ Ex.3, 260:4-9

⁵⁰ Ex.6, 3:21 – 5:21

⁵¹ Ex.7, 34:23 – 35:9

Respondent was Associated with an Investment Adviser

Respondent was associated with SEC-registered investment advisers at the time he committed the crimes for which he was convicted. From November 1, 2010 through January 23, 2015, he was associated with SEC-registered Cherry Investment Advisors, Ltd. as an investment adviser representative.⁵² Also, from January 2015 until October 2016, he was associated with SEC-registered investment adviser First American National Investment Advisors, LLC as an investment adviser representative.⁵³

Respondent Was Convicted of Embezzlement

Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) authorizes the Commission, if it finds that it is in the public interest to do so, to censure, place limitations on the activities of, or suspend or bar from association with an investment adviser or other enumerated entities, any person associated, seeking to become associated, or at the time of the alleged misconduct, associated or seeking to become associated with an investment adviser, where, pursuant to Section 203(e)(2)(C), the person within ten years of the commencement of the proceeding has been convicted of a felony involving embezzlement, fraudulent conversion, or misappropriation of funds. Here, Respondent was convicted by a jury of embezzlement and his conviction is within the past ten years.

A Collateral Bar against Respondent is in the Public Interest

To determine whether a sanction is in the public interest, the Commission should look to the six factors set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979) *aff'd on other grounds*, 450 U.S. 91 (1981): (a) the egregiousness of the defendant's actions; (b) the

⁵² Web CRD – U4 Employment History (Individual CRD #5861291)

⁵³ *Id.*

isolated or recurrent nature of the infraction; (c) the degree of scienter involved; (d) the sincerity of the defendant's assurances against future violations; (e) the defendant's recognition of the wrongful nature of his conduct; and (f) the likelihood that the defendant's occupation will present opportunities for future violations. *See Bryan Lee Addington*, Initial Dec. Rel. No. 1339 (Dec. 20, 2018). The "inquiry into . . . the public interest is a flexible one, and no one factor is dispositive." *David Henry Disraeli and Lifeplan Associates, Inc.*, Exchange Act Rel. No. 57027, 2007 SEC LEXIS 3015, at *61 (Dec. 21, 2007), *petition denied*, 334 F. App'x 334 (D.C. Cir. 2009) (per curiam). "Absent extraordinary mitigating circumstances, an individual who has been convicted cannot be permitted to remain in the securities industry." *Frederick W. Wall*, Exchange Act Rel. No. 52467, at 8, 2005 WL 2291407 (Sept. 19, 2005) (quotation omitted); *accord Shreyans Desai*, Exchange Act Rel. No. 80129, at 6, 2017 WL 782152 (Mar. 1, 2017).

Based on a weighing of the *Steadman* factors, an industry bar against Respondent is appropriate and in the public interest. Respondent's conduct was egregious, he acted with a high degree of scienter, his misconduct was recurrent, and he has given no assurance that he will avoid future violations of the law. He acted egregiously by winning the victim's trust and confidence by doing her favors, such as running errands for her, and betraying the trust by stealing her money. On repeated occasions over a period of 4.5 years (March 2011 to September 2015), Respondent misappropriated the victim's money. He has failed to recognize the wrongful nature of his conduct or to give assurances that he will avoid future violations of the law. In fact, he denies any wrongdoing, despite the jury verdict. Furthermore, the existence of a violation raises an inference that the violation will be repeated. *Rockies Fund, Inc., et al.*, Exchange Act Rel. No. 27593 (Dec. 7, 2006) (citing *Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004)). Although

Respondent is serving a lengthy sentence, he will eventually be released; and unless he is barred from the securities industry he will have the chance to again harm investors.

Finally, in order to convict Respondent of the underlying criminal charges, the jurors had to make several factual findings, as instructed by the Court. Those necessary findings dovetail with the public interest standards at issue in this proceeding. The Court instructed the jury that to convict Respondent they were required to find that the prosecution had proved beyond a reasonable doubt, among other things, that he was involved in conducting a criminal enterprise; that he was involved in committing an offense for financial gain; that he used a false pretense—a statement, writing, or other device that was false or that could mislead—to knowingly make someone else believe something that was false; that he knew the pretense was false at the time he used it; that he intended to defraud or cheat someone when he used the pretense; that another person relied on the pretense; that he obtained money by use of the pretense; and that he used fraud, deceit, or misrepresentation to obtain money from a vulnerable adult.

CONCLUSION

For the reasons set forth above, the Division respectfully requests, pursuant to Rule 155 of the Rules of Practice, that the Commission grant the Division's Motion finding Respondent in default and enter an order barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or NRSRO.

Dated: June 9, 2021

Respectfully submitted,

s/John E. Birkenheier

John E. Birkenheier

Brian D. Fagel

Godfried B. Mensah

Division of Enforcement

Securities and Exchange Commission

Chicago Regional Office
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604
Phone: 312-353-7390
Fax: 312-353-7398

CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Division of Enforcement's Motion for an Opinion of the Commission Finding Respondent in Default, Making Findings, and Imposing Sanctions and Exhibits 1-7 thereto, to be served on the following on this 9th day of June 2021, in the manner indicated below:

CERTIFIED MAIL
Mr. Gary Edward Haynes [REDACTED]
[REDACTED]
[REDACTED]

Dated: June 9, 2021

s/John E. Birkenheier
John E. Birkenheier

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20086

In the Matter of

Gary Edward Haynes,

Respondent

ENFORCEMENT'S INDEX OF HEARING EXHIBITS

<u>Exhibit</u>	<u>Description</u>
ENF. Ex.1	<i>People v. Haynes</i> , Jury Trial Transcript Volume I
ENF. Ex.2	<i>People v. Haynes</i> , Jury Trial Transcript Volume II
ENF. Ex.3	<i>People v. Haynes</i> , Jury Trial Transcript Volume III
ENF. Ex.4	<i>People v. Haynes</i> , Jury Trial Transcript Volume IV
ENF. Ex.5	<i>People v. Haynes</i> , Settlement Conference Transcript
ENF. Ex.6	<i>People v. Haynes</i> , Verdict Transcript
ENF. Ex.7	<i>People v. Haynes</i> , Sentence Transcript

ENFORCEMENT EXHIBIT 1

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2018-004131-FH
CCR-TPFFC

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

**CERTIFIED
ORIGINAL TRANSCRIPT**

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

vs

File No.: 18-4131-FH-

GARY EDWARD HAYNES,

TRIAL

Defendant.

VOLUME I
STENOGRAPHIC RECORD

of the proceedings had in the above-entitled
cause on the 17th day of December 2018 before
the HONORABLE ANNETTE R. SMEDLEY, 14th Judicial
Circuit Judge, and a Jury.

APPEARANCES:

MS. KRISTEN STINEDURF, J.D.
Attorney General's Office
on behalf of the Plaintiff;

MR. FREDERICK JOHNSON, JR., J.D.
Attorney at Law
on behalf of the Defendant.

KATHY E. STEVENS CSR-4091
Official Court Reporter

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WITNESSES:

ARDIS LIDDLE

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* ** *

1 Muskegon, Michigan

2 Monday, December 17, 2018

3 At approximately 9:38 A.M.

4 R E C O R D

5 THE COURT: We are on the record with
6 File 18-4131-FH. This is the date and time set
7 for a jury trial -- Gary Haynes.

8 Are you Gary Haynes?

9 THE DEFENDANT: Yes, I am, Your Honor.

10 THE COURT: Thank you. Before we begin
11 the jury trial, we do have a motion, a 404(b)
12 motion, and that is the prosecutor's motion.

13 And could you state your name for the
14 record.

15 MS. STINEDURF: Yes. Kristen Stinedurf,
16 Your Honor.

17 THE COURT: Thank you. Go ahead.

18 MS. STINEDURF: Your Honor, as the Court
19 is aware, evidence of other crimes, wrongs, or
20 acts is not admissible under 404(b) to show the
21 character of a person. However, may be admitted
22 for other purposes including proof of a common
23 scheme, plan, system, employed by the Defendant
24 and to show lack of mistake and intent by the
25 Defendant.

1 I am seeking today to admit two 404(b)
2 acts in this trial. The first one is regarding
3 Ronald Morris. In 2007 Ronald Morris received a
4 brochure in the mail advertising an investment
5 seminar put on by Senior Planning Resource. That
6 took place in a restaurant in Newaygo, Michigan
7 in 2007. The Defendant hosted that seminar and
8 talked to retirees about investment strategies
9 and money management strategies. At that time he
10 told attendees he would guarantee a 4-percent
11 return on any investment made through him and his
12 company.

13 After the seminar, Mr. Morris met with
14 the Defendant in the Defendant's home. The
15 Defendant told Mr. Morris that the \$150,000 he
16 had to invest would be better off in an Aviva
17 annuity. At that time Mr. Morris put the money
18 into an annuity.

19 In 2012, in January, the Defendant
20 called Mr. Morris and said that he wanted to meet
21 with Morris and his wife and discuss their
22 investments. At that time the Defendant
23 convinced Mr. Morris to invest an additional
24 \$40,000 with him. The Defendant guaranteed a
25 frequent -- a 3.85 percent interest rate on that

1 money and said that if Mr. Morris allowed the
2 investment to mature for ten years, the Defendant
3 would pay him an interest rate for 4.35
4 percent.

5 In April of 2012 the Defendant also gave
6 Mr. Morris a statement from Future By Design LLC
7 reflecting that.

8 One year later, in January of 2013, the
9 Defendant convinced Mr. Morris to cash in the
10 annuity from Aviva that he had originally
11 invested in back in 2007 and invest it with
12 him. Mr. Morris then wrote a check for \$150,000
13 to Senior Planning Resource and gave it to the
14 Defendant.

15 The Defendant provided Mr. Morris with a
16 promissory note a few days later and a statement
17 from Future By Design LLC. Mr. Morris had no
18 further contact with the Defendant until May of
19 2018 at which point Mr. Morris contacted the
20 Defendant because he wanted to get some of his
21 money out.

22 Between May of 2018 and August of 2018
23 Mr. Morris made multiple attempts to contact the
24 Defendant to get his money back. The Defendant
25 no-showed for multiple scheduled meetings. When

1 Mr. Morris did speak with the Defendant, the
2 Defendant told Mr. Morris he can get his money
3 back, but that it would take him awhile to get
4 the money, and Mr. Morris would lose the money
5 that -- lose some of the money he had invested
6 and pay significant penalties. Mr. Morris never
7 received any of his money back from the
8 Defendant.

9 Now, regarding the acts with Mr. Morris
10 specifically, this mirrors a lot of what happened
11 in the charged case today. The Defendant met
12 Ms. Liddle in a seminar that he conducted. He
13 convinced her that he would help her with her
14 investments. He helped her manage some
15 investments she had with the Aviva annuity. Over
16 time, he ultimately convinced her that her money
17 would be safer with him because it would keep it
18 safe from a nursing home.

19 When Ms. Liddle went to ask for her
20 money back because she needed it, he told her
21 that he could get it, but it would take her
22 awhile, and that she would pay penalties, and
23 that they would -- and it would take so much time
24 to get it back. The victim in this case, Ms.
25 Liddle, never received any of the money back from

1 the Defendant.

2 Regarding Mary-Lou Budek. In
3 February/March of 2009 the Defendant and another
4 man came to Mary-Lou Budek's home in Brooklyn,
5 Michigan, at Ms. Budek's request. Defendant and
6 the other man wanted to sell Ms. Budek life
7 insurance and talk about investment options. At
8 this time the Defendant also wanted to become
9 Ms. Budek's financial planner. At the end of
10 the meeting Ms. Budek bought a life insurance
11 policy for approximately \$20,000. After that,
12 the Defendant gave Ms. Budek an Aviva Life letter
13 showing her that a life insurance contract --
14 contract had been issued in her name.

15 On November 19th of 2009 the Defendant
16 came to Ms. Budek's house and gave her an Aviva
17 Life letter again showing that a second life
18 insurance contract had been issued in her name.

19 On August 18th of 2010 the Defendant
20 came back to discuss her financial situation.
21 Ms. Budek wrote a \$10,000 check to Senior
22 Planning Resource so that the Defendant could set
23 up a vacation fund for her.

24 On October 4th of 2010 the Defendant
25 came to Ms. Budek's house again. At that point

1 Ms. Budek told the Defendant she wanted to create
2 a fund for funeral expenses. She wrote another
3 check for \$13,200, most of which was to go to
4 funeral expenses. The remaining \$3,200 was to be
5 invested.

6 Between December of 2013 and February of
7 2016 Ms. Budek wrote three additional checks to
8 the Defendant for investment purposes. One of
9 those checks was for \$55,000. At Ms. Budek's
10 request, the Defendant provided Ms. Budek with a
11 statement summarizing her account balances.

12 In February of 2017 Ms. Budek asked the
13 Defendant to give her \$40,000 from her
14 investments because she wanted to purchase a
15 trailer in Florida. The Defendant told Ms. Budek
16 if she took the money out early, she would pay a
17 significant penalty. He told her he would be
18 better off -- she would be better off getting a
19 loan for the trailer, and he and his company,
20 Future By Design, would pay the interest for the
21 loan. The Defendant to date has not returned
22 any of her money. Ms. Budek in that case
23 ultimately took out a loan for the trailer.

24 And for both of these individuals, for
25 Mr. Morris and for Ms. Budek, bank records

1 reflect that the money that they gave to the
2 Defendant went into his bank accounts and the
3 bank accounts for his company. There is no
4 record of that money ever going out to an annuity
5 or any type of investment. They went to his
6 company, and then the money went back out of his
7 bank account to bars, restaurants, other personal
8 expenses.

9 Similarly to Ms. Liddle in the instant
10 case, the money Ms. Liddle -- that he took and/or
11 Ms. Liddle gave him went into his accounts and
12 then it went out of his accounts being spent on
13 bars, restaurants, personal expenses. No
14 evidence that it went into an annuity or
15 investment of any kind.

16 In all three circumstances, one of the
17 victims ultimately requested their money back.
18 He made excuses as to why he couldn't get it back
19 to them, putting them off. He didn't answer
20 their phone calls. Told them it would take some
21 time, but they would get it. None of these
22 individuals ever received their money back.

23 I'm asking to admit these other 404(b)
24 acts to show a pattern of activity where the
25 Defendant ultimately takes his clients' money;

1 then when they ask for disbursement, makes
2 excuses, tells them they cannot have it back, to
3 show that this was not a mistake or isolated
4 instance with regard to Ms. Liddle.

5 THE COURT: Thank you.

6 MR. JOHNSON: Your Honor, we would
7 oppose the motion. Initially we inquired of the
8 Court. However, to inquire of the People as to
9 whether or not Ms. Budek and Mr. Morris will
10 actually be called to testify to this 404(b)
11 evidence, or will it be provided to the Court by
12 a third party?

13 MS. STINEDURF: They would be
14 testifying, Your Honor.

15 MR. JOHNSON: Oh, they will be
16 testifying?

17 MS. STINEDURF: Yeah.

18 MR. JOHNSON: Then we don't have an
19 objection, Your Honor.

20 THE COURT: You don't have an objection
21 to the 404(b)?

22 MR. JOHNSON: No, ma'am. We feel that
23 if these folks come in and testify, our
24 impression is that they're happy customers of my
25 client and will so testify.

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THE COURT: Well, this could have been stippled to. I don't even need to listen to any more. The parties have agreed 404(b) comes in. I don't have much of a decision there.

MR. JOHNSON: Thank you, Your Honor.

THE COURT: So 404(b) will be allowed. Anything further?

MS. STINEDURF: Yes, Your Honor.

Mr. Johnson sent me an email on Friday, which he indicated certain documents were attached. I have no reason to believe he intended to attach them (sic). However, they were not attached. As a result, I'm just seeing certain documents this morning that apparently his client provided to him. A few of these documents I have seen before, so I'm not objecting.

However, I was provided with a list. It's titled: Donations 2013. There's some handwritten notes on it, and there's a Post-It Note that says: 2013 taxes, Ardis Liddle. I -- I have never seen this before, and certainly we've had a discovery request in for several months at this point.

There is also two copies of checks that

1 appear to be certified checks from Five Star
2 Bank. One check is in the amount of \$4,000. It
3 says it's from Gary Haynes To the Order of Ardis
4 Liddle dated September 11, 2015. A second check
5 in the amount of \$4,000. The date is December
6 21st, 2015. It's also in the amount of \$4,000.

7 I have never seen this before; and
8 again, because of the late disclosure, I am
9 objecting to this at this time. I have no idea
10 if this is a valid check. We have had no
11 opportunity to determine if this check was ever
12 actually provided to Ms. Liddle or simply issued
13 and remains in Mr. Haynes' folder.

14 I was also provided a copy of an email
15 about trout fishing and deer hunting and a copy
16 of a picture with some cougars in it. It says
17 something about: How would you like to meet up
18 with this kitty-cat some dark night.

19 Now, I don't know what these are. I'm
20 objecting certainly to the late disclosure and
21 also to the relevance at this point.

22 THE COURT: Okay. We will deal with it
23 individually.

24 MR. JOHNSON: That's my request, Your
25 Honor. I would ask the Court to deal with them

1 individually as they come up.

2 THE COURT: Well, I'm -- I'm talking
3 about individually at this time. The checks
4 first.

5 MR. JOHNSON: Your Honor, out of
6 context, those -- they may not make sense.
7 However, within the context of the trial, I would
8 ask the Court to deal with them at the time of
9 the trial when we try to admit them. We
10 understand the People have their objection.

11 However, we would ask the Court to be
12 fully informed at the time we move to admit the
13 documents. Now I won't proceed to admit all of
14 them, but certainly if we do in fact attempt to
15 admit them, we would ask that the decision be
16 made within the full context of the facts and
17 circumstances.

18 THE COURT: Okay. Let's go to this
19 kitty-cat thing in the middle. I don't know how
20 that's even relevant. I mean, I can -- I can
21 see how relevant these checks may be, but I
22 didn't see it, and what she's stating is she has
23 a picture, email, about hunting and about a
24 cougar, and how is that going to be relevant to
25 this case?

1 MR. JOHNSON: Your Honor, if we -- if I
2 move to admit those documents, I can explain that
3 at that time within the context of the Court at
4 trial, why they are particularly relevant at that
5 juncture.

6 At this juncture, I don't know that
7 they're going to be relevant. My intention was
8 to provide the People with everything we had just
9 in case the issue was -- presented itself.

10 But just as with their -- their -- their
11 -- if their exhibits, until they're made an
12 offer of proof, the People they don't have to
13 prove that they're relevant. They have to prove
14 it at the time they admit those or there's an
15 objection.

16 But at this juncture it's just
17 premature, and we just ask the Court to -- to
18 just withhold its holding until it hears the
19 information that -- that either makes it relevant
20 or not.

21 THE COURT: The evidence that they want
22 to -- any documents they want to get in, if it's
23 relevant or not, is one thing. But she's
24 stating that the issue with these are because
25 they were late on the discovery. She didn't have

1 these. She doesn't have time to look through
2 these. And if I don't have any reason why they
3 were late and what they -- what they're relevant
4 to, I would have to exclude them.

5 Now, I can tell you right now, the
6 checks, she'll have plenty of time to be able
7 to-- It's late and should not have been given
8 late. But just like if the prosecutor had given
9 you these checks at this particular time, I would
10 have allowed them in but given you time to be
11 able to look into those.

12 She's got plenty of time to do that
13 because her case is first, and she will be able
14 to talk to her victim on the -- her alleged
15 victim on if these checks were actually given to
16 her or not.

17 So I will rule on those. At this time
18 I'm going to state that they probably will be
19 allowed in. So I don't have an issue with them,
20 but I don't have anything to connect this hunting
21 and cougar thing to say: Okay. It's okay that
22 it was late being sent over to the prosecution
23 because there is no connection here.

24 If you don't connect at this time, I'm
25 going to have to say that this is not relevant,

1 and it's late discovery, because she won't even
2 know where to look to determine if these are
3 relevant.

4 With the check, she has the information
5 on the check, where it's from, who it's to, how
6 much it is, and she can be able to -- she will be
7 able to be able to verify that. With this
8 picture, she don't even know where to begin.

9 So I'm going to exclude that at this
10 time and unless we have something that she can
11 connect this with to be able to do some
12 investigation on.

13 MR. JOHNSON: Thank you, Your Honor.

14 THE COURT: So--

15 MR. JOHNSON: We will accept the Court's
16 ruling on the cougar and the hunting trip.

17 THE COURT: All right. So--

18 MR. JOHNSON: There are two -- there are
19 two other documents though I think that are --
20 that are relevant, and I don't know which of the
21 two that the People have seen. One is a -- it
22 says: Promissory note on the side. The other
23 says it's just an itemization letter to Mr.
24 Haynes from Mr. Walsh, from a Mr. Walsh.

25 MS. STINEDURF: I have seen those

1 before. I'm not objecting to them on grounds of
2 late discovery. I may object to them at the time
3 as being relevant and/or admissible, but.

4 THE COURT: Relevant.

5 MS. STINEDURF: My other concern is
6 this list of Donations 2013, I don't believe the
7 Court has addressed at this point. Again, I
8 don't know what this is. It's a list. Appears
9 to have several charitable organizations with
10 amounts written next to it, and it has what looks
11 like it says 2013 taxes, Ardis Liddle, and I
12 haven't seen this before today.

13 And because I have no idea what it is, I
14 don't know what I'm supposed to do with this or--

15 THE COURT: And those charitable-- I'm
16 sure that, Mr. Johnson, your -- your client is
17 going to be-- Now, he has the right not to
18 testify, but are you saying those are his
19 charitable contributions or--

20 MR. JOHNSON: No, Your Honor. These--

21 THE COURT: --are those--

22 MR. JOHNSON: I'm sorry. I didn't mean
23 to speak over the Court.

24 THE COURT: --or are those Ms. Liddle's
25 contributions?

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MR. JOHNSON: These are Ms. Liddle's contributions, Your Honor.

At the Preliminary Examination it was established that Ms. Liddle is a journal keeper, and that she kept copious notes, et cetera. However, we have not been able to get any of those journals. However, my client did find one page of one journal which he has copied, which is -- which is what this document is.

Therefore, what we're going to be asking is that my client be able to testify to the source of this document and why it's relevant, and that that does substantiate how copious the notes that Ms. Liddle kept.

THE COURT: So this is -- this is reported to be from Ms. Liddle?

MR. JOHNSON: That is correct.

THE COURT: That is something that I would allow in. So everything except for that cougar mention of a hunting thing, that-- I mean, I can't steer you anywhere, they can't steer you anywhere, and it doesn't seem at this time that it's relevant at all.

So I'm going to dismiss that. That will not be allowed to even be brought in because it

1 wasn't -- discovery is late for one thing, but
2 it's not relevant.

3 MR. JOHNSON: Thank you, Your Honor.

4 MS. STINEDURF: Thank you.

5 THE COURT: Anything further?

6 MR. JOHNSON: No, ma'am.

7 MS. STINEDURF: No, Your Honor.

8 THE COURT: Thank you. Are the parties
9 asking that we have sequestration of the
10 witnesses?

11 MR. JOHNSON: Please, Your Honor.

12 MS. STINEDURF: That's fine, Your
13 Honor. I have no objection.

14 THE COURT: All right.

15 MR. JOHNSON: And I -- and I understand
16 the People have the detective and the tech
17 person. We have no objection to either or both
18 of those.

19 THE COURT: All right. All right.

20 (Whereupon, discussion between
21 the Court and the Clerk-Bailiff,
22 out of the hearing of the Court
23 Reporter.)

24 THE COURT: So that's fine. All
25 right. Our jurors are not quite ready yet. I

1 had them come in at 10 because we had motions and
2 stuff, and I think this is probably the first
3 time that we didn't have a jury waiting on us.

4 So--

5 MR. JOHNSON: Yes, ma'am.

6 THE COURT: --that's a good thing.

7 Anything before we begin?

8 Do the parties -- do the attorneys need
9 to see me in chambers before we begin?

10 Any questions that they are going to
11 have, or are we good to go once the jury says
12 we're set?

13 MR. JOHNSON: We will be good to go once
14 the jury is set, Your Honor.

15 MS. STINEDURF: The People are ready to
16 go, Your Honor.

17 THE COURT: All right. Thank you.

18 (Whereupon, recess taken at
19 approximately 9:56 A.M.; with
20 proceedings resuming at
21 approximately 10:18 A.M.)

22 THE COURT: Please rise.

23 (Whereupon, Prospective Jury Panel
24 entered the courtroom at approximately
25 10:20 A.M.)

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THE COURT: Fill in the front rows all the way to the back rows, please. You may be seated.

Good morning, Ladies and Gentlemen. Thank you very much for being here and being prompt. We like to make sure we don't leave you waiting too long before we get started, and I appreciate you being here and ready to go.

My name is Judge Annette Smedley, and it is my privilege and pleasure to welcome you to the 14th Circuit Court.

In front of me is Mr. Mahan. I believe that you have already met him a couple of times. I'm sure that he would go -- he goes through some stuff with you so that when you come into the courtroom, you kind of understand what's going on. Probably he told you that sometimes he doesn't pronounce names properly. He's good at that. But he doesn't get that from any place strange because I'm right there with him, and we consider it probably maybe a speech impediment.

So if you would excuse our mispronouncing your name or some other things, we would appreciate that because other than our Court Reporter, me and Mr. Mahan have a little

1 issue with that.

2 I know that jury duty may be a new
3 experience for some of you. Jury duty is one of
4 the most serious duties that members of a free
5 society are asked to perform. Our system of
6 self-government could not exist without it.

7 The jury is an important part of this
8 court. The right to a jury trial is an ancient
9 tradition and part of our heritage. The law
10 says that both a person who is accused of a crime
11 and the prosecution have the right to have a
12 trial not by one person, but by a jury of twelve
13 impartial persons. Jurors must be as free as
14 humanly possible from biases, prejudice, or
15 sympathy for either side. Each side in a trial
16 is entitled to jurors who keep open minds until
17 the time comes to decide the case.

18 A trial begins with jury selection. The
19 purpose of this process is to obtain information
20 about you that will help us choose a fair and
21 impartial jury to hear this case.

22 During jury selection the lawyers and I
23 will ask you questions. This is called the voir
24 dire. The questions are meant to find out if
25 you know anything about the case. Also, we need

1 to find out if you have any questions, opinions,
2 or personal experiences that might influence you
3 for or against the prosecution, the Defendant, or
4 any witnesses. One or more of these things could
5 cause you to be excused in this particular case
6 even though you would otherwise be a qualified
7 juror.

8 The questions may probe deeply into your
9 attitudes, beliefs, and experiences. They are
10 not meant to be an unreasonable prying into your
11 private life. The law requires that we get this
12 information so that an impartial jury can be
13 chosen.

14 If you do not hear or understand a
15 question, you should say so. If you do not
16 understand it (sic), you should answer it--
17 If -- if you do understand it, you should answer
18 it truthfully and completely.

19 Please do not hesitate to speak freely
20 about anything you believe we should know.

21 During jury selection you may be excused
22 from serving on a jury in one of two ways:

23 First, I may excuse you for cause --
24 that is, I may decide that there is a valid
25 reason why you cannot or should not serve in this

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case;

Or, a lawyer from one side or the other may excuse you without giving any reason for doing so. This is called a peremptory challenge. The law gives each side the right to excuse a certain number of jurors in this way. If you are excused, you should not feel bad or take it personally. As I explained before, there simply may be something that causes you to be excused from this particular case.

I will now ask you to stand and swear to affirm -- to answer truthfully, fully, and honestly all the questions that you will be asked about your qualifications to serve as a juror in this case. If you have religious beliefs against taking an oath, you may affirm that you will answer all the questions truthfully, fully, and honestly.

Mr. Mahan?

THE CLERK-BAILIFF: Would you please rise. Raise your right hands.

Do you solemnly swear or affirm that you will true answers make to such questions as may be put to you touching upon your competency to sit as jurors in this case, so help you God?

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(Whereupon, Prospective Jury Panel responded affirmatively.)

THE COURT: Thank you. You may have a seat.

All right. Now the hours. I very seldom ever start before 8:30 A.M.. We will take at least one 15-minute break in the morning. We will break about noon for an hour and a half. We will start again at 1:30 and take a 15-minute break in the afternoon and go until about 5 P.M..

This trial is set for four days. Because this is a criminal case and set for more than one day, we always pick 13 jurors. The reason for that is we must have 12 jurors. If for some reason something happens to one of the jurors, because we have 13 to start with, we could continue. If we only had 12 and something happened to one, we would have to start this case all over again from the beginning.

If at the end we still have 13, your numbers will be reduced back to 12 by a blind draw. We do not know who will be dismissed. So I will need all of you to pay careful attention because we do not know who will be dismissed.

1 This is the jury box (indicating). The
2 opening is at this end. As your names are
3 called, I would ask that Juror Number 1 go to the
4 back row and sit in the chair closest to the
5 audience, fill it in until the end. And then the
6 front row, the same way, the first seat
7 (indicating) closest to the audience and we will
8 fill that.

9 That concludes my introductory
10 instructions. We will now have the blind draw.

11 THE CLERK-BAILIFF: Stephen Fisher.

12 THE COURT: Good morning.

13 PROSPECTIVE JUROR FISHER: Morning.

14 THE CLERK-BAILIFF: Lisa Betz.

15 THE COURT: Good morning.

16 PROSPECTIVE JUROR BETZ: Good morning.

17 THE CLERK-BAILIFF: Bryan Walker.

18 THE COURT: Good morning.

19 PROSPECTIVE JUROR WALKER: Morning.

20 THE CLERK-BAILIFF: Brenda Lewis.

21 THE COURT: Good morning.

22 PROSPECTIVE JUROR LEWIS: Morning.

23 THE CLERK-BAILIFF: Alexis Buckley.

24 THE COURT: Good morning.

25 PROSPECTIVE JUROR BUCKLEY: Morning.

1 THE CLERK-BAILIFF: Kristin Peabody.
2 THE COURT: Good morning.
3 PROSPECTIVE JUROR PEABODY: Good
4 morning.
5 THE CLERK-BAILIFF: Hircus Mann.
6 THE COURT: Good morning.
7 PROSPECTIVE JUROR MANN: Morning.
8 THE CLERK-BAILIFF: Scott Ames.
9 THE COURT: Good morning.
10 PROSPECTIVE JUROR AMES: Good morning.
11 THE COURT: And Mr. Ames, if you would
12 take that seat all the way closest to the
13 audience.
14 THE CLERK-BAILIFF: Heidi Vitek.
15 THE COURT: Good morning.
16 PROSPECTIVE JUROR VITEK: Morning.
17 THE CLERK-BAILIFF: Mark Rolewicz.
18 THE COURT: Good morning.
19 PROSPECTIVE JUROR ROLEWICZ: Good
20 morning.
21 THE CLERK-BAILIFF: Dana Bogue.
22 THE COURT: Good morning.
23 PROSPECTIVE JUROR BOGUE: You didn't
24 butcher that one.
25 THE COURT: Good job.

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THE CLERK-BAILIFF: Peter Ostrom.

THE COURT: Good morning.

PROSPECTIVE JUROR OSTROM: Good morning,
Your Honor.

THE CLERK-BAILIFF: And Tony (sic)
Yonkers.

THE COURT: Good morning.

PROSPECTIVE JUROR YONKERS: Good
morning.

THE COURT: The general procedure I
follow is this: I will ask our jury panel a
series of general questions. Then the attorneys
may ask whatever questions they might want to
ask.

I would appreciate it if those of you on
the panel who have not yet been called would also
listen. It kind of speeds up the process
because I have been sitting -- presiding over a
lot of jury trials. I have also had jury trials
as an attorney, and I don't think I have ever
seen that first 13 in that box stay in the box.
So it's likely that one of them will be dismissed
and someone from the panel out there will replace
them.

And my process basically is: Did you

1 hear all of my questions? And is there anything
2 that is of concern that we need to discuss? And
3 then I move forward. That way, the process goes
4 a little bit further.

5 So if you cannot hear and you would like
6 to move up a little bit closer, because we do
7 have a front row that's almost empty, you can
8 move up to be able to hear. But if you would
9 listen and so when you get up here, we can go
10 through this process.

11 Now, some of the questions I'm going to
12 ask you involve whether you know anything about
13 the allegations in this case, or whether you're
14 related to or acquainted with any party or
15 attorney or witness who might be called. So
16 before I ask you questions, I'm going to have to
17 give you a little background as to why we are
18 here, and then ask the attorneys to introduce
19 themselves and the parties and name any witnesses
20 that they may have.

21 Now, in order for you to tell me whether
22 you know anything about the allegations in this
23 case, I'm going to read a piece of paper called
24 an Information. That's all an Information is,
25 is it's a piece of paper that exists in every

1 criminal case. It tells the defendant what he or
2 she is charged with. It is not evidence of
3 guilt, and you must not take it as evidence of
4 guilt.

5 In this case we have 14 charges. Charge
6 1 is a Criminal Enterprise - Conducting.

7 Count 2 -- Embezzlement from a
8 Vulnerable Adult, 100,000 or more.

9 Counts 3, 4, 5, 6, 7, 8, 9, and 10 are
10 all the same charge of Embezzlement from a
11 Vulnerable Adult, \$1,000 or more but less than
12 20,000. The only difference is the dates that
13 this happened.

14 Count 3 would cover October 2013.

15 Count 4 covers December of 2013.

16 Count 5, July 7th of 2014.

17 Count 6, July 23rd of 2014.

18 Count 7, February of 2015.

19 Count 8, May of 2015.

20 9, June of 2015.

21 And 10, July of 2015.

22 Counts 11, 12, 13, and 14 are all
23 Failure to File or False Return or Payment of
24 Taxes. Again, they're all the same charge but
25 of different dates.

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I am now-- A person accused of a crime is presumed to be innocent. This means that you must start with the presumption that the Defendant is innocent. This presumption continues throughout the trial and entitles the Defendant to a verdict of not guilty, unless you are satisfied beyond a reasonable doubt that he is guilty.

Every crime is made up of parts called elements. The prosecutor must prove each element of the crime beyond a reasonable doubt.

The Defendant is not required to prove his innocence or to do anything. If you find that the prosecutor has not proven every element beyond a reasonable doubt, then you must find the Defendant not guilty.

A reasonable doubt is a fair, honest doubt growing out of the evidence or lack of evidence. It is not merely an imaginary or possible doubt, but a doubt based on reason and common sense. A reasonable doubt is just that, a doubt that is reasonable after a careful and considered examination of the facts and circumstances in this case.

I am now going to ask the prosecutor if

1 she would please introduce herself and any
2 possible witnesses that she may be calling.

3 MS. STINEDURF: Good morning. My name
4 is Kristen Stinedurf. I am with the Michigan
5 Attorney General's Office. Seated to my right is
6 Special Agent Kevin Hiller. Seated to his right
7 is Brian Ferguson also with the Attorney
8 General's Office.

9 Today we may be calling as witnesses
10 Special Agent Kevin Hiller; Richard Boyer;
11 Scott Darnell; Ryan Rimedio; Ardis Liddle;
12 Donald Stenberg; Cheryl Crays; Jacklynn Elliot;
13 Jerome Troke; Detective Sergeant Bryan Rypstra.
14 He's with the Fruitport Police Department. Nancy
15 Ritchie; Doctor Herbert Miller; Richard
16 Grandy. He is with the Michigan Department of
17 Treasury. Ronald Morris; and Mary-Lou Budek.

18 THE COURT: Thank you. I will now ask
19 the defense attorney to introduce himself and the
20 Defendant and any other witnesses that you may
21 have.

22 MR. JOHNSON: Thank you, Your Honor.
23 Good morning, Ladies and Gentlemen. I'm Fred
24 Johnson. I'm from the Public Defender's Office
25 here in Muskegon County. This is my client

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Mr. Gary Haynes (indicating).

Thank you, Your Honor.

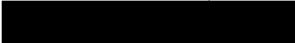
THE COURT: Thank you.

So that I know you are hearing what I say, I am going to ask you to raise your hand if the answer to my question is yes. If it is no, then leave it down. Then I can make a proper record.

Some of you may have health problems that would prevent you from serving on a jury. For example, does anyone have a medical problem that makes you unable to sit for two or three hours at a time?

PROSPECTIVE JUROR BOGUE: (Whereupon, hand raised.)

THE COURT: And Mr. Bogue?

PROSPECTIVE JUROR BOGUE: 

THE COURT: All right. And you heard my instructions on when we will start, how long we will be there and--

PROSPECTIVE JUROR BOGUE: Right.

THE COURT: --when we break?

PROSPECTIVE JUROR BOGUE: Right.

1 THE COURT: Do you think that, in that
2 situation, that that would be too much sitting,
3 that you would not be able to concentrate and sit
4 and listen on this trial?

5 PROSPECTIVE JUROR BOGUE: I don't know.
6 It depends on, like it's winter now. So it
7 hurts, but I don't know. I can't really tell you
8 over time.

9 THE COURT: All right. And if you were
10 able to stand up during the trial and sit down
11 and be able to do that--

12 PROSPECTIVE JUROR BOGUE: Yeah, that
13 might help.

14 THE COURT: --would that be able to help
15 that you would be able to do that?

16 PROSPECTIVE JUROR BOGUE: Uh-huh, yeah,
17 I think so.

18 THE COURT: All right. Does anyone have
19 any sight or hearing problems?

20 (Whereupon, no response.)

21 THE COURT: Anyone have any medical
22 things coming up that have been scheduled --
23 surgeries or such, that you cannot reschedule at
24 this time?

25 (Whereupon, no response.)

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THE COURT: Does-- Do any of you have an action for trial by jury during this term in which you are either a plaintiff or a defendant in either a civil or criminal case?

(Whereupon, Prospective Jury Panel shaking heads indicating negative.)

THE COURT: Now, this trial is set for four days. So I think I forgot to tell you that at the beginning. So that gives you kind of an idea if you're able -- if you've got anything coming up. You know, the holidays are coming up, and so we will get to that also. But I wanted to let you know that this probably -- it's scheduled to end on Thursday, but I can't give you an absolute positive that it would end on Thursday or it could end before Thursday.

Are any of you related by blood or marriage to any of the parties in this case, or either -- to either attorney, or anyone else who may be called as a witness?

(Whereupon, no response.)

THE COURT: Are any of you acquainted with the Defendant, either attorney, or anyone who may be called as a witness in this case?

(Whereupon, hand raised.)

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THE COURT: The attorneys will make note that's Juror Number 12. I'm sure they will have a follow-up for you.

Do any of you have any business now or have any of you had any business in the past in which either of these attorneys had represented you?

(Whereupon, no response.)

THE COURT: You will hear testimony from witnesses that are police officers. Does anyone feel that just because the witness is a police officer, that they must believe everything he or she says?

(Whereupon, hand raised.)

THE COURT: On the other hand, does any-- Juror Number 11?

PROSPECTIVE JUROR BOGUE: I'm a firm believer in the police and a firm supporter of the police.

THE COURT: All right. I will have-- The attorneys will follow-up with that one.

On the other hand, does anyone believe that because they are -- they are an officer, that they can't believe anything that that person said?

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(Whereupon, no response.)

THE COURT: Before you enter upon your duties as jurors, if you are selected, you will be asked to take an oath requiring that you decide this case fairly and impartially without bias or prejudice on the evidence received on the trial -- received on the trial and in accordance with the instructions of this Court.

Does anyone for any reason whatsoever find that they -- that he or she could not abide by that oath?

(Whereupon, no response.)

THE COURT: In this case-- At this point in time we have the opportunity and the attorneys will also have the opportunity to ask questions. This is the only time that we get to talk directly to you and ask you questions.

Once a jury is selected, we are not allowed to speak to you after that. If we see you in the hallway or in the elevator or if we see you in the store at nighttime, we can't even ask you how you're doing, or isn't it nice weather out.

Is anybody going to be offended so bad that they could not be a juror if we do not

1 acknowledge you out in the hallways?

2 (Whereupon, no response.)

3 THE COURT: The last two questions I ask
4 you go right to the heart of what the jury system
5 is all about:

6 Are all of you able to give the People
7 of the State of Michigan a fair, objective,
8 neutral, and impartial trial?

9 (Whereupon, no response.)

10 THE COURT: Okay. So because I asked
11 you to raise your hands if the answer was yes,
12 and no, leave them down, it looks like nobody can
13 be impartial. So it's kind of--

14 Let me read it again.

15 Are you all able to give the People of
16 the State of Michigan a fair, objective, neutral,
17 and impartial trial?

18 (Whereupon, hands raised.)

19 THE COURT: Thank you.

20 Now, I didn't mean you had to raise your
21 hand because maybe you can't. So you could have
22 left them down. I just wanted to make sure we
23 were there.

24 Are all of you able to give the
25 Defendant a fair, objective, neutral, and

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impartial trial?

(Whereupon, hands raised.)

(Whereupon, Prospective Juror Bogue
did not raise hand.)

THE COURT: All hands but one are up.

Thank you.

Jury to the prosecution.

MS. STINEDURF: Thank you, Your Honor.

Now, we have asked you if you're able to
give a fair, neutral, and impartial jury today.

There's one other thing I want to ask
about too. Is there anyone really excited to be
serving here today?

(Whereupon, hand raised.)

MS. STINEDURF: One? All right. See,
sometimes there is someone.

All right. So Mr. Ostrom, you're
excited to be serving here today?

PROSPECTIVE JUROR OSTROM: Yeah.

MS. STINEDURF: Okay. And why is that?

PROSPECTIVE JUROR OSTROM: For the, I
don't know, 20-plus years I served in the
military, you never get to serve on a jury
trial. So, kind of a new experience.

MS. STINEDURF: All right. Thank you.

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Anyone else really excited to be here today?

(Whereupon, no response.)

MS. STINEDURF: Well, all right.

Now, as we have already mentioned, you will be hearing testimony from police officers today. So one of those police officers works for the Michigan Department of Attorney General. You will also hear him referred to as Special Agent.

Another police officer works for the Fruitport Police Department.

Does anyone have any experiences or maybe have friends or family members that have any personal experiences with either of these two law enforcement agencies?

Anything significant? Anything that may affect your ability to hear the case today?

(Whereupon, hand raised.)

MS. STINEDURF: Okay.

PROSPECTIVE JUROR WALKER: I have friends that are on the Fruitport Police Department or were.

MS. STINEDURF: Do you know Detective Sergeant Bryan Rypstra?

1 PROSPECTIVE JUROR WALKER: I do not.

2 MS. STINEDURF: Okay. And so you said
3 that you've had friends that at least were on the
4 Fruitport Police Department.

5 PROSPECTIVE JUROR WALKER: Uh-huh.

6 MS. STINEDURF: Is there anything about
7 that that you think will affect your ability to
8 be fair and impartial today?

9 PROSPECTIVE JUROR WALKER: No.

10 MS. STINEDURF: No? Okay. And I will
11 ask, because we have a Court Reporter here typing
12 everything, if your answers could be verbal if
13 possible, please.

14 PROSPECTIVE JUROR WALKER: Okay.

15 MS. STINEDURF: All right. So now, what
16 about anyone else who knows anyone, may be close
17 friends, family members, that works for law
18 enforcement or corrections?

19 (Whereupon, hands raised.)

20 MS. STINEDURF: Okay. Well, I'm just
21 going to start going down the list. So I will
22 start with Ms. Yonkers.

23 PROSPECTIVE JUROR YONKERS: I have a
24 cousin that works at -- for the Michigan State
25 Police Department.

1 MS. STINEDURF: Okay. Anything about
2 that that will affect your ability to be fair and
3 impartial today?

4 PROSPECTIVE JUROR YONKERS: No.

5 MS. STINEDURF: All right. And if you
6 could please raise your hands again.

7 Okay. Mr. Bogue?

8 PROSPECTIVE JUROR BOGUE: I have a
9 nephew that works in corrections, and I also have
10 a niece that is a psychologist at a prison over
11 here (indicating).

12 MS. STINEDURF: Anything about that that
13 will affect your ability--

14 PROSPECTIVE JUROR BOGUE: No.

15 MS. STINEDURF: --to be fair and
16 impartial today?

17 PROSPECTIVE JUROR BOGUE: No.

18 MS. STINEDURF: No? Okay. And Mr.
19 Rolewicz? I apologize if I mispronounced that,
20 so.

21 PROSPECTIVE JUROR ROLEWICZ: That's
22 good. My cousin is a State Police officer.

23 MS. STINEDURF: Anything about that that
24 will affect your ability to be fair and
25 impartial?

1 PROSPECTIVE JUROR ROLEWICZ: (Whereupon,
2 shaking head indicating negative.)

3 MS. STINEDURF: Okay.

4 THE COURT: Is that a no?

5 PROSPECTIVE JUROR ROLEWICZ: No.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR ROLEWICZ: Sorry.

8 MS. STINEDURF: And Ms. Vitek, did you
9 raise your hand or?

10 PROSPECTIVE JUROR VITEK: No.

11 MS. STINEDURF: Okay. Thank you.

12 Mr. Ames?

13 PROSPECTIVE JUROR AMES: I had a cousin
14 that was a Muskegon County Sheriff.

15 MS. STINEDURF: All right.

16 PROSPECTIVE JUROR AMES: And several
17 members of his other family are sheriff members.

18 MS. STINEDURF: Still with the Muskegon
19 County Sheriff now?

20 PROSPECTIVE JUROR AMES: Yes.

21 MS. STINEDURF: Anything about that that
22 will affect your ability to be fair and
23 impartial?

24 PROSPECTIVE JUROR AMES: I don't think
25 so.

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MS. STINEDURF: No?

PROSPECTIVE JUROR AMES: No.

MS. STINEDURF: Mr. Fisher, had you raised your hand?

PROSPECTIVE JUROR FISHER: No.

MS. STINEDURF: Anyone else in the back row that I haven't asked already?

(Whereupon, no response.)

MS. STINEDURF: All right. Thank you.

Now, today in today's case the Defendant, as you've heard, has been charged with embezzlement and conducting a racketeering enterprise, among other things. Specifically, the Defendant is charged with multiple counts of embezzlement from a lady who today is in her 90's.

Under the charges today you will hear testimony of things that happened also when she was in her 80's.

Does anyone here have experience working with the elderly, perhaps working in a medical facility? And I see Ms. Buckley?

PROSPECTIVE JUROR BUCKLEY: Yes.

MS. STINEDURF: What experience do you have working with the elderly?

1 PROSPECTIVE JUROR BUCKLEY: I was a CNA
2 at Sanctuary at McCauley.

3 MR. JOHNSON: Excuse me, counsel. Can
4 she speak up? I couldn't hear.

5 PROSPECTIVE JUROR BUCKLEY: I was a CNA
6 at Sanctuary at McCauley.

7 MS. STINEDURF: Okay. The Sanctuary at
8 McCauley. Now, that is important. I'm glad you
9 brought that up.

10 You will hear some testimony today about
11 a facility called Sanctuary at the Shores. Is
12 that related to that facility?

13 PROSPECTIVE JUROR BUCKLEY: Yes, it is.

14 MS. STINEDURF: Is it the same facility
15 or a -- the same business?

16 PROSPECTIVE JUROR BUCKLEY: Same
17 business.

18 MS. STINEDURF: Okay. So today what you
19 will hear is limited testimony about a person
20 being admitted to that facility.

21 Is there anything about that or your
22 experience working with the elderly that you
23 think will affect your ability to hear the
24 testimony today?

25 PROSPECTIVE JUROR BUCKLEY: I may be a

1 little biased. I am sensitive to people doing
2 things to the elderly that I view as wrong.

3 MS. STINEDURF: Okay. Well, and that is
4 important because you will be instructed today
5 that there will be, as you have already heard
6 some of the jury instructions, you will be
7 instructed on the elements of the crime, and you
8 will be instructed only to consider what you hear
9 in this courtroom today.

10 Now, you're not required to check your
11 common sense at the door, but you are required to
12 set aside other experiences that you've had and
13 give this case a fair, neutral, unbiased opinion
14 as a jury member.

15 Do you think you will be able to do
16 that?

17 PROSPECTIVE JUROR BUCKLEY: Yes.

18 MS. STINEDURF: Okay. Thank you.

19 Has anyone else had experience working
20 with the elderly?

21 (Whereupon, no response.)

22 MS. STINEDURF: All right. Now, some
23 people might have had experiences, for instance,
24 caring for elderly parents or caring for elderly
25 people in some capacity or another. I see a lot

1 of head nods. If you could raise your hand
2 those of you who have had experience with that.

3 (Whereupon, hands raised.)

4 MS. STINEDURF: All right. I'm going to
5 start in the back corner there. Mr. Mann?

6 PROSPECTIVE JUROR MANN: Uh-huh.

7 MS. STINEDURF: What experiences have
8 you had caring for the elderly?

9 PROSPECTIVE JUROR MANN: [REDACTED]
10 [REDACTED]

11 MS. STINEDURF: And was that recent or?

12 PROSPECTIVE JUROR MANN: 2011. So about
13 seven years ago.

14 MS. STINEDURF: So were you personally
15 caring for her then?

16 PROSPECTIVE JUROR MANN: Yes. Yes.

17 MS. STINEDURF: And so today, again, you
18 will hear quite a bit of testimony about a woman
19 who is in her 90's. You will hear testimony
20 about what her needs are and about individuals
21 that were working with her.

22 One of the things you will be asked to
23 decide is whether the Defendant essentially had a
24 heightened duty of care to her because she
25 qualified as a vulnerable adult.

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Based on your experience caring for your mother when she was ill, do you think that you will be able to be a fair and impartial juror today?

PROSPECTIVE JUROR MANN: Yes, I'll be fair.

MS. STINEDURF: Okay. And if you can please raise your hands again. And in the back row, Ms. Peabody, what is your experience you've had?

PROSPECTIVE JUROR PEABODY: In 2015 I took care of my aunt for -- I lived with her for five months. She passed away.

MS. STINEDURF: Okay. And you've heard the questions that I have just asked.

Do you believe that you will be able to be fair and impartial and follow the jury instructions today?

PROSPECTIVE JUROR PEABODY: Yes.

MS. STINEDURF: And who else, if you could please-- Mr. Bogue? What experience have you had?

PROSPECTIVE JUROR BOGUE: [REDACTED]

1 caregiver. I guess basically I took him his
2 breakfast and cared for him.

3 MS. STINEDURF: And so again then I ask,
4 do you think you will be able to follow the jury
5 instructions today?

6 PROSPECTIVE JUROR BOGUE: Yes.

7 MS. STINEDURF: Then, Mr. Rolewicz, do
8 you have your hand raised?

9 PROSPECTIVE JUROR ROLEWICZ: Yes. I
10 took care of my dad for almost two months and he
11 -- until he ended up dying, but. So, that's
12 all.



13 MS. STINEDURF: I'm sorry for your
14 loss.

15 PROSPECTIVE JUROR ROLEWICZ: Yes.

16 MS. STINEDURF: Do you think that with
17 that experience, that-- And I realize it was
18 recent. --that you would be able to be fair and
19 impartial today?

20 PROSPECTIVE JUROR ROLEWICZ: Yes.

21 MS. STINEDURF: Okay. And Mr. Ames?

22 PROSPECTIVE JUROR AMES: Both my parents
23 moved in with me for about eight months before
24 they passed away. Cared for them. 
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of care for him too.

MS. STINEDURF: Do you think you would be able to be fair and impartial and follow the jury instructions?

PROSPECTIVE JUROR AMES: Yes, I do.

MS. STINEDURF: All right. Now, has anyone else had maybe any experiences with perhaps friends or family members or even yourself being accused of committing any kind of financial abuse or other elder abuse?

(Whereupon, no response.)

MS. STINEDURF: Okay. What about experiences with APS or Adult Protective Services, some people may have cause to call them in the course of your work or may have cause to call them for other reasons. Anything like that?

(Whereupon, no response.)

MS. STINEDURF: All right. I don't see any hands raised at all.

Now, specifically the charges today that you will be asked to discuss are the charges of embezzlement by an agent and charges of embezzlement against a vulnerable adult. Embezzlement is another word for what some people

1 might call theft.

2 Any personal experiences or close
3 friends or family members may have had
4 experiences with those kind of charges?

5 (Whereupon, hands raised.)

6 MS. STINEDURF: Okay. Mr. Mann?

7 PROSPECTIVE JUROR MANN: Yep. My -- my
8 wife's cousin actually went to prison for
9 embezzlement.

10 MS. STINEDURF: Do you feel that your
11 wife's cousin was treated fairly in that matter?

12 PROSPECTIVE JUROR MANN: Yes.

13 MS. STINEDURF: Anything about that that
14 would affect your ability to be fair and
15 impartial today?

16 PROSPECTIVE JUROR MANN: No. No.

17 MS. STINEDURF: Okay. And excuse me.
18 Mr. Ostrom?

19 PROSPECTIVE JUROR OSTROM: Years ago my
20 -- during my first marriage my father-in-law at
21 the time embezzled money and was sent to prison
22 in Massachusetts.

23 MS. STINEDURF: Do you feel that he was
24 treated fairly?

25 PROSPECTIVE JUROR OSTROM: That he was

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treated fairly?

MS. STINEDURF: Yes.

PROSPECTIVE JUROR OSTROM: Yes.

MS. STINEDURF: Anything about that that will affect your ability to be--

PROSPECTIVE JUROR OSTROM: No.

MS. STINEDURF: --be fair and impartial today?

PROSPECTIVE JUROR OSTROM: No.

MS. STINEDURF: No? Thank you. Anyone else at all?

(Whereupon, no response.)

MS. STINEDURF: All right. Now, the Defendant is charged as well with filing a false tax return. So some refer to that as tax fraud. This does involve the Michigan Department of Treasury as opposed to the IRS or the Internal Revenue Service.

Anyone know anyone that works for the Michigan Department of Treasury or have close friends or family members or maybe work there yourself?

(Whereupon, no response.)

MS. STINEDURF: I don't see any hands at all.

1 Anyone have strong opinions either for
2 or against the Michigan Department of Treasury?

3 (Whereupon, no response.)

4 MS. STINEDURF: Okay. And overall, now
5 that we've talked a little bit more about this
6 case, do any of you have any other personal
7 experiences or just opinions that you think that
8 we should know about today that might affect your
9 ability to be fair and impartial?

10 (Whereupon, no response.)

11 MS. STINEDURF: And then there were just
12 a couple of other questions too. I know before
13 when the Judge was asking you questions, Mr.
14 Bogue, you mentioned that you were a firm
15 supporter of the police?

16 PROSPECTIVE JUROR BOGUE: Yes.

17 MS. STINEDURF: Now, you will hear an
18 instruction today that you are required, when you
19 listen to this case, to give a police officer's
20 testimony the same weight as you would give any
21 other witness' testimony.

22 Is that an instruction you will be able
23 to follow today?

24 PROSPECTIVE JUROR BOGUE: Yes.

25 MS. STINEDURF: And Mr. Ostrom, I think

1 you indicated that you knew people that were
2 listed as witnesses or attorneys on this case?

3 PROSPECTIVE JUROR OSTROM: (Nodding head
4 indicating affirmative.)

5 MS. STINEDURF: Who do you know?

6 PROSPECTIVE JUROR OSTROM: I previously
7 met Mr. Johnson who represented my son who has a
8 mental illness, and he had gotten in trouble with
9 the police and subsequently found not guilty by
10 reason of insanity.

11 MS. STINEDURF: Okay. So in that
12 matter, Mr. Johnson represented your son?

13 PROSPECTIVE JUROR OSTROM: Yep.

14 MS. STINEDURF: And that matter has
15 since been resolved as far as--

16 PROSPECTIVE JUROR OSTROM: Yes, it has.

17 MS. STINEDURF: --the court system is
18 concerned?

19 PROSPECTIVE JUROR OSTROM: Um-hum.

20 MS. STINEDURF: Anything about that
21 that will affect your ability to be fair and
22 impartial today?

23 PROSPECTIVE JUROR OSTROM: No. No.

24 MS. STINEDURF: And your last chance as
25 I'm speaking with you, anything else that you

1 think we ought to know about or you would like to
2 bring up that may affect your ability to be fair
3 today?

4 (Whereupon, no response.)

5 MS. STINEDURF: Thank you.

6 THE COURT: Thank you. Mr. Johnson,
7 jury is with you.

8 MR. JOHNSON: Thank you, Your Honor.

9 Okay. Good morning, Ladies and
10 Gentlemen. Again I'm Fred Johnson with the
11 Public Defender's Office here in Muskegon. I
12 would like to ask you a few -- well, not a few,
13 but a bunch of more questions.

14 So I will be honest from the top, when I
15 try a case I always start with the same first
16 question, and -- and that's because of what the
17 Judge says that -- that some of you may be asked
18 not to sit on this panel, and others of you may
19 be called from the bleachers here to fill in the
20 gaps for anyone who is asked to leave.

21 So the first question I always ask for
22 people is: If -- if you can hear what I'm
23 saying, please raise your hand.

24 (Whereupon, hands raised.)

25 MR. JOHNSON: Everybody. Now, would you

1 look at the person next to you-- Keep your hands
2 up. --look at the person next to you, is there
3 anybody who doesn't have their hands up?

4 Okay. Doesn't look like it. Thank
5 you. Thank you. Thank you very much. Doesn't
6 make sense to ask all these questions if folks
7 can't hear you.

8 The second thing is I'm going to ask you
9 to do the same thing. Because someone may be
10 called up to replace you, they need to hear what
11 you're saying because they're going to be asked:
12 Hey, did you hear what we asked the last person
13 and what would your answer be. And if they can't
14 hear what you said, it makes it difficult for
15 them to respond.

16 So when you talk to me, when you talk to
17 us, would you please make sure that the gentleman
18 all the way back over here (indicating) can hear
19 you. And I -- I know it's -- it's
20 counterintuitive. These courts are set up over
21 thousands of years to be intimidating, to be
22 solemn. Your first impression when you come into
23 a courtroom is to keep your voice down. But
24 we're asking you to -- to just ignore that --
25 that -- that -- the -- the decorum at this point

1 and just speak up so that we can all hear what
2 you have to say. Okay?

3 The -- the third thing-- And I'm
4 sorry. I'm going to ask some questions. --is --
5 is -- is nobody is judging you this morning. If
6 you have an opinion or a belief that is popular
7 or unpopular, does not matter. Nobody is asking
8 you those. No one is trying to tell you you're
9 right or wrong. We're just trying to find out
10 if you're appropriate for this particular trial.

11 So when we ask you folks questions,
12 please don't be offended. It's not a judgment.
13 It's just a question to -- to get -- because not
14 everybody is right for every trial. Okay?

15 So I will ask a couple of questions.

16 First, before I go, we were asked to
17 introduce our client or witnesses, but I want to,
18 because we are with the Public Defender's Office
19 here in Muskegon, I want to go through a bunch of
20 names here. These are the -- the people who
21 work in my office. I'm going to list their
22 names, and then I'm going to ask you if you know
23 any of them. Okay?

24 Alicia Hulka. Anna Burns. Angella
25 Doremire. Chad E. Catalino. That's Chad E..

1 His father is Senior Catalino, but Chad is our
2 Catalino. Charles Aires. Joe Fisher.
3 Nicholas Gowings. Paula Baker-Mathes. R.J.
4 Winter. Tom Oatmen. Cassie Bates. David
5 Williams. Kendrah Robinson. Karri Russell.
6 Amanda Mitteer. Or Elise Elzinga.

7 Anybody know any of those folks? Ring a
8 bell for any of those?

9 (Whereupon, no response.)

10 MR. JOHNSON: Okay. Cool.

11 (Whereupon, hand raised.)

12 MR. JOHNSON: I'm sorry. I have a hand
13 up. Thank you. Ms. Yonkers; correct?

14 PROSPECTIVE JUROR YONKERS: Yes.

15 MR. JOHNSON: Okay. I'm right. Okay.
16 Ma'am, did you know any of those folks?

17 PROSPECTIVE JUROR YONKERS: Angie
18 Doremier. I went to high school with her.

19 MR. JOHNSON: Okay. Any hard feelings
20 against Angie?

21 PROSPECTIVE JUROR YONKERS: No, not at
22 all.

23 MR. JOHNSON: Okay. There we go.

24 Anything about that experience that
25 would influence, you know, how you judge this

1 particular matter?

2 PROSPECTIVE JUROR YONKERS: Nope, not at
3 all.

4 MR. JOHNSON: Okay. Folks, let me --
5 let me -- okay. Let me give you some -- some
6 stuff that lawyers don't tell you, some secret
7 stuff. The secret stuff is this:

8 We are going to ask you if ignoring the
9 police officers will influence your vote. And if
10 you know Ms. Doremire, would that influence your
11 vote. Or, you know, the Judge, would that
12 influence your vote. That's kind of a question,
13 but the real question is, we don't care.

14 The question is: Do you care if you
15 know these people. Do you care if you know.
16 Because if you care and if that will influence
17 your vote, that's what's important. That's kind
18 of what we're getting at here. So let me give
19 you that as kind of -- kind of a ground rule
20 here.

21 Let's see here, the Judge has told you
22 that this case is -- we are estimating that the
23 case will go about four days. I can tell you as
24 a matter of fact, my record is perfect in that
25 regard. I have never gotten that right. So it

1 may go four days; it may go a little less than
2 that. I don't think it will go over four days.

3 But the bottom line here is this, the
4 reason I ask this and I point this out to you is
5 once we are finished, once we are finished
6 presenting you the case, how long it takes you to
7 deliberate and decide is up to you.

8 Do you understand that?

9 (Whereupon, Prospective Jury Panel
10 nodding heads indicating affirmative.)

11 MR. JOHNSON: Yes? Shake your head yes
12 for me, or no.

13 (Whereupon, Prospective Jury Panel
14 nodding heads indicating affirmative.)

15 MR. JOHNSON: Okay. Does it-- And
16 suppose it should go a little bit longer, is that
17 going to be a problem for anybody?

18 (Whereupon, Prospective Jury Panel
19 shaking heads indicating negative.)

20 MR. JOHNSON: Okay. Good. All right.
21 Oh, all right. We are going to ask you to--

22 THE COURT: Mr. Johnson, if you want,
23 you can turn that podium. That's--

24 MR. JOHNSON: Thank you, Your Honor.
25 I'm wandering around here a little bit. So it

1 doesn't -- probably doesn't matter where it is.

2 That's fine.

3 We are going to ask you to settle this
4 case on the evidence. That should seem kind of
5 obvious, but we are going to ask you to settle
6 this case on the evidence. And because we are
7 lawyers, we make everything more complicated.

8 So I'm going to talk to you about what
9 evidence is and is not. We're going to be
10 asking you to solve this case on the evidence,
11 and I'm going to submit to you that the -- the
12 evidence is those people who take that stand
13 (indicating) and raise their hands and swear to
14 tell the truth.

15 And the evidence is exhibits. If we
16 give you a document, if we give you a photograph,
17 if we give you -- if this were a gun case, we
18 gave you a gun. Drug case, we give you drugs,
19 that's evidence. If it's submitted in front of
20 the Court, the Court says this is evidence, this
21 is what you consider.

22 Does anybody have a problem with that?
23 That the evidence comes from the witness stand
24 and from exhibits that you were given.

25 Anybody have a problem with that?

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(Whereupon, Prospective Jury Panel
shaking heads indicating negative.)

MR. JOHNSON: Okay. So let's -- let's
throw you a trick one here: Is what I'm saying
evidence?

Is there anybody that thinks what I say
is evidence?

(Whereupon, Prospective Jury Panel
shaking heads indicating negative.)

MR. JOHNSON: Okay. Those of you
shaking your head no is correct because I haven't
taken the oath to tell the truth. I'm an
advocate. I'm advocating for my position.

How about -- how about Ms. Stinedorf
(sic)? Stinedorf?

MS. STINEDURF: Stinedurf.

MR. JOHNSON: Eventually. Ms.
Stinedurf, is what she says evidence?

(Whereupon, Prospective Jury Panel
shaking heads indicating negative.)

MR. JOHNSON: Anybody think it is? And
it's for the same reason; right?

(Whereupon, Prospective Jury Panel
shaking heads indicating negative.)

MR. JOHNSON: What-- You've seen these

1 lawyers on TV and they get in these arguments on
2 TV, and are they relevant, and they just argue
3 stuff back and forth.

4 Is any of that argument stuff evidence?

5 (Whereupon, Prospective Jury Panel
6 shaking heads indicating negative.)

7 MR. JOHNSON: Okay. So what's-- So let
8 me pick on somebody. Make sure that I have
9 beaten this horse completely to death.

10 Ms. Vitek?

11 PROSPECTIVE JUROR VITEK: (Nodding head
12 indicating affirmative.)

13 MR. JOHNSON: All right. Where does the
14 evidence come from?

15 PROSPECTIVE JUROR VITEK: (Indicating.)

16 MR. JOHNSON: Can you say it for us?

17 PROSPECTIVE JUROR VITEK: Up in the --
18 up in the box (indicating).

19 MR. JOHNSON: Witness stand?

20 PROSPECTIVE JUROR VITEK: Witness stand,
21 yep.

22 MR. JOHNSON: The people who do what?

23 PROSPECTIVE JUROR VITEK: Who take an
24 oath and gives testimony.

25 MR. JOHNSON: Thank you. Thank you very

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much.

Now, during the course of the trial--
And it doesn't happen as often like it does on
TV. --the -- the -- the prosecutor and I may
disagree on -- on something. We may argue and
whatnot.

Can we all agree that whenever we argue,
whenever we have disagreements, that the Judge is
the boss. That we are going to do what she
says. That if she says, Fred, you're wrong, shut
up and sit down, then I'm wrong, I'm going to
shut up and sit down.

You all understand that; correct?

(Whereupon, Prospective Jury Panel
nodding heads indicating affirmative.)

MR. JOHNSON: And we all understand that
she's also going to give you directions.
They're called jury instructions. They tell you
what the law is, how you're supposed to weigh the
law and -- and whatnot, and her instructions are
-- are basically the -- the rule book by what
you go with.

Anybody have a problem listening to the
Judge's instructions and following her rules?

(Whereupon, Prospective Jury Panel

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shaking heads indicating negative.)

MR. JOHNSON: Okay. Now, let me -- let me pick on somebody here. I'm going to pick on Mr. Bogue.

Sir, suppose I stand here and I tell you that the law in this case is A, B, and C, but the Judge says the law in this case is D, E, and F.

Which set of rules are you going to follow?

PROSPECTIVE JUROR BOGUE: The Judge.

MR. JOHNSON: Thank you. The Judge.

Okay. I don't believe that either party in this case will intentionally mislead you, but sometimes we disagree about what the law is. Sometimes we disagree about what the facts are. The facts are what you decide, but the law -- the Judge will tell you what the law is, and what she says is final.

Is that okay with everybody?

(Whereupon, Prospective Jury Panel nodding heads indicating affirmative.)

MR. JOHNSON: Okay. One other thing-- And I bring all that up to bring this up, the rules in the -- in this system of justice and the rules in the United States, the rules in the best

1 system of justice in the entire world-- And
2 you're sitting in it. --is that the People have
3 to prove a criminal allegation beyond a
4 reasonable doubt. That's the rule everywhere.

5 And if the Judge tells you that's the
6 case, can you follow that rule?

7 (Whereupon, Prospective Jury Panel
8 nodding heads indicating affirmative.)

9 MR. JOHNSON: And if the Judge tells you
10 that's the burden that the prosecutor has, can
11 you hold her to that burden?

12 (Whereupon, Prospective Jury Panel
13 nodding heads indicating affirmative.)

14 MR. JOHNSON: Okay. The -- the Judge is
15 going to tell you I think that you can't play
16 favorites. You can't decide this on emotion.
17 You can't decide this on sympathy. You can't
18 decide this on who you like the best. You can't
19 decide it on who tells the most jokes or who has
20 the most witnesses or the number of charges.
21 She's going to tell you all of those things I
22 believe.

23 Do you all-- If she tells you those
24 things, can you all apply those rules?

25 (Whereupon, Prospective Jury Panel

1 nodding heads indicating affirmative.)

2 MR. JOHNSON: This part is probably the
3 most important part for us from the defense
4 standpoint, so I'm going to spend a little bit
5 of time with you.

6 The victim in this case, the alleged
7 victim, is now in her 90's. You would not be
8 human if you didn't feel some sympathy for this
9 lady when she walks in here. That's just natural
10 because -- because we're a human being. We
11 don't ask you to be robots. Otherwise, we get
12 robots.

13 The bottom line is, though, do you feel
14 that you have the discipline to put aside your
15 personal feelings and judge this case based on
16 the evidence (indicating)?

17 (Whereupon, Prospective Jury Panel
18 nodding heads indicating affirmative.)

19 MR. JOHNSON: Does everybody feel that
20 they can do that for us? That you can say hey,
21 let me take a look at this and let me figure out
22 if the prosecutor has applied the burden, has met
23 their burden?

24 Does everybody think they can do that
25 based on the evidence and the law; right? Not on

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sympathy.

(Whereupon, Prospective Jury Panel
nodding heads indicating affirmative.)

MR. JOHNSON: Okay. Now, you all
mentioned that-- Oh, let me go back to one more
thing. You've heard beyond a reasonable
doubt. Okay. Most of you have a TV and you
have heard this.

How about the presumption of innocence,
has anyone heard that particular legal phrase?

If you have, raise your hand for me.

(Whereupon, hands raised.)

MR. JOHNSON: Okay. Cool. All right.
Now, most people raised your hand.

Does anybody want to take a stab at what
that means?

(Whereupon, no response.)

MR. JOHNSON: I don't blame you. Okay.
Suppose I tell you that the presumption of
innocence is until the prosecutor has met that
burden, that proof beyond a reasonable doubt, my
client sits there presumed to be not guilty. And
again, I'm not -- I'm going to-- What I say,
wait until the Judge says it.

But assuming the Judge says that he is

1 presumed to be innocent as he sits there now,
2 that means the prosecutor has to overcome that
3 presumption, and she has to provide you proof
4 beyond a reasonable doubt.

5 If the Judge tells you those are the
6 standards, can you all apply them?

7 Will you play by the rules?

8 (Whereupon, Prospective Jury Panel
9 nodding heads indicating affirmative.)

10 MR. JOHNSON: Okay. Does anybody think
11 that's unfair?

12 (Whereupon, Prospective Jury Panel
13 shaking heads indicating negative.)

14 MR. JOHNSON: Let me -- let me add a
15 little bit more to it. I expect my client is
16 going to testify. We'll see how this thing works
17 out, just how it's done, but let's assume he
18 doesn't testify. Let's assume that he just sits
19 there and he pulls out the funny paper, but no
20 one reads the paper anymore. We dial up the
21 Internet, and we just scroll the Internet for the
22 entire trial. We provide no evidence at all. I
23 don't ask any questions. And the Judge is still
24 going to tell you he is presumed to be innocent,
25 and she has to overcome that burden of proof

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beyond a reasonable doubt.

Do any of you feel that's unfair?

Do any of you feel that, look, he's got to give me something. He's got to. He's got to at least take the stand and tell me he didn't do it. He's got to provide some evidence.

Anybody feel that if the Judge tells you he doesn't, can everybody follow that direction?

(Whereupon, Prospective Jury Panel nodding heads indicating affirmative.)

MR. JOHNSON: Mr. Bogue, I'm looking at you. I'm looking at you, the body language. Go ahead, sir.

PROSPECTIVE JUROR BOGUE: I-- As I said, he mentioned a military background; I also have a military background.

MR. JOHNSON: Which branch, sir?

PROSPECTIVE JUROR BOGUE: Air Force.

MR. JOHNSON: Okay.

PROSPECTIVE JUROR BOGUE: Aircraft maintenance specialist.

MR. JOHNSON: All right.

PROSPECTIVE JUROR BOGUE: I also applied for Ingham County Sheriff, and I was almost declined.

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MR. JOHNSON: Okay.

PROSPECTIVE JUROR BOGUE: Knowing a little bit about police procedure and the Judge just listed so many counts--

MR. JOHNSON: Yeah.

PROSPECTIVE JUROR BOGUE: --over so many years--

MR. JOHNSON: Yeah. Yes, sir.

PROSPECTIVE JUROR BOGUE: --they wouldn't be sitting here unless there was some type of evidence that they're bringing forth.

MR. JOHNSON: Okay.

PROSPECTIVE JUROR BOGUE: With all due respect towards your client, sir--

MR. JOHNSON: Um-hum.

PROSPECTIVE JUROR BOGUE: --I -- I'm sorry.

MR. JOHNSON: You don't have to be sorry.

PROSPECTIVE JUROR BOGUE: It's just so many counts that she brought, I'm -- I'm already biased. I'm sorry. That's -- that's-- Sir, I apologize, but I'm already biased. I-- How many counts she's -- and over how many years. I -- I lost count how many years you mentioned.

1 MR. JOHNSON: Mr. Bogue, let me tell you,
2 the difference between you and lots of folks is
3 you're man enough to sit there and tell us. A
4 lot of folks feel that way-- And there is
5 nothing wrong with feeling that way. Just tell
6 us and maybe there's-- And I'm going to tell
7 you, I'm going to ask that you leave this panel.
8 But there may be another panel where you will be
9 perfectly fine. It's not a judgment of you.
10 Just tell us. We just want to know.

11 Okay?

12 PROSPECTIVE JUROR BOGUE: I'm sorry.
13 Again, I apologize to your client. I -- I don't
14 know him from Adam, but we're here for a reason,
15 and these gentlemen are police officers.
16 They're not going to bring something--

17 MR. JOHNSON: Your apology is not
18 necessary. Thank you for your candor.
19 Appreciate it. All right. Okay?

20 All right. Now, does anyone else feel
21 that way? Have a strong feeling?

22 (Whereupon, hands raised.)

23 MR. JOHNSON: Okay. I will go
24 through. I've got to go through it one by one,
25 folks. So just bear with us just a moment.

1 And let me include those -- those folks
2 who feel that, well, because there is -- there is
3 smoke, there must be fire. Okay? Basically what
4 I think Mr. Bogue is arguing for, in great part.

5 But also those folks who feel: I'm just
6 going to be sympathetic for a 90-plus year old
7 lady. I just can't be unbiased because of
8 that. Let us know. It's fine. It's not--
9 We're not mad at you. This is what -- this is
10 why this system works. Okay?

11 I believe I saw the lady in Seat Number
12 5, is it Ms. Buckley?

13 PROSPECTIVE JUROR BUCKLEY: Yes.

14 MR. JOHNSON: Ms. Buckley, you raised
15 your hand. You heard what Mr. Bogue had to say?

16 PROSPECTIVE JUROR BUCKLEY: Yes.

17 MR. JOHNSON: And you feel to some
18 extent the same way?

19 PROSPECTIVE JUROR BUCKLEY: I feel very
20 biased already because of the amount of charges--

21 MR. JOHNSON: Uh-huh.

22 PROSPECTIVE JUROR BUCKLEY: --the amount
23 of years that it took place--

24 MR. JOHNSON: Uh-huh.

25 PROSPECTIVE JUROR BUCKLEY: --and I work

1 in the medical field with elderly people. I
2 just feel very strongly.

3 MR. JOHNSON: Let -- let me ask you
4 this, if -- if -- if this were -- were a perfect
5 world, should I be concerned having a person like
6 yourself sitting on this particular panel that
7 you were not going to be able to give my guy a
8 fair shake at this point?

9 PROSPECTIVE JUROR BUCKLEY: Honestly,
10 yeah, I don't.

11 MR. JOHNSON: Thank you very much.
12 Thank you very much for your candor.

13 And the lady sitting next to you, Ms.
14 Lewis?

15 PROSPECTIVE JUROR LEWIS: (Nodding head
16 indicating affirmative.)

17 MR. JOHNSON: Ms. Lewis, you expressed
18 some -- you had some of the same feelings?

19 PROSPECTIVE JUROR LEWIS: [REDACTED]

20 [REDACTED]
21 MR. JOHNSON: [REDACTED]
22 [REDACTED]

23 PROSPECTIVE JUROR LEWIS: Yeah.

24 MR. JOHNSON: Okay.

25 PROSPECTIVE JUROR LEWIS: And there is

1 no way.

2 MR. JOHNSON: I'm sorry?

3 PROSPECTIVE JUROR LEWIS: There's no way
4 I could be anything but against.

5 MR. JOHNSON: Okay. Thank you. Sir?

6 PROSPECTIVE JUROR WALKER: I have a lot
7 of -- a few very good friends that are police
8 officers and I hear what they go through, and I
9 too agree a hundred percent with what he said.
10 These guys work hard. They wouldn't be here.
11 The span of -- of years that are going on, I'm --
12 leaves me pretty biased.

13 MR. JOHNSON: Okay. All right. And who
14 did I miss? Sir in the front row back here.
15 You're Mr. Rolewicz?

16 PROSPECTIVE JUROR ROLEWICZ: Yeah.

17 MR. JOHNSON: Okay. Mr. Rolewicz, tell
18 me what you think.

19 PROSPECTIVE JUROR ROLEWICZ: It's the
20 same thing as what he's saying. I just can't
21 see-- I understand we are supposed to try and be
22 biased (sic), you know, right away, but this,
23 yeah. There's just no way. I -- I, you know,
24 even with -- with my cousin and the stories that
25 I've heard from him about stuff, it's just you --

1 you're not going to have a warrant going to
2 someone's house without proper evidence. You're
3 not going to, you know--

4 MR. JOHNSON: Thank you.

5 PROSPECTIVE JUROR ROLEWICZ: --for the
6 years that this happened and everything else,
7 they wouldn't be sitting here.

8 MR. JOHNSON: Okay. Thank you, folks.
9 I appreciate your candor, truly, truly. Thank
10 you very much.

11 For those of you who remain, are you
12 willing to wait until the end of the trial to see
13 how this book is written?

14 (Whereupon, Prospective Jury Panel
15 nodding heads indicating affirmative.)

16 MR. JOHNSON: All right. Those of you
17 who have -- who don't have those feelings-- I'm
18 sorry. Did I miss you, sir?

19 PROSPECTIVE JUROR FISHER: Not that I'm
20 aware of.

21 MR. JOHNSON: Those of you who don't
22 share those particular views, are you willing to
23 and can you wait until the end until we finish
24 this book and see what you think at that time?

25 (Whereupon, Prospective Jury Panel

1 nodding heads indicating affirmative.)

2 MR. JOHNSON: Yes? Okay. Those of you
3 who haven't expressed that feeling, are -- are
4 you willing to offer my client the presumption of
5 innocence until proven guilty?

6 (Whereupon, Prospective Jury Panel
7 nodding heads indicating affirmative.)

8 MR. JOHNSON: Can you do that?

9 (Whereupon, Prospective Jury Panel
10 nodding heads indicating affirmative.)

11 MR. JOHNSON: That's tough, but I'm
12 asking you to do it. Thank you. And thank you
13 all.

14 Few more questions and then we will get
15 around to more. In terms of an expeditious use
16 of time, Judge, would you like me to make my
17 challenges now, or do you want me to go ahead and
18 plug on until I finish my questions?

19 THE COURT: You can plug on because they
20 may not still be excused--

21 MR. JOHNSON: Yes, ma'am.

22 THE COURT: --if we go through it a
23 little further.

24 MR. JOHNSON: Yes, ma'am. Thank you.

25 Let's see, tell me, how many -- many of

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you have mentioned that you care for elderly
parents and elderly relatives.

Have any of you known as an aunt or sort
of a nuclear family kind of thing any folks who
-- who aged -- who have lived into their 90's or
who are living in their 90's?

Any of you know anyone like that?
(Whereupon, hands raised.)

MR. JOHNSON: Okay. And I saw Mr. Ames,
is it?

PROSPECTIVE JUROR AMES: Yes.

MR. JOHNSON: I haven't picked on you
yet, Mr. Ames. Who is the person that you knew
or know?

PROSPECTIVE JUROR AMES: My aunt.

MR. JOHNSON: And is she still with us?

PROSPECTIVE JUROR AMES: No, she is not.

MR. JOHNSON: How old did she live to
be?

PROSPECTIVE JUROR AMES: She was 94.

MR. JOHNSON: Okay. And can you tell
us, in your experience how -- how -- some people
decline in their 80's. Some people stay with us
and stay sharp until the day they die.

Where in that spectrum did your aunt

1 fall, do you remember?

2 PROSPECTIVE JUROR AMES: She was pretty
3 with it right up until she fell and hurt her
4 head.

5 MR. JOHNSON: Okay.

6 PROSPECTIVE JUROR AMES: And then that
7 was within days she was gone, but she was pretty
8 with it the whole time.

9 MR. JOHNSON: Okay. And Mr. Fisher?

10 PROSPECTIVE JUROR FISHER: Same.

11 MR. JOHNSON: Same?

12 PROSPECTIVE JUROR FISHER: Yes, sir.

13 MR. JOHNSON: Who did you know, sir?

14 PROSPECTIVE JUROR FISHER: Grandfather.

15 MR. JOHNSON: Grandfather? And how old
16 was he? Is he still with us?

17 PROSPECTIVE JUROR FISHER: He is not.

18 MR. JOHNSON: Okay. How old was he when
19 he passed, sir?

20 PROSPECTIVE JUROR FISHER: I believe 93.

21 MR. JOHNSON: Oh, good for him. And --
22 and the same question, did he have a decline as
23 he aged, or was he still--

24 PROSPECTIVE JUROR FISHER: Declined.

25 MR. JOHNSON: He declined?

1 PROSPECTIVE JUROR FISHER: I mean, yeah.

2 MR. JOHNSON: Okay.

3 PROSPECTIVE JUROR FISHER: There was,
4 you know, sitting in the chair and watching
5 football games and didn't do much.

6 MR. JOHNSON: You're describing my
7 retirement. Stop that. Okay. And let's see.
8 Let's -- all right.

9 Now, I think Judge has -- has touched on
10 these. I want to make sure that nobody has
11 vacation plans or doctor plans or that sort of
12 thing that's going to be--

13 You know what, in our sexist-- How about
14 health family care plans? Usually that falls
15 mostly on females, but guys as well.

16 Anybody have any day-care issues? Any
17 -- any children at home that -- that need your
18 attention that you can't break away for, that
19 sort of thing? Anybody with that issue?

20 (Whereupon, no response.)

21 MR. JOHNSON: Nobody is shaking their
22 head. Cool.

23 Let's see, I think -- okay. And we all
24 know that personal, religious, philosophical,
25 racial, ethnic, gender issues, they have no place

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in deciding guilt or innocence; correct?

(Whereupon, Prospective Jury Panel
nodding heads indicating affirmative.)

MR. JOHNSON: We all know that; right?

(Whereupon, Prospective Jury Panel
nodding heads indicating affirmative.)

MR. JOHNSON: Okay. I think I will
leave with that. Thank you, Your Honor.

THE COURT: Thank you. Prosecution for
cause?

MS. STINEDURF: Your Honor, I would like
to ask additional clarifying questions of several
witnesses. The issue of bias was discussed, and
I want to clarify whether they're able to set
that aside or not.

THE COURT: And that's-- We'll do one
at a time. So your first one that you want to--

MS. STINEDURF: Yes.

THE COURT: --voir dire?

MS. STINEDURF: Ms. Buckley, Juror
Number 5 or in Seat Number 5. Sorry.

THE COURT: All right.

MS. STINEDURF: Now, you've mentioned
that you do have some bias from your past
experiences?

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PROSPECTIVE JUROR BUCKLEY: Yes.

MS. STINEDURF: You will be given jury instructions that ask you to set that bias aside. The reality is most people don't come into a courtroom without life experiences, without bias of some kind. But it's important as to whether you would be able to set that aside to hear the case today.

Do you think that you could do that?

PROSPECTIVE JUROR BUCKLEY: Personally I'm not sure because I have so many experiences with elderly, especially vulnerable elderly people, and I just -- I'm not sure if presented with certain situations that I would be able to look past them.

MS. STINEDURF: I would ask that Ms. Buckley be excused for cause, Your Honor.

MR. JOHNSON: No objection, Your Honor. Thank you, Ms. Buckley.

THE COURT: All right. We will excuse and thank Ms. Buckley.

PROSPECTIVE JUROR BUCKLEY: Okay. Thank you.

THE COURT: You still need to make sure you call in this afternoon to see if you have to

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come in tomorrow.

PROSPECTIVE JUROR BUCKLEY: Okay. Thank you.

THE COURT: Thank you.

(Whereupon, Prospective Juror Buckley excused at approximately 11:23 A.M.)

THE CLERK-BAILIFF: Tracey Bankhead.

THE COURT: Good morning. Ms. Bankhead, did you hear all of my questions?

PROSPECTIVE JUROR BANKHEAD: I did.

THE COURT: Any of those of concern that we need to discuss?

PROSPECTIVE JUROR BANKHEAD: No.

THE COURT: Thank you. Juror is with the prosecution.

MS. STINEDURF: I'm sorry?

THE COURT: Juror is with you. Any questions for this juror?

MS. STINEDURF: Yes. Yes, Your Honor.

Ms. Bankhead, I saw that you were formerly employed with the Prosecutor's Office; is that correct?

PROSPECTIVE JUROR BANKHEAD: In Indiana.

MS. STINEDURF: Okay. And so you're

1 affiliated with that office, but not with the
2 office here or with the Attorney General's
3 Office?

4 PROSPECTIVE JUROR BANKHEAD: No. No.

5 MS. STINEDURF: I mean, anything--

6 PROSPECTIVE JUROR BANKHEAD: I've lived
7 in Michigan since 2012.

8 MS. STINEDURF: Anything about those
9 experiences that would affect your ability to be
10 fair and impartial today?

11 PROSPECTIVE JUROR BANKHEAD: No.

12 MS. STINEDURF: Okay. I have no
13 additional questions.

14 THE COURT: Thank you. Mr. Johnson, any
15 questions of this witness? I mean, I'm sorry.
16 Of this juror?

17 MR. JOHNSON: Yes, ma'am, I do. Thank
18 you, Judge.

19 Okay. Ms. Bankhead?

20 PROSPECTIVE JUROR BANKHEAD: Yes.

21 MR. JOHNSON: Okay. Good morning. Good
22 morning, Ms. Bankhead.

23 PROSPECTIVE JUROR BANKHEAD: Good
24 morning.

25 MR. JOHNSON: Ma'am, one of the

1 instructions that -- that the Judge is going to
2 give you I think-- Okay. I'm hoping she makes
3 me look good here. One of the instructions she's
4 going to give you is that you can't go research
5 this stuff. You can't, once you get out of here
6 today, you can't go look it up on-line. You
7 can't look for articles and chat about it
8 tonight. You can't look it up. This has to be
9 your call and -- and not -- and what we want you
10 to hear about it is from this courtroom and not
11 from outside.

12 Do you understand that?

13 PROSPECTIVE JUROR BANKHEAD: Um-hum.

14 THE COURT: Is that a yes?

15 PROSPECTIVE JUROR BANKHEAD: Yes.

16 MR. JOHNSON: Thank you.

17 PROSPECTIVE JUROR BANKHEAD: Sorry.

18 MR. JOHNSON: And -- and the reason is
19 because, well, lots of reasons, but a lot of
20 information is -- is -- just is inaccurate, and
21 we just want you to hear the good stuff from
22 here; correct?

23 PROSPECTIVE JUROR BANKHEAD: Correct.

24 MR. JOHNSON: If she gives you that
25 instruction, you don't have a problem with that?

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PROSPECTIVE JUROR BANKHEAD: No.

MR. JOHNSON: Okay. Now, the good news is I don't see any news cameras here or video. So I don't know if we're going to get any TV coverage, but certainly what we do here applies to them as well -- TV and radio and that sort of thing.

If you hear something on the radio, could you turn it off or turn it down until the story is over?

PROSPECTIVE JUROR BANKHEAD: I don't like the news, but yes.

MR. JOHNSON: Okay. Some folks have a philosophical bent, a philosophical belief, where they don't like to sit in judgment of somebody else. They don't like to sit in judgment of another person, okay, and they just find it difficult to be jurors for obvious reasons because that's what you do.

Is that going to be a problem for you?

PROSPECTIVE JUROR BANKHEAD: No.

MR. JOHNSON: I asked the other -- the -- those of your predecessors if they knew officers and -- police officers. I get that you work in the Prosecutor's Office. That's not a

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problem.

The -- the -- the -- the question is if somebody, say for instance, somebody is -- is going to be mad at you because of which way you vote. If you vote guilty, if you vote not guilty, somebody out there is going to be mad at you, just for sake of the argument.

Do you care?

PROSPECTIVE JUROR BANKHEAD: No. And just in transparency, I currently work in this building in the Family Court. So I know of the attorneys; I'm in your office. Not connected to them in any way, but I know who they are. Just so that the prosecution knows that.

MR. JOHNSON: That being said, have we met?

PROSPECTIVE JUROR BANKHEAD: You interviewed me.

MR. JOHNSON: Did I?

PROSPECTIVE JUROR BANKHEAD: When I first started.

MR. JOHNSON: Ut-oh.

PROSPECTIVE JUROR BANKHEAD: Not for a court attorney position, but yeah.

MR. JOHNSON: Is that right? This was

1 five years ago.

2 All right. Anything about that -- that
3 experience that makes you either biased for me or
4 against me, biased for the prosecutor or against
5 her?

6 Do you have any experiences that's going
7 to make you a bad juror in this case? Not a bad
8 jury, but inappropriate juror?

9 PROSPECTIVE JUROR BANKHEAD: No.

10 MR. JOHNSON: Okay. You have heard all
11 the questions, the comments, that we've made and
12 asked folks this morning.

13 Would you-- Is there anything that you
14 would like to bring to our attention that we need
15 to know about you?

16 PROSPECTIVE JUROR BANKHEAD: No, just
17 what I have already told you. No. I--

18 MR. JOHNSON: Have you ever sat on a
19 jury before?

20 PROSPECTIVE JUROR BANKHEAD: I have.

21 MR. JOHNSON: Okay.

22 PROSPECTIVE JUROR BANKHEAD: Not here,
23 but yes.

24 MR. JOHNSON: Was it criminal or civil?

25 PROSPECTIVE JUROR BANKHEAD: Criminal.

1 MR. JOHNSON: Criminal means like this
2 and not for money?

3 PROSPECTIVE JUROR BANKHEAD: Correct.

4 MR. JOHNSON: Okay. Can you do us a
5 favor?

6 PROSPECTIVE JUROR BANKHEAD: Um-hum.

7 MR. JOHNSON: Can you agree to forget
8 everything you learned in that prior experience
9 and just go by what this Judge tells you the
10 rules are in this particular case?

11 PROSPECTIVE JUROR BANKHEAD:
12 Absolutely.

13 MR. JOHNSON: Okay. Thank you. I don't
14 have any further questions, Your Honor.

15 THE COURT: Thank you. Cause,
16 prosecutor?

17 MS. STINEDURF: None for cause on
18 Ms. Bankhead, Your Honor.

19 THE COURT: Cause of any of the other
20 jurors at this time?

21 MS. STINEDURF: I do have additional
22 questions, yes.

23 Ms. Lewis, I think that you mentioned
24 that because of some of your experiences you did
25 come to this courtroom with some bias. And

1 again, as we have talked about before, the
2 reality is most people come to this courtroom
3 with some bias, some past experience.

4 The question is: If the Court tells you
5 today that you are to consider this fairly and
6 impartially, looking at the jury instructions,
7 looking at the evidence and the facts presented,
8 can you follow the Court's instructions today?

9 PROSPECTIVE JUROR LEWIS: [REDACTED]

10 [REDACTED] and this exact thing happened to her,
11 so no.

12 (Whereupon, Prospective Juror Lewis
13 crying.)

14 MS. STINEDURF: Does it make a
15 difference to you if there will be no evidence
16 that the victim today has Alzheimer's?

17 PROSPECTIVE JUROR LEWIS: Yes.

18 MS. STINEDURF: So you said yes?

19 PROSPECTIVE JUROR LEWIS: I don't
20 understand your question I guess.

21 MS. STINEDURF: Okay. So I understand
22 that your experience-- And I am sorry that you
23 had that experience. - [REDACTED]

24 [REDACTED] Today I do not expect you will
25 hear any evidence that the victim in this case

1 had Alzheimer's.

2 If you know that going in, if you know
3 that there is no evidence that she had
4 Alzheimer's or dementia, do you think that you
5 would then today be able to be impartial as you
6 listened to this case?

7 PROSPECTIVE JUROR LEWIS: It shouldn't
8 make any difference. I mean, philosophically I
9 guess. I mean, if somebody stole or beat
10 somebody, that's wrong. No, I can't be partial
11 (sic).

12 MS. STINEDURF: I'm sorry. You said
13 you can't be partial or--

14 PROSPECTIVE JUROR LEWIS: Impartial. I
15 don't know the exact word you want me to say. I
16 just--

17 MS. STINEDURF: I only want you to talk
18 about the truth. I will repeat the question
19 because I know this can be stressful having to
20 talk in front of this many people. I completely
21 understand that.

22 Am I correct that you're saying that you
23 don't think you can be fair and impartial today?

24 PROSPECTIVE JUROR LEWIS: Yes.

25 MS. STINEDURF: I would ask that Ms.

1 Lewis be -- Ms. Lewis be excused for cause, Your
2 Honor.

3 MR. JOHNSON: Support, Your Honor.

4 THE COURT: Thank you, Ms. Lewis. You
5 will be excused for cause. You still must call
6 in this afternoon to see if you have to have jury
7 duty tomorrow.

8 PROSPECTIVE JUROR LEWIS: Okay. Thank
9 you.

10 THE COURT: Thank you.

11 (Whereupon, Prospective Juror Lewis
12 excused at approximately 11:30 A.M.)

13 THE CLERK-BAILIFF: Lynette Griffith.

14 THE COURT: Good morning.

15 PROSPECTIVE JUROR GRIFFITH: Good
16 morning.

17 THE COURT: May I see the attorneys a
18 moment?

19 (Whereupon, discussion between
20 the Court and counsel, out of
21 the hearing of the Court Reporter.)

22 THE COURT: All right. There's certain
23 procedures we must follow and with -- with the
24 attorneys at this time, with the motion for
25 cause, are you asking to do the cause upfront at

1 this time?

2 MS. STINEDURF: I would like to ask
3 those questions of the next juror at this time,
4 Your Honor, and determine if there is cause.

5 THE COURT: Thank you. And Mr. Johnson,
6 would you like to do the cause at this time or
7 individually like we have been?

8 MR. JOHNSON: Your Honor, I would prefer
9 that the folks be taken as a group in terms of
10 our best use of their time this morning. So I
11 would ask they be taken as a group, Your Honor.

12 THE COURT: Thank you. And before I ask
13 the new juror any more questions at this time,
14 there are a couple that they may be asking for
15 cause.

16 So I will allow the prosecution at this
17 time to voir dire those last I believe it's two?

18 MR. JOHNSON: Your Honor, I misspoke. I
19 will be asking for cause for three. Let me tell
20 counsel--

21 THE COURT: Three left?

22 MR. JOHNSON: --which three I'm looking
23 at so that she can--

24 (Whereupon, discussion between counsel,
25 out of the hearing of the Court

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Reporter.)

MR. JOHNSON: Okay. I think we have the same three people.

THE COURT: All right. So I will allow you-- You can start with one, then go to the next, then go to the next.

MS. STINEDURF: Thank you, Your Honor.

Mr. Walker, I believe that you indicated that you had some biases on behalf of the police as you personally experienced a few friends/family members I think you indicated that work for the police department?

PROSPECTIVE JUROR WALKER: (Nodding head indicating affirmative.)

MS. STINEDURF: And again, I mean, you've heard some of the questions I've been asking. I -- I realize that everyone comes to the courtroom with some bias. The question is just whether you can set that aside and hear the case fairly and impartially today.

And what would you say?

PROSPECTIVE JUROR WALKER: I'm not sure. I haven't heard anything, but I do have very good friends that are police officers I graduated with and still am friends with today.

1 It would be difficult.

2 MS. STINEDURF: If it helps give you
3 any more context, all I can tell you is there
4 will be two police officers testifying. And
5 again, I think I mentioned this earlier but just
6 to repeat, one police officer who works for the
7 Michigan Attorney General's Office and one
8 Detective Sergeant Bryan Rypstra who works for
9 the Fruitport Police Department.

10 Ultimately unfortunately we can't know
11 what's in your head. So it's really up to you to
12 tell us if you think you can do this today.

13 PROSPECTIVE JUROR WALKER: I think I
14 would be biased to listen to what the police
15 officers say over witnesses.

16 MS. STINEDURF: Thank you. I would ask
17 that Mr. Walker be excused for cause.

18 MR. JOHNSON: Support, Your Honor.

19 THE COURT: Mr. Walker, I'm going to ask
20 you a couple questions first.

21 PROSPECTIVE JUROR WALKER: Sure.

22 THE COURT: And the reason is, you know,
23 we -- we understand that -- that jurors are here
24 and we do have -- you bring stuff with you. I
25 understand that. But we have to make sure that

1 we get-- The answer is kind of like, you know,
2 you're pretty sure that, you know, because you
3 have friends, that you know what an officer
4 says.

5 My question to you is: If an officer is
6 on the stand, are you going to believe everything
7 that officer has to say no matter what he says,
8 because he is an officer?

9 PROSPECTIVE JUROR WALKER: I would be
10 inclined to, yes.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR WALKER: I also, in
13 fairness to -- I also feel, I work in local
14 retail and we -- it's my job to kind of fight off
15 the fraud through phones and Internet. So we
16 should talk something about that.

17 THE COURT: Okay. So you understand
18 that -- that some people can -- you can look at
19 evidence and say: Okay. Well, it looks like
20 somebody is guilty, looks like somebody is not
21 guilty. And working in that type of situation,
22 you weigh those options to figure out if the
23 first judgment was right or wrong.

24 PROSPECTIVE JUROR WALKER: Of course.

25 THE COURT: Okay. So you can weigh the

1 options, look at the evidence and say: Okay.
2 This we're going the wrong way, or this we're
3 going the right way.

4 Can you do that?

5 PROSPECTIVE JUROR WALKER: Yes.

6 THE COURT: All right. So if you get
7 the evidence in this case and you have an officer
8 that's sitting on the stand and that officer says
9 something different than what the evidence is
10 saying to you and what's been presented to you,
11 can you say: Well, I have to weigh the options.
12 This is what the evidence is showing me. I
13 understand I believe officers because they're
14 supposed to tell the truth, they're there and --
15 and they protect us, and I should, but this
16 doesn't -- this doesn't match with what the
17 evidence is showing.

18 Could you say: I'm sorry. The evidence
19 is showing us this, and this is how I have to --
20 have to decide this case?

21 PROSPECTIVE JUROR WALKER: I would like
22 to think so, but I think I would be biased to
23 listen to what the officer is saying.

24 THE COURT: All right. Thank you.

25 And because he would like to, he thinks

1 that he may, I'm not going to do it for cause.

2 But you do have peremptories.

3 MR. JOHNSON: Your Honor, may I be
4 heard?

5 THE COURT: You may.

6 MR. JOHNSON: I believe this gentleman
7 has made it clear that because of who he is, he
8 simply is more trusting of police officers than
9 he might be, say, someone just off the street.
10 I think the instruction is very clear, he can't
11 -- he can't differentiate. He can't be more
12 biased towards one or the other. It's either for
13 or against police officers.

14 So I think Mr. Walker has tried to
15 explain to the Court that his natural inclination
16 is going to be to believe the police officers.

17 Furthermore, that being the case that
18 he's already at that level, it's going to take a
19 higher degree of information from the defense,
20 quite frankly, to sway him from that particular
21 notion. And that's simply unfair to my client.

22 We are -- we are entitled to individuals
23 who can -- who can come in here and say: Look, I
24 can -- I can treat everybody the same, and that's
25 all we're asking for. We're just asking for a

1 jury that can treat everybody the same, and then
2 let the chips fall where they may. That's --
3 that's the bottom line. But we shouldn't have
4 any additional burdens to reach with any
5 particular juror or group of jurors.

6 And therefore, we would ask the Court to
7 reconsider this motion, reconsider this decision
8 and allow Mr. Walker to be excused for cause.

9 THE COURT: Thank you. And as I had
10 stated, Mr. Walker has stated that he is in this
11 type of position where he looks at frauds and
12 stuff, and he can look at all the evidence and
13 make an impartial decision on that evidence.

14 And there is -- there's reasons for
15 cause, and there's reasons for preempts. Each
16 attorney has their preempts, and they can use
17 them. At this time I don't believe-- And it's
18 the Court's ruling. --that Mr. Walker doesn't
19 rise to the level of a cause. He may as you
20 want a preempt, but he doesn't as to cause.

21 So Mr. Walker, I'm going to leave you on
22 at this time, but he may be excused but just not
23 for cause.

24 MR. JOHNSON: Okay.

25 THE COURT: Your next for cause?

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MS. STINEDURF: Yes. Mr. Bogue, Your Honor.

And Mr. Bogue, I think you indicated that you had some biases or predispositions that you were concerned about in this case.

Can you explain that a little bit further?

PROSPECTIVE JUROR BOGUE: Well, the fact that even the -- the--

THE COURT: Hold on a second. Hold on one minute.

Now, we have heard from Mr. Bogue. You both have heard from Mr. Bogue and how -- his reasoning for several different things in this case.

Are you asking that he be excused for cause with all of those, or do you need extra questions on Mr. Bogue?

MS. STINEDURF: I would like extra questions.

THE COURT: Okay. Go ahead.

MS. STINEDURF: Can you please explain then, Mr. Bogue?

PROSPECTIVE JUROR BOGUE: The fact that the Attorney General's Office is involved, I

1 mean, that just furthers my bias. I mean, I'm--
2 Again, with all due respect to--

3 MR. JOHNSON: One moment, Your Honor.

4 THE COURT: Hold on.

5 MR. JOHNSON: I -- I object. This is
6 simply-- I am not saying that Mr. Bogue is
7 wrong. I'm just saying that at this point it's
8 contamination of the record.

9 THE COURT: It is.

10 MR. JOHNSON: And so I would ask that--

11 THE COURT: And so I would ask-- We
12 heard that because the Attorney General is
13 involved, he doesn't believe. I don't think we
14 need to go any further. If you have any
15 questions, you may, but certain explanations of
16 reasons why could contaminate the rest of the
17 jury.

18 Now, I don't have a problem leaving this
19 juror on so that you can ask those questions, but
20 I don't want-- He's expressed a lot of stuff
21 that may start contaminating a lot of the jurors
22 that are still here; and if you want to go
23 further with this -- with this prospective juror,
24 then we're clearing the courtroom so that you
25 can.

1 So if you would like to ask some more
2 questions, we will clear the courtroom at this
3 time.

4 MS. STINEDURF: May-- And I'm
5 addressing this Court before I ask this. My
6 remaining question would simply be: Can you be
7 fair and impartial and follow the jury
8 instructions today.

9 THE COURT: Okay. Then you may ask
10 that.

11 MS. STINEDURF: Can you be fair and
12 impartial and follow the jury instructions?

13 PROSPECTIVE JUROR BOGUE: Seriously
14 doubt it.

15 MS. STINEDURF: Now, you said you
16 seriously doubt that?

17 PROSPECTIVE JUROR BOGUE: I seriously
18 doubt it.

19 MS. STINEDURF: May this juror be
20 excused for cause?

21 MR. JOHNSON: Support, Your Honor.

22 THE COURT: This juror may be excused
23 for cause. Now, that doesn't let you off the
24 hook here because we do have two other criminal--

25 PROSPECTIVE JUROR BOGUE: Call in?

1 THE COURT: Yeah. And I think we may--

2 PROSPECTIVE JUROR BOGUE: Can I do it by
3 computer? Can I do it on-line? Or do I have to
4 call in?

5 THE COURT: I'm not sure how you're able
6 to do that. I just know there is a number. So
7 you may be able to do it on-line, but I'm not
8 sure.

9 PROSPECTIVE JUROR BOGUE: Okay. Call
10 in. Thank you.

11 THE COURT: Thank you.

12 (Whereupon, Prospective Juror Bogue
13 excused at approximately 11:41 A.M.)

14 THE COURT: Oh, the next juror? Oh.
15 First we need to fill that seat and then we will
16 get to our next juror.

17 THE CLERK-BAILIFF: Trent Jackson, III.

18 THE COURT: Good morning.

19 PROSPECTIVE JUROR JACKSON: Good
20 morning.

21 THE COURT: And before we get to you,
22 we've got to ask a couple more questions to some
23 other people. Go ahead.

24 MS. STINEDURF: Mr. Rolewicz, I believe
25 that you previously mentioned that you had a

1 bias. Was it concerning the care of elderly
2 people; is that correct?

3 PROSPECTIVE JUROR ROLEWICZ: No. It
4 was law enforcement.

5 MS. STINEDURF: Law enforcement. I
6 apologize. You've heard the questions that we've
7 asked so far. Really, again, the bottom line is
8 some people come in to the courtroom with
9 biases. The question is whether you can set
10 those biases aside, listen to the jury
11 instructions as the Judge gives them to you, and
12 follow along today.

13 Can you do that?

14 PROSPECTIVE JUROR ROLEWICZ: I can
15 try. That's all I can say because, yeah. I --
16 I'm really close with my cousin, and he's dealt
17 with a lot of stuff. So, you know, stories from
18 him and hearing how things happen and, you know,
19 I just -- I tend to go towards him because I -- I
20 have friends too that don't believe a word a cop
21 says. But, you know, I tend to go the other
22 route.

23 MS. STINEDURF: But you are willing to
24 try today to follow those jury instructions?

25 PROSPECTIVE JUROR ROLEWICZ: (Nodding

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head indicating affirmative.)

THE COURT: Is that a yes?

PROSPECTIVE JUROR ROLEWICZ: Yes.

THE COURT: Thank you.

MS. STINEDURF: I have no challenges for cause.

THE COURT: Thank you. Challenge for cause, Mr. Johnson?

MR. JOHNSON: Oh, challenge for cause? I challenge Mr. Rolewicz, Your Honor.

THE COURT: Any questions for him?

MR. JOHNSON: If I may.

All right. Mr. Rolewicz, I don't want to just restate what you've already been trying to communicate to us. That's -- that's not the point here.

The question is, that in this system everybody is entitled to a fair and impartial jury, jurors who are going to do your best, but that's -- that's granted, but a fair and impartial jury.

And the question I have is: If -- if you're asked-- Well, this gentleman here (indicating), he comes in, he walks in, takes the stand, he sits up there and you don't know him

1 from Adam and he testifies. And then the same
2 guy comes back and says: I'm special agent so
3 and so and now I'm going to testify, is -- is
4 that going to be a difference to you?

5 Is that going to make a difference to
6 you in how you weigh that testimony?

7 Does that question make sense?

8 PROSPECTIVE JUROR ROLEWICZ: No.

9 MR. JOHNSON: Let me -- let me -- let me
10 try it again.

11 The same gentleman comes in from off the
12 street. He's not in the courtroom. You have
13 never seen him before. You call him in, he comes
14 in the witness chair, he walks through the doors,
15 he walks over here and he swears to tell the
16 truth. You don't know who he is and he just
17 testifies.

18 And then after that we have this
19 gentleman come up (indicating). You know he's a
20 special agent with the Attorney General, and he's
21 going to sit up there and he's going to testify.

22 Are you going to see those testimonies
23 as different? Are you going to weigh them
24 different? Are they going to mean more one way
25 or the other in your head?

1 PROSPECTIVE JUROR ROLEWICZ: In my head,
2 yes.

3 MR. JOHNSON: Okay. And will that if
4 and how? I assume it would be more -- more
5 likely to believe what the special agent says in
6 that way; is that correct?

7 PROSPECTIVE JUROR ROLEWICZ: Yes.

8 MR. JOHNSON: Okay. And you're here to
9 make decisions; right?

10 PROSPECTIVE JUROR ROLEWICZ: Right.

11 MR. JOHNSON: Do you think that weighing
12 will impact your decision?

13 In other words, it's one -- it's -- it's
14 one thing to admire police officers. It's
15 another thing to say: Well, this is going to
16 impact how I calculate my -- my decisions.

17 Where do you stand on that? How -- how
18 -- I'm trying to figure out a way to ask you the
19 question.

20 PROSPECTIVE JUROR ROLEWICZ: Yeah, I
21 know what you're trying to get at, and I don't
22 even really know how to answer it. I just--

23 MR. JOHNSON: Okay.

24 PROSPECTIVE JUROR ROLEWICZ: I--

25 MR. JOHNSON: All right. Well, let me

1 ask you this: Can you give my client a fair
2 trial do you think?

3 Given that this-- We're not calling any
4 police officers. We're not going to call any
5 police officers. There's all these charges
6 against him. Can you give him a fair trial
7 anyway?

8 PROSPECTIVE JUROR ROLEWICZ: I would
9 hope so.

10 MR. JOHNSON: What do you think though?
11 We don't know unless you tell us. Give us your
12 best answer. We'll go with that.

13 PROSPECTIVE JUROR ROLEWICZ: I-- All I
14 can say is I would hope so. I -- I don't -- I
15 mean, I wouldn't lie. I wouldn't. You know, I
16 would try and listen to everything without bias,
17 but--

18 MR. JOHNSON: Um-hum.

19 PROSPECTIVE JUROR ROLEWICZ: --I can't
20 promise that I wouldn't end up with that still
21 being back there (indicating) noodling around.

22 MR. JOHNSON: Thank you, sir. That's
23 all we're asking. Appreciate it.

24 Your Honor, we move to excuse Mr.
25 Rolewicz for cause. His ambiguity here is I

1 think what he is trying to express. He is
2 concerned enough to bring this to our attention.
3 We feel that for many of the reasons we argued
4 for the last gentleman, that -- that this -- in
5 this particular matter at least, this gentleman
6 is -- is not -- should not be sitting on this
7 particular panel, and we would ask that he be
8 excused for cause at this juncture.

9 THE COURT: Thank you. I have a couple
10 follow-ups.

11 I understand and most people feel
12 officers are there, they're there to protect
13 us. You have that. You grew up with that. I
14 understand that.

15 What we have to know is if you're going
16 to be a fair juror even though you have, okay, I
17 -- I grew up like this. I have friends. I
18 have people.

19 If you have an officer that comes up on
20 this stand and said that the traffic light was
21 green or red. They ran a red light, and you have
22 witnesses that are at the scene that come up to
23 this thing and said: The light was red. The
24 light white -- the light was green. We were
25 there; we seen it.

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Do you automatically, because the officer said it was red but he wasn't there, do you automatically believe the officer because he is the one that said it was red?

Or do you take all of the evidence together and see where it equals out and think, well, maybe he was right that it's red, or maybe he was mistaken it was green like the other one said, because the other evidence fits with what was said by the other witnesses, other than the officer?

PROSPECTIVE JUROR ROLEWICZ: Yes? No? It would be-- Bringing that up, it just makes me think of like would there be a traffic camera to show it, you know.

THE COURT: Okay.

PROSPECTIVE JUROR ROLEWICZ: So if there was a picture showing that was a green light and the car is passing through, then of course.

THE COURT: So then we have other evidence that you're going to consider; correct?

PROSPECTIVE JUROR ROLEWICZ: Right.

THE COURT: And that makes a good jury. You are going to look at all the evidence. You're just not going to automatically believe

1 that officer. That's what you're saying, because
2 the evidence that is coming in may contradict
3 what that officer says.

4 PROSPECTIVE JUROR ROLEWICZ: Right.

5 THE COURT: Because that's what you're
6 telling me.

7 PROSPECTIVE JUROR ROLEWICZ: If it's
8 visual evidence.

9 THE COURT: All right. At this time I'm
10 going to deny for cause.

11 MR. JOHNSON: Thank you, Your Honor.

12 THE COURT: Is there any other ones for
13 cause?

14 MS. STINEDURF: None, Your Honor.
15 Thank you.

16 MR. JOHNSON: No, Your Honor.

17 THE COURT: All right. And now we will
18 go to the juror that we had selected in the
19 back.

20 Did you hear all of my questions? I'll
21 ask both of you, the two that were just placed on
22 the panel. Did you hear all of my questions,
23 juror in the back?

24 PROSPECTIVE JUROR JACKSON: Yes.

25 THE COURT: And after hearing all of my

1 questions, is there anything that we need to
2 discuss that you feel that you need to answer
3 differently than the majority of the group?

4 PROSPECTIVE JUROR BANKHEAD: No.

5 PROSPECTIVE JUROR JACKSON: I'm just
6 having a hard time with the -- with the -- like
7 what the couple other people were saying with the
8 charges, so many as far as that, because like
9 I've got friends. When you've got multiple
10 charges, you see what I'm saying? It's usually
11 that--

12 THE COURT: Okay. So you have a problem
13 with the multiple charges?

14 PROSPECTIVE JUROR JACKSON: Yeah.

15 THE COURT: All right.

16 PROSPECTIVE JUROR JACKSON: I -- I
17 would lean more towards them because I am mutual
18 with the police. I haven't had any personal bad
19 problems with them. I haven't had--

20 THE COURT: So it's the charges with
21 you?

22 PROSPECTIVE JUROR JACKSON: Yeah.

23 THE COURT: Because there's so many
24 charges?

25 PROSPECTIVE JUROR JACKSON: And then

1 it's repeated, and then like it's -- it's like
2 month after month. Like my friend was--

3 THE COURT: Okay. Hold on a second. I
4 will let the-- We will have the attorneys -- the
5 other attorneys will go more in detail with that.

6 Remember, answer the questions that they
7 ask and don't elaborate on the other stuff
8 because we don't want to poison the rest of the
9 jury.

10 MS. STINEDURF: Thank you.

11 THE COURT: Juror is with the
12 prosecution.

13 MS. STINEDURF: Mr. Jackson, now you are
14 going to be given instructions today at the
15 conclusion of the trial and even before the
16 trial, that you are to consider each charge
17 separately. And you are to consider the
18 evidence that was presented today and consider
19 the instructions that the Judge gives you. And
20 that's ultimately what you base your
21 determination on, what you hear in this courtroom
22 only.

23 And so you have mentioned that you have
24 a concern with the number of charges. But if
25 you're given an instruction today that you are to

1 consider each charge individually and make your
2 decision that way, to make your decision based
3 only on the evidence that you hear in the
4 courtroom today, do you think you can do that?

5 PROSPECTIVE JUROR JACKSON: Yeah.

6 MS. STINEDURF: I have no further
7 questions for Mr. Jackson.

8 THE COURT: Juror is with Mr. Johnson.

9 MR. JOHNSON: Your Honor, we -- Ms.
10 Griffith as well? So we have questions of Ms.
11 Griffith, counsel.

12 MS. STINEDURF: Thank you. Ms.
13 Griffith--

14 PROSPECTIVE JUROR GRIFFITH: Yes.

15 MS. STINEDURF: --do you have anything
16 that-- You've heard some of the questions
17 today. You've heard that we have asked quite a
18 few questions. The case that we are going to be
19 hearing today involves charges of embezzlement or
20 theft committed against an elderly lady. She is
21 in her 90's.

22 You also will hear testimony from police
23 officers today.

24 Do you have anything that you think that
25 we should know about that might bear on your

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ability to be a juror today?

PROSPECTIVE JUROR GRIFFITH: No.

MS. STINEDURF: And could you be a fair and impartial juror?

PROSPECTIVE JUROR GRIFFITH: Yes, I could.

MS. STINEDURF: Thank you.

THE COURT: Mr. Johnson?

MR. JOHNSON: Now my turn. Good morning, barely. Good morning, folks.

PROSPECTIVE JUROR GRIFFITH: Good morning.

PROSPECTIVE JUROR JACKSON: Good morning.

MR. JOHNSON: Let me ask you both-- Can you all listen while I ask these folks. Okay? --does everybody deserve a fair trial?

PROSPECTIVE JUROR JACKSON: Yeah.

PROSPECTIVE JUROR GRIFFITH: Yes.

MR. JOHNSON: What if they're charged with something terrible? What if they're charged with something terrible, do they still get a fair trial?

PROSPECTIVE JUROR GRIFFITH: Yes.

PROSPECTIVE JUROR JACKSON: Yeah.

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MR. JOHNSON: What if they're charged with 500 counts, do they still get a fair trial?

PROSPECTIVE JUROR GRIFFITH: Yes.

PROSPECTIVE JUROR JACKSON: Yeah.

MR. JOHNSON: In the end, who is it up to to make sure somebody gets a fair trial, do you think?

PROSPECTIVE JUROR JACKSON: Jury.

PROSPECTIVE JUROR GRIFFITH: The jurors.

MR. JOHNSON: Okay. Can you do that?

PROSPECTIVE JUROR JACKSON: Yes.

PROSPECTIVE JUROR GRIFFITH: Yes.

MR. JOHNSON: Okay. Nobody walks in here a clone that was invented yesterday and walks into this courtroom right here; right?

PROSPECTIVE JUROR GRIFFITH: Right.

MR. JOHNSON: We all have feelings and beliefs that we walk in here with; right?

PROSPECTIVE JUROR GRIFFITH: Yes.

MR. JOHNSON: Correct?

PROSPECTIVE JUROR GRIFFITH: Yes.

PROSPECTIVE JUROR JACKSON: Yes.

MR. JOHNSON: And the reason why we are humans is because we all get together and we kind of rub down the rough edges so that we can, if I

1 have a bias, somebody else can correct me. If
2 you have a bias, I might correct you. And then
3 we rub down to what the evidence is. That's the
4 idea.

5 Do you understand?

6 PROSPECTIVE JUROR JACKSON: Yes.

7 PROSPECTIVE JUROR GRIFFITH: (Nodding
8 head indicating affirmative.)

9 MR. JOHNSON: Everybody in here is going
10 to have a bias. Do you understand?

11 PROSPECTIVE JUROR GRIFFITH: Yes.

12 PROSPECTIVE JUROR JACKSON: (Whereupon,
13 nodding head indicating affirmative.)

14 MR. JOHNSON: Okay. This is going to be
15 a lot of paperwork, but it's going to be--
16 Usually paperwork trials aren't very emotional.
17 This one is going to be emotional, because the --
18 the alleged victim here is in her 90's. And if
19 -- if the -- the -- the polls are true, most
20 jurors make up their mind within seconds of a
21 trial starting, which is bad news for the Public
22 Defender, or any Defender because the way -- if
23 you notice the way things work, because she has
24 the burden of proof she gets to go first. If you
25 make up your mind in voir dire before you have

1 heard any evidence, then it doesn't really matter
2 what the evidence is.

3 Do you agree?

4 PROSPECTIVE JUROR JACKSON: Yes.

5 MR. JOHNSON: Do you remember I talked
6 about that presumption of innocence?

7 PROSPECTIVE JUROR GRIFFITH: Yes.

8 MR. JOHNSON: Do you remember what that
9 was? Were you both able to hear me?

10 PROSPECTIVE JUROR JACKSON: Yes.

11 PROSPECTIVE JUROR GRIFFITH: Yes.

12 MR. JOHNSON: I tend to have a big
13 mouth. Were you able to hear what the
14 presumption of innocence was?

15 PROSPECTIVE JUROR JACKSON: Yes.

16 MR. JOHNSON: That my client, as he sits
17 here, there has been no evidence put in before
18 you at this point.

19 Do you understand that?

20 PROSPECTIVE JUROR GRIFFITH: Yes.

21 MR. JOHNSON: Okay. So as of right now,
22 the Judge says: Okay. We're going to skip to
23 the end. We're going -- we're just going to skip
24 to the end. What's your verdict?

25 Since you haven't received any evidence,

1 what would your verdict be? You haven't received
2 any evidence of guilt, what would your verdict
3 have to be right now?

4 PROSPECTIVE JUROR GRIFFITH: What would
5 mine -- would mine have to be?

6 MR. JOHNSON: Right now. You haven't
7 received any evidence of guilt, what would your
8 evidence -- what would your verdict have to be
9 right now?

10 PROSPECTIVE JUROR JACKSON: I would say
11 guilty.

12 MR. JOHNSON: Okay. So even though you
13 haven't received any evidence, your verdict would
14 be guilty?

15 PROSPECTIVE JUROR JACKSON: Yeah.

16 MR. JOHNSON: Ma'am?

17 PROSPECTIVE JUROR GRIFFITH: No. My --
18 my answer would be that if I haven't received any
19 evidence, the client is presumed innocent before
20 a verdict can be rendered, and all the components
21 of the witnesses and the evidence have to be
22 presented before the jurors can make a
23 decision.

24 PROSPECTIVE JUROR JACKSON: Okay.

25 MR. JOHNSON: So Mr. Jackson, you heard

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what she said?

PROSPECTIVE JUROR JACKSON: Yes.

MR. JOHNSON: Do you have an argument with that?

PROSPECTIVE JUROR JACKSON: No.

MR. JOHNSON: Okay. So let me ask you again: You haven't gotten any evidence, nothing. What would your verdict have to be right now?

PROSPECTIVE JUROR JACKSON: Not guilty.

MR. JOHNSON: Okay. All right. Have either of you been on a jury before?

PROSPECTIVE JUROR GRIFFITH: No.

PROSPECTIVE JUROR JACKSON: No.

MR. JOHNSON: Either of you in law enforcement or-- When I say law enforcement, the gentleman brought it up. When I say law enforcement, I mean if you're in store security; if you're in the military police; if you're an investigator.

Do any of you have any law enforcement experience?

PROSPECTIVE JUROR GRIFFITH: No.

PROSPECTIVE JUROR JACKSON: No.

MR. JOHNSON: Okay. And you can give us the time--

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PROSPECTIVE JUROR GRIFFITH: Yes.

PROSPECTIVE JUROR JACKSON: Yes.

MR. JOHNSON: --the time it takes us
to-- All right. Thank you very much.

THE COURT: Prosecution for cause?

MS. STINEDURF: None for cause, Your
Honor. Thank you.

THE COURT: Defense for cause?

MR. JOHNSON: None for cause, Your
Honor.

THE COURT: Prosecution for preempt?

MS. STINEDURF: People would thank and
excuse Ms. Bankhead.

THE COURT: Thank you, Ms. Bankhead.

PROSPECTIVE JUROR BANKHEAD: Thank you.

THE COURT: It does not relieve you.
You need to call us tonight. Thank you.

(Whereupon, Prospective Juror Bankhead
excused at approximately 11:57 A.M.)

THE COURT: Before we put the next juror
in the box, it is noon. So we will take our noon
break at this time. All of the jurors will come
back at -- we will start again at 1:30. If you
will take your same positions up here when you
come in.

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When you come in, out in the audience,
you can sit where you want. At that time just
make sure that you sit up closer instead of in
the back rows.

Anything further before we break for
lunch?

MS. STINEDURF: No, Your Honor. Thank
you.

MR. JOHNSON: No, ma'am. Thank you.

THE COURT: All right. And it was
touched on before during voir dire that you are
not to listen to any news media, read any papers,
try to do any investigations of this case while
you are out on break.

At this time you are released, and we
will see you at 1:30. Thank you so much.

(Whereupon, Prospective Jury Panel
excused for the noon-hour break at
approximately 11:58 A.M.)

THE CLERK-BAILIFF: If you're going to
be in the courtroom, your cell phone needs to be
turned off, please.

THE COURT: We need everybody out right
now. I've got to address something.

THE CLERK-BAILIFF: We need to clear the

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courtroom, please.

(Whereupon, all Prospective Jurors and Prospective Jury Panel exited the courtroom.)

THE COURT: You may be seated.

(Whereupon, discussion between the Clerk-Bailiff and the Court, out of the hearing of the Court Reporter.)

(Whereupon, the following transpired out of the presence of the Prospective Jury Panel.)

THE COURT: We have Mr. Coleman. We are back. We have Mr. Coleman who is in the jury pool, and Mr. Coleman has a doctor's appointment at two o'clock for his child for immunizations and stuff, and that's been scheduled. He is not able to find anybody else to take her.

Are the parties -- are the parties okay with excusing him at this time, or do you just want him to stay and be in the jury pool? It's up to you. We can send him and make him report in to another pool, but.

MS. STINEDURF: I have no objection to excusing him, Your Honor.

1 MR. JOHNSON: Let's send Mr. Coleman on
2 his way, Judge.

3 THE COURT: All right. Thank you.

4 So what we will do is we will have
5 Mr. Mahan let him know if he is allowed. But
6 Mr. Mahan, make sure he calls this afternoon in
7 that he has not been excused from jury duty
8 altogether.

9 THE CLERK-BAILIFF: Yes, ma'am.

10 THE COURT: And so before we went on the
11 record, there was some concern about contact with
12 some of the witnesses that are going to be called
13 in this case, and I have to let you know, Mr.
14 Haynes, that there has been some indication that
15 you have had contact with possible witnesses in
16 this case. Whether they contacted you or you
17 contacted them is kind of in dispute in this
18 case, but there is not a dispute that there was
19 contact.

20 So I have to let you know at this time,
21 whether they contacted you, you contacted them,
22 there can be absolutely no contact with anybody
23 that is going to be called as a possible witness
24 in this case by you.

25 If, for some reason or another, they

1 call you, you have to say: I cannot talk to you,
2 and you are to immediately hang up. If you do
3 not and you are found that you are in violation
4 of this order, then I will revoke your bond and
5 you will sit in jail through the pendency of this
6 trial.

7 Do you understand?

8 THE DEFENDANT: I do, Your Honor, yes.

9 THE COURT: Thank you.

10 MR. JOHNSON: Your Honor, may I make a
11 record?

12 THE COURT: Yes. Just one moment.

13 MR. JOHNSON: Okay.

14 THE COURT: One moment.

15 MR. JOHNSON: All right.

16 THE COURT: Anything further--

17 MS. STINEDURF: No, Your Honor.

18 THE COURT: --with that?

19 MS. STINEDURF: No.

20 THE COURT: All right. Go ahead.

21 MR. JOHNSON: I have something further
22 with that, Your Honor. The individuals that are
23 being contacted are people with whom my client is
24 in business with. These people are investors in
25 his business. He doesn't know always-- He's

1 under the impression that the People have
2 contacted all of his investors, but he doesn't
3 know all -- which ones they have contacted, which
4 ones are going to be called as witnesses.

5 Sometimes he does because they are
6 listed. Those listed obviously, but those who
7 haven't been listed, those who haven't been where
8 we're not under notice that -- that they are
9 going to be called, are still people that are in
10 his business, and they have contacted him. He's
11 contacted them. It's gone both ways, Judge, so.

12 THE COURT: That I don't have a problem
13 with. I'm stating that -- that there have been
14 -- the witness-- You have a witness list.

15 MR. JOHNSON: Yes, ma'am.

16 THE COURT: The witnesses have been
17 stated in court.

18 MR. JOHNSON: Yes, ma'am.

19 THE COURT: Any of those people that
20 have been identified as witnesses in this case--

21 MR. JOHNSON: Yes, ma'am.

22 THE COURT: --are not to be contacted or
23 talked to by the Defendant or any third party
24 that the Defendant has talked to them. That's
25 the only thing I want to make clear. He can

1 talk to his business associates or whoever is not
2 listed, but it excludes the ones that have been
3 listed.

4 MR. JOHNSON: Understood, Your Honor.
5 Thank you.

6 THE COURT: Anything further at this
7 time?

8 MS. STINEDURF: Just as a procedural
9 matter, as the Court is aware we have a number of
10 boxes full of binders that are going to be
11 exhibits. What we have done is we have prepared
12 a set for the Court, a set for the jury, and then
13 also a set for myself and for Mr. Johnson.

14 How would the Court like the copies that
15 are for the Court to be filed or stored or where
16 would you like them when the jury comes back?

17 THE COURT: So have both parties went
18 through this folder and know what--

19 Mr. Johnson, do you know what exhibits
20 are in those folders?

21 MR. JOHNSON: Your Honor, we stipulated
22 to most of the exhibits, and I assume all of
23 those are in there. So -- so we don't have an
24 objection to any of those, and I -- my -- my
25 expectation is Ms. Stinedurf has not put anything

1 in there that we will quibble with.

2 MS. STINEDURF: There are documents in
3 there that we have not stipulated to yet, so.

4 THE COURT: What I would do then is the
5 parties can and the Court can have a copy of
6 those. That way, we will just pull out what is
7 not admitted into evidence before the jury gets
8 their set of books or boxes.

9 MS. STINEDURF: Where in the courtroom
10 would the Court like the Court's copy?

11 THE COURT: You can let Mr. Mahan have
12 that and he will give that to me.

13 MS. STINEDURF: Thank you, Your Honor.

14 THE COURT: Anything further?

15 MR. JOHNSON: One final thing, Judge.
16 We talked about it last Friday or Thursday. I
17 have a doctor's appointment at 8 A.M. on
18 Wednesday morning. If we are-- Given -- given
19 where we are here, I'm able to make that, I would
20 -- would appreciate being able to go.

21 THE COURT: You will be able to meet
22 that and then just keep us up to date.

23 MR. JOHNSON: I will.

24 THE COURT: We will be -- we will be --
25 Nine o'clock we usually will start. If something

1 comes up, you can let us know that it may be a
2 little longer than-- Do you expect it to be
3 longer than an hour visit?

4 MR. JOHNSON: No, I do not.

5 THE COURT: All right. So we will meet
6 at nine o'clock then.

7 MR. JOHNSON: Okay. I will make sure
8 your secretary has my cell phone just in case.

9 THE COURT: Thank you. Anything
10 further?

11 MS. STINEDURF: No, Your Honor. Thank
12 you.

13 THE COURT: All right. We will see you
14 back here at 1:30.

15 MR. JOHNSON: Thank you, Your Honor.

16 MS. STINEDURF: Thank you.

17 THE COURT: And the courtroom is locked
18 up. If the parties want to leave their stuff,
19 they can.

20 MS. STINEDURF: Thank you.

21 (Whereupon, noon-hour recess
22 taken at approximately 12:06 P.M..
23 Jury returned and proceedings resumed
24 at approximately 1:32 P.M.)

25 (Whereupon, Prospective Jury Panel

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resumed their seats.)

THE COURT: We are back on the record.

I want to thank the jury panel for being so prompt in returning. We will call our next name.

THE CLERK-BAILIFF: Gary Anderson.

THE COURT: Good afternoon.

PROSPECTIVE JUROR ANDERSON: Hi.

THE COURT: Mr. Anderson, did you hear all of my questions?

PROSPECTIVE JUROR ANDERSON: Yes, I did.

THE COURT: Any of those of concern that we need to discuss?

PROSPECTIVE JUROR ANDERSON: None.

THE COURT: All right. Thank you.

PROSPECTIVE JUROR JACKSON: And before we had left and I just got up here--

THE COURT REPORTER: I can't hear you, sir.

THE COURT: You've got to speak up.

PROSPECTIVE JUROR JACKSON: Before we had left and I just got up here up on the stand or whatnot, but we -- I just realized that I do have a court date on Thursday, if that might affect anything. I just thought I should let you

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know.

THE COURT: All right. And you have a court date here?

PROSPECTIVE JUROR JACKSON: Yeah.

THE COURT: All right. We will-- I'll allow a voir dire of this juror along with the new juror. Juror to the prosecution.

MS. STINEDURF: Thank you, Your Honor.

Mr. Jackson, you said that you had a court date on Thursday. Is that as a witness or a victim?

PROSPECTIVE JUROR JACKSON: It was an insurance ticket that I didn't pay off right away. So they basically said just to follow-up from that.

MS. STINEDURF: All right. Do you -- do you think that you may be able to make arrangements to reschedule that, if needed?

PROSPECTIVE JUROR JACKSON: If that's possible, I can.

MS. STINEDURF: And is that with the Muskegon County Prosecutor's Office?

PROSPECTIVE JUROR JACKSON: Yes, ma'am.

MS. STINEDURF: And Mr. Anderson, I know that you said there was nothing in particular

1 that stuck out to you, but I just want to make
2 sure I go over everything. I know that sometimes
3 when you're sitting in the back, it's a little
4 different than when you're sitting up here.

5 So primarily, you know, do you have any
6 significant experience with working with elderly
7 adults, maybe caring for elderly adults?

8 PROSPECTIVE JUROR ANDERSON: My mother
9 is 91. How's that?

10 MS. STINEDURF: Oh, okay. Well--

11 PROSPECTIVE JUROR ANDERSON: But she
12 still lives at the home.

13 MS. STINEDURF: All right.

14 PROSPECTIVE JUROR ANDERSON: And she is
15 able to take care of herself, so, you know.

16 MS. STINEDURF: Does anyone assist with
17 her care at all?

18 PROSPECTIVE JUROR ANDERSON: Just the
19 family, whatever, you know, go to the store and
20 whatnot. But as far as no outside, no.

21 MS. STINEDURF: Is that something that
22 you yourself help with?

23 PROSPECTIVE JUROR ANDERSON: Yeah, I
24 help.

25 MS. STINEDURF: Any strong opinions

1 about the fact that the elderly victim today is
2 also in her 90s?

3 PROSPECTIVE JUROR ANDERSON: No.

4 MS. STINEDURF: I have no more
5 questions.

6 THE COURT: Thank you. Juror is with
7 Mr. Johnson.

8 MR. JOHNSON: Thank you, Your Honor.

9 All right. Mr. Johnson is back, because
10 we just can't beat a horse to death enough
11 here. Let me make sure I understand.

12 Mr. Jackson, you have a court hearing
13 this Thursday?

14 PROSPECTIVE JUROR JACKSON: Yes, sir.

15 MR. JOHNSON: Do you know what time?

16 PROSPECTIVE JUROR JACKSON: I can't
17 recall correctly. It's either 2:30 or 9:30.

18 MR. JOHNSON: Okay. And do you know if
19 it's called a pretrial or -- or a Preliminary
20 Examination, or what it's called?

21 PROSPECTIVE JUROR JACKSON: I believe
22 it's a Prelim Examination. I-- They had issued
23 a warrant for me for no insurance ticket.

24 MR. JOHNSON: Okay.

25 PROSPECTIVE JUROR JACKSON: And so I

1 paid that part, but, you know, after you -- you
2 turn yourself in, you -- you got to go back to
3 court again.

4 MR. JOHNSON: Yeah. I don't want to get
5 in your business because it gets embarrassing. I
6 just want to make sure--

7 PROSPECTIVE JUROR JACKSON: I don't
8 mind. That's why I -- I'm bringing it to your
9 attention because I didn't know if it was going
10 to cause a problem or not.

11 MR. JOHNSON: Okay. And -- and quite
12 frankly, if the problem can get straightened out,
13 you will be prepared to sit with us and try this
14 particular matter?

15 PROSPECTIVE JUROR JACKSON: Yes, sir.

16 MR. JOHNSON: All right. Thank you very
17 much. Mr. Anderson?

18 PROSPECTIVE JUROR ANDERSON: Yes.

19 MR. JOHNSON: Good afternoon, sir.

20 PROSPECTIVE JUROR ANDERSON: How you
21 doing.

22 MR. JOHNSON: You heard all my questions
23 too?

24 PROSPECTIVE JUROR ANDERSON: (Nodding
25 head indicating affirmative.)

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MR. JOHNSON: Is there something that jumps out in your mind that you would have answered differently than anyone else up here?

PROSPECTIVE JUROR ANDERSON: No.

MR. JOHNSON: Okay. I meant to ask this one question I wanted to ask, and I forgot.

Oh, during the course of the trial my client's friend-- Her name is Beth Jones.

--will be -- will be sitting in the courtroom, and I -- we gave all those names in the beginning and I just want to run that one by you. And I don't know if you know anybody by that name or not, or if that would make a difference to you or--

PROSPECTIVE JUROR ANDERSON: Doesn't ring a bell.

MR. JOHNSON: Okay. Your mom is 91?

PROSPECTIVE JUROR ANDERSON: 91.

MR. JOHNSON: And she is fairly -- sounds like she's fairly independent?

PROSPECTIVE JUROR ANDERSON: Yes.

MR. JOHNSON: Okay. This is a case where the state is alleging that, well, it's elder abuse. That's -- that's the bottom line here.

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Is that something that's-- You know,
there's -- there's all kinds of different stuff
that people do that -- that's, you know, some
people it just strikes a cord with them. Some
people can handle it and it's not emotional.

Is this something you can handle
intellectually and make your decision based on
the evidence?

PROSPECTIVE JUROR ANDERSON: I believe
it.

MR. JOHNSON: Where is the evidence
going to come from, Mr. Anderson?

PROSPECTIVE JUROR ANDERSON: Right up
there (indicating).

MR. JOHNSON: See, you were paying
attention.

PROSPECTIVE JUROR ANDERSON: I was
paying good attention.

MR. JOHNSON: Thank you. I have no
further questions.

THE COURT: Thank you. Cause for the
prosecutor?

MS. STINEDURF: None for cause, Your
Honor.

THE COURT: Cause, Mr. Johnson?

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MR. JOHNSON: None for cause, Your

Honor.

THE COURT: Peremptory is with defense?

MR. JOHNSON: Thank you, Your Honor. We will thank and excuse Mr. Walker at this juncture, Seat Number 3.

THE COURT: Mr. Walker, you are excused at this time and make sure you call in this afternoon just to make sure you don't have to come in the rest of the week.

PROSPECTIVE JUROR WALKER: Yes, ma'am.

(Whereupon, Prospective Juror Walker excused at approximately 1:38 P.M.)

THE CLERK-BAILIFF: Colleen Goodman (sic).

PROSPECTIVE JUROR GOLDEN: Golden.

THE CLERK-BAILIFF: I'm sorry. Golden.

THE COURT: Good afternoon.

PROSPECTIVE JUROR GOLDEN: Good afternoon.

THE COURT: Did you hear all of my questions?

PROSPECTIVE JUROR GOLDEN: I did.

THE COURT: Any of those of concern that we need to discuss?

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PROSPECTIVE JUROR GOLDEN: Not really,
no.

THE COURT: Thank you. Juror to the
prosecutor.

MS. STINEDURF: Ms. Golden, as you have
heard, we've asked several questions about
experiences with elderly adults and people caring
for aging parents, that type of thing.

Any personal experiences with any of
those matters?

PROSPECTIVE JUROR GOLDEN: No.

MS. STINEDURF: Any strong opinions
either for or against the police?

PROSPECTIVE JUROR GOLDEN: No.

MS. STINEDURF: Anything in particular
that you think we should know today about you?

PROSPECTIVE JUROR GOLDEN: Not really.

MS. STINEDURF: All right. Well, thank
you.

THE COURT: To the defense.

MR. JOHNSON: Thank you.

Good afternoon, Ms. Golden.

PROSPECTIVE JUROR GOLDEN: Hello.

MR. JOHNSON: Ms. Golden, you are a very
soft-spoken lady. So I'm going to stand back

1 here because I know if I can hear you back here,
2 the gentleman over here (indicating) can hear you
3 as well. Okay?

4 PROSPECTIVE JUROR GOLDEN: I can do it a
5 lot louder if you want me to.

6 MR. JOHNSON: There you go. There you
7 go. Thank you, ma'am. Bowl me over.

8 Okay. One of the questions, a trial is
9 -- is set up with rules like a basketball game
10 or a baseball game, and there's some things that
11 -- that are up to the jury, and some of the
12 things that are up to the Judge or somebody
13 else.

14 Can you accept that?

15 PROSPECTIVE JUROR GOLDEN: Yes.

16 MR. JOHNSON: One of the things that are
17 up to the Judge is the punishment, if the guilt
18 is found one way or the other.

19 Do you understand that -- that if guilt
20 is found, that's up to the Judge?

21 PROSPECTIVE JUROR GOLDEN: Yes.

22 MR. JOHNSON: And that if the Judge
23 tells you you are not to consider the -- the --
24 the penalties, even if you know them, in making
25 your decision, that's -- can you do that?

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PROSPECTIVE JUROR GOLDEN: Yes.

MR. JOHNSON: And so you will make your decision on the evidence and not what -- what the guilt or punishment might be; is that correct?

PROSPECTIVE JUROR GOLDEN: Yes.

MR. JOHNSON: Okay. Ma'am, tell me, do you have -- do you have in your history, have you had any close relationships with -- with any person who is over 90?

PROSPECTIVE JUROR GOLDEN: Not close, no.

MR. JOHNSON: Do you know a few people maybe from church or something like that?

PROSPECTIVE JUROR GOLDEN: Aunts, uncles.

MR. JOHNSON: Okay.

PROSPECTIVE JUROR GOLDEN: But I've never been so close to it that it's been--

MR. JOHNSON: You've never had to provide care?

PROSPECTIVE JUROR GOLDEN: No. No, I haven't.

MR. JOHNSON: But you've had an opportunity to have conversations with them and -- and greet them, that sort of thing; correct?

1 PROSPECTIVE JUROR GOLDEN: They live out
2 of state, so.

3 MR. JOHNSON: Okay. So other than that,
4 you don't have any contact with folks that --
5 that are that senior?

6 PROSPECTIVE JUROR GOLDEN: True.

7 MR. JOHNSON: How about in their 80s?

8 PROSPECTIVE JUROR GOLDEN: I have a
9 cousin; she's still independent. She does just
10 fine.

11 MR. JOHNSON: Okay. That -- that's -- I
12 guess that's my question. Would you agree that
13 -- that people age at different rates?

14 PROSPECTIVE JUROR GOLDEN: Um-hum.

15 MR. JOHNSON: That age affects people
16 differently?

17 PROSPECTIVE JUROR GOLDEN: Yes.

18 MR. JOHNSON: And that some people-- I
19 will -- I will stop. That's all I need to
20 know. I don't need to--

21 Are you involved in elder care at all
22 yourself?

23 PROSPECTIVE JUROR GOLDEN: No.

24 MR. JOHNSON: Are you-- Have you ever
25 been-- Well let's, do you know any folks in law

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enforcement and -- and--

PROSPECTIVE JUROR GOLDEN: No, not really, uh-uh, no.

MR. JOHNSON: Okay. And none of the names that we gave you rang a bell?

PROSPECTIVE JUROR GOLDEN: No.

MR. JOHNSON: Okay. Can you -- can you take a witness based on the witness as opposed to the uniform? You know what I mean?

PROSPECTIVE JUROR GOLDEN: Yes. Yes.

MR. JOHNSON: In other words, if someone comes in uniform and is a police officer, you can still take them and evaluate them based on what they saw, what they could have saw -- seen. And they're human. They may have biases; they may not. Right?

PROSPECTIVE JUROR GOLDEN: Yes.

MR. JOHNSON: Okay. You're not against police officers or any other person because of their uniform; is that correct?

PROSPECTIVE JUROR GOLDEN: No. No.

MR. JOHNSON: Thank you, ma'am. I have no further questions.

THE COURT: Thank you. Jury is with the prosecution for cause?

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MS. STINEDURF: None for cause, Your Honor.

THE COURT: Thank you. Defense for cause?

MR. JOHNSON: None for cause, Your Honor.

THE COURT: Preempt with the prosecution?

MS. STINEDURF: People would thank and excuse Mr. Anderson.

THE COURT: Mr. Anderson?

PROSPECTIVE JUROR ANDERSON: What's that?

THE COURT: Mr. Anderson, you are excused.

PROSPECTIVE JUROR ANDERSON: Excused?

THE COURT: You are. That was quick up and down.

PROSPECTIVE JUROR ANDERSON: I didn't -- I didn't do nothing wrong.

THE COURT: I want to thank you for your service today. Make sure you call this afternoon.

PROSPECTIVE JUROR ANDERSON: Okay. Thank you.

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THE COURT: Thank you.

(Whereupon, Prospective Juror Anderson
excused at approximately 1:42 P.M.)

THE CLERK-BAILIFF: Jeffrey Boulet.

THE COURT: Good afternoon.

PROSPECTIVE JUROR BOULET: Good
afternoon.

THE COURT: Were you able to hear all of
my questions?

PROSPECTIVE JUROR BOULET: Yes, ma'am.

THE COURT: Any of those that we need to
talk about?

PROSPECTIVE JUROR BOULET: No, ma'am.

THE COURT: All right. Thank you.

Juror is with the prosecution.

MS. STINEDURF: And so once again, any
personal experiences caring for elderly adults or
perhaps working in a medical facility, anything
like that?

PROSPECTIVE JUROR BOULET: No, ma'am.

MS. STINEDURF: Any strong opinions
about the police one way or another?

PROSPECTIVE JUROR BOULET: No, ma'am.

MS. STINEDURF: All right. Thank you.

PROSPECTIVE JUROR BOULET: Thank you.

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THE COURT: To the defense.

MR. JOHNSON: I'm sorry. I couldn't hear your last name.

PROSPECTIVE JUROR BOULET: Boulet.

MR. JOHNSON: Boulet. Thank you.

PROSPECTIVE JUROR BOULET: That's fine. I've heard all interpretations.

MR. JOHNSON: Good afternoon. Thank you for joining us this afternoon. We don't have to beat the horse anymore. You've heard the questions.

PROSPECTIVE JUROR BOULET: No, sir.

MR. JOHNSON: And you know kind of what we're looking for here?

PROSPECTIVE JUROR BOULET: Yes, sir.

MR. JOHNSON: Correct?

PROSPECTIVE JUROR BOULET: Yes, sir.

MR. JOHNSON: And if -- if you were in my shoes or if you were in the prosecutor's shoes, would you have any problems with a person just like yourself sitting on a jury of this nature?

PROSPECTIVE JUROR BOULET: Should not, no.

MR. JOHNSON: Okay. There are a lot of

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charges in here. Is that evidence?

PROSPECTIVE JUROR BOULET: No.

MR. JOHNSON: Thank you. I have no further questions.

THE COURT: Thank you. For cause, prosecution?

MS. STINEDURF: None, Your Honor.

THE COURT: For cause, defense?

MR. JOHNSON: Your Honor, we would thank and excuse Mister--

THE COURT: For cause?

MR. JOHNSON: Oh, I'm sorry, Your Honor. None for cause.

THE COURT: Thank you. For preempt?

MR. JOHNSON: Thank you, Your Honor. We would thank and excuse Mr. Rolewicz at this juncture.

THE COURT: Mr. Rolewicz, thank you so much. And if you would call this afternoon to check to see if you have to come in tomorrow.

PROSPECTIVE JUROR ROLEWICZ: Okay. Thank you.

THE COURT: Thank you.

(Whereupon, Prospective Juror Rolewicz excused at approximately 1:44 P.M.)

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THE CLERK-BAILIFF: Mark Upman.

THE COURT: Good afternoon.

PROSPECTIVE JUROR UPMAN: Good
afternoon, Your Honor.

THE COURT: Have you heard all of my
questions?

PROSPECTIVE JUROR UPMAN: I have, Your
Honor.

THE COURT: Any of those that we need to
discuss?

PROSPECTIVE JUROR UPMAN: No, Your
Honor.

THE COURT: Thank you. To the
prosecution.

MS. STINEDURF: Really the bottom line
after all you've heard today, you've heard us ask
about vulnerable adult. You've heard us ask
about the police.

Is there any reason that you can't
follow the jury instructions today?

PROSPECTIVE JUROR UPMAN: No reason.

MS. STINEDURF: Thank you.

THE COURT: Defense.

MR. JOHNSON: Good afternoon, Mr.
Upman.

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PROSPECTIVE JUROR UPMAN: Good

afternoon.

MR. JOHNSON: Is there anything about the subject matter, nature of this particular offense, that -- that -- that gives you pause on being willing to serve on this particular panel?

PROSPECTIVE JUROR UPMAN: No, sir.

MR. JOHNSON: Do you know of any reason or are you able to give us the time and attention that we are going to need for the next few days?

PROSPECTIVE JUROR UPMAN: Yes, sir.

MR. JOHNSON: And you've kind of heard what it sounds like and you feel how warm it gets and you have tested the seats now.

Is that comfortable? Are you all set for a couple hours?

PROSPECTIVE JUROR UPMAN: Yes, sir.

MR. JOHNSON: All right. Thank you, sir.

THE COURT: Thank you. Cause, prosecution?

MS. STINEDURF: None, Your Honor.

THE COURT: Cause, Mr. Johnson?

MR. JOHNSON: None, Your Honor.

THE COURT: Peremptory, Ms. Stinedurf?

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MS. STINEDURF: None. Thank you.

THE COURT: Thank you. Preempt, Mr. Johnson?

MR. JOHNSON: Your Honor, we would thank and excuse Mr. Jackson at this point.

THE COURT: Thank you. Mr. Jackson, thank you for your service and make sure you call this afternoon.

PROSPECTIVE JUROR JACKSON: All right.

MR. JOHNSON: Thank you.

(Whereupon, Prospective Juror Jackson excused at approximately 1:47 P.M.)

THE CLERK-BAILIFF: Stephanie Misciasci.

THE COURT: I don't think that's right. Is it Misciasci?

PROSPECTIVE JUROR MISCIASCI: That's all right.

THE COURT: Mr. Mahan thinks you misspelled it and it should be Smith.

PROSPECTIVE JUROR MISCIASCI: Sounds right.

THE COURT: Did you hear all of my questions?

PROSPECTIVE JUROR MISCIASCI: I did.

1 THE COURT: And are there any of those
2 we need to talk about?

3 PROSPECTIVE JUROR MISCIASCI: No.

4 THE COURT: Thank you. Miss--

5 MS. STINEDURF: Ms. Misciasci, after
6 you've heard everything you have heard today,
7 questions about vulnerable adults, questions
8 about experiences with the police, is there any
9 reason that you can't follow the jury
10 instructions today?

11 PROSPECTIVE JUROR MISCIASCI: No.

12 MS. STINEDURF: Thank you.

13 THE COURT: Thank you.

14 MR. JOHNSON: Ma'am, how do I pronounce
15 your last name?

16 PROSPECTIVE JUROR MISCIASCI: Misciasci.

17 THE COURT: Sure.

18 MR. JOHNSON: And look around, all the
19 folks in that particular group there, do any of
20 you know any of the others before you walked in
21 the door?

22 (Whereupon, Prospective Jury Panel
23 shaking heads indicating negative.)

24 MR. JOHNSON: As far as you know?

25 I have no further questions. Thank

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you.

THE COURT: Thank you. Cause,
prosecution?

MS. STINEDURF: None, Your Honor.

THE COURT: Cause, defense?

MR. JOHNSON: None, ma'am.

THE COURT: Preempt, prosecution?

MS. STINEDURF: None. Thank you.

THE COURT: Preempt, Mr. Johnson?

MR. JOHNSON: None, Your Honor. Thank
you.

THE COURT: All right. Looks like maybe
we might have a jury.

Ladies and Gentlemen of the Jury, you
have been chosen to decide a criminal charge made
by the State of Michigan against one of your
fellow citizens. I will now ask you to stand
and swear to perform your duties to try the case
justly and to reach a true verdict.

If your religious beliefs do not permit
you to take an oath, you may instead affirm to
try the case justly and reach a true verdict.

Mr. Mahan?

THE CLERK-BAILIFF: Would you please
rise and raise your right hand.

1 Do you solemnly swear or affirm that in
2 this action now before the Court, that you will
3 justly decide the questions submitted to you;
4 that unless you are discharged by the Court from
5 further deliberation, that you will render a true
6 verdict, and that you will render your verdict
7 only on the evidence introduced and in accordance
8 with the instructions of the Court, so help you
9 God?

10 (Whereupon, Jury Panel was duly
11 administered an oath, sworn in, and
12 responded affirmatively.)

13 THE COURT: Thank you. You may be
14 seated. Well, it looks like we do have a
15 jury.

16 So at this time I would like to thank
17 and excuse all of the jury panel that is left in
18 the audience. Just make sure that you do call
19 in tonight to see if you have to come back
20 tomorrow because, like I said, we have a couple
21 other criminal courts. So you may be called in
22 for that.

23 So you are excused to go. Thank you
24 very much.

25 (Whereupon, Prospective Jury Panel

1 excused at approximately 1:50 P.M.)

2 THE COURT: All right. At this time
3 what I'm going to do is, so that you can get rid
4 of coats or anything that you need to get rid of,
5 you will be the jury for this case. There's 13
6 of you. I need all of you to listen carefully to
7 all of the -- all of the testimony and the
8 instructions because as I stated at the
9 beginning, we don't know who is going to get
10 picked from this box we have over here
11 (indicating) and be excused at the end.

12 So at this time I'm going to let you go
13 into over here (indicating). To your right is
14 the jury room. There's also bathrooms. There's
15 a refrigerator back there. That is your room
16 now until we -- you are done with this case.

17 We lock it up at nighttime. We do not
18 let the cleaning crew go in there. I mean, it's
19 yours for the time that you are here. So if you
20 want to bring something in the morning, if you
21 want to bring some lunch or something and you
22 want to put it in there, you are more than
23 welcome to do that.

24 We will let you go at this time back to
25 get a little familiar with that, get

1 comfortable. Mr. Mahan will show you where some
2 of the stuff is back there that you will need to
3 know, and then we will get started.

4 The next thing that happens is I have to
5 give you some preliminary instructions, and then
6 we will go into what's called opening
7 statements.

8 So at this time I'll excuse you to the
9 jury room. Thank you.

10 (Whereupon, Jury excused to the
11 jury room at approximately 1:54 P.M.;
12 with proceedings resuming as follows;
13 out of the presence of the Jury.)

14 THE COURT: You may be seated.

15 All right. I'm going to let the jury
16 get their stuff all taken care of. If I could
17 see the attorneys to make sure that we've got our
18 preliminary instructions that need to be read all
19 set.

20 Anything before we go off the record?

21 MR. JOHNSON: No, ma'am.

22 MS. STINEDURF: No, Your Honor.

23 THE COURT: All right. Thank you.

24 (Whereupon, recess taken at
25 approximately 1:55 P.M.; with

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proceedings resuming at approximately
2:36 P.M., out of the presence of
the Jury.)

THE COURT: We are back on the record.
Anything prior to bringing the jury in?

MS. STINEDURF: Yes. Mr. Johnson and I
have discussed stipulating to Exhibits 1 through
6, and those are contained in binders that we're
prepared to admit as exhibits here.

We have also provided a copy to the
Court up at the Court's bench, Your Honor.

THE COURT: Mr. Johnson?

MR. JOHNSON: That is correct, Your
Honor.

THE COURT: All right. So Exhibits 1
through 6 then will be admitted through
stipulation.

Anything further?

MS. STINEDURF: Yes. The first witness
is going to be Ardis Liddle. She is currently on
the fifth floor waiting room. She is 97 years
old. I really hate to have her wait on the
benches outside.

Can we wait to bring her up until we're
done with openings and--

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MR. JOHNSON: Yes, that's fine.

MS. STINEDURF: Thank you.

THE COURT: Do we have a Victim Witness that's going to bring her up?

MS. STINEDURF: She has friends and family that are sitting with her, and I can also ask the agent to go down and get her.

THE COURT: Okay. What we will do is when you -- Mr. Johnson starts his, if he is going to make an opening-- Are you going to reserve?

MR. JOHNSON: I'm going to make an opening, Your Honor.

THE COURT: You're going to make an opening. So when Mr. Johnson starts his opening, then you can have your agent go down and bring her up.

Is that okay?

MS. STINEDURF: Yes. One other matter with regard to Ms. Liddle. She said she's had some medications where she has dry mouth. She's been drinking a lemon vitamin water.

Is that okay if she takes that up with her?

THE COURT: Yes, that is.

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THE CLERK-BAILIFF: Is she in a wheelchair?

MS. STINEDURF: No. She has a walker though. So she won't be able to go up that step (indicating).

THE CLERK-BAILIFF: I'll bring the wireless.

THE COURT: You'll bring a wireless? Okay.

THE CLERK-BAILIFF: Actually we'll just drag one over.

MS. STINEDURF: Do you need help?

THE COURT: Now, with the preliminary jury instructions, we went through all of those.

Any objection to me-- Ms. Boeschenstein is cleaning up some of the his and hers in them.

Are the parties-- Do you want to wait until you have a physical copy on your desk to go through with while I go through it?

MR. JOHNSON: I would prefer that, yes, Your Honor, if I may.

THE COURT: Okay. We'll wait a few minutes.

MR. JOHNSON: All right.

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(Whereupon, recess taken at approximately 2:37 P.M.; with proceedings resuming at approximately 2:44 P.M., out of the presence of the Jury.)

THE COURT: We are back on the record.

Have you reviewed the preliminary instructions?

MS. STINEDURF: Yes, Your Honor.

THE COURT: And are they satisfactory?

MS. STINEDURF: Yes, Your Honor.

MR. JOHNSON: Yes, Your Honor.

THE COURT: Thank you. All right. Thank you. We will bring the jury back in.

(Whereupon, Jury returned to the courtroom at approximately 2:45 P.M.)

THE COURT: You may be seated. Thank you very much.

Sometimes we have to take care of some stuff that we didn't expect we had to take care of. And I want to let you know, as jurors, we stand for you when you come in. When you leave, we will be standing for you, and you do not have to wait for me to tell everyone to sit down. You have the right to come in and just have a seat

1 when you get there.

2 So at this time what I will be doing is
3 reading through the preliminary instructions.
4 And after the preliminary instructions, like I
5 had stated, then we will have opening statements
6 at that time.

7 Now I will explain some of the legal
8 principles you will need to know and the
9 procedures we will follow in this trial.

10 As you discuss the case, you should
11 think about all my instructions together as the
12 law you are to follow. Because we have omitted
13 inapplicable instructions, the numbers on the
14 instructions may not be sequential.

15 And you will hear that every once in
16 awhile, and sometimes you will hear the
17 vibrations. Our system in here is pretty old and
18 it kind of -- sometimes we even hear people down
19 the street saying: Breaker, breaker. So if you
20 hear that, that's -- we apologize.

21 A trial follows this procedure-- Oh,
22 wait a minute. I'm going to go back to this.

23 At the conclusion of this case, we will
24 provide you the final instructions and a copy of
25 those to you.

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A trial follows this procedure:

First, the prosecutor makes an opening statement where she gives her theories about the case. The Defendant's lawyer does not have to make an opening statement, but he may make an opening statement after the prosecutor makes hers, or he may wait until later. These statements are not evidence. They are only meant to help you understand how each side views the case.

Next, the prosecutor presents her evidence. The prosecutor may call witnesses to testify and may show you exhibits, like documents or objects. The Defendant's lawyer has the right to cross-examine the prosecutor's witnesses.

After the prosecutor has presented all her evidence, the Defendant's attorney may also offer evidence, but does not have to. By law, the Defendant does not have to prove his innocence or produce any evidence. If the defense does call any witnesses, the prosecutor has the right to cross-examine them. The prosecutor may also call witnesses to contradict the testimony of the defense witnesses.

After all the evidence has been

1 presented, the prosecutor and the Defendant's
2 lawyer will make their closing arguments. Like
3 the opening statements, these are not evidence.
4 They are only meant to help you understand the
5 evidence and the way each side sees the case.
6 You must base your verdict only on the evidence.

7 My responsibilities as the judge in this
8 trial are to make sure that the trial is run
9 fairly and efficiently, to make decisions about
10 evidence, and to instruct you about the law that
11 applies to this case. You must take the law as I
12 give it to you. Nothing I say is meant to
13 reflect my own opinions about the facts of the
14 case. As jurors, you are the only -- you are the
15 ones who will decide the case.

16 Your responsibilities as jurors is to
17 decide what the facts of the case are. This is
18 your job and no one else's. You must think about
19 all the evidence and all the testimony and then
20 decide what each piece of evidence means and how
21 important you think it is. This includes how
22 much you believe what each of the witnesses
23 said.

24 What you decide about any fact in this
25 case is final.

1 Count I: Racketeering, Conducting an
2 Enterprise. The Defendant is charged with the
3 crime of conducting a racketeering enterprise.
4 To prove this charge, the prosecutor must prove
5 each of the following elements beyond a
6 reasonable doubt:

7 First, that the Defendant was an
8 employee of, or was associated with, an
9 enterprise. An enterprise may be an individual
10 person, a sole proprietorship, a partnership, a
11 corporation, a limited liability company, a
12 trust, a union, an association, a governmental
13 unit, any other legal entity, or any other
14 association of persons.

15 Third-- I mean, second: The Defendant
16 knowingly conducted or participated in the
17 affairs of the enterprise directly or indirectly
18 through a pattern of racketeering.

19 An act of racketeering is committed,
20 attempting to commit, or conspiring to commit a
21 listed offense for financial gain, or aiding and
22 abetting, soliciting, coercing, or intimidating
23 another to commit a listed offense for financial
24 gain.

25 The listed offenses that the Defendant

1 is accused of committing are:

2 Embezzlement by an agent, 100,000 or
3 more; embezzlement by an agent \$20,000 or more
4 but less than \$50,000; and embezzlement by an
5 agent of a thousand dollars or more but less than
6 \$20,000.

7 The elements of the listed offenses are:

8 The elements of embezzlement by an agent
9 100,000 or more, are:

10 First, that the money belonged to Ardis
11 Liddle.

12 Second, that the Defendant had a
13 relationship of trust with Ardis Liddle because
14 the Defendant was an agent.

15 Third, that the Defendant obtained
16 possession or control of the money because of
17 this relationship.

18 Fourth, that the Defendant dishonestly
19 disposed of the money or converted the money to
20 his own use.

21 Fifth, that at the time the Defendant
22 did this, he intended to defraud or cheat Ardis
23 Liddle of some money or property.

24 Sixth, that the fair market value of the
25 property or amount of property embezzled was

1 \$100,000 or more.

2 The elements of embezzlement by an agent
3 \$20,000 or more but less than 50,000 are:

4 First, that the money belonged to Ardis
5 Liddle.

6 Second, that the Defendant had a
7 relationship of trust with Ardis Liddle because
8 the Defendant was an agent.

9 Third, that the Defendant obtained
10 possession or control of the money because of
11 this relationship.

12 Fourth, that the Defendant dishonestly
13 disposed of the money or converted the money to
14 his own use.

15 Fifth, that at the time the Defendant
16 did this, he intended to defraud or cheat Ardis
17 Liddle of some money or property.

18 Sixth, that the fair market value of the
19 property or amount of money embezzled was \$20,000
20 or more but less than 50,000.

21 Elements of embezzlement by an agent
22 1,000 or more but less than 20,000 are:

23 First, that the money belonged to Ardis
24 Liddle.

25 Second, that the Defendant had a

1 relationship of trust with Ardis Liddle because
2 the Defendant was an agent.

3 Third, that the Defendant obtained
4 possession or control of the money because of
5 this relationship.

6 Fourth, the Defendant dishonestly
7 disposed of the money or converted the money to
8 his own use.

9 Fifth, that at the time the Defendant
10 did this, he intended to defraud or cheat Ardis
11 Liddle of some money or property.

12 Sixth, that the fair market value of the
13 property or amount of money embezzled was 1,000
14 or more but less than 20,000.

15 If you find that the Defendant committed
16 acts of racketeering, you must also determine
17 whether he engaged in a pattern of racketeering,
18 which means committing at least two acts of
19 racketeering to which all of the following
20 characteristics apply:

21 The acts have the same or substantially
22 similar purpose, result, participants, victim, or
23 method of commission, or are otherwise
24 interrelated by distinguishing characteristics
25 and are not isolated acts.

1 2, or B: The act posed a threat of
2 continued criminal activity, and at least one act
3 occurred in Michigan after April 1st, 1996, and
4 the last act occurred not more than ten years
5 after the act before it.

6 It is up to you to decide whether the
7 prosecution -- prosecutor has proved beyond a
8 reasonable doubt both that the Defendant
9 committed acts of racketeering, and that he
10 engaged in a pattern of racketeering to conduct a
11 or participate in the affairs of an enterprise.

12 An agent is a person who has been given
13 authority to represent another person or to act
14 on another person's behalf.

15 Conversion means using or keeping
16 someone else's property without that person's
17 permission.

18 If you determine beyond a reasonable
19 doubt that the Defendant was an agent of Ardis
20 Liddle; that the Defendant had money entrusted
21 to his care because of this relationship; that
22 the Defendant was asked to pay, refund, or
23 deliver the money to Ardis Liddle and did not do
24 so; then these facts, if not explained, are
25 circumstances from which you may infer that the

1 Defendant intended to embezzle the money.

2 However, you do not have to make that
3 inference.

4 Embezzlement from a Vulnerable Victim --
5 a Vulnerable Adult, 100,000 or more.

6 The Defendant is charged with the crime
7 of embezzlement from a vulnerable adult, 100,000
8 or more. To prove this charge, the prosecutor
9 must prove each of the following elements beyond
10 a reasonable doubt:

11 First, that the Defendant obtained or
12 used the money of Ardis Liddle.

13 Second, that the Defendant used fraud,
14 deceit, misrepresentation, coercion, or unjust
15 enrichment to obtain or use the money.

16 Third, that at the time, Ardis Liddle
17 was a vulnerable adult. That means Ardis Liddle
18 was 18 years or older and was aged or physically
19 disabled such that she required supervision or
20 personal care, or she lacked personal and social
21 skills required to live independently.

22 Fourth, that the Defendant knew or
23 should have known that Ardis Liddle was a
24 vulnerable adult.

25 Fifth, that the amount of money taken

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was 100,000 or more.

Sixth, that the property was taken for the direct benefit of the Defendant or to indirectly benefit him. An indirect benefit means that the Defendant gained some advantage or value other than possession or use of the money or property itself.

Embezzlement from a Vulnerable Adult 1,000 or more but less than 20,000.

The Defendant is charged with the crime of embezzlement from a vulnerable adult 100 -- 1,000 or more but less than 20,000. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the Defendant obtained or used the money of Ardis Liddle.

Second, that the Defendant used fraud, deceit, misrepresentation, coercion, or unjust enrichment to obtain or use the money.

Third, that at the time, Ardis Liddle was a vulnerable adult. This means Ardis Liddle was 18 years or older and was aged or physically disabled such that she required supervision or personal care, or she lacked personal or social

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skills required to live independently.

Fourth, that the Defendant knew or should have known that Ardis Liddle was a vulnerable adult.

Fifth, that the amount of money taken was 1,000 or more but less than 20,000.

Sixth, that the property was taken for the direct benefit of the Defendant, or to indirectly benefit him. An indirect benefit means that the Defendant gained some advantage or value other than possession or use of the money or property itself.

The Defendant is charged with the crime of filing a false or a fraudulent tax return or payment. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the Defendant either made or caused a tax return or tax payment to be made to the Michigan Department of Treasury.

Second, that the tax return or tax payment was false or fraudulent. A false or fraudulent return or payment is a return or payment that is incomplete, inaccurate, misleading, or forged.

1 Third, that at the time the return or
2 payment was made, the Defendant had the intent to
3 defraud or the intent to evade payment of a tax
4 or part of a tax.

5 The Defendant is required to report
6 income on a tax return. Income includes any
7 gains of money or property that the Defendant
8 obtained during the reported tax period. It does
9 not matter whether the money or property was
10 gained in a legal or illegal manner.

11 When it is time for you to decide the
12 case, you are only allowed to consider the
13 evidence that was admitted in the case. Evidence
14 includes only the sworn testimony of witnesses,
15 and exhibits admitted into evidence, and anything
16 else I tell you to consider as evidence.

17 It is your job to decide what the facts
18 of the case are. You must decide which
19 witnesses you believe and how important you think
20 their testimony is. You do not have to accept or
21 reject everything a witness said. You are free
22 to believe all, none, or part of any person's
23 testimony.

24 In deciding which testimony you believe,
25 you should rely on your own common sense and

1 everyday experiences. However, in deciding
2 whether you believe a witness' testimony, you
3 must set aside any bias or prejudice you have
4 based on the race, gender, or national origin of
5 the witness.

6 There is no fixed set of rules for
7 judging whether you believe a witness, but it may
8 help you to think about these questions:

9 Was the witness able to see or hear
10 clearly? How long was the witness watching or
11 listening? Was anything else going on that might
12 have distracted the witness?

13 Does the witness seem to have a good
14 memory?

15 How does the witness look and act while
16 testifying? Does the witness seem to be making
17 an honest effort to tell the truth, or does the
18 witness seem to evade the questions or argue with
19 the lawyers?

20 Does the witness' age or maturity affect
21 how you judge his or her testimony?

22 Does the witness have any bias or
23 prejudice or any personal interest in how this
24 case is decided?

25 Have there been any promises, threats,

1 suggestions, or other influences that affect how
2 the witness testifies?

3 In general, does the witness have any
4 special reason to tell the truth or any special
5 reason to lie?

6 All in all, how reasonable does the
7 witness' testimony seem when you think about all
8 the other evidence in the case?

9 The questions the lawyers ask the
10 witnesses are not evidence. Only the answers are
11 evidence. You should not think that something is
12 true just because one of the lawyers asks
13 questions that assume or suggest that it is.

14 I may ask some questions-- I may ask
15 some of the witnesses questions myself. These
16 questions are not meant to reflect my opinion
17 about the evidence. If I ask questions, my only
18 reason would be to ask about things that may not
19 be fully explored.

20 During the trial the lawyers may object
21 to certain questions or statements made by the
22 other lawyer -- lawyers or witnesses. I will
23 rule on these objections according to the law.
24 My rulings against one side or the other are not
25 meant to reflect my opinions about the facts in

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this case.

Sometimes the lawyers and I will have discussions out of your hearing. Also, while you are in the jury room, I may have to take care of other matters that have nothing to do with this case. Please pay no attention to these interruptions. We will do our best to minimize them.

You must not discuss the case with anyone, including your family or friends. You must not even discuss it with the other jurors until the time comes for you to decide the case. When it is time for you to decide the case, I will send you to the jury room for that purpose. Then you should discuss the case among yourselves, but only in the jury room and only when all the jurors are there. When the trial is over, you may, if you wish, discuss the case with anyone.

If I call for a recess during the trial, I will either send you back to the jury room or allow you to leave the courtroom on your own and go about your business. But you must not discuss the case with anyone or let anyone discuss it with you or in your presence. If

1 someone tries to do that, tell that person to
2 stop and explain that you are a juror; you are
3 not allowed to discuss the case. If that person
4 continues, leave and report the incident to us as
5 soon as you return to court.

6 You must not talk to the Defendant, the
7 lawyers, or the witnesses about anything at all,
8 even if it has nothing to do with the case.

9 It is very important that you only get
10 information about the case in court, when you are
11 acting as the jury, and when the Defendant and
12 the lawyers and I are all here.

13 During the trial do not read, listen to,
14 or watch any news reports about the case. Under
15 the law, the evidence you consider to-- Excuse
16 me. The evidence you consider to decide the
17 case must meet certain standards. For example,
18 witnesses must swear to tell the truth, and the
19 lawyers must be able to cross-examine them.
20 Because news reports do not have to meet these
21 standards, they could give you incorrect or
22 misleading information that might unfairly favor
23 one side. So to be fair to both sides, you must
24 follow this instruction.

25 These restrictions-- These restrictions

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I'm about to describe are meant to ensure that the parties get a fair trial.

In our judicial system it is crucial that jurors are not influenced by anything or anyone outside the courtroom. Now that you have easy access to information through hand-held devices and other technology, you may be tempted to use these devices to learn more about some aspect of the case.

But if you were to do this, it would harm the parties. The parties' attorneys would have no way of knowing that you have received outside information and would have no chance to object if that information was false, untrustworthy, or irrelevant.

Remember, no matter how careful and conscientious news reporters, family members, friends, and other people outside the courtroom may be, information about the case from television, radio, the Internet, and social media will inevitably be incomplete and could be incorrect.

Please bear these things in mind as I read the following instructions. These restrictions apply from this moment until I

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discharge you from jury service:

You must decide this case based solely on the evidence you see and hear in this courtroom. You must not consider information that comes from anywhere else.

During the trial you must not read, watch, or listen to news reports about the case, whether in newspapers, on television, on radio, or on the Internet.

Please do not research any aspect of the case during the trial. This means research using a cellular phone, computer, or other electronic device to search the Internet, as well as research with traditional sources like dictionaries, reference manuals, newspapers, or magazines.

Please do not investigate the case on your own or conduct any experiments concerning the case. Please do not do any investigation or experiments using the Internet, computers, cellular phones, or other electronic devices.

Please do not visit the scene of any event at issue in this trial. Please do not consider as evidence any personal knowledge you have of the scene.

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Please do not discuss this case with anyone, even your fellow jurors. After you begin deliberations, you should discuss the case with your fellow jurors, but you still must not discuss the case with anyone else until I discharge you from jury service.

Finally, you must not share any information about the case by any means, including cellular phones or social media.

If you discover that a juror has violated my instructions, report it to my bailiff.

You may take notes during the trial if you wish, but of course you don't have to. If you do take notes, you should be careful that it does not distract you from paying attention to all of the evidence. When you go to the jury room to decide your verdict, you may use your notes to help you remember what happened in the courtroom. If you take notes, do not let anyone except the other jurors see them.

You can see that we have chosen a jury of thirteen. After you have heard all the evidence and my instructions, we will draw lots to decide which one of you will be dismissed in

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order to form a jury of twelve.

Possible penalty should not influence your decision. It is the duty of the Judge to fix the penalty within the limits provided by law.

I may give you more instructions during the trial, and at the end of the trial I will give you detailed instructions about the law in this case. You should consider all of my instructions as a connected series. Taken altogether, they are the law you must follow.

After all of the evidence has been presented and the lawyers have given their arguments, I will give you detailed instructions about the rules of law that apply to this case. Then you will go to the jury room and decide on your verdict. A verdict must be unanimous. That means that every juror -- every juror must agree on it, and it must reflect the individual decision of each juror.

It is important for you to keep an open mind and not make a decision about anything in this case until you go to the jury room to decide the case.

That concludes my preliminary jury

1 instructions.

2 At this time we will have opening
3 statements from the prosecution.

4 MS. STINEDURF: Can we have the screen
5 turned to--

6 THE CLERK-BAILIFF: Pardon?

7 MS. STINEDURF: The screen, please?

8 THE COURT: Yes.

9 MS. STINEDURF: When Gary Haynes first
10 saw Ardis Liddle, she was widowed, childless, 85
11 years old; and completely on her own. She was
12 looking for help. She had recently moved to
13 Michigan after living in Arizona for most of her
14 life. She had always had someone to help her
15 with her finances, manage her money, back in
16 Arizona. And now that she had moved to
17 Michigan, she needed someone here to help her
18 with her finances.

19 So she went to a seminar conducted by
20 the Defendant Gary Haynes, and he talked about
21 managing money and what to do with money. And
22 after the seminar, he got her contact information
23 from her -- her name, address, phone number. And
24 at her request, he started coming over to her
25 house to help her pay her bills.

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Now, her bills were becoming computerized more and more; it was 2006. Ms. Liddle had been born in 1921, long before computers were even really existent, certainly before they were in widespread use, and she just really wasn't comfortable paying bills on the computer, on top of the fact that she just always had someone to help her with her money. So she needed that assistance.

Now, this went on for years. Mr. Haynes would come to her house. He knew where her bank accounts were. He knew where all of her money was held. He knew where her bills were. He even had passwords to her accounts that Ms. Liddle didn't know. And this went on for some time.

Now, while this was happening, he was the only one who was looking at Ms. Liddle's finances. Ms. Liddle did have people in the home to help her with things because she was living alone. She had people, for instance, she had a nurse next door that helped her with her medications. She also had a family member, and later a friend, come in who would take her to doctors' appointments, take her grocery shopping,

1 help her with heavy cleaning around the house,
2 take her to get her mail, things that she
3 couldn't really do on her own anymore.

4 But nobody was looking at her finances
5 except for Gary Haynes. She trusted him, and she
6 even believed that her money was safe as long as
7 he was managing it.

8 Now, at one point Ms. Liddle had to go
9 into a nursing home for medical treatment. She
10 didn't stay there forever, but she was in there
11 for several weeks, and the Defendant talked to
12 her about her money. He told her: You really
13 have to be careful, the nursing homes could take
14 your money. You should let me put it safe --
15 somewhere safe where they can't take it.

16 After about 6-to-8 weeks, Ms. Liddle was
17 out of the nursing home, was able to move back
18 home. And as far as she was concerned, things
19 were fine. It wasn't until 2016 when she needed
20 money that she started asking Mr. Haynes about a
21 large annuity that she had. She tried
22 contacting him. She made phone calls. She made
23 other efforts to contact him. He wouldn't
24 return her calls. He wouldn't meet with her.

25 She was pretty upset and she was worried

1 about it. So she did the only thing she knew to
2 do, she went to Chase Bank where a branch manager
3 there, Ryan Rimedio, tried to help her out the
4 best he could. He looked at some paperwork she
5 brought in, he talked to her, and he found a
6 business card for Gary Haynes while he was
7 talking to her. So he called him.

8 When he talked to Gary Haynes, Gary
9 Haynes said: I have her money. I can get it to
10 her. It will be a few days.

11 You will hear that Mr. Rimedio did a few
12 other things for her too at the bank to try to
13 help her out, and then a few days after that you
14 will hear that Don Stenberg, Ms. Liddle's nephew,
15 also got involved.

16 Again, Ardis Liddle was still looking
17 for help at this point, and she is in her late
18 90s at this point. You will hear that when she
19 testifies today, she is 97 years old. This was
20 in 2016. So it was just a couple of years ago.
21 And she talked to her nephew. Her nephew said
22 that he had tried to call.

23 So he called Gary Haynes as well, and
24 Gary Haynes told him the first time around: You
25 know, I've got her money. If-- I've got it

1 somewhere. I have so many customers, I just
2 can't tell you where it is right now. And Don
3 Stenberg said: That's not good enough. I need
4 to know by tomorrow where her money is or I'm
5 calling the police.

6 In fact, the next day Gary Haynes did
7 call and he said: I know where her money is.
8 It's invested in a house-flipping operation, and
9 I can get you some of it by Monday. I can get
10 you about \$38,000. But the rest of it, the
11 \$142,000, you know, that's going to be
12 six-to-eight weeks. I need time to get that
13 out. Don Stenberg said: That's not good enough,
14 and he called the police anyway.

15 Now, after that, Detective Sergeant
16 Bryan Rypstra of the Fruitport Police, he got
17 involved as well. He called Gary Haynes, spoke
18 to him, and at that time the Defendant said: Oh,
19 it's invested in a house-flipping operation.
20 She's a hard-money lender. She can call in her
21 loan at any time. I just need some time to get
22 it out. It's just going to be six-to-eight
23 weeks. I can get her money to her. And Ms.
24 Liddle waited and waited.

25 The Attorney General's Office then got

1 involved, and they conducted an investigation.
2 They reviewed bank records both for Mr. Haynes
3 and for the victim Ardis Liddle. Upon reviewing
4 those accounts, it was clear that from 2011 to
5 2015 over \$300,000 had been transferred from Ms.
6 Liddle's accounts to accounts belonging to Gary
7 Haynes or his two businesses -- Future By Design
8 and Senior Planning Resource.

9 A review of Mr. Haynes' bank records
10 also reflected that that money went out of his
11 accounts as fast as it went in. It went to
12 transactions at retail stores, at bars, for other
13 personal expenses. Now here we are today, in
14 2018, and Ms. Liddle has not seen any of that
15 money returned to her. Ms. Liddle is currently
16 living on Social Security.

17 You will also hear that none of this
18 money was reflected on tax returns that Mr.
19 Haynes filed with the Michigan Department of
20 Treasury.

21 Now today Gary Haynes stands charged, as
22 you just heard, with several counts. He is
23 charged with racketeering, conducting a criminal
24 enterprise;

25 He was charged with one count of

1 embezzlement from a vulnerable adult, \$100,000 or
2 more;

3 He is charged with eight counts of
4 embezzlement from a vulnerable adult, \$1,000 to
5 \$20,000;

6 He is also charged with one count --
7 excuse me, with four counts of failure to file
8 tax returns, failure to file correct payment, or
9 filing fraudulent tax returns.

10 Now, there are quite a few elements to
11 the racketeering charge. So I'm going to go
12 through this and break them down just a little
13 bit.

14 First of all, when you look at Element
15 2, you will see on this slide the very first
16 element that's listed is:

17 First, that the Defendant was an
18 employee of, or associated with, an enterprise.
19 And you will see that there is a lengthy
20 definition of what an enterprise can be.

21 As you listen to the testimony today,
22 consider whether Mr. Haynes was involved with
23 anything that fits this definition of an
24 enterprise. Remember it can be a sole
25 proprietorship, a partnership, a corporation, a

1 limited liability company, any other legal
2 entity, or any other association of persons.
3 Consider whether there are two particular
4 companies that you may want to listen for --
5 Future By Design and Senior Planning Resource.

6 Now also I will ask you to find the
7 Defendant knowingly conducted or participated in
8 the affairs of the enterprise directly or
9 indirectly through a pattern of racketeering.
10 So when you talk about that pattern of
11 racketeering, you are going to be listening for
12 additional elements or additional offenses, and
13 that's all grouped under that racketeering
14 charge.

15 I won't go over everything because I
16 know the Court has just gone over these things
17 with you, but I think there are some things that
18 are important to highlight.

19 So you are asked to consider whether,
20 first, there was a pattern of committing these
21 listed offenses, and all of the listed offenses
22 that you're being asked to consider are
23 embezzlement by an agent, and then you have to
24 consider whether a certain dollar amount was
25 met.

1 So when you think about these offenses,
2 think about who the money belonged to; whether
3 the Defendant had any kind of relationship of
4 trust with Ardis Liddle; how the Defendant
5 obtained possession or control of the money; if
6 you find that he obtained possession or control
7 of the money; what the Defendant did with the
8 money; did he dispose of it dishonestly or did
9 he convert it to his own use; and whether at the
10 time the Defendant did this, he intended to
11 defraud or cheat Ms. Liddle out of some money or
12 property.

13 And then again, you will want to
14 consider that monetary value, and that's listed.
15 There's several different offenses, but you will
16 want to consider that as you listen to all of the
17 evidence.

18 So one transaction that's listed, the
19 charges are that it's \$100,000 or more. There
20 are other transactions that are listed that are
21 for a lesser offense. So you will want to
22 consider the dollar amount as well when you're
23 listening to this.

24 You can consider what the Defendant
25 intended to do by all of the evidence that you

1 hear. You can consider the surrounding
2 circumstances; if there is evidence that you
3 find that -- of what he said, what he did. You
4 may consider all of that. Overall, you may
5 consider any evidence that you believe to
6 determine what the Defendant's intent was in the
7 case.

8 Now, I'm going to skip forward a little
9 bit. And so you're also instructed today that if
10 you determine beyond a reasonable doubt that the
11 Defendant was an agent of Ardis Liddle, that the
12 fact that the Defendant -- this money was
13 entrusted to the Defendant's care because of this
14 relationship, the Defendant was asked to pay or
15 refund or deliver that money to Ardis Liddle and
16 that he didn't do so, then these are facts and
17 circumstances which you can infer that the
18 Defendant intended to embezzle the money.

19 You do not have to, but this is
20 something that you may consider. And this is for
21 all those listed offenses that are underneath the
22 racketeering charge.

23 So you may want to make some kind of
24 checklist for yourself as you listen today, if
25 that helps you follow what is happening. Think

1 about whose money it was; where the money went;
2 who had charge of the money; and what the dollar
3 value of the money was. Basically try to follow
4 the money as you listen to the evidence today.

5 Now, if you find that the Defendant
6 committed these listed acts of racketeering-- So
7 these acts of embezzlement by an agent. --you
8 must decide whether he engaged in a pattern of
9 racketeering. So that means committing at least
10 two acts of racketeering, to which all of the
11 following apply.

12 So they have to have something similar
13 about them, and there is a list of things that
14 you can consider as to what needs to be similar
15 about them -- similar purpose, result,
16 participants, victim, method of commission, or
17 are they otherwise interrelated somehow and they
18 are not isolated acts.

19 You also have to consider whether these
20 acts pose a continuing threat of criminal
21 activity.

22 And then finally you have to consider
23 whether at least one act occurred in Michigan
24 after April 1st, 1996; and the last act occurred
25 not more than ten years after the act before it.

1 So you're essentially looking at a ten-year time
2 frame, and you have to find at least one act was
3 committed after at least 1996.

4 And again, this is up to you to decide
5 whether both the prosecutor, that's me, has
6 proven beyond a reasonable doubt that the
7 Defendant committed these acts of racketeering,
8 and that he engaged in a pattern of racketeering
9 or conduct.

10 Now, you're also asked to consider the
11 charge of embezzlement from a vulnerable adult.
12 This is a little bit different from embezzlement
13 by an agent. So in these charges, you have to
14 first find that the Defendant obtained or used
15 the money of Ardis Liddle;

16 And second, that the Defendant used
17 fraud, deceit, misrepresentation, coercion, or
18 unjust enrichment to obtain or use the money.
19 So in other words, again, who did the money
20 belong to, and how did the Defendant get it, if
21 you found that he got it.

22 And now we also have to consider whether
23 at the time Ardis Liddle was a vulnerable
24 adult. A vulnerable adult has a very specific
25 definition. So it does not necessarily mean

1 that someone is in a nursing home; that they
2 required complete care; that they're not capable
3 of having conversations or handling some of their
4 affairs.

5 What the definition of vulnerable adult
6 is, is that Ardis Liddle was 18 years or older.
7 She was aged or physically disabled such that she
8 required supervision or personal care. Or, that
9 she lacked the personal and social skills
10 required to live independently.

11 So think about, when you listen to the
12 evidence, whether you find that Ms. Liddle
13 required personal care to carry on her daily
14 activities.

15 You also have to find that the Defendant
16 knew or should have known that Ms. Liddle was a
17 vulnerable adult. So consider that interaction
18 that Ms. Liddle and Mr. Haynes had when you
19 listen to the testimony today.

20 And then, just with the other offenses,
21 consider what the amount of money taken was. So
22 it may be helpful as you are considering the
23 evidence and taking notes today, you might want
24 to take notes on the dollar value of money that
25 you find was transferred or taken and when that

1 money was transferred or taken.

2 Six: The property must have been taken
3 for the direct or indirect benefit of the
4 Defendant, or to indirectly benefit him.

5 So an indirect benefit means that the
6 Defendant obtained some other advantage or value
7 other than possession or use of the property
8 itself. So in other words, you must find the
9 Defendant got something out of taking that
10 money. And again, I won't go through all those
11 at length because I know the Judge has just read
12 some of those to you.

13 You must consider whether the Defendant
14 had the intent to injure or defraud. So that
15 means you must consider whether he intended to
16 actually cheat or deceive usually to get money,
17 property, or something else valuable, or to make
18 someone else suffer a loss.

19 Again, the Defendant's intent may be
20 proved by what he said, what he did, how he did
21 it, or any other facts and circumstances in
22 evidence.

23 And then finally, you must consider the
24 charges of filing a false or fraudulent tax
25 return or payment. So the first element is:

1 The Defendant either made or caused a
2 tax return to be filed with the Michigan
3 Department of Treasury.

4 Second, you must consider whether the
5 tax return or tax payment was false or
6 fraudulent. A false or fraudulent return or
7 payment is a return or payment that is
8 incomplete, inaccurate, misleading, or forged.

9 Third, that at the time the return or
10 payment was made, the Defendant had the intent to
11 defraud or the intent to evade payment of a tax
12 or part of a tax.

13 Finally, the required content of a tax
14 return is that income must be reported on a tax
15 return. Income means any gains of money or
16 property the Defendant obtained during the
17 reported tax period. It does not matter whether
18 the money or property was gained in a legal or
19 illegal manner.

20 So again when you're listening to the
21 evidence today, you may want to think about
22 whether the Defendant gained any money when you
23 listen to the testimony about the bank records,
24 where Ms. Liddle's money went, and ultimately
25 where it ended up.

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At the end of the day I will ask you,
after reviewing all the testimony, all the
evidence, to find the Defendant Gary Haynes
guilty of one count of conducting a racketeering
enterprise;

One count of embezzlement from a
vulnerable adult, \$100,000 or more;

Eight counts of embezzlement from a
vulnerable adult, \$1,000 to \$20,000;

And four counts of filing a false tax
return. Thank you.

THE COURT: Thank you. Mr. Johnson,
would you like to make an opening at this time or
save it?

MR. JOHNSON: Your Honor, I would like
to make my opening now.

THE COURT: Thank you. Go ahead.

MR. JOHNSON: Ladies and Gentlemen,
obviously our interpretation of the history of
these two people is -- is much different than
what the prosecutor has -- has -- wants you to
believe.

Back in 2006 when my client Mr. Haynes
met Ms. Liddle, he was conducting a seminar.
His business was the assistance of individuals in

1 investing and securing and protecting their
2 lifelong gains and -- and -- and -- and helping
3 them to -- to make sure that the money that they
4 invested would last them their entire lifetime;
5 and depending on the person, whether they wanted
6 to leave money for their children, they wanted to
7 leave money for other purposes, or whether they
8 wanted to have money for -- for their burial.
9 That was his job. That's what he did. And he
10 had literally dozens of clients over the years
11 for this particular business.

12 And at night and when my client met Ms.
13 Liddle, he was conducting one of those
14 seminars. This was a seminar that was broadcast
15 to the general public. There was no direct
16 contact with Ms. Liddle. He didn't know her from
17 anyone.

18 So when Ms. Liddle showed up that first
19 day, that was the first time my client met her.
20 And when he met her, she was different than the
21 lady you're going to see today. The lady you're
22 seeing today is 97 years old. And while 85 seems
23 like a long time-- And it is a good lifetime, a
24 long life span. --as people age differently,
25 this -- this -- this lady has been blessed with

1 -- with a -- with a high level of good health.
2 and -- and intellectual capacity through the
3 entirety of her lifetime until about I'm thinking
4 very recently.

5 Back in 1985 when my client met Ms.
6 Liddle, she walked into his seminar on her own
7 volition. She had driven there. She was by
8 herself. She didn't have anyone with her. She
9 didn't have any attendants. She was -- she was
10 completely independent and had been independent
11 since her husband died, whereas the -- the
12 implication is this woman's husband died and my
13 -- my client steps in. That's not the -- the
14 case. There is some period of time that
15 passes.

16 Ms. Liddle is able to pack up her
17 belongings, move back to Michigan where she had
18 some kin, some friends and family. And -- and
19 during that time, she made all those arrangements
20 herself. She didn't know my client. She paid
21 all her bills. She kept all her bills paid.
22 She made arrangements for her own housing. She
23 had made arrangements for all the money. She was
24 doing fine. She was doing fine.

25 About the only thing that we agree on at

1 this point is that Ms. Liddle was -- was not
2 interested in trying to tackle the new
3 technology, on-line bill paying (sic), that sort
4 of thing. But all of her bills were being
5 paid. She paid them every month. Made sure
6 every bill got taken care of. And she kept
7 copious notes. She would write everything down
8 that she did. She had a journal that she kept
9 track of all her money. She was on top of it.
10 She was -- she was not a person who needed
11 assistance. She was not a person who needed --
12 who could not live independently; she was. She
13 was not a person who required supervision; she
14 had none. She was doing -- she's living life on
15 her own. She had very little contact even with
16 -- with the people here in Michigan. Even some
17 of them were friends and relatives, she had very
18 little contact. She was doing all this work on
19 her own.

20 So she -- she meets my client, and they
21 begin a relationship. It's a business
22 relationship. And over time, they get close.
23 Ms. Liddle doesn't have any assistance from
24 family and friends, and she -- she attaches
25 herself to my client and, quite frankly, calls

1 him frequently for -- for all sorts of things.
2 My client will testify to you that, yes, he -- he
3 -- he -- he helped her manage her money, but he
4 also did her taxes. He would do her -- he would
5 wash dishes for her on occasion, and they became
6 close personally. There were times where Ms.
7 Liddle was invited to go to his daughter's
8 recital at school. They know her. They -- they
9 were very close, and they were very much
10 together.

11 Over the course of time they entered
12 into a contract, a business contract, with
13 paperwork and everything. Entered into a
14 contract, and that contract was for the -- the
15 investment of this hundred and some thousand
16 dollars that the prosecutor has been talking
17 about, a contract that will be completed on April
18 5, 2019. 2019. And that's the contract that--
19 What happens is she's old. She's on her own.
20 She's afraid, and the -- the economy is not doing
21 too good, and she becomes worried about her
22 money. We all do. And as a result of that, she
23 panics, assumes that something is wrong, that
24 something is going on.

25 There wasn't anything wrong. The

1 contract was being invested just as my client
2 said it was. It was being processed just as he
3 says it was, and that her money was safe, and
4 that he was in the process of making sure she got
5 that back on her investment.

6 Then comes this investigation just as
7 the prosecutor announced. Then comes this
8 investigation.. And during-- My client will
9 testify, during the course of the investigation,
10 not only is Ms. Liddle communicated with, but all
11 of my client's contacts are communicated with.
12 All my client's contacts are now getting
13 contacted from the State Attorney General's
14 Office: Is there anything going wrong? Are you
15 okay with your money? Is everything -- is
16 everything top notch?

17 And what do you think that does to his
18 business and his investments and the cash flow
19 and everything else? This starts a cascade of
20 problems that my client had financially, not the
21 fact that this money is not taken untowards.
22 It's gone some place where it's not supposed to
23 go.

24 But the bottom line is, Ms. Liddle, her
25 incapacitation is probably -- at this point she

1 probably shouldn't be doing things on her own.
2 But during the time that my client was investing
3 with her -- 2008 to 2016, she was fine. She was
4 doing stuff. She was driving. She was keeping
5 notes, she was keeping records, and every
6 transaction between them was documented. Every
7 transaction between them was known to Ms.
8 Liddle.

9 Every time there was money spent, every
10 time there was money requested, is because there
11 were conversations that were had between the two
12 of them, my client and Ms. Liddle. At no point
13 did -- did Ms. Liddle or her nephew or anyone
14 else intercede during those years saying: Hey,
15 this woman shouldn't do this. At no point was
16 there any indication to my client that she was
17 not able to manage her own affairs.

18 So they kept going as they had been for
19 a decade, and that's -- and -- and that led to
20 the point where we are now. We're at the point
21 where we're arguing over a contract between these
22 two people. There isn't any embezzlement going
23 here. These people know exactly what they were
24 doing and exactly why, and both of them were in
25 communication, and both of them understood the

1 ramifications of the choices and the -- the
2 conduct that was being participated in.

3 And at this point there has been no
4 crime committed. There has been a downturn in
5 the economy, there has been a destruction of my
6 client's business, but that's not a crime. My
7 client has not cheated Ms. Liddle. Ms. Liddle
8 has not been cheated. She's not been taken
9 advantage of. She's fully aware of the risks
10 and responsibilities of investment. She
11 understands that, or at least she did when my
12 client dealt with her.

13 And when we come back, with all the
14 evidence that's in, we're going to ask you for
15 verdicts of not guilty on all counts.

16 Thank you, Ladies and Gentlemen.

17 THE COURT: Thank you.

18 Before we start with the next -- with
19 the first witness, the jury has been sitting here
20 since 1:30, and it's now going on 4:00. I
21 usually take a break at quarter after three to
22 allow you to stretch and move around.

23 What I'm going to do at this time,
24 because you've been in that room since 1:30, out
25 here or in that room since 1:30, I'm going to

1 give a ten-minute break at this time so that you
2 guys can stretch your legs and -- and either go
3 outside or come back in. It's up to you. But
4 then we will come back at ten to and start with
5 our first witness.

6 Again, I have to let you know that you
7 are not to talk about this with anybody. If
8 anybody tries to discuss it with you while you
9 are out on break, you are to let them know that
10 you cannot discuss it.

11 Make sure you wear your jury -- your
12 juror badge if you do go out of the courtroom,
13 outside if you've got a jacket on, outside of
14 your jacket or over your clothes so that people
15 can see that you are part of a jury and they will
16 not talk to you.

17 Anything further before I let the jury
18 go for break?

19 MS. STINEDURF: No, Your Honor. Thank
20 you.

21 MR. JOHNSON: No, Your Honor. Thank
22 you.

23 THE COURT: Thank you. I will see you
24 back here at ten to.

25 (Whereupon, recess taken at

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approximately 3:35 P.M.; with
proceedings resuming at approximately
3:56 P.M., out of the presence of
the Jury.)

THE COURT: We are back on the record.
Are the parties ready to proceed?

MS. STINEDURF: Yes, Your Honor.

MR. JOHNSON: Yes, Your Honor.

THE COURT: We will bring in the jury.
(Whereupon, Jury returned to the
courtroom at approximately 3:56 P.M.)

THE COURT: You may be seated.
You can call your first witness.

MS. STINEDURF: The People call Ardis
Liddle.

THE CLERK-BAILIFF: Ma'am, you go ahead
and have a seat, please.

MS. STINEDURF: Turn around.

MS. LIDDLE: Okay.

THE COURT: Thank you.

THE CLERK-BAILIFF: Could you raise your
right hand for me, please.

In this cause now pending do you
solemnly swear or affirm to tell the truth, the
whole truth, and nothing but the truth, so help

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you?

A R D I S L I D D L E ,

after having been duly administered an oath, was
examined and testified as follows:

THE WITNESS: I do.

THE CLERK-BAILIFF: Thank you.

THE COURT: Go ahead.

MS. STINEDURF: Thank you.

DIRECT EXAMINATION OF MS. ARDIS LIDDLE
BY MS. STINEDURF, J.D.:

Q. Can you hear me okay, Ms. Liddle?

A. Yes.

Q. Please state your first and last name and spell
your first and last name for the record.

A. Ardis Liddle -- A-R-D-I-S, L-I-D-D-L-E.

Q. What is your date of birth?

A. I -- I didn't hear you.

Q. What is your date of birth?

A. Date of birth, [REDACTED] 1921.

Q. Are you 97 years old today?

A. Yes.

Q. Where do you live?

A. I live in -- in Fruitport.

Q. Do you live in a condo there?

1 A. Yes.

8 2 Q. When did you first move there?

3 A. I moved here in 2006.

9 4 Q. And--

5 A. Or five or six. Six I guess.

0 6 Q. 2005 or 2006?

7 A. Yes. I can't remember which.

1 8 Q. And when I say here, I mean here to Michigan.

9 A. Michigan, yes.

2 10 Q. Where did you live before you moved to Michigan?

11 A. Phoenix, Arizona.

3 12 Q. And how long did you live there?

13 A. Well, I lived there since 1945, which made about

14 60 years.

4 15 Q. And when you moved here, did you move here alone

16 or with someone?

17 A. I moved here alone.

5 18 Q. Are you married, Ms. Liddle?

19 A. I'm a widow.

6 20 Q. When did your husband pass?

21 A. He passed away in 2001. 2001.

7 22 Q. Do you know someone named Gary Haynes?

23 A. Yes.

8 24 Q. How did you meet Mr. Haynes?

25 A. I met him at a -- at a symposium or whatever you

1 call those, for -- for elderly people, older
2 people.

3 Q. Do you remember where this symposium was?
4 A. It was in Spring Lake at a hotel, which I don't
5 know the name of it.

6 Q. When you went to that symposium, do you remember
7 if it was conducted in the name of a company at
8 all?
9 A. I think it was.

10 Q. Do you remember the name of that company?
11 A. No, I don't.

12 Q. And you mentioned that you moved here in 2005 or
13 2006. Did you go to that symposium soon after
14 you moved here or a long time after you moved
15 here?
16 A. Soon after.

17 Q. And what kind of things did they talk about in
18 the symposium?
19 A. Well, it was how to handle your money and -- and
20 things like that. I can't--

21 Q. Who ran that seminar?
22 A. Excuse me?
23 Q. Who ran or conducted that seminar?
24 A. Mr. Haynes, Gary Haynes.

25 Q. After the seminar, did you talk to him about

1 helping you with your money?

2 A. Yes.

3 Q. When you talked to him about helping you with
4 your money, what did you want him to do?

5 A. Well, one thing I wanted him to help me pay the
6 bills because everyone was paying them on-line
7 and I wasn't that familiar with -- with -- with
8 the computer at the time, and I -- I just needed
9 a little help that way.

8 10 Q. Now, when you lived in Arizona, did anyone help
11 you with your bills or help you manage your money
12 there?

13 A. Yes.

9 14 Q. And after you moved to Michigan, before you met
15 Gary Haynes, was anyone helping you with your
16 bills or managing your money right away?

17 A. No. No.

0 18 Q. And after you talked to Gary Haynes about needing
19 help paying your bills, did he help you pay your
20 bills?

21 A. He did at first, yes.

1 22 Q. When he helped you pay your bills, where did he
23 do that?

24 A. At my home.

2 25 Q. When he paid the bills at your home, did he pay

1 those by paper or on the computer?

2 A. On the computer.

3 Q. And when he paid your bills, did you supervise
4 him at all, or did he just pay those on his own?

5 A. No, I did not supervise him.

6 Q. Do you know how he was able to access your bank
7 accounts when he paid the bills?

8 A. I have no idea how, no.

9 Q. Are you familiar with the idea of user names and
10 passwords on computers to get to accounts?

11 A. Well, I'm not too familiar with it, no. I have
12 used a password, but I'm not -- I'm not too
13 familiar with how you can use them for different
14 things.

15 Q. Do you know if Mr. Haynes had passwords to any of
16 your accounts?

17 A. Yes. He had a password to the account he was
18 taking care of.

19 Q. And when you say the account he was taking care
20 of, did he take care of just one account for you
21 or more than one account?

22 A. One that I know of.

23 Q. And what one that you know of?

24 A. Well, the bills, paying the bills.

25 Q. So when you talk about him paying the bills, did

1 you have bank accounts at more than one bank?

2 A. Yes.

3 Q. Did he know that you had bank accounts at more
4 than one bank?

5 A. I don't know.

1 6 Q. Do you know what bank account that he was able to
7 use or access?

8 A. Just one. Just one he was supposed to use for
9 the bills.

2 10 Q. Which one was he supposed to use, if you remember
11 the name of the bank?

12 A. Chase Bank I think.

3 13 Q. Now, after you asked Gary Haynes to help you pay
14 your bills on the computer, did he ever do
15 anything else around the house for you?

16 A. He did a few little things, like change a light
17 bulb and fix the screen door, but that was it.

4 18 Q. How often did he come over to your house?

19 A. Well, he was supposed to come once a month to --
20 when the -- the bills all came in, but he didn't
21 always make it that once a month even.

5 22 Q. During the time that Mr. Haynes was paying your
23 bills for you, did your bank statements and your
24 billing statements come in paper form in the
25 mail, or did they come by electronic form on the

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computer?

A. I -- I don't understand your question.

Q. Well, when you get a bill or a bank statement, there's two ways that they usually come. One way is, for instance, if you get a bank statement, it can come in the mail in paper. Another way a bank statement can be issued is it can be sent to you on-line on the computer.

Do you remember if those statements that you were getting were in paper or if they were on-line on the computer?

A. In the beginning they were on paper, but that didn't last very long. And there was nothing on -- that I could see on the computer because I didn't -- I wasn't doing what he was doing.

Q. Did you ever have to spend any time in a nursing home or a care home?

A. Yes.

Q. Do you remember why you had to spend time in a nursing home?

A. Well, it was sort of a mixed up thing that I went to the hospital, for -- for one thing; and then because I lived alone, they -- they didn't want me to stay alone at home, and I couldn't get anyone to stay with me at the time.

1 So they put me in the nursing home. I
2 didn't really want to go. I was all right and I
3 could have stayed alone, but I had nothing to say
4 about it.

9 5 Q. So you said you went in to the nursing home
6 because they told you you had to and--

7 A. Yes.

0 8 Q. --and you didn't want to.

9 Did you go into one nursing home, or
10 were -- was there more than one nursing home?

11 A. There was more than one, and the one was just
12 like to get you ready to go home I guess. It
13 was a little different than the other one.

1 14 Q. Did you see Gary Haynes when you were at either
15 one of those nursing homes?

2 16 A. I did see him at the last one.

3 17 Q. Did he talk to you about your money when you were
18 at the last one?

4 19 A. No.

20 Q. Did he ever talk to you about ways you could keep
21 your money safe?

22 A. No.

4 23 Q. When you were in the nursing home, did you have
24 any concerns about the nursing home taking your
25 money?

1 A. I -- I did not, but I didn't -- I'm -- I'm not
2 familiar with the Michigan laws coming here from
3 Arizona, and I knew that they were different.
4 And so I just had to listen to someone, and I --
5 and he told me that -- that they would take my
6 money.

5 7 Q. Is he, Gary Haynes?

8 A. Gary Haynes, yes.

6 9 Q. So Gary Haynes told you that the nursing homes
10 would take your money?

11 A. Yes.

7 12 Q. Did he tell you if there was anything he could do
13 for you?

14 A. Well, like what?

8 15 Q. You said that Gary Haynes told you the nursing
16 homes would take your money. He was supposed to
17 be helping you with your money.

18 A. Yes.

9 19 Q. So did he say: I know what you can do so that
20 they can't take your money?

21 Did he have any suggestions for you on
22 what you should do with your money?

23 A. No, he did not tell me anything like that.

24 What he told me was he would put -- put
25 it in a safe place for me, and that's all.

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1 Q. Was he putting it in a safe place so the nursing
2 homes couldn't take it?

3 A. So they couldn't take it, yes.

4 Q. Now, where did you think he was going to put it
5 when he said he would put it in a safe place?

6 A. I thought he was going to put it in-- What was
7 it?

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8 Q. Go ahead and take your time.

9 A. I-- Excuse me a minute. I need a little
10 water. Thank you. I'm getting awfully dry.
11 Thank you.

3

12 Q. If you're ready, I will go ahead and ask the
13 question again.

14 And just so you know, if you need a
15 break at any time, just say so.

16 A. (Nodding head indicating affirmative.) Thank
17 you.

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18 Q. Now, you said that he would put your money-- He
19 said he would put your money in a safe place, and
20 I asked you where you thought that he was going
21 to put it when he put it in a safe place.

22 Where did you think?

23 A. In the same thing that -- that it was already
24 in. You're getting a little-- I can't think of
25 what it was called.

5

1 Q. Was it called an annuity, or was it called
2 something else?

3 A. It was an annuity, yes.

4 Q. Okay. Did you give Mr. Haynes permission to cash
5 in any of your annuities to put in his personal
6 bank accounts?

7 A. No, I did not.

7

8 Q. Did you give Mr. Haynes permission to cash in any
9 of your annuities to put in his business bank
10 accounts?

11 A. I did not.

8

12 Q. Did you intend to give a loan to Mr. Haynes?

13 A. Excuse me?

9

14 Q. I will repeat it. Did you ever want to give a
15 loan to Mr. Haynes?

16 A. No.

0

17 Q. Did you ever want to give a loan to Mr. Haynes'
18 businesses or his companies?

19 A. No, I did not.

1

20 Q. Did you want to enter a business relationship
21 with Mr. Haynes?

22 A. No, I did not.

2

23 Q. Did you intend to invest in a house-flipping
24 business or a renovating house business?

25 A. No.

3

1 Q. While Mr. Haynes was paying your bills, did you
2 pay him for his services?

3 A. I paid him something in the beginning, but I
4 don't know if he took the rest of it out of --
5 out of the bank account or how he got it.

4

6 Q. Did he tell you how much his services would cost?

7 A. He never told me, and he -- he never -- never
8 gave me a bill for -- for his services or
9 anything like that.

5

10 Q. Now, you mentioned that Mr. Haynes would help you
11 around the house with a few things, like changing
12 light bulbs.

13 Was there a time when Cheryl Crays
14 helped you at your house?

15 A. Cheryl?

6

16 Q. Yes.

17 A. Yes.

7

18 Q. Was there a time that Jody Elliot helped you at
19 your house?

20 A. Yes.

8

21 Q. Do you have a neighbor that helps you at all?

22 A. Yes, I do. I have a neighbor next door to me
23 that helps me.

9

24 Q. And what's her name?

25 A. Her name is Laurie Mitchell.

0

1 Q. And what kind of things does she help you with?

2 A. She is a nurse and she helps me with my
3 medications.

4 Q. I would like to ask you to look at several
5 different bank records now. What we are going to
6 do is I'm going to put a book in front of you and
7 I will hold that for you to look at. At the
8 same time, there is going to be an image up on
9 the screen of what you are looking at. You
10 don't need to look at the screen, but that will
11 be up there.

12 The first thing that I'm going to show
13 you is something that has been admitted as
14 Exhibit 1, and these are Aviva records. I will
15 read these numbers aloud for the court record,
16 but I will turn to the pages for you.

17 MS. STINEDURF: If I may approach the
18 witness?

19 THE COURT: You may.

20 MS. STINEDURF: Thank you.

21 Q. (BY MS. STINEDURF) I am going to turn to Page
22 121. It will be numbered in the bottom right
23 corner.

24 A. May I use my glasses, please?

25 Q. Yes.

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MS. STINEDURF: For the record, Ms.

Liddle inquired if she could use a magnifying glass that she has with her. Please feel free.

THE WITNESS: Where did it go?

Q. (BY MS. STINEDURF) May I look?

A. Yes. Maybe it's in here. Here it is.

Q. I am now showing you what has been marked as 121. Excuse me. This may get loud as I was standing here.

A. No, it isn't. That's fine.

Q. Please take a look at this document with your magnifying glass. Have you seen this document before?

A. No.

Q. And I will read aloud for the record. This document says:

Enclosed is our Check Number 304464 in the amount of \$107,735.10. This letter is dated March 3rd, 2011.

Did you intend to surrender this \$107,735.10 annuity?

A. No.

Q. I am now turning to a page that has been numbered 125 in the bottom corner. Please take a look at

1 the document that's on this page.

2 A. Can I--

3 Q. Now, this is a check for \$107,735.10. Have you
4 seen this check before?

5 A. No, I have not.

6 Q. I am now handing you a document that has been
7 numbered 126 in the bottom corner. I am showing
8 you what is the back of a check. Please look at
9 that. That says: Pay to the Order of Senior
10 Planning Resource.

11 Did you sign this check over to Senior
12 Planning Resource?

13 A. No, I did not.

14 Q. Do you know what Senior Planning Resource is?

15 A. Excuse me. Well, I'm not sure.

16 Q. Do you know if it's a company that Gary Haynes
17 has or not?

18 A. Yes, it is.

19 Q. It is a company he has?

20 A. Yes.

21 Q. I am now showing you what has been admitted as
22 Exhibit 2. It's numbered 2219 in the bottom
23 corner.

24 A. These (indicating)?

25 Q. Yes. Please look at both of those on the page.

1 A. Okay.

2 Q. This is a check written for \$20,000 to Senior
3 Planning Resource. It's dated October 28th,
4 2011. The back states: For Deposit Only,
5 Senior Planning Resource.

6 Did you intend to write a \$20,000 check
7 to Senior Planning Resource?

8 A. It appears that I did.

9 Q. Do you remember?

10 A. No, I don't remember.

11 Q. Can you think of a reason why you would have
12 wanted \$20,000 to go to Senior Planning Resource?

13 A. No.

14 Q. When you say it appears that you wrote that
15 check, is that because the name that's on the
16 bottom of the check is yours?

17 A. Yes.

18 Q. Now showing you what's been marked as Page 2382.
19 There is one particular check I would like you to
20 look at. It's on the bottom of the page. It's
21 quite small.

22 Were you able to read that check?

23 A. Yes.

24 Q. And that is a check for \$13,000. It's dated
25 December 2nd, 2013. It's written to Future By

1 Design, in the amount of, as I said, \$13,000.

2 Do you know what Future By Design is?

3 A. Yes.

4 Q. What is that?

5 A. It's one of Gary Haynes' businesses.

6 Q. Did you want \$13,000 of your money to go to
7 Future By Design?

8 A. I don't recall.

9 Q. Can you think of a reason why you would have
10 wanted \$13,000 to go to that business?

11 A. Not -- not -- I can't recall right now why I
12 would.

13 Q. Are you doing okay, or do you need a break at
14 all, Ms. Liddle?

15 A. You know, I could stand a little break, yes.

16 MS. STINEDURF: Can we break briefly,
17 Your Honor?

18 THE COURT: Sure. We will take a
19 five-minute break.

20 MS. STINEDURF: Thank you.

21 THE COURT: At this time the jury can go
22 back to the jury room.

23 (Whereupon, Jury excused to
24 the jury room at approximately
25 4:27 P.M.; with proceedings

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resuming at approximately 4:33 P.M.,
out of the presence of the Jury.)

THE COURT: Are we ready to bring the
jury in?

MS. STINEDURF: Just briefly. It's my
understanding, in speaking to the Chief
Assistant, that we are able to use someone from
their Victim Advocate's Office tomorrow morning,
if necessary.

THE COURT: All right. Because I do
not think this will be over today.

MRS. MAAT: Judge, what I think our
Chief Assistant doesn't realize-- And I think
it's Jennifer. --I think we only have one
advocate in the office tomorrow because we have
one on sick leave; I'm off to Ohio; and I think
Linda has to take her kids to a doctor
appointment in the morning.

THE COURT: Okay. So we will have to
clear it up by tomorrow. So we might have time
for you to go back down there today because I
think we might end a little early because I know
that we have some issues with some timing.

So if you want, we can end now, start
fresh tomorrow morning.

1 MR. JOHNSON: Can another family member
2 be available, who is not testifying?

3 MS. STINEDURF: Probably, but I have to
4 confirm that.

5 THE COURT: We will let you guys talk
6 about that afterwards. So we will bring the jury
7 back out. I'll let the jury know that we are
8 going-- Why don't I let you guys go ahead and
9 go.

10 MRS. MAAT: They're going to start back
11 up with you in the morning and let you go for
12 tonight. So let's go back down to my office.
13 Okay?

14 MS. STINEDURF: We will come down
15 afterwards and explain what's going to happen
16 tomorrow.

17 THE WITNESS: Oh, okay. All right.

18 THE COURT: Thank you, Mary.

19 MRS. MAAT: Yep.

20 THE COURT: That way, you can let
21 whoever said something--

22 MRS. MAAT: I will verify when Linda
23 will be here too.

24 THE COURT: Okay.

25 MRS. MAAT: I know she's gone for like

1 an hour or two, but I don't know. Take my
2 bottle.

3 Do you want me to carry this for you?
4 I can carry that.

5 THE WITNESS: Thank you.

6 THE COURT: Thank you. Anything before
7 we bring the jury in?

8 MS. STINEDURF: No, Your Honor.

9 THE COURT: All right. We'll bring the
10 jury in.

11 (Whereupon, Jury returned to
12 the courtroom at approximately
13 4:42 P.M.)

14 THE COURT: You may be seated.

15 Thank you so much for your patience.
16 As I explained when we were doing voir dire and
17 stuff, that sometimes things come up that are
18 beyond our control and that we have to take some
19 extra time to be able to take care of some
20 things.

21 It is now quarter to five; and instead
22 of getting into another realm of testimony, what
23 I'm going to do today is just end for today so
24 that we don't start something else and then get
25 you guys going on that. So we're going to end

1 for today. We will have you come back nine
2 o'clock tomorrow morning.

3 What's going to happen, sometimes I have
4 stuff -- I have arraignments and stuff that I
5 have to take care of. If we are in the
6 courtroom when you come in, just come straight
7 through and right into the jury room. And when
8 all 13 of you are back, just make sure you ring
9 the buzzer so that Mr. Mahan knows that you're
10 all back. But it doesn't matter if we're doing
11 something in here, you can walk right on in and
12 go into the jury room.

13 Do not sit out in the hallway or in the
14 courtroom because we don't know if we will notice
15 that you're sitting there and we may take care of
16 some things that have to do with this case that
17 you're not allowed to hear. So if you would
18 make sure you just go to the jury room.

19 And I am going to read this instruction
20 again. I know this will get repetitive, but I
21 am required to advise you of this whenever we
22 break.

23 Please do not discuss the case amongst
24 yourselves or with any third person during any of
25 our recesses or adjournments.

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Please do not have any conversations of any kind with either attorney or any party of anybody who might be called as a witness.

Please do not read, watch, listen to any media reports regarding this case.

So we will end today, and I will see you back here tomorrow morning at nine. Thank you very much.

(Whereupon, Jury excused at approximately 4:45 P.M.)

THE COURT: Anything before we leave?

MS. STINEDURF: No, Your Honor.

MR. JOHNSON: No, ma'am.

THE COURT: And we also have Exhibits 1 through 6 that were admitted into evidence already, and those need to be left with the Court Reporter.

MS. STINEDURF: Yes.

THE COURT: All right. Thank you very much.

(Whereupon, proceedings concluded at approximately 4:46 P.M.)

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STATE OF MICHIGAN)

) ss

COUNTY OF MUSKEGON)

I, Kathy E. Stevens, Certified Court Reporter/Registered Professional Reporter and Notary Public of the 14th Judicial Circuit, County of Muskegon, State of Michigan, do hereby certify that the foregoing Pages 1 through 227, inclusive, comprise a full, true, and accurate transcript of the proceedings and testimony taken in the matter of THE PEOPLE OF THE STATE OF MICHIGAN versus GARY EDWARD HAYNES, File No. 18-4131-FH, on December 17, 2018.



Kathy E. Stevens, CSR-4091
Certified Official Court Reporter
Hall of Justice, 14th Circuit Court
990 Terrace Street
Muskegon, MI 49442-3357

ENFORCEMENT EXHIBIT 2



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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

**CERTIFIED
ORIGINAL TRANSCRIPT**

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

vs

File No.: 18-4131-FH

GARY EDWARD HAYNES,

TRIAL

Defendant.

VOLUME II
STENOGRAPHIC RECORD

of the proceedings had in the above-entitled
cause on the 18th day of December 2018 before
the HONORABLE ANNETTE R. SMEDLEY, 14th Judicial
Circuit Judge, and a Jury.

2019 MAY 21 P 3:16
NANCY A. WATERS
MUSKEGON COUNTY CLERK
FILED

APPEARANCES:

MS. KRISTEN STINEDURF, J.D.
Attorney General's Office
on behalf of the Plaintiff;

MR. FREDERICK JOHNSON, JR., J.D.
Attorney at Law
on behalf of the Defendant.

KATHY E. STEVENS CSR-4091
Official Court Reporter

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* ** *

1 Muskegon, Michigan

2 Tuesday, December 18, 2018

3 At approximately 9:10 A.M.

4 R E C O R D

5 THE COURT: We are on the record with
6 File 18-4131-FH. Are the parties ready to
7 proceed?

8 MS. STINEDURF: Yes, Your Honor.

9 MR. JOHNSON: Yes, Your Honor.

10 THE COURT: And you had--

11 MS. STINEDURF: Regarding the exhibits,
12 I have spoken with Mr. Johnson. We are
13 stipulating to Exhibit 7, 11, 12, 13, and 14 at
14 this time.

15 THE COURT: 7, 11?

16 MS. STINEDURF: 12, 13, and 14.

17 THE COURT: Is that correct?

18 MR. JOHNSON: Yes, Your Honor.

19 THE COURT: All right. So we had--
20 Yesterday we admitted by stipulation 1 through 6;
21 is that correct?

22 MS. STINEDURF: Yes.

23 THE COURT: And then today you're
24 stipulating to 7, 11, 12, 13, and 14?

25 MS. STINEDURF: Yes.

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THE COURT: Those will be admitted into evidence.

Anything further at this time?

MS. STINEDURF: No, Your Honor.

Anything further?

MR. JOHNSON: No, ma'am.

THE COURT: Are the parties ready for the jury to come in?

MS. STINEDURF: Yes, Your Honor.

MR. JOHNSON: Yes, ma'am.

THE COURT: All right. Thank you.

(Whereupon, Jury entered the courtroom at approximately 9:15 A.M.)

THE COURT: You may be seated. You may call your witness.

MS. STINEDURF: People recall Ardis Liddle.

MR. HILLER: Your Honor, I'm sorry. She was just entering the rest room as I was going to call her. So it will be just a little bit.

THE COURT: All right. Thank you.

THE CLERK-BAILIFF: Is that okay?

MS. LIDDLE: Seems to be all right.

THE CLERK-BAILIFF: Okay. Ma'am, would you raise your right hand, please.

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In this cause now pending do you
solemnly swear or affirm to tell the truth, the
whole truth, and nothing but the truth, so help
you?

ARDIS LIDDLE,
after having been duly administered an oath, was
examined and testified as follows:

THE WITNESS: I do.
THE COURT: You may continue.
MS. STINEDURF: Thank you.

DIRECT EXAMINATION OF MS. ARDIS LIDDLE
(continuing) BY MS. STINEDURF, J.D.:

Q. All right. Ms. Liddle, when we finished
yesterday we were looking at some bank records.
I would like to ask you to keep looking at those,
and I'm going to show you some of those one at a
time.
A. I will get my glasses.
Q. May I help?
A. I'm pretty sure I have them in here.
Q. Can I help look?
A. Yeah. You can look in here.
Q. Okay.
A. Should be in there.

5

1 Q. Are they in here? I--

2 A. I took it out of there yesterday. I guess I
3 didn't put it back in.

4 Q. Could it be in the room on the fifth floor?

5 A. I don't think so.

7

6 Q. Okay.

7 A. I didn't leave them there.

8 MS. STINEDURF: Does the Court have a
9 magnifying glass that might be available?

10 (Whereupon, the Clerk-Bailiff
11 momentarily left the courtroom.)

12 THE COURT: I don't know if we have one
13 or not.

14 THE WITNESS: I'm sorry about that.

15 MS. STINEDURF: That's okay.

16 (Whereupon, the Clerk-Bailiff
17 returned to the courtroom.)

18 THE CLERK-BAILIFF: No. We are checking
19 to see if we can find one. We have located
20 one.

8

21 Q. (BY MS. STINEDURF) For the record, Ms. Liddle,
22 I'm handing you something that can be used as a
23 magnifying glass.

24 I'm going to hand you the bank record
25 again. Let's check first to make sure that that

1 will work. Are you able to see that
2 (indicating)?
3 A. I can see most of it, yes.
4 Q. Okay. This is the smallest thing I'm going to
5 ask you to look at.
6 A. All right.
7 Q. Everything else will be larger.
8 A. Okay.
9 Q. So I'm currently showing you what's been marked
10 as 2382. We started to talk about this just
11 before you left yesterday. If you look in that
12 corner, there is a check for \$13,000.
13 Do you see that?
14 A. Yes.
15 Q. And do you see that that check is written to
16 Future By Design?
17 A. Yes.
18 Q. And dated December of 2013?
19 A. Yes.
20 Q. Did you intend to write a check for \$13,000 to
21 Future By Design?
22 A. Not that I recall.
23 Q. Can you think of any reason why you would have
24 wanted to write a \$13,000 check to that company?
25 A. No.

6

1 Q. I'm now going to hand you what has been numbered
2 as 2423 in the bottom corner, and I would ask you
3 to look at the top of this document.

4 A. I can't get it.

7

5 Q. Oh.

6 A. I can't read that.

8

7 Q. Okay. Would it be all right if I read aloud to
8 you what it says?

9 A. Yes.

9

10 Q. At the very top at the top left corner it says:
11 Ardis Liddle. And then on the top right corner
12 there is a statement date range from June 17th of
13 2014 through July 16th of 2014. This appears to
14 be the first page of a bank statement.

15 I'm going to turn the page.

16 The next page is numbered 2424, and

17 there is a record of on-line transfers there.

18 Now, I know you said you were having difficulty
19 reading the print of that size.

20 A. Yes.

0

21 Q. I'm going to read aloud the specific transactions
22 that I wanted you to review. It says:
23 Electronic Withdrawals, as a heading.

24 Underneath that there is one transaction
25 that is dated 7-7, and that's for that statement

1 period. So that's July 7th, and it's for
2 \$12,000. It's an on-line transfer and was from
3 your account.

4 At that time did you intend to transfer
5 \$12,000 to Future By Design?

6 A. I never transferred anything to Future By Design.

1 7 Q. Did you intend to transfer that to Senior
8 Planning Resource?

9 A. No.

2 10 Q. Did you intend to transfer that to Gary Haynes?

11 A. No.

3 12 Q. I'm now turning to a page that's been numbered
13 2429. And because I know that you were having
14 difficulty with the glass we have given you, I
15 will read this aloud.

16 It's another banking statement. At the
17 top left corner it says Ardis Liddle again. The
18 statement time period is July 17th, 2014 through
19 August 15th, 2014.

20 When you turn the page, the next number
21 is 2430. There is a record of an on-line
22 transfer, and that is dated 7-23, or July 23rd,
23 of \$1,000. You said previously you never
24 intended to transfer anything to Future By
25 Design?

1 A. I never did transfer anything, no.

4 2 Q. Did you intend to make that transfer to Senior
3 Planning Resource?

4 A. No.

5 5 Q. Did you intend to make that transfer to Gary
6 Haynes?

7 A. No.

6 8 Q. I'm now turning to a page that's been numbered
9 2488, and again I will read aloud. It appears
10 to be-- In the top left corner it says: Ardis
11 Liddle, on the address of the statement. On the
12 top right corner there is a banking statement
13 period of May 14th, 2015 through June 11th,
14 2015.

15 And since you can't read it, I do just
16 want to make sure, can you hear me okay?

17 A. Yes. Yes.

7 18 Q. And when you turn the page, the next page is
19 2489. There is one on-line transfer, and that
20 transfer is of \$1,000. The date is 5-21 or May
21 21, and the record of the transfer says: On-line
22 payment. There is an account number, and then it
23 says: To Future By Design.

24 Is it still correct you did not intend
25 to make that transfer to Future By Design?

1 A. I did not.

8 2 Q. There is also an additional record and on that
3 same page, 2489, in the bottom corner, there is
4 another transfer, and it's dated 6-11, or June
5 11th. There is an on-line payment, and it says:
6 To Future By Design in the amount of \$1,000.

7 Did you intend to make an on-line
8 payment to Future By Design?

9 A. I did not.

9 10 Q. I'm now turning to the next page, and we are
11 still in those same Chase Bank records right now,
12 and this is 2494. And reading it aloud, the
13 name Ardis Liddle is in the top left corner.
14 That's the address the bank statement was sent
15 to. And the date on the bank statement is June
16 12th, 2015 and that's through July 13th, 2015.

17 I'm going to turn the page.

18 The next number in the corner is 2495.
19 There is a record there dated 7-6, or July 6th.
20 It says: On-line payment to Future By Design.
21 That's in the amount of \$1,000.

22 Did you intend to make that payment?

23 A. No.

0 24 Q. I will now refer to Exhibit 3. That is the Fifth
25 Third Bank records. I'm turning to Page 1424.

1 This is slightly bigger. I'm going to ask you
2 if you can read that. If you can't, I will keep
3 reading it aloud. That on top here
4 (indicating).

5 A. I can read that. It's a little blurry. This is
6 not very good (indicating).

1 7 Q. So the magnifying glass is a little blurry?

8 A. It's a little blurry in here.

2 9 Q. You can read it, but it's just blurry?

10 A. It's just blurry, yes.

3 11 Q. Okay. So then you can see it is a \$5,000 check
12 to Senior Planning Resource?

13 A. Yes.

4 14 Q. And that's dated December 12th of 2011. That is
15 the date on the upper right corner?

16 A. Yes.

5 17 Q. Now, there is a name on the signature slot. I
18 want to ask you if that appears to be your
19 signature? And if you don't know, you can say.

20 A. Right here (indicating)?

6 21 Q. Right there (indicating).

22 A. That appears to be my signature, yes.

7 23 Q. Okay. You said that appears to be your
24 signature. Do you recall signing that?

25 A. No, I don't.

8

1 Q. Do you know why you would have wanted to make a
2 \$5,000 check to Senior Planning Resource?

3 A. No.

4 Q. Now I'm going to turn to Page 1551, that same
5 Exhibit 3. So these are the Fifth Third Bank
6 records, and I'm going to ask you to look at the
7 check that's at the bottom of the page. And
8 again please just say if you can't read it.

9 A. Yes, I can read it.

0 10 Q. You can read that?

11 A. Uh-huh.

1 12 Q. All right. Do you agree then that this is a
13 check. It says it's written to Future By Design?

14 A. Yes.

2 15 Q. And it's in the amount of \$5,000?

16 A. Yes.

3 17 Q. Can you read the date on that?

18 A. The date is kind of small.

4 19 Q. Okay. It looks to me like it's February 26th of
20 2015. Does it look like that to you?

21 A. Yes. That's right, yeah.

5 22 Q. There is a signature at the bottom of that
23 check. Can you please look at that and tell me
24 if that looks like your signature?

25 A. It does look like it.

6

1 Q. Do you recall writing this check?

2 A. No, I don't.

7

3 Q. Do you know why you would have wanted to transfer
4 that \$5,000 to Future By Design?

5 A. No, I don't know. I don't think I would.

8

6 Q. You don't think you would have?

7 A. No.

9

8 Q. Now I'm going to refer to Exhibit 4. That's the
9 Bank of America bank records. I'm turning to
10 Page 1706. This is a little larger, so this may
11 be easier to read it.

12 A. Okay.

0

13 Q. Please take a look at that.

14 A. Bring it over this way a little. Yeah, I can
15 read that.

1

16 Q. Do you agree it appears to be written to Senior
17 Planning Resource in the amount of \$5,000?

18 A. Yes.

2

19 Q. And is the date on that 12-12, 2011?

20 A. Yes.

3

21 Q. Does that appear to be your signature?

22 A. Yes, it does appear to be my signature.

4

23 Q. Did you want to transfer that \$5,000 to Senior
24 Planning Resource?

25 A. No.

5

5

1 Q. We are still in Exhibit 4 now and I'm referring
2 to Page 1726. Please take a look at that.

3 A. I can read that.

4 Q. You can read that. And does that appear to be a
5 check written to Future By Design?

6 A. Yes, it is.

7 Q. Is that in the amount of \$14,000?

8 A. Yes.

9 Q. And what is the date on that?

10 A. 10-31-13.

11 Q. Okay. And does that appear to be your signature
12 on the bottom?

13 A. It appears to be, yes.

14 Q. Did you want to send \$14,000 to send -- to Future
15 By Design?

16 A. No.

17 Q. I will now be referring to Exhibit 5. For the
18 record, Exhibit 5 is the beginning of the binder
19 which also houses a portion of Exhibit 6. Both
20 exhibits are marked separately within the binder
21 by dividing tabs.

22 Now handing you what is Exhibit 5, and
23 you will see that at the bottom it is numbered
24 2045. Please take a look at the check on the
25 top.

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Were you able to read that?

A. Not all of it.

Q. Okay. I will read the important details out loud.

In the upper left corner it says:
National Western Life Insurance Company. This is a check. In the upper right-hand corner there is a date; it's dated 5-21, 2012.

The amount which is typed on there in two different places is in the amount of \$117,490.42. It says: Pay to the Order of Ardis Liddle, [REDACTED]

Below that is a copy of the back of that check. On the back of that check in the place where the endorsement is, it says: Paid to the Order of Senior Planning Resources.

Did you intend to sign this \$117,000 check over to Senior Planning Resources?

A. No, I did not.

Q. Now, you mentioned before that you had lived in Arizona for most of your life?

A. Yes.

Q. And then you moved back to Michigan?

A. Yes.

5

1 Q. When you moved back to Michigan, how did you feel
2 about your overall finances?

3 A. Well, I thought I had everything-- Is that too
4 loud?

6

5 Q. You're just fine.

6 A. I thought I had everything all set because after
7 my husband passed away, I had no one in Arizona
8 any longer, and so I come back here where I did
9 have some relatives, and I had my house paid for,
10 my car paid for, and a little bit of money in the
11 bank and -- and my -- the rest of the money that
12 I had I thought would keep me for the rest of my
13 life and so I wouldn't have to go to work or --
14 and I could finally enjoy myself after working
15 all these years.

16 Q. And right now, how do you feel about your
17 finances?

18 MR. JOHNSON: Objection, Your Honor.
19 Relevance.

20 MS. STINEDURF: I think it goes to the
21 relevance as to what she intended to do with her
22 finances. The issue here is whether she
23 intended to send all of this money to Future By
24 Design, Senior Planning Resource, and Gary Haynes
25 and his household as to whether she's satisfied

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with the fact that that is where that money has gone.

MR. JOHNSON: I will object to that. She's already testified she didn't intend to send it to them.

THE COURT: And it's not relevant. So, sustained.

Q. (BY MS. STINEDURF) What money are you using to pay your bills now?

MR. JOHNSON: Objection, Your Honor. Same objection, relevance.

MS. STINEDURF: I think again it goes to whether is it all of her money that went to this entity, and whether how likely it is that she would have sent all of her money to this organization.

If this is someone who has an enormous amount of money in the bank, perhaps it's more likely that she would have sent some of this money to another organization. If she had no money in the bank, that makes it less likely.

THE COURT: And she can answer those questions, but--

MR. JOHNSON: Your Honor?

THE COURT: --how she feels about

1 certain things and stuff is -- and what she is --
2 what her idea of it is is not relevant.

3 So, overruled. I mean, sustained.

4 MS. STINEDURF: Thank you. I-- May I
5 ask the question about what money she is using to
6 pay her bills? I was not clear on the Court's
7 ruling.

8 THE COURT: No.

9 MS. STINEDURF: Thank you.

9 10 Q. (BY MS. STINEDURF) You said that you had to go
11 to the nursing home for a time period?

12 A. Yes.

0 13 Q. I see that you came in today using a walker?

14 A. Yes.

1 15 Q. Do you use that to get around most days?

16 A. I-- Yes. I always have to use it.

2 17 Q. Do you have-- Why do you need to use the walker?

18 A.

19

20

3 21 Q. You said that you live in a condo?

22 A. Yes.

4 23 Q. Do you live alone?

24 A. I live alone with my cat, yes.

5 25 Q. And do you have stairs in your condo?

1 A. I have stairs, but I have them -- I have a -- a
2 -- a, what do you call it, I have something
3 across there where they -- where you can't get
4 down the stairs.

5 Q. A gate across?

6 A. A gate. A gate, yes.

7 Q. Across it? Are you able to go up and down stairs
8 without help?

9 A. No.

10 Q. Before you used the walker, did you have to use
11 anything to help you move around?

12 A. Well, I used a cane, yes.

13 Q.

14 A.

15 Q.

16 A.

17 Q.

18 A.

19 -- the usual I guess for an older person. I
20 have a little bit of everything.

21 Q. Do you have things that you need to have a doctor
22 keep an eye on?

23 A. Yes.

24 Q. And what kind of things are those?

25 A.

1

me. I need a drink.

2

3

3 Q. Would you say that you have good vision or not
4 good vision?

4

5 A. It's not good.

5

4

6 Q. And as you were reviewing the bank records today,
7 I see that you're wearing glasses?

7

8 A. Yes.

8

5

9 Q. Did you also need to use a magnifying glass to
10 read those records?

10

11 A. Yes.

11

6

12 Q. Do you ever have any trouble with your hearing?

12

13 A. Yes.

13

7

14 Q. And you can hear me as I'm speaking now?

14

15 A. I can, yes.

15

16 Q. If I were to speak quieter, would you have
17 difficulty hearing me?

17

18 A. Yes, I would. I -- I do wear a hearing aide.

18

9

19 Q. You mentioned that Cheryl Crays used to help you
20 out around your house?

20

21 A. Yes.

21

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22 Q. What kind of things did she do for you when she
23 helped you?

23

24 A. Well, just the usual things you have to do, like
25 vacuum the -- the floor and -- and -- and, you

25

1 know, put dishes up where I can't reach them, and
2 things like that.

3 Q. You mentioned that Jody Elliot--

4 A. Yes.

5 Q. --also helped you. What kind of things did she
6 do?

7 A. She did the same things only she did a little bit
8 more. She took me to my appointments and -- and
9 my doctors' appointments and hair appointments or
10 whatever -- whatever I wanted to do. And she did
11 some housework also.

12 Q. Is there someone who helps you out now?

13 A. Yes.

14 Q. And who is that?

15 A. That-- Sheila is my niece.

16 Q. And you mentioned that you had a neighbor that
17 had helped with pills sometimes?

18 A. Yes.

19 Q. Does she still help you?

20 A. Yes, she does. She is -- she is a very good
21 neighbor. She has been -- we have been
22 neighbors for about 15 years, and she kind of
23 watches over me.

24 Q. Aside from Sheila and Laurie, do you have friends
25 or family members that come to your house

1 regularly?
2 A. No, I don't. I don't have anyone. I lost most
3 of my family last year and my sister, my brother,
4 sister-in-law. And I have no one except one
5 sister that lives in Hart, and she is not very
6 well. So she can't help me either.

8 7 Q. Now, you mentioned that Gary Haynes helped with
8 your bills and paid your bills for years.

9 Would you recognize him if you saw him
10 today?

11 A. Yes.

9 12 Q. I'm going to step aside so you can look around
13 the courtroom. If you need to get up to see
14 anywhere in the courtroom that you can't see well
15 from where you are, go ahead and stand up so you
16 can look around the courtroom.

17 A. I can't see distance. So I'll have to stand up.

0 18 Q. Okay. You can stand up. I'm going to ask you to
19 look and see if you see him here today.

20 A. Can I move?

1 21 Q. Yes.

22 A. Okay, if I can get up. It's all right. Turn
23 some lights on, take these off, see if I can
24 see.

25 (Whereupon, witness began walking

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with her walker in the courtroom.)

THE WITNESS: Would he be seated up here
or in the back?

MR. JOHNSON: If you will repeat that,
what she just said.

MS. STINEDURF: She said would he be
seated up here or in the back.

MR. JOHNSON: Okay. Thank you.

Q. (BY MS. STINEDURF) It's up to you. You can look
around the courtroom and see if you recognize him
or not. If you can't see well enough, tell us.
If he's here, that's okay too. We are just
asking that you say what you know.

A. Well, I can't see well enough to be positive.

Q. You can't see well enough to be positive?

A. Yeah.

Q. Thank you. And if you could have a seat back
over there.

A. Thank you. Sit something down now.

MS. STINEDURF: I don't have any other
questions for you, but Mr. Johnson may.

THE WITNESS: Thank you.

MS. STINEDURF: Thank you.

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CROSS-EXAMINATION OF MS. ARDIS LIDDLE

BY MR. JOHNSON, J.D.:

Q. Good morning, Ms. Liddle.

A. Good morning.

Q. Ma'am, you've been testifying for quite awhile now. Do you want to keep going, or do you need a quick break?

A. No. I would love a break, if I could:

MR. JOHNSON: Okay. Your Honor, may we take a quick break so Ms. Liddle can stretch her legs a little bit?

THE COURT: You may. I usually take the morning break about quarter after. So we will take the morning break now. I will have the jury report back at ten after ten.

Thank you.

THE CLERK-BAILIFF: All rise.

(Whereupon, recess taken at approximately 9:55 A.M.; with proceedings resuming at approximately 10:10 A.M., out of the presence of the Jury.)

THE COURT: We are back on the record. Anything before I bring the jury in?

MR. JOHNSON: No, ma'am.

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MS. STINEDURF: No, Your Honor.

THE COURT: We will bring the jury in,
please.

(Whereupon, Jury returned to
the courtroom.)

THE COURT: You may be seated.
Mr. Johnson?

MR. JOHNSON: Thank you.

Q. (BY MR. JOHNSON) I want to stand over here so
folks can see your face, Ms. -- Mrs. Liddle.
Good morning.

A. Good morning.

Q. I'm Fred Johnson. Do you remember me?

A. Yes, I do.

Q. Yeah, we met this summer; right?

A. Yes.

Q. At the Preliminary Examination?

A. Yes.

Q. We talked -- we talked about this -- this stuff
all over again or this is all over again. We've
talked about this stuff before; right?

A. Yes.

Q. Okay. Well, then you know the drill. I'm just
going to ask you a few more-- Well, I'm going to
ask you some more questions. I'm not going to

1 say a few. I'm going to ask you a couple
2 questions. Okay?
3 A. Okay.
4 Q. And it's the exact same procedure. If you
5 remember or you know, you tell us. If you don't,
6 you tell us that.
7 A. Uh-huh.
8 Q. Is that okay?
9 A. Okay.
10 Q. All right. Let's give it a shot here.
11 First of all, I -- I tried to take notes
12 when we began. I -- I think you testified you
13 moved here somewhere around 2005/2006; is that
14 correct?
15 A. Yes.
16 Q. But were you born and raised in Michigan? Is
17 that where you started?
18 A. I was born in Michigan.
19 Q. Um-hum.
20 A. But I left here when I was 24 years old and moved
21 to Arizona.
22 Q. Okay. And you were married at the time?
23 A. Yeah, not at the time.
24 Q. Okay. Oh, you met your husband in Arizona?
25 A. Excuse me?

0

1 Q. You met your husband in Arizona?

2 A. No.

1

3 Q. Oh, okay. Well, how did that happen then?

4 A. No. I met him in Michigan.

2

5 Q. Okay. All right. But the two of you married in
6 Arizona?

7 A. No. I was married in Michigan.

3

8 Q. Okay. All right. Well, let me ask you this:
9 How long were you married to Mr. Liddle?

10 A. We were married 27 years.

4

11 Q. Oh, good for you. Good for you. And he -- he
12 passed in 2001 I think?

13 A. Yes.

5

14 Q. Okay, ma'am. And so you-- But you stayed in
15 Arizona for about four years after he passed
16 away?

17 A. Yes.

6

18 Q. And when you were in Arizona, were you living by
19 yourself at that time?

20 A. Well, my husband came and he -- he was working.
21 So he -- he didn't want to quit his job yet, so
22 he came in the wintertime and stayed. And then
23 -- and I come back here in the summer.

7

24 Q. Okay. I think I asked that question very, very
25 poorly.

1 After your husband passed away, you
2 remained in Arizona for about four years?

3 A. Yes.

4 Q. Okay. That's what I meant. Thank you.

5 And during that time were -- were you
6 living by yourself?

7 A. Yes.

8 Q. Now, before your husband passed away, part of his
9 duties were to take care of the bills and make
10 sure everything got paid and the investments and
11 that stuff; is that correct?

12 A. I usually took care of most of it.

13 Q. You took care of that stuff then during his
14 lifetime as well?

15 A. Yes.

16 Q. Okay. So when he passed away, you just
17 continued to do that sort of thing?

18 A. Excuse me?

19 Q. Once he passed away--

20 A. I don't understand that.

21 Q. I'm sorry. Once he passed away--

22 A. Excuse me for a minute.

23 Q. Absolutely, ma'am.

24 A. Dry.

25 Q. That's fine. Once he passed away, once your

1 husband passed away in 2001, you simply continued
2 to take care of the business for yourself as
3 opposed to taking care for both of you?

4 A. Yes.

5 Q. Okay. Good. All right. So then you came here
6 in 2005 or 6, somewhere around there?

7 A. It was 5, yes.

8 Q. Okay. And -- and when you got here, were you --
9 did you still take care of your own -- your own
10 business at that time?

11 A. Yes. I started to, yes.

12 Q. Okay. You were still taking care of the bills
13 and that sort of thing; correct?

14 A. Yes. Yes, I was.

15 Q. And, ma'am, were you driving at that time?

16 A. Yes.

17 Q. Okay. And -- and you weren't using a cane at
18 that time?

19 A. What's that?

20 Q. In 2006 were you already using a cane?

21 A. Not -- not in 2006.

22 Q. Okay.

23 A. Shortly after, yeah.

24 Q. Okay. So in 2006 you were driving, and you
25 weren't using a cane yet?

1 A. Excuse me?
4 2 Q. In 2006 you were driving?
3 A. Yes.
5 4 Q. And you weren't using a cane yet?
6 A. Yes.
6 6 Q. And you were managing your own business affairs
7 at that point?
8 A. Yes.
7 9 Q. And was that -- that brace that keeps you from
10 walking down into the basement, was that on your
11 -- your -- your door in 2006?
12 A. No, not in 2006.
8 13 Q. Were you still able to go up and down stairs in
14 2006, ma'am?
15 A. Yes.
16 Q. Okay. And how did you hear about the symposium
17 that Mr. Haynes was -- was running?
18 A. I may have read it in the paper, but I -- I don't
19 recall for sure.
0 20 Q. All right. And, but you did go?
21 A. I did go.
1 22 Q. And--
23 A. Yes.
2 24 Q. And you drove yourself on that occasion?
25 A. Yes.

3

1 Q. All right. And was there anyone with you when
2 you went to the symposium, do you remember?

3 A. No. I was alone.

4 Q. Okay. And it was -- and they talked about
5 finances and investments and for retired folks;
6 is that correct?

7 A. Correct.

5

8 Q. Now, how -- how did you and Mr. Haynes start a
9 personal conversation?

10 In other words, he's talking to a whole
11 group in the beginning. How do you start talking
12 to him one on one?

13 A. Well, he started talking to me about--

6

14 Q. Okay. Did he single you out, or was he talking
15 to everybody?

16 A. I have no idea.

7

17 Q. Okay. All right. But you spoke to him?

18 A. Yes.

8

19 Q. And this was still at the symposium?

20 A. It was.

9

21 Q. When you first spoke to him, was it still at the
22 symposium?

23 A. Yes.

0

24 Q. But at some point you ended up meeting him at
25 your home?

1 A. Yes.

2 Q. All right. And it was -- was it that same year?

3 A. Yes.

4 Q. Okay. And then from there on, from 2006 to 2016,
5 you and Mr. Haynes were -- were at least speaking
6 to one another; is that correct?

7 A. Yes.

8 Q. Okay. And -- and, in fact, you became -- it was
9 not just business. It became friends; correct?

10 A. Well, yes.

11 Q. Okay. In fact, you went to -- you went to -- did
12 you go to plays or something for his daughter?

13 A. Yes.

14 Q. Okay. And you met his wife and obviously his
15 children?

16 A. That's true, yes.

17 Q. Okay. Now, so initially you had him doing what
18 for you? What was the first thing you remember
19 having him do for you?

20 A. Well, doing my -- paying my bills and -- mainly
21 paying my bills.

22 Q. Okay. And -- and you said he -- he did a couple
23 things around the house, like fixing the door?

24 A. Yes, the screen door, when I needed to put the
25 screen door on.

8

1 Q. Okay.

2 A. And changing light bulbs and things like that,
3 small things.

9

4 Q. Okay. Do you remember if he ever did your dishes
5 for you or anything along those lines?

6 A. No.

0

7 Q. You don't remember, or he never did them?

8 A. No, he never did it.

1

9 Q. Okay. Did he ever do any other chores for you
10 around the home?

11 A. No.

2

12 Q. Okay. And this was out of friendship; right?
13 This wasn't part of his -- his duties to help you
14 with your bills; right?

15 A. Right.

3

16 Q. Okay. All right. Let's see, and -- and he --
17 you gave him access to your bank accounts?

18 A. To my what?

4

19 Q. To your bank account?

20 A. Yes.

5

21 Q. I believe you testified you gave him access to
22 one bank account; is that correct?

23 A. Yes.

6

24 Q. Okay. And -- and do you remember how many bank
25 accounts you had over the years from 2006 to

1 2016? How many different banks?
2 A. Excuse me.
3 Q. Um-hum.
4 A. I believe it was three.
5 Q. Okay. All right. And -- and, ma'am, when he
6 would -- when he would pay your bills, how did
7 you keep track of what he was doing, if he did?
8 Did you keep track of what he was doing?
9 A. Well, I thought he was keeping track of it. So I
10 wasn't keeping too much.
11 Q. Okay. Well, do you remember back in the
12 Preliminary Examination I asked you about your
13 journals?
14 A. Yes.
15 Q. Do you remember -- do you remember testifying
16 back then you kept journals?
17 A. I-- What do you mean by journal?
18 Q. I was just going to ask you. What type of
19 journals did you keep? What type of records did
20 you keep of your financial transactions?
21 A. Well, my -- my checkbooks and so on--
22 Q. Um-hum.
23 A. --mainly, yes.
24 Q. Okay. Did you keep journals?
25 A. No, I don't believe so.

4

1 Q. Okay. Just a moment, ma'am.

2

MR. JOHNSON: Your Honor, may I
approach?

3

THE COURT: You may.

4

5 Q. (BY MR. JOHNSON) Ms. Liddle, do you still have
6 the magnifying glass close to you?

7

A. Well, it isn't very good.

6

8

Q. It isn't very good, and that's fine. It's just
9 the best that we have. And if you can, I will
10 have you take a look at a piece of paper for me,
11 what's been marked Proposed Exhibit A. I want
12 you to take a look at this piece of paper and see
13 if you recognize it at all. Okay? And then we
14 will talk questions about it after that.

15

Is that okay?

16

A. Yeah.

7

17

Q. Okay. Here's the document (indicating). Why
18 don't you take a look at it. If you -- you
19 recognize it, fine. If not, that's fine too.

20

A. Okay.

8

21

Q. Thank you, ma'am. Were you able to recognize
22 this document at all?

23

A. (Whereupon, no response.)

9

24

Q. Were you able to tell what it was?

25

A. Yes.

0 1 Q. Does it look like-- Is this something that you
2 wrote?
3 A. Yes.
4 Q. Okay.
5 A. Yes, it is.
6 Q. This is something you wrote. And it says on the
7 top: Donations 2013?
8 A. Yes, that's true.
9 Q. Do you remember writing this document or remember
10 what's on it?
11 A. I don't -- I don't remember. I don't recall just
12 that exact document, but I do keep track of the
13 -- the donations I give.
14 Q. Okay. And -- and is that what this is?
15 A. That's all the -- the donations that I gave that
16 year, yes.
17 Q. Okay. And -- and it's a list of them?
18 A. Yes.
19 Q. And do you know whether or not it came out of one
20 of your journals?
21 A. Do I what?
22 Q. Did it come out of one of your journals, ma'am?
23 Do you know?
24 A. I don't think so.
25 Q. Okay.

1 A. I kept it separate.

2 Q. All right. You kept that sort of thing separate
3 from your journals?

4 A. I -- I keep everything separate, yes.

5 Q. Okay. Now, do you remember back in -- in I guess
6 it was this summer, I asked you about these
7 journals. You said that you think, if you have
8 them, they are in your basement.

9 Do you remember telling me that?

10 A. I don't remember.

11 Q. Do you have any idea where the -- the journals
12 are?

13 A. I don't know.

14 Q. You don't know?

15 A. No, I don't know. No, I don't recall.

16 Q. Okay. I asked-- You know what, sometimes
17 lawyers ask questions that are -- that are very
18 bad. They just confuse people. Let me start
19 over again.

20 I'm wondering, first of all, do you --
21 do you remember making journals over the -- the
22 years?

23 A. I -- I -- I -- I'm not sure that I know what you
24 mean by journals.

25 Q. Did you keep any records of your financial

1 transactions?

2 A. Well, yes.

3 Q. Okay. How did you keep those records?

4 A. Well, in my checkbook mostly.

5 Q. Okay. And do you know where those checkbooks
6 are?

7 A. Well, that was a long time ago.

8 Q. Yes, ma'am.

9 A. You don't keep everything.

10 Q. Okay. So do you remember at-- Do you remember
11 testifying at the Preliminary Examination that
12 you kept some records in the basement, but you're
13 not sure where they were?

14 A. I don't remember that, no.

15 Q. Okay. But you certainly can't get to the
16 basement anymore; correct?

17 A. I can't -- I can't get to it, no.

18 Q. Now, you can't, but if an able-bodied person were
19 to come to your home, is there anything stopping
20 them from moving that bar and going down into
21 your basement?

22 A. I don't think anyone would do that.

23 Q. Oh, I'm not saying they did. I'm saying there
24 are steps to your basement where people can get
25 the--

1 A. Oh, absolutely, yes.

2 Q. Okay. All right. That's what I was asking.

3 A. It's not really a basement; it's just a lower
4 level.

5 Q. Okay. And -- and you stored some records down
6 there and whatnot, or do you know what's down
7 there?

8 A. I -- I don't store records down there, no.

9 Q. Okay. Now, you mentioned that you kept
10 checkbooks; correct?

11 A. I have three checkbooks, yes.

12 Q. And you kept records in your checkbooks?

13 A. Yes.

14 Q. And what type of-- When you say you keep
15 records, with -- with -- with me, I'm -- I'm --
16 I'm -- I always say I write down the check number
17 and maybe what I spent, but were you more
18 thorough than that?

19 Did you write down what those expenses
20 were, or were you like me?

21 A. Most of the time I'd write it down, yes.

22 Q. Okay. You wrote down what the expenses were?

23 A. The expenses were, yes.

24 Q. Okay. And so when -- when you spent money, you
25 made a record of it?

1 A. Yes, I would.

9 2 Q. Okay. Now, one of the questions that I wanted to
3 ask you, when you were on Direct Examination you
4 -- you -- they showed you a bunch of checks;
5 correct?

6 A. Yes.

0 7 Q. And some-- I think you could see better
8 yesterday when you had your own magnifying glass
9 than you could today. Is that true?

10 A. Definitely.

1 11 Q. Okay. And -- and you saw -- we showed you some
12 checks yesterday; correct? Do you remember?

13 A. I don't remember.

2 14 Q. You don't remember seeing any checks yesterday?

15 A. I could have.

3 16 Q. Okay. Let me put it to you this way, of all the
17 checks that you have been shown, as far as I can
18 tell from the board, were signed Ardis Liddle.

19 A. That's right.

4 20 Q. That's your name; correct?

21 A. That's right.

5 22 Q. And you don't recall signing some of those
23 checks; correct?

24 A. I don't recall signing them, no.

6 25 Q. Okay. But -- but you don't -- but it looks to

1 you like your signature; is that right?

2 A. It looks like my signature, yes.

3 Q. Okay. And let me make -- let me make something
4 else sure, during this time, 2006 to 2016, did
5 anybody force -- force you, I mean physically,
6 you know, threaten to beat you up, or shoot you,
7 or something if you didn't sign a check?

8 A. No.

8 9 Q. Okay. Are you still driving, ma'am? I'm
10 assuming you're not?

11 A. No, I'm not.

9 12 Q. When did you stop driving?

13 A. About two years ago.

0 14 Q. Okay. Up until then, you were out and on the
15 road; correct?

16 A. Yes.

1 17 Q. Okay. Oh, there has been mention that you were
18 placed in a nursing home. Do you remember that?

19 A. Yes.

2 20 Q. And you didn't like it there, and you were ready
21 to go home; right?

22 A. I was ready to go home, yes.

3 23 Q. Okay. Okay. The question I have-- And I don't
24 need to get into the details. --were you placed
25 in the nursing home because of an illness or

1 because someone was worried about you being
2 mentally capable?
3 A. (Whereupon, no response.)
4 Q. Do you know what I'm saying?
5 A. I have no idea why I was put there.
6 Q. Okay. Were you sick at the time?
7 A. Not really.
8 Q. Was--
9 A. No.
10 Q. I mean--
11 A. I had a cleared deal with the -- at the
12 hospital. They -- they cleared me to go home.
13 Q. Okay.
14 A. But because I didn't have anyone at home, why,
15 they thought I should go to the nursing home.
16 Q. Well, maybe I should take a step back. Why were
17 you at the hospital, ma'am?
18 A. Why?
19 Q. Yes, ma'am, if you remember.
20 A. I don't recall, but.
21 Q. Okay. Now, this nursing home you went to, was --
22 this was just a place for you to rest and get
23 better; correct?
24 A. Yes. Supposedly, yes.
25 Q. And once -- once they figured out what you

1 already knew, right, you were ready to go home?

2 A. I was.

3 Q. Once they finally figured that out, they let you
4 go home?

5 A. No. They -- they took me to another nursing
6 home, the second one.

7 Q. Okay. Now you're back home now; right?

8 A. Excuse me?

9 Q. You're back home now though?

10 A. Oh, yes.

11 Q. So did the second one let you go home?

12 A. Of course, yes.

13 Q. Okay. They figured it out; right?

14 A. Yeah.

15 Q. And something you could have saved them a lot of
16 time with. You could have told them that a long
17 time ago; right?

18 A. I didn't -- I didn't want to spend any time
19 there.

20 Q. Okay. So you were -- you were -- they released
21 you to go home?

22 A. Yes.

23 Q. Take your time. Don't let me rush you.

24 Ma'am, let me ask you: You have -- you
25 -- you mentioned when we asked you about some of

1 the questions that you were asked about
2 questions, my questions and the prosecutor's
3 questions, sometimes you said: I don't -- I
4 don't remember.

5 Do you remember answering some of the
6 questions that way?

7 A. Yes.

1 8 Q. Are you-- Was your memory better you think in
9 2005, '6, '7, than it is now?

10 A. Well, most people's are.

2 11 Q. Yes. Yes. I would think so.

12 So -- so 10, 15 years ago your memory
13 would have been better than it is today?

14 A. I can -- I can remember quite a bit, yes.

3 15 Q. Yes, you certainly can. But it was better then;
16 correct? As we age, our memory slips?

17 A. Oh, of course.

4 18 Q. Okay. Oh, you were asked were you ever given a--
19 You know what a blank check is?

20 A. Yes.

5 21 Q. Okay. It's a check where there is nothing
22 written on it?

23 A. Yes.

6 24 Q. And somebody hands you a check, and -- and-- and
25 then you sign it, and then they fill it out?

1 A. Yes.

2 Q. Okay. Were you ever given any blank checks that
3 you can recall?

4 A. Not that I remember.

5 Q. Okay. Now, you -- you -- you know you better
6 than anybody. Would-- Was it your practice back
7 in 2006 to 2016 to sign a blank check for
8 anybody?

9 A. No.

10 Q. Okay. When-- Now, okay. My understanding is
11 you have a nephew here in town; is that correct?

12 A. Huh?

13 Q. A nephew in the area?

14 A. I have several.

15 Q. Okay. So you have nieces and nephews in the
16 area?

17 A. Well, they're not in the area, no.

18 Q. Okay. Well, that-- But when you moved back to
19 this area--

20 A. Yes.

21 Q. --did you have friends and relatives in this
22 area? Is that why you chose here or just because
23 it's beautiful here?

24 A. I-- Excuse me. I did have relatives here, but
25 most of them are gone now.

4 1 Q. Okay. All right. So back when you-- When you
2 moved back, initially it was just you, or was the
3 cat with you at that time too?

4 A. I didn't understand that.

5 5 Q. When you moved back to Michigan in 2005, did you
6 already have your cat, or -- or was that later?

7 A. Did I already have what?

6 8 Q. Your cat.

9 A. Well, I had a cat, but not that one.

7 10 Q. Okay. So at the time you moved back to Michigan,
11 it was you and your previous cat?

12 A. Yes.

8 13 Q. Okay. That's -- that's what I'm asking.

14 Okay. So when you-- My understanding--
15 And -- and -- and correct me if I'm wrong. --is
16 that you were living independently. You were
17 living on your own with you and the cat?

18 A. Yes.

9 19 Q. Correct? And -- and you had some relatives in
20 the -- the area; correct?

21 A. I did at the time, yes.

0 22 Q. But were they coming by often-- And you tell me
23 what often means. --to see you and check on
24 you, see how you're doing?

25 A. They were -- they were at first before -- before

1 some of them became ill and--

2 Q. Sure.

3 A. --and couldn't do it.

4 Q. Okay. And so the -- the number, the frequency,
5 the number of times you got visits decreased as
6 people aged and weren't able to come by; is that
7 correct?

8 A. Well, that's true.

9 Q. Okay.

10 A. Yes.

11 Q. And you were living-- And -- and these folks
12 were aware that you were living by yourself?

13 A. Oh, yes. Everyone was aware of that.

14 Q. Did you -- did you ever hire a lawyer or anything
15 to check on your investments or anything else you
16 were doing?

17 A. Not here in Michigan, no.

18 Q. Yeah. Did any of your friends or relatives
19 suggest that you do such a thing?

20 A. Not that I recall, no.

21 Q. Okay. You -- you spoke about Jody Elliot. Who
22 is Jody Elliot again?

23 A. (Whereupon, no response.)

24 Q. Jody Elliot?

25 A. What about her?

9

1 Q. Who is she to you?

2 A. Who is she?

0

3 Q. Yes, ma'am.

4 A. She worked for me. She did housework and -- and

5 she came every -- once a week and -- and helped

6 me with housework.

1

7 Q. Okay. So she would come by once a week?

8 A. Right.

2

9 Q. And was -- was Mr. Haynes there when she came by?

10 A. Yes.

3

11 Q. Okay. So she knows Mr. Haynes?

12 A. Yes.

4

13 Q. Okay. And she -- she did housework around the

14 house, light housework?

15 A. She what?

5

16 Q. She did housework for you?

17 A. Yes.

6

18 Q. And she's also the lady who would drive you to

19 the doctor on occasion?

20 A. Yes, she did.

7

21 Q. Okay. Do you-- How -- how long-- Is she still

22 working for you?

23 A. No, she is not.

8

24 Q. Okay. How long did she work for you about,

25 approximately? I don't mean--

1 A. Oh, my gosh, probably four years.

9 2 Q. Okay. And when did she stop? How long has it
3 been since she last worked for you, ma'am?

4 A. It's been just a few months.

0 5 Q. Okay. Okay. And who is Sheila? Sheila?

6 A. Sheila is my niece.

1 7 Q. Okay. And does she help with work? Does she
8 help you now?

9 A. Yes, she is helping me now.

2 10 Q. What sorts of things does Sheila do for you?

11 A. Well, she does a little bit of everything.

3 12 Q. Okay.

13 A. She's a very nice girl.

4 14 Q. Okay. So, some housework?

15 A. Well, she'll run the vacuum cleaner for me.

5 16 Q. Okay. She doesn't do dishes?

17 A. Well, she does, yes.

6 18 Q. Bless her heart. Okay. She does dishes. Does
19 she provide you transportation?

20 A. Yes. She -- she will take me anywhere, yes.

7 21 Q. Okay. Who cooks for you? Who does your cooking?

22 A. I do.

8 23 Q. You cook for yourself?

24 A. Yes.

9 25 Q. Thank you. You have no problem with that. You

1 haven't left the oven on or anything, burned
2 yourself when you cook?
3 A. When I cook what?
4 Q. You haven't gotten burned or left the oven on?
5 A. No.
6 Q. Or burned yourself or anything?
7 A. No.
8 Q. Or--
9 A. Oh, no.
10 Q. --no injury or anything like that?
11 A. Oh, no, no.
12 Q. And how long has Sheila been -- been working,
13 helping you out?
14 A. Well, not too long. Just a couple of months
15 now.
16 Q. Okay. Okay. You also talked about is it Cheryl
17 Crays?
18 A. Yes.
19 Q. Who is Cheryl to you?
20 A. Cheryl is another -- another niece.
21 Q. Okay. Does she come help as well?
22 A. She does when she can. She is not very well.
23 Q. Okay.
24 A. And she lives in Spring Lake.
25 Q. Okay.

1 A. So she's -- she's not as close as--
2 Q. Sure. Do you know how long-- Well, she's --
3 she's a niece. So I -- I assume that there has
4 been some contact with her since you got back to
5 Michigan in 2005?
6 A. Oh, yes. Oh, yes.
7 Q. Okay. And -- and maybe not often, but on
8 occasion; is that correct?
9 A. Yes. Yes.
10 Q. All right. You mentioned you have a very nice
11 neighbor of 15 years?
12 A. Uh-huh.
13 Q. Yes?
14 A. Yes.
15 Q. Okay. And does she help -- help you as well? I
16 understand she helps you with your pills?
17 A. She helps me with the medication, yes.
18 Q. And how long has she been doing that?
19 A. Ever since I've been here.
20 Q. Since 2005?
21 A. Yeah. She's -- she's a nurse.
22 Q. Oh, okay. When you-- When you were -- Mr.
23 Haynes was -- was working with you, did he -- he
24 came to the house; is that correct?
25 A. He what?

8 1 Q. He would come to your house to--
2 A. Yes. Yes, he -- he would.
9 3 Q. And you would speak on the phone, on the
4 telephone on occasion?
5 A. Yes.
0 6 Q. And I assume from -- since you had -- since you
7 were also friends, I assume you talked about a
8 lot of stuff, his kids and--
9 A. Yes.
1 10 Q. Did you ever talk to him about your investments
11 or anything along those lines?
12 A. No.
2 13 Q. Never talked to him about investments?
14 A. No.
3 15 Q. Okay. Did you ever ask him for an accounting or
16 anything along those lines and ask him what he is
17 doing with your money or how he's spending it
18 or--
19 A. No. No, I did not.
4 20 Q. All right. Did you keep any notes or anything as
21 to what Mr. Haynes was doing for you?
22 A. No. I didn't need to keep notes because I could
23 remember what -- when he came and what he did
24 and--
5 25 Q. Okay.

1 A. --and so on, so.

2 Q. And -- and -- and back in those days when your
3 eyes were much better, you know what he looks
4 like; correct -- Mr. Haynes?

5 A. Yes, I do. I know -- I know who he looks like.

6 Q. Okay. But back -- back when your eyes were
7 better, you could spot him?

8 A. I could spot him right away, but I can't see very
9 well now.

10 MR. JOHNSON: Thank you. One moment,
11 please.

12 THE WITNESS: Okay.

13 MR. JOHNSON: One moment, please.

14 Ms. Liddle, thank you very much for
15 answering my questions this morning.

16 THE WITNESS: You're very welcome.

17 MR. JOHNSON: Your Honor, I have no
18 further questions.

19 THE COURT: Thank you. Any follow-up?

20 MS. STINEDURF: Yes, Your Honor.

21

22 REDIRECT EXAMINATION OF MS. ARDIS LIDDLE

23 BY MS. STINEDURF, J.D.:

24 Q. Ms. Liddle, are you okay to continue right now?

25 A. I'm fine.

9

1 Q. Okay. Mr. Johnson asked you if Mr. Haynes ever
2 talked to you about your investments.

3 Did he ever talk to you about annuities?

4 A. No.

0

5 Q. Are annuities the same thing as an investment?

6 A. Well, that's the only thing I had was annuities.

1

7 Q. So you did have annuities when you were working
8 with Mr. Haynes?

9 A. I had -- I had annuities before I came here from
10 Arizona. I had -- I had all my annuities then.

2

11 Q. Did you still have them when you moved here?

12 A. Yes.

3

13 Q. You said that you stopped driving approximately
14 two years ago?

15 A. Yes.

4

16 Q. Why did you stop driving?

17 A. Well, first thing there was an accident where a
18 woman run into me and -- and took the wheel off
19 of the back of my car. So my car was totalled
20 and I decided-- Excuse me. --I decided maybe
21 that was the time that I should stop.

5

22 Q. Did you get a ticket at that time?

23 A. Yes, I did, but it wasn't -- I still don't think
24 it was my fault.

6

25 Q. Now, you said that you were finally able to leave

1 that second nursing home.

2 A. Yes.

3 Q. And I know you said you did not want to be
4 there.

5 A. Right. Correct.

6 Q. How were you able to leave?

7 A. Well, Mr. Haynes got his pickup truck and came
8 and loaded my furniture that they had put in
9 there. And I didn't know they were going to do
10 that, but they did and took it to my house.

11 Q. Did you talk to him at all about wanting to
12 leave?

13 A. Oh, yes.

14 Q. What did you tell him?

15 A. Well, I was very upset by being there because I
16 didn't belong there and I told him that if they
17 didn't get me out of there pretty soon, I was
18 going to walk home. I didn't live very far from
19 there, only about a block and a half, two
20 blocks.

21 MS. STINEDURF: I don't have any other
22 questions. Thank you.

23 THE WITNESS: Thank you.

24 THE COURT: Thank you. Mr. Johnson, any
25 follow-up from that?

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MR. JOHNSON: No, ma'am. Thank you.

THE COURT: Thank you. Ms. Liddle--

THE WITNESS: Yes.

THE COURT: --you may now step down and leave the courtroom. Thank you very much.

THE WITNESS: Thank you, Judge.

MS. STINEDURF: May this witness also be excused from her subpoena?

THE COURT: May she be excused?

MR. JOHNSON: No objection, Your Honor.

THE COURT: And you may be excused so you don't have to stay here if you do not want to.

THE WITNESS: Thank you. Thank you very much. My knees don't work very well. I will stand a minute.

(Whereupon, witness excused.)

THE COURT: You can call your next witness.

MS. STINEDURF: Yes. Next witness is Ryan Rimedio, and I believe he is in the waiting room on the fifth floor. So we will get him.

THE COURT: Right up here, please. Would you raise your right hand, please.

In this cause now pending do you

1 solemnly swear or affirm to tell the truth, the
2 whole truth, and nothing but the truth, so help
3 you?

4 R Y A N R I M E D I O ,
5 after having been duly administered an oath, was
6 examined and testified as follows:

7 THE WITNESS: I do.

8 THE COURT: Thank you. Come in. Have
9 a seat. Pull the microphone up to you and say
10 and spell your first and last name, please.

11 THE WITNESS: Ryan Rimedio. Spell
12 both?

13 THE COURT: Yes, please.

14 THE WITNESS: R-Y-A-N; last name
15 spelled R-I-M-E-D-I-O.

16 THE COURT: Thank you. Good morning.

17 THE WITNESS: Good morning.

18 THE COURT: Go ahead.

19

20 DIRECT EXAMINATION OF MR. RYAN RIMEDIO

21 BY MS. STINEDURF, J.D.:

1 22 Q. And Mr. Rimedio, what do you do for work?

23 A. I'm a branch manager for Chase Bank.

2 24 Q. And how long have you been a branch manager
25 there?

1 A. At my current location since the end of 2013.

3 2 Q. And what's your current location?

3 A. Spring Lake.

4 Q. What did you do before you were the branch
5 manager in Spring Lake?

6 A. I was a branch manager for the Fruitport Meijer
7 Chase branch.

5 8 Q. And how long were you the branch manager at the
9 Fruitport Meijer?

10 A. Just a year.

6 11 Q. And before you became branch manager at all of
12 them, what did you do?

13 A. I was an assistant manager for that same
14 location.

7 15 Q. How long were you an assistant manager?

16 A. Year and a half.

8 17 Q. And before that what did you do?

18 A. I was a personal banker.

9 19 Q. At Chase Bank also?

20 A. Yep, Chase Bank.

0 21 Q. At any particular branch?

22 A. Just that location, the Fruitport.

1 23 Q. And how long did you do that?

24 A. Eight months.

2 25 Q. Now, do you know someone named Ardis Liddle?

1 A. I do.

3 2 Q. How do you know her?

3 A. She's been a client since the -- the Fruitport
4 Meijer days.

4 5 Q. How often would she usually come into the bank?

6 A. Once every couple of weeks would be a typical
7 time frame.

5 8 Q. And you said that she's been a client since the
9 Fruitport Meijer days. Do you know
10 approximately what year that would have been?

11 A. 2008/2009.

6 12 Q. Would you describe Ms. Liddle as an elder adult?

13 A. I would.

7 14 Q. As part of your duties as a branch manager, do
15 you participate in any type of training to help
16 you identify fraud?

17 A. We do. We -- every employee in the -- in Chase
18 is required to take on-line or sometimes
19 in-person training with executives of Chase.

8 20 Q. Is there any additional training that you have to
21 participate in as a manager?

22 A. As a manager, no. I mean, depending on the
23 levels of fraud throughout the year, they could
24 increase the training. But generally it's once
25 or twice a year.

9

1 Q. And are you responsible for reviewing anyone
2 else's work and helping to look for fraud as your
3 job duties?

4 A. I am. I am considered a supervisor. So there
5 are a few other supervisors in branches, but
6 yeah, I do take special training to look for
7 fraudulent checks, fraudulent transactions, just
8 any of those red flags.

0

9 Q. Does any of that training that you have to take
10 or participate in focus on preventing fraud
11 against elder adults?

12 A. It does.

1

13 Q. And was there a time when Ardis Liddle came into
14 the bank, that she was behaving differently than
15 usual?

16 A. You know, just for the years that I have known
17 her it was real sort of sweet and to-the-point
18 transactions. It was the 2016 event that I
19 remember that she was definitely acting a little
20 strange, a little funny, rattled, confused, and
21 frustrated. I recall even tearing up a little
22 bit.

2

23 Q. And that was in 2016?

24 A. Correct.

3

25 Q. Have you ever seen her before that event behaving

1 like that?

2 A. No.

3 Q. And when she came in, what was she concerned
4 about?

5 A. Well, she was always talking about how she had to
6 get some bills paid; and throughout our
7 conversation was she didn't know where her money
8 was at. And so we just continued to converse
9 about that, and she said that she had some
10 investments and she couldn't -- she couldn't gain
11 access to them. And so I was willing to help her
12 out.

13 So that's when I asked her to gather
14 anything you have, bring them to me, and she did
15 that. And it was an investment folder, just a
16 manila folder that she had.

5 17 Q. Now, you said that she gathered those and she
18 brought them to you. Did she bring them to you
19 right away, or did she leave and come back?

20 A. You know, I don't know the exact time frame, but
21 it was within literally weeks that I had those
22 documents and we were able to review them.

6 23 Q. So you said she came back within weeks, and you
24 were able to review those documents?

25 A. Yep.

7

1 Q. And did she actually use the word investments, or
2 is that your summary of what she said that day?

3 A. I don't recall what she used. I just remember
4 she -- she couldn't gain access to her money is
5 what she said. And then through our
6 conversation, she was trying to give me a
7 description of -- of -- of what it was. And I
8 concluded that, you know, because she used the
9 word annuity, and so being in my -- my
10 professional job I can kind of figure out exactly
11 what that was. So, investments.

8

12 Q. So you're using investments to characterize what
13 she was talking about?

14 A. What she was describing.

9

15 Q. Okay. Because that's what you've learned from
16 your job?

17 A. Correct.

0

18 Q. And you said that she used the word annuity
19 specifically?

20 A. Yes.

1

21 Q. Now, when she showed you that additional
22 paperwork, do you remember what type of document
23 she brought in?

24 A. Yes. There was two or three different
25 investment institutions that she was dealing with

1 in the past, and that was just based off the --
2 the statements that were in this envelope. And
3 I used those to kind of trace back where the
4 money was at at what point.

5 And we did find one of the institutions
6 had the investments there at one point, and we
7 were able to produce a check that was endorsed by
8 Ms. Liddle, and it was signed over to another
9 business.

2 10 Q. And when you say it was endorsed by Ms. Liddle,
11 do you know that because you saw the endorsement
12 on the check?

13 A. I did. The company was able to produce that
14 image of the check.

3 15 Q. Were you able-- Were you able to determine if
16 that transaction was fraudulent or not at that
17 time?

18 A. I wasn't able to determine that it was fraud, but
19 it's -- it was a huge red flag because I have an
20 investment adviser with me at my branch and
21 that's not how investment transactions go. You
22 don't sign over a check to a business. It's
23 more that check should have been deposited into
24 Ms. Liddle's account and then she writes a check
25 to that business.

4

1 Q. Are you trained to look for red flags of fraud
2 then when you go through that training that you
3 previously discussed?

4 A. I am. I am. That would be one of those red
5 flags.

5

6 Q. What other type of red flags are you trained to
7 look for?

8 A. Could be anywhere from the printing of the
9 check. It could be anything from something
10 written in the memo line. It could be the way
11 the endorsement-- Many people that are trying to
12 commit fraud will try to manipulate that
13 endorsement on the back.

14 So we are constantly looking at the
15 front of the check, the back of the check, and
16 any other potential transactions in that specific
17 client's account.

6

18 Q. Were there any other red flags in the document
19 that you reviewed for Ms. Liddle?

20 A. She did hand me the statement from Future By
21 Design. It didn't look like the other statement
22 or two that she handed me. It was not a typical
23 investment statement that I have ever seen since
24 I do see investment statements on a daily basis
25 because of my investment adviser that sits next

1 to me. It -- it just looked like it was
2 homemade.

3 Q. Did you speak with anyone regarding Ardis'
4 transactions when she came in?

5 A. Besides the other investment companies that we
6 called just to track down the money, we did call
7 -- we called Gary Haynes.

8 Q. When you say we, does that mean you?

9 A. Yes. I called because Ardis was in the branch
10 or in my office with me. I would not have
11 called by myself, but she had handed me his
12 business card, and the business card as well was
13 a red flag to me because it wasn't printed in a
14 -- I don't want to say professional way, but it
15 was on an angle that it looked also homemade.

16 Q. And so you said she handed you his business card;
17 and did you call?

18 A. I did call.

19 Q. Did you speak with him?

20 A. The first time I called, there was no answer.
21 We continued to conduct some business and I tried
22 again and I did get a hold of -- of Gary.

23 Q. What did you speak with him about when you talked
24 to him?

25 A. I just simply explained that, you know, Ardis is

1 looking for her money. She was trying to gain
2 access to it because she had to pay some bills.
3 And, you know, he was real polite, calm about it,
4 and said that, you know, give him a few days.
5 And at that point it was the weekend and, you
6 know, expect the money probably by Monday-ish.
7 And it -- it never came.

2 8 Q. Do you know approximately when all of this
9 happened?

10 A. Yes. Are you talking about the phone call?

3 11 Q. Yes, when Ardis came in to you and you made the
12 phone call.

13 A. Yes. It was all in the time frame of September
14 2016 to October 2016. All in the same time
15 frame.

4 16 Q. And are you generally familiar with the on-line
17 banking software that Chase Bank offers?

18 A. I am.

5 19 Q. How does a person access their accounts at Chase
20 Bank?

21 A. So in terms of on-line banking, they can get a
22 user I.D. and password on the personal side, and
23 that is only for the accounts that they are an
24 owner of.

25 There is no way of giving somebody else

1 access, whether it's a family member or a friend
2 trying to help out just another authorized user
3 I.D. and password. There is only one profile for
4 that client.

6
5 Q. So you would be unable to determine if someone
6 else, for instance, used a log-in and password.
7 All you can say is the log-in and password for
8 that account was used with that software?

9 A. Correct. You know, we do have clients that give
10 their children, whether it's -- it could also be
11 mom or dad, whatever it is, access to their
12 accounts, if they're helping them out and whether
13 it's a medical situation, whatever it is. I
14 have seen that before. That's not usually the
15 right way of doing it.

16 But we also can't say whether it's, you
17 know, right or wrong. They're just trying to
18 help out. So we've seen that in the past, but
19 that's not a normal business practice.

20 MS. STINEDURF: I have no further
21 questions. Thank you.

22 THE COURT: Thank you. Mr. Johnson, any
23 questions?

24 MR. JOHNSON: Yes, I do.

25

1 CROSS-EXAMINATION OF MR. RYAN RIMEDIO
2 BY MR. JOHNSON, J.D.:
3 Q. Good morning, Mr. Rimedio.
4 A. Mr. Johnson, how you doing, sir.
5 Q. I'm well.
6 A. Good.
7 Q. We finally got you up there. Let me ask you a
8 couple -- a couple of questions, sir.
9 A. Sure.
0 Q. You've taken training on how to recognize
11 problems, red flags--
12 A. Sure.
1 Q. --fraudulent activity, that sort of thing;
14 correct?
15 A. Correct.
16 Q. And I -- I imagine during the process of that
17 training, are you given options? If you see
18 these red flags, you have certain options,
19 there's solutions you can offer? There is --
20 there is direction you can give your -- your
21 client or whatever the case may be?
22 A. Absolutely.
3 Q. Is -- is one of those solutions being to call the
24 police?
25 A. Depending on it, yes, we could.

1 Q. Okay. Did you call the police in this particular
2 case?

3 A. I did not.

4 MR. JOHNSON: Okay. Thank you. I have
5 no further questions.

6 THE COURT: Any follow-up?

7 MS. STINEDURF: None, Your Honor. Thank
8 you.

9 THE COURT: Thank you very much.

10 THE WITNESS: Thank you.

11 THE COURT: You may step down.

12 MS. STINEDURF: May this witness be
13 excused from his subpoena?

14 THE COURT: May this witness be
15 excused?

16 MR. JOHNSON: Most certainly, Your
17 Honor.

18 THE COURT: And you may be excused.

19 THE WITNESS: Thank you.

20 THE COURT: You are excused.

21 (Whereupon, witness excused

22 at approximately 11:00 A.M.)

23 THE COURT: You can call your next
24 witness.

25 MS. STINEDURF: Donald Stenberg.

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THE COURT: Is he out in the hallway I hope?

MS. STINEDURF: Yeah.

THE COURT: Was it this hallway?

MS. STINEDURF: It must be a miscommunication, Your Honor. I thought he was in this hallway.

THE COURT: Just checking. Thank you.

THE CLERK-BAILIFF: Could you raise your right hand, please.

In this cause now pending do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you?

D O N A L D S T E N B E R G ,
after having been duly administered an oath was examined and testified as follows:

THE WITNESS: I do.

THE CLERK-BAILIFF: Please have a seat. Speak directly into the microphone. State your full name and spell your first and last names for the record, please.

THE WITNESS: Donald Stenberg --
D-O-N-A-L-D, S-T-E-N-B-E-R-G.

THE COURT: Good morning.

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THE WITNESS: How you doing.

THE COURT: Go ahead.

DIRECT EXAMINATION OF MR. DONALD STENBERG

BY MS. STINEDURF, J.D.:

Q. Do you know someone named Ardis Liddle?

A. I do.

Q. How do you know her?

A. She is my aunt.

Q. And Mr. Stenberg, do you live here, or do you live somewhere else?

A. I live in Florida.

Q. And how long have you lived in Florida?

A. About a year and a half.

Q. Where did you live before that?

A. We traveled the country in a motor home for seven years.

Q. And was there a time that your aunt, Ms. Liddle, spoke with you about Gary Haynes?

A. Yes.

Q. When did she first speak with you?

A. Would have been September 28th, 2016.

Q. And at that time were you still traveling the country in the motor home?

A. Yes, we were.

3

1 Q. Did she speak with you while you were here in
2 Michigan or over the phone?

3 A. She spoke to me here in Michigan. We made a
4 visit once or twice a year.

4

5 Q. And so you said that you made a visit once or
6 twice a year at this time. Is that about how
7 often you saw Ms. Liddle?

8 A. Right.

5

9 Q. And after Ms. Liddle talked to you about Mr.
10 Haynes, what did you do?

11 A. We set up an appointment. I had her call and we
12 set -- we set up an appointment to meet because
13 she was concerned about money.

6

14 Q. How long did it take you before you were able to
15 set up that appointment with Mr. Haynes?

16 A. We called on a Wednesday, the 28th, and on the
17 29th we set a time to have a meeting where he was
18 going to come by her house.

7

19 Q. And did he come by as scheduled that day?

20 A. He was two hours late.

8

21 Q. Were you still at the home when she (sic) came
22 by?

23 A. I was not. My aunt had-- I stayed about a half
24 hour and then went back to my home and she called
25 me two hours later and said he has arrived.

9

1 Q. So what did you do when you got that call?

2 A. I went back to the house.

0

3 Q. And when you went back to the house, were you
4 able to speak with Mr. Haynes?

5 A. Yes. We had a conversation.

1

6 Q. And what did he tell you?

7 A. He told me at that time, I had asked him where --
8 where -- she needed money, where the money was,
9 and he informed me that he had many, many clients
10 and customers and he didn't have records with
11 him. So he wasn't sure exactly what her money
12 was invested in, but he would get back to me.

2

13 Q. Was he able to tell you anything about her money
14 at that time?

15 A. At that time he -- he -- he couldn't tell me
16 anything.

3

17 Q. And what did you tell him after he said he didn't
18 know where her money was at that time?

19 A. I had told him by the following day, which was
20 Friday noon, to call me and tell me where it was
21 invested so we could find out where it was. And
22 if not, we were going to call the police and file
23 a report.

4

24 Q. Did you talk to him the next day?

25 A. He called me at 12:15 and told me that checking

1 -- checking his records, the money was invested
2 in a house-flipping scheme. Or not scheme, but a
3 house-flipping business or something to that
4 effect.

5 Q. Did he tell you how much money?

6 A. He told me he could get her \$38,000 by the
7 following Monday, and the rest would be 6-to-8
8 weeks later because they had to sell houses or
9 something to that effect.

6 10 Q. Did he tell you how much money there was
11 altogether?

12 A. I believe he said there was 117,000. He could
13 get the \$117,000 later and give me 38,000 to
14 start with.

7 15 Q. Okay. Did anyone ever talk about a number of
16 142,000, or is that not something people talked
17 about?

18 A. I don't -- I don't recall if that was the
19 number. At the time they were numbers. I
20 didn't--

8 21 Q. Okay. I want to be clear, do you know how much
22 money that he had altogether?

23 A. I'm not sure what the total was.

9 24 Q. Do you know if he told you it was over a hundred
25 thousand dollars or less than a hundred thousand

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dollars?

A. It was over a hundred thousand.

Q. And after he told you then that it would be 6-to-8 weeks before he could get the rest of the money, what did you do?

A. I told him that was a deal she was not interested in. If she couldn't have all her money back at that time, then we were just going to go ahead and call the police.

Q. And did you call the police?

A. I-- We did. I picked my aunt up and we went down to the Fruitport Township Hall and filed a report.

Q. Do you know who you talked to when you went to the Fruitport Township Hall?

A. I believe it was Detective Rypstra.

Q. Did you meet with anyone at Ms. Liddle's bank at all?

A. I had spoke with Ryan Rimedio a couple of times on what was going on, where the money was going.

Q. Did you ever talk to an attorney about what was happening?

A. We did I believe the same day hire an attorney. Might have been the next day, but we hired an

1 attorney to look after her interests because we
2 weren't getting any results.

5
3 Q. Do you remember that attorney's name?

4 A. Michael Walsh.

6
5 Q. And you said that you met with Gary Haynes one
6 time then at Ms. Liddle's house, and that was to
7 discuss where her money was.

8 Did you meet him any other time?

9 A. No, I haven't.

7
10 Q. Do you recall what Mr. Haynes looks like?

11 A. Yes.

8
12 Q. Would you recognize him if you saw him in the
13 courtroom today?

14 A. Yes.

9
15 Q. Is he here in the courtroom?

16 A. Yes (indicating). Gentleman right over there
17 (indicating).

0
18 Q. And can you please describe what he's wearing.

19 A. White shirt with a stripe tie.

20 MS. STINEDURF: May the record reflect
21 identification?

22 THE COURT: Any objection?

23 MR. JOHNSON: No, ma'am.

24 THE COURT: Record will reflect.

1
25 Q. (BY MS. STINEDURF) Now, was there a time that

1 Ms. Liddle previously went into a nursing home?

2 A. Yes, she did.

3 Q. And when was that?

4 A. Would have been May and June of 2013.

5 Q. And from about-- You said that you typically saw
6 Ms. Liddle about once or twice a year at the time
7 that she spoke to you about what was happening
8 with her money. Prior to that time-- So
9 obviously she talked to you in 2016.

10 Prior to that time, was that about how
11 much you had been seeing her was once or twice a
12 year, or was it more or less frequently?

13 A. That would be the time. We drove when we
14 traveled in the motor home, we'd come back to
15 Michigan to visit once a year.

16 Q. From about 2005 to the present, do you know if
17 Ms. Liddle lived with anyone?

18 A. She did not.

19 Q. Does Ms. Liddle have any children?

20 A. She does not.

21 Q. Do you know if she has any close friends or
22 family that she sees regularly?

23 A. I don't believe so. I don't know a hundred
24 percent.

25 Q. Would you say that you keep close tabs on Ms.

1 Liddle's business affairs?

2 A. Not really. I talk to her once in awhile on the
3 phone. But unless there is a problem, I don't
4 run her life, so.

5 MS. STINEDURF: Thank you. No further
6 questions.

7 THE COURT: Thank you. Mr. Johnson,
8 any questions?

9 MR. JOHNSON: Just a couple.

10

11 CROSS-EXAMINATION OF MR. DONALD STENBERG

12 BY MS. STINEDURF, J.D.:

8 13 Q. Good morning, Mr. Stenberg.

14 A. Good morning.

9 15 Q. You mentioned that an appointment was set up on
16 the 29th of September 2016 to see my client, and
17 -- and he was two hours late?

18 A. Yes.

0 19 Q. Okay. Do you recall if he-- Do you recall if he
20 called and said he was going to be late on that
21 occasion, or no?

22 A. I don't recall the phone call.

1 23 Q. Okay. A phone call? But it may have happened,
24 you just don't recall. Is that what you're
25 saying?

1 A. I suppose it's possible. I don't know.

2 Q. You mentioned that your -- your aunt went into a
3 nursing home in June of 2000 -- May or -- May to
4 June 2013?

5 A. Correct.

6 Q. Okay. Do you-- Were you around at that
7 particular occasion, or were you traveling that
8 occasion, that time frame?

9 A. I would have been traveling at that time.

10 Q. Do you have any idea why she went into the
11 nursing home?

12 A. Some type of medical issue. I don't know.

13 Q. Okay. So was it-- From your understanding it
14 was a physical thing as opposed to a mental thing
15 that you, you know, older folks might be going
16 through, or do you know?

17 A. I have no idea.

18 Q. Okay. Do you know if anyone has tried to
19 involuntarily commit her to any sort of
20 programming other than this?

21 She didn't want to be at this nursing
22 home, but other than that, has anyone tried to
23 involuntarily commit her anywhere?

24 A. Not that I'm aware of.

25 Q. Okay. You see your aunt-- Now, you've been

1 traveling you said for seven years?

2 A. We had been. We -- we bought a place now, but.

3 Q. Were you previously a Muskegon area person, or
4 no?

5 A. I was born in Muskegon.

6 Q. Okay. How often did you -- did you-- I mean,
7 over the years was it just an occasional visit
8 that you had with your aunt, that sort of thing?

9 A. Right.

10 Q. Okay. But you -- but you would see her once or
11 twice a year, generally speaking, over the course
12 of the years?

13 A. While we were traveling, yes.

14 Q. Okay. Good. And what I'm getting to is you --
15 you saw her often enough to -- to notice any
16 changes in her physically or -- or
17 intellectually; is that correct?

18 Is that a correct statement, over time?

19 A. Well, once a year. You can see a big change once
20 a year I guess.

21 Q. Yeah, I understand that. That's why I ask all
22 the questions. You only saw her once or twice a
23 year?

24 A. Right.

25 Q. So it's not like you were there everyday.

1 My question is: When is the last time
2 you saw your aunt? When is the last time you saw
3 your aunt?
4 A. Now?
4 Q. Yes, sir.
6 A. Today.
5 Q. Okay. So over -- over the course of time, have
8 you noticed whether or not-- Is she still as
9 sharp as she was, say, ten years ago? Ten,
10 fifteen years ago intellectually?
11 A. Hard to say. I mean, she appears-- Everybody
12 is, you know, another -- another year older.
13 You're a little different, but.
6 Q. Okay. Have you noticed a difference in her
15 intellectually in terms of her ability to
16 remember or in terms of her ability to handle
17 stress, the sort of things -- day-to-day kind of
18 activities that people handle?
19 A. On a once-a-year basis, no.
7 Q. Okay. All right. But have you noticed anything
21 physically different?
22 A. No. I mean--
8 Q. Have you noticed she's on a walker now?
24 A. She uses a walker. Has for the -- the last few
25 years.

9 1 Q. Okay. She used a cane before that?
2 A. I believe so.
0 3 Q. And she didn't use either before that; correct?
4 A. I would imagine, yes.
1 5 Q. So that's kind of a difference; correct?
6 A. Yes.
2 7 Q. A physical difference?
8 A. Yes.
3 9 Q. Okay. So -- so you have noticed that there have
10 been some-- She's a hundred -- she's
11 ninety-seven years old; right?
12 A. A hundred and ninety-seven? Ninety-seven.
4 13 Q. 97. But she's 97 years old; correct?
14 A. Right.
5 15 Q. So you expect a certain decline in physical--
16 A. Right.
6 17 Q. All right. And do you also-- Have you also
18 noted decline intellectually and the ability to
19 cope, handle her business, handle her problems?
20 A. I would suppose.
7 21 Q. Yeah. Have -- have -- prior to 2016 had she
22 ever alerted you to, hey, I'm having trouble
23 managing my financial affairs?
24 A. She had not contacted me, no.
8 25 Q. No? Not ever prior to that; correct?

1 A. No.
2 MR. JOHNSON: Okay. Thank you. One
3 moment, please.
4 THE WITNESS: Okay.
5 (Whereupon, discussion between
6 Mr. Johnson and the Defendant,
7 out of the hearing of the Court
8 Reporter.)
9 MR. JOHNSON: Mr. Stenberg, thank you
10 very much.
11 THE COURT: Thank you. Any follow-up?
12 MS. STINEDURF: Yes.
13

14 REDIRECT EXAMINATION OF MR. DONALD STENBERG
15 BY MS. STINEDURF, J.D.:

16 Q. Do you know when Ms. Liddle started using a
17 walker?
18 A. I do not, no.
19 Q. Do you know when she started using a cane?
20 A. I do not, no.
21 Q. You were asked if she had any intellectual
22 decline. You said: I suppose so.
23 Do you know if she did or didn't?
24 A. No, I don't know. I just assume as we all get
25 older, little less sharp than the year before.

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But no, I do not.

MS. STINEDURF: Thank you. No further questions.

THE COURT: Any follow-up?

MR. JOHNSON: No, ma'am. Thank you.

THE COURT: May this witness be excused?

MS. STINEDURF: Yes, Your Honor.

MR. JOHNSON: Yes, Your Honor.

THE COURT: Thank you very much. You may be excused.

THE WITNESS: All right.

(Whereupon, witness excused.)

THE COURT: You can call your next witness.

MS. STINEDURF: Detective Sergeant Rypstra.

THE CLERK-BAILIFF: Could you raise your right hand, please.

In this cause now pending do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you?

B R Y A N R Y P S T R A ,
after having been duly administered an oath, was

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examined and testified as follows:

THE WITNESS: I do.

THE CLERK-BAILIFF: Please have a seat. Speak directly into the microphone. State your full name and spell your first and last names for the record, please.

THE WITNESS: My name is Bryan Rypstra -- B-R-Y-A-N, R-Y-P-S-T-R-A.

THE COURT: Good morning.

THE WITNESS: Good morning.

DIRECT EXAMINATION OF DETECTIVE SERGEANT BRYAN RYPSTRA BY MS. STINEDURF, J.D.:

Q. Where do you work?

A. I work for the Fruitport Township Police Department.

Q. How long have you worked there?

A. I've been there for 14 years.

Q. And what is your title there?

A. I'm a detective sergeant.

Q. How long have you been a detective sergeant?

A. I've been a detective sergeant since 2010.

Q. Did you work for any other police agencies before you began working for the Fruitport Police Department?

1 A. No, I did not. I have always been with Fruitport
2 my entire career.

3 Q. What was your title when you first started with
4 the Fruitport Police Department?

5 A. Road patrol officer.

6 Q. And after that, did you advance in 2010 to
7 detective sergeant, or was there something in
8 between?

9 A. I was promoted to sergeant while I was on the
10 road, while I was working road patrol, and then I
11 just kept the rank as I got moved into the
12 detective spot.

13 Q. Now, were you working then at the Fruitport
14 Police Department in 2016?

15 A. I was.

16 Q. And was there a time that you responded to a
17 complaint made by Donald Stenberg and Ardis
18 Liddle?

19 A. Yes, there was.

20 Q. And when was the complaint made?

21 A. The complaint was made on September 30th of 2016.

22 Q. Did you eventually speak with Gary Haynes
23 regarding that complaint?

24 A. I did.

25 Q. And when did you speak with him?

1 A. I called Mr. Haynes on October 6th of 2016.

4 2 Q. And how did you know you were speaking to
3 Mr. Haynes?

4 A. I had called the number that had been provided
5 for Mr. Haynes; and when I called and said can I
6 speak with Gary Haynes, he introduced himself and
7 said: This is Gary.

5 8 Q. And what did you ask Mr. Haynes about?

9 A. I believe I told him I'm looking into a complaint
10 on behalf of Ardis Liddle. He immediately told
11 me that he had already talked to Mrs. Liddle and
12 her nephew and agreed to pay them back their
13 money.

6 14 Q. And did he say how much money he had agreed to
15 pay back?

16 A. I don't remember if we discussed the exact dollar
17 amount. He did say that he had -- he didn't
18 dispute the -- the amount. I believe we
19 discussed the amount of \$142,000, and there was
20 no dispute in the amount.

7 21 Q. And did he tell you when he would be paying that
22 money back?

23 A. Yes. He told me that he needed some time-- I
24 believe he said 6-to-8 weeks. --to get the money
25 out of the house flipping and rental housing that

1 he had invested it into.
2 Q. Did he tell you if it would take 6-to-8 weeks to
3 get any money out, or was he able to get any
4 money out before that?

5 A. No. He said he could give them some money
6 immediately following Monday, and that the rest
7 would take 6-to-8 weeks to get out of the
8 investments.

9 Q. Did he tell you anything about his company?

10 A. He told me that he ran a company called the
11 Senior Planning Resources. He advised me that
12 he traveled around and talked at seminars, which
13 is where he first met Mrs. Liddle.

14 Q. And what did he tell you about the money that he
15 was planning to repay Ms. Liddle?

16 A. As far as -- as far as the repayment?

17 Q. I mean, how did he -- how did he have that
18 money? How did he describe that money?

19 A. He described her as a hard-money lender. He
20 didn't really explain to me what that was, but he
21 said that -- that she had signed a note, and that
22 she could call in the note at any time, and that
23 he was going to pay the money back. He just
24 needed some time.

25 Q. Did he tell you anything else about where Ms.

1 Liddle's money was specifically?
2 A. There had been a claim in the original report
3 that they made that money had been invested from
4 her account into his personal accounts. I
5 questioned him about that and he told me that
6 every dollar of her money was reinvested on her
7 behalf.
3 8 Q. And at the conclusion of your conversation with
9 Mr. Haynes, what did you tell him?
10 A. I told him that it appeared to me that the issue
11 was civil; that Ardis wanted her money back. He
12 was agreeing to pay it back, and that it sounded
13 like they were going to be able to work out a
14 civil solution.
4 15 Q. Did you do anything further with this case after
16 you spoke to Mr. Haynes?
17 A. I called Mr. Stenberg, Mrs. Liddle's nephew, and
18 updated him as to my conversation with Mr.
19 Haynes.
5 20 Q. So after you talked to Mr. Stenberg, did you do
21 anything else?
22 A. No. I closed out my report at that time.
6 23 Q. And did you check to see whether Mr. Haynes ever
24 paid that money?
25 A. I never followed up with -- with -- with Mrs.

1 Liddle to find out or with Mr. Stenberg to find
2 out if that money was repaid or not.

3 Q. Have you any significant training in
4 investigating financial crimes?

5 A. No specific training in financial crimes.

6 MS. STINEDURF: Thank you. I have no
7 further questions.

8 THE COURT: Any questions of this
9 witness?

10 MR. JOHNSON: I have no questions of
11 Sergeant Rypstra.

12 THE COURT: Thank you. May this witness
13 be excused?

14 MS. STINEDURF: Yes, Your Honor.

15 THE COURT: Thank you very much, and you
16 may be excused.

17 THE WITNESS: Thank you.

18 (Whereupon, witness excused
19 at approximately 11:22 A.M.)

20 THE COURT: You can call your next
21 witness.

22 MS. STINEDURF: People call Agent Kevin
23 Hiller.

24 THE CLERK-BAILIFF: Could you raise your
25 right hand, please.

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In this cause now pending do you
solemnly swear or affirm to tell the truth, the
whole truth, and nothing but the truth, so help
you?

K E V I N H I L L E R ,
after having been duly administered an oath, was
examined and testified as follows:

THE WITNESS: Yes, sir.

THE CLERK-BAILIFF: Please have a
seat. Speak directly into the microphone.
State your full name and spell your first and
last names for the record, please.

THE WITNESS: My name is Kevin Hiller --
K-E-V-I-N, H-I-L-L-E-R.

THE COURT: Good morning.

THE WITNESS: Morning, Judge. How are
you?

THE COURT: Good. How are you?

THE WITNESS: Good.

THE COURT: Go ahead.

DIRECT EXAMINATION OF SPECIAL AGENT KEVIN HILLER
BY MS. STINEDURF, J.D.:

Q. How are you employed?

A. I'm currently employed with the State of Michigan

1 Department of Attorney General.

2 Q. And what is your job title there?

3 A. I am a Special Agent within the Child, Elder, and
4 Family Financial Crimes Unit.

5 Q. Do you work in a particular section or subsection
6 of that division?

7 A. The Child, Elder, and Family Financial Crimes
8 Unit.

9 Q. Do you focus on anything in particular within
10 that unit?

11 A. I have current assignments that -- that deal with
12 white-collar crimes, specifically high-dollar
13 embezzlements, fraud, things like that.

14 Q. Have you had any special training to conduct that
15 kind of investigation?

16 A. Yes, I have.

17 Q. And what kind of training have you had?

18 A. I have attended seminars, in-service training,
19 things like that within my department that I
20 retired from, as well as with the State of
21 Michigan Attorney General's Office.

22 Q. Now, you mentioned that you previously retired
23 from another department. What department did
24 you retire from?

25 A. I worked for 27 years at the Jackson City Police

1 Department. I retired from Jackson City in
2 February of '16. I was a detective sergeant at
3 that time.

4 Q. And while you were employed there, did you have
5 any experience investigating financial crimes?

6 A. Yes, I did.

7 Q. Now, was there a time that you were assigned to
8 an investigation regarding Gary Haynes?

9 A. Yes, ma'am.

10 Q. When were you assigned to that investigation?

11 A. June. June 21st, 2017.

12 Q. And did you review a Complaint that was regarding
13 Gary Haynes?

14 A. Yes. The Attorney General's Office received a
15 Complaint from the Department of Licensing and
16 Regulatory Affairs -- DLRA.

17 Q. And in furtherance of investigating that
18 Complaint, did you meet with Ardis Liddle?

19 A. Yes, ma'am.

20 Q. And when did you first meet with her?

21 A. I met with Ardis Liddle June 26th, 2017 along
22 with -- with her nephew Don Stenberg.

23 Q. Where did you meet with her?

24 A. We met at Ardis' condominium, which is located at
25 [REDACTED] in Fruitport.

2

1 Q. Is that Fruitport, Michigan?

2

A. Yes, Fruitport, Michigan, Fruitport Township within Muskegon County.

3

4 Q. And what did you do next in your investigation after you spoke with Ms. Liddle and her nephew Don Stenberg?

7

A. I then made a telephone call to a lady identified as Jody Elliot. I did that on June 27th of 2017.

4

10 Q. And after you spoke with Ms. Elliot, who did you interview next?

12

A. I then made another phone interview with -- with Ryan Rimedia (sic) -- Rimedio on June 28th of 2017.

5

15 Q. Did you meet with Ms. Liddle again as part of your investigation?

17

A. I have met with Ms. Liddle several times over the past year and a half. February 13th of 2018 I met with her. I brought along a computer tech specialist from the Attorney General's Office by the name of Brian Lehey (sp?). We met with Ardis and scanned her computer at her condominium.

6

23 Q. And you said that you met with her other times as well?

25

A. Numerous times, yes.

7

1 Q. Did you meet with other individuals as part of
2 your investigation into Ardis Liddle's concerns?

3 A. Yes, ma'am.

8

4 Q. And who did you meet with?

5 A. On March 20th of 2018 I met with -- or I made a
6 phone interview with -- with a gentleman by the
7 name of Jerome Troke. Would you like me to
8 continue?

9

9 Q. Yes, please.

10 A. On April 16th I completed another phone interview
11 with Jody Elliot, on June 16th, 2018.

12 On April 18th of 2018 I met with Cheryl
13 Crays, who is the -- the niece of Ardis Liddle,
14 at the Fruitport Township Hall.

0

15 Q. And who else did you meet with regarding Ardis
16 Liddle's concerns?

17 A. Again on April 18th I met with Nancy Ritchie.
18 Nancy Ritchie is the Director of Medical Services
19 I believe is her title, at the Sanctuary of the
20 Shore Retirement Home in Grand Haven.

21 And then I also on April 18th of 2018
22 met with Jen Owens. Jen is I believe also a
23 Director of Medical Services at--

1

24 Q. Are you able to recall the name of the facility?

25 A. Yes, I am -- Chestnut Fields Retirement Home in

1 Fruitport.

2 Q. And did you speak with anyone else who has care
3 of Ardis Liddle?

4 A. Yes. I completed a lengthy phone interview with
5 Ardis Liddle's primary care provider Doctor
6 Herbert Miller. I did-- I completed that phone
7 interview with Doctor Miller on October 26 of
8 2018.

9 Q. Did you make efforts to interview Gary Haynes?

10 A. Yes, I did.

11 Q. And were you ever able to meet with him?

12 A. No, I was not.

13 Q. And did you request a number of records as part
14 of your investigation?

15 A. Yes, I did. I requested numerous documents as
16 you can see. Those documents are medical
17 records, financial transaction records, bank
18 records, anything to do with the care of Ardis
19 Liddle.

20 I also requested State of Michigan DLRA
21 records pertaining to Mr. Haynes and his
22 businesses.

23 MS. STINEDURF: May I approach, Your
24 Honor?

25 THE COURT: You may.

1 THE WITNESS: May I use my readers, Your
2 Honor?

3 MS. STINEDURF: Yes, you may use your
4 reading glasses.

5 THE WITNESS: Sorry.

6 THE COURT: You may.

6 7 Q. (BY MS. STINEDURF) I'm currently handing you a
8 binder containing several exhibits. One of
9 these exhibits has been admitted as Exhibit 11.

10 Please turn to that particular tab, and
11 can you tell me what that is?

12 A. Under Tab 11 it is a Department of Licensing and
13 Regulatory Affairs cover letter addressed to
14 myself Kevin C. Hiller, Special Agent. At the
15 time it was -- our division was entitled
16 Corporate Oversight.

7 17 Q. And what type of records did you request from the
18 Department of Licensing and Regulatory Affairs?

19 A. I requested any and all information regarding
20 Future By Design LLC, DHMP LLC, East Pointe
21 Automotive LLC, Senior Planning Resources, Gary
22 E. Haynes, and Duke Haynes.

8 23 Q. And did the cover letter indicate anything about
24 records that were not located?

25 A. Yes.

9

1 Q. And please read that portion of the cover letter
2 aloud.

3 A. These records were responsive to a search of the
4 corporation's on-line filing system data base for
5 Gary E. Haynes, a resident agent, officer, or
6 director of a business entity.

7 A search of the database did not
8 identify any other entities associated with Gary
9 E. Haynes. The Bureau identified no responsive
10 records regarding Senior Planning Resources as a
11 business entity, or Duke Haynes as a resident
12 agent, officer, or director of a business entity.

0

13 Q. Now, while you're still looking at Exhibit 11,
14 please turn the page to Page Number 1617, and
15 those numbers are in the bottom right corner.

16 What type of document is this?

17 A. This is a Michigan Department of Consumer and
18 Industry Services Bureau of Commercial Services,
19 Articles of Organization.

1

20 Q. And what entity is that document for?

21 A. It states the name of the limited liability
22 company LLC is Future By Design LLC.

2

23 Q. Who is listed as the registered agent for that
24 business?

25 A. The name of the resident agent at the registered

1 office is Gary E. Haynes.

3
2 Q. And what is the date on the filing of that
3 document?

4 A. It is signed and dated 15 January 2009.

4
5 Q. Was there a time that in the course of your
6 investigation you attempted to assist Ms. Liddle
7 in looking for records for this case?

8 A. Yes.

5
9 Q. And what records did you try to help her look
10 for?

11 A. After the Preliminary Exam of Mr. Haynes, it was
12 noted that she had referred to several journals
13 during her testimony. As in response to her
14 stating that she had additional pieces of
15 evidence -- i.e., the journals, myself and
16 Special Agent Ashley Swartz went to Ardis'
17 condominium on August 9th of 2018 to search for
18 those journals.

6
19 Q. Did she tell you where anything like that might
20 be located?

21 A. She stated that she believed that they were in
22 her basement near a desk.

7
23 Q. Did she give you permission to look for those
24 documents?

25 A. Yes, she did.

8

1 Q. And did you look for them?

2 A. Absolutely.

9

3 Q. Did you find anything resembling business records
4 of the type requested?

5 A. No, I did not.

6 MS. STINEDURF: I have no further
7 questions. Thank you.

8 THE COURT: Mr. Johnson, any questions
9 of this witness?

10 MR. JOHNSON: I do, Your Honor. Thank
11 you.

12

13 CROSS-EXAMINATION OF SPECIAL AGENT KEVIN HILLER
14 BY MR. JOHNSON, J.D.:

0

15 Q. Special Agent Hiller, the last set of questions,
16 you recall that Ms. Liddle testified under oath
17 at the Preliminary Examination to the existence
18 of these journals at some point?

19 A. Yes.

1

20 Q. But you looked for them and you couldn't find
21 them?

22 A. Yes.

2

23 Q. But -- but it's your recollection, as you
24 testified, that she did say that at some point at
25 least they existed?

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A. Yes.

MR. JOHNSON: Thank you. I have no further questions.

MS. STINEDURF: No redirect, Your Honor.

THE COURT: Thank you. You may step down.

THE WITNESS: Thank you.

(Whereupon, witness excused at approximately 11:40 A.M.)

THE COURT: You can call your next witness.

MS. STINEDURF: The next witness is someone who might be some time. I just want to inquire of the Court if you prefer to start knowing that I won't be able to complete that witness.

THE COURT: We've got about a half -- about 20 minutes. We can start.

MS. STINEDURF: The next witness will be Richard Boyer.

UNIDENTIFIED JUROR: Is it all right if I go to the rest room?

THE COURT: Okay.

THE CLERK-BAILIFF: She needs to go to the bathroom.

1 THE COURT: All right. Maybe we'll just
2 break.

3 (Whereupon, Unidentified Juror
4 excused to the jury room momentarily
5 and returned.)

6 THE CLERK-BAILIFF: Can you raise your
7 right hand, please.

8 In this cause now pending do you
9 solemnly swear or affirm to tell the truth, the
10 whole truth, and nothing but the truth, so help
11 you?

12 R I C H A R D B O Y E R , J R.
13 After having been duly administered an oath, was
14 examined and testified as follows:

15 THE WITNESS: I will.

16 THE CLERK-BAILIFF: Please have a
17 seat. Speak directly into the microphone.
18 State your full name and spell your first and
19 last names for the record, please.

20 THE WITNESS: Okay. My full name is
21 Richard Allen Boyer, Junior. Richard is spelled
22 R-I-C-H-A-R-D. Boyer -- B-O-Y-E-R.

23 THE COURT: Good morning.

24 THE WITNESS: Good morning.

25 THE COURT: Go ahead.

1 DIRECT EXAMINATION OF MR. RICHARD BOYER, JR.,
2 BY MS. STINEDURF, J.D.:

3 Q. Where are you currently employed?
4 A. With the State of Michigan Attorney General's
5 Department with the Child and Elder Family
6 Criminal Group Division.

7 Q. Was that division name changed recently?
8 A. Yes.

9 Q. Okay. What was the name of the division
10 previously?
11 A. Corporate Oversight Division.

12 Q. And I am going to ask that you speak up a little
13 bit to make sure that everyone can hear.
14 A. (Nodding head indicating affirmative.)

15 Q. And what is your title with the Michigan
16 Department of Attorney General?
17 A. Financial Specialist.

18 Q. And how long have you worked there?
19 A. It will be six years January 3rd.

20 Q. What are your job responsibilities in that
21 position?
22 A. I am asked to prepare spreadsheets related to the
23 cases that we work on. It usually entails bank
24 statements primarily, sometimes investment
25 accounts, but usually bank statements where I

1 recreate the bank statements in spreadsheet form,
2 hopefully on a consistent basis, so everybody can
3 understand, you know, all parties.

4 And then I also add additional
5 information relative to checks issued or deposits
6 made. I can add additional comments and
7 background in that.

0 8 Q. So all of that information, is that information
9 that you get from bank records and then
10 incorporate into those spreadsheets?

11 A. Yes.

1 12 Q. And what is the purpose of creating those
13 spreadsheets?

14 A. Well, part of it is so that we don't come in with
15 25 boxes of bank statements. The-- Part of the
16 goal is getting things consolidated down so that
17 it's not so much involved for everybody to look
18 at. But also, you know, for corporate purposes
19 primarily.

2 20 Q. Is one of the purposes to make it easier to
21 summarize the information in the bank statements?

22 A. Yes. Yeah.

3 23 Q. And can you explain what your process is when you
24 create these bank statements?

25 A. Most of the time I may be provided with various

1 banks, could be multiple banks or multiple
2 accounts within the same bank. And so I -- I
3 create the spreadsheet.

4 I have some templates that I start with
5 and fill out the information. The beginning part
6 is usually all the names of the account, the
7 signature people on the account, addresses,
8 anything specific about as far as the bank setup
9 for a particular account.

10 And then I essentially copy the bank
11 statements, but it's all manual input on -- or on
12 the computer.

4 13 Q. And where did you work before you worked at the
14 Michigan Attorney General's Office?

15 A. My -- my last location was Bank of Oklahoma.
16 It's called BOK Financial. I was a tax officer,
17 assistant vice president, at that location for
18 three years. I also worked for KPMG, one of the
19 international accounting firms, also in a tax
20 manager position there.

21 Prior to that--

5 22 Q. I'm going to slow you down a little bit.

23 A. Okay.

6 24 Q. So you said your last position was at the Bank of
25 Oklahoma?

1 A. Right.

7 2 Q. And what was your title there?

3 A. Well, I was assistant vice president and trust
4 tax manager. I both trained, reviewed work,
5 prepared tax returns. They were-- I was given
6 other specialty tax issues to handle;
7 correspondence with the IRS; supervision of
8 staff and training of staff.

8 9 Q. Approximately how many staff members were you
10 supervising?

11 A. Probably five or six on a daily basis. When our
12 senior manager was out, then I would be in charge
13 of the office.

9 14 Q. And you said that prior to that, then you worked
15 as a tax manager. What company were you working
16 for when you were a tax manager?

17 A. KPMG. You know, the initials are a combination
18 of German and Pete Marwick (sp?), KPMG. So it's
19 one of the international accounting firms.

0 20 Q. And how long did you work there?

21 A. Thirteen years.

1 22 Q. And as a tax manager, what were your job
23 responsibilities?

24 A. Well, similar to the Oklahoma position, I
25 prepared tax returns, reviewed probably a few

1 thousand tax returns during the busy season. I
2 was a troubleshooter. I had a lot of experience
3 compared to the people that I worked with. We
4 dealt with banks as our clients. So it was
5 trusts, fiduciary tax, doing estate tax, as well
6 as personal tax, and tax for charitable trusts.

2 7 Q. And were you supervising any employees while you
8 were there?

9 A. Yes. There was also about five or six, and at
10 different points in that career I was also
11 treated as like a client contact person for some
12 of our banking contacts. We -- we had places
13 like Wells Fargo was our biggest client, and then
14 other banks -- banks in Missouri, banks of
15 Hawaii, banks all over Michigan.

16 Q. And prior to that, where did you work?

17 A. I had a brief stint with Coopers and Librind
18 (sp?), now Price Waterhouse Coopers in Portland,
19 Oregon, but that -- that changed when their
20 contract was bought out by the bank they worked
21 with and turned it over to KPMG. So that's all
22 part of the same process.

23 The main part of my experience before
24 that was 15, almost 16, years with Citizen's
25 Banking Corp based out of Flint, Michigan.

4

1 Q. When did you first start working for Citizen's
2 Banking Corp?

3 A. Out of college in 1979.

5

4 Q. And what were your job responsibilities or titles
5 there?

6 A. I spent the first eight years as a staff senior
7 auditor. So I was responsible for auditing all
8 the branch offices-- I think we had 25 then.

9 --as well as helped with various financial
10 audits, both for securities and installment
11 loans, mortgages.

6

12 Q. And were your titles, did they include being a
13 senior staff auditor?

14 A. Yes. Yeah. And after that, it was after that
15 eight years, I moved into the trust department
16 and where I was a trust tax officer and trust
17 administrator.

7

18 Q. Do you have any special type of education
19 regarding banking?

20 A. Yes. Besides the two Bachelors that I have, I
21 also graduated from the Bank Administration
22 Institute School of Banking, and then it was
23 based in Madison, Wisconsin.

8

24 Q. And when did you graduate from the School of
25 Banking?

1 A. 1988 I believe.

9 2 Q. And you mentioned you have two Bachelors that are
3 also relevant to this field. Where did you get
4 each of those Bachelor's Degrees from?

5 A. The first one from Central Michigan University,
6 1979, in accounting.

0 7 Q. And what about the second one?

8 A. Saginaw Valley State University in data
9 processing. I got that while I was working at
10 Citizen's Bank.

1 11 Q. All right. And do you have any licenses
12 pertaining to banking or finances?

13 A. Yes. I am a licensed CPA out of the State of
14 Arizona after-- I received it in 1998. So
15 essentially reached 10 years or 20 years.

16 Q. And you have been a licensed CPA continuously
17 then since you first became one in 1998?

18 A. Yes. Maintained my license and -- which is
19 appropriate for Arizona. It's just that I can't
20 practice as a CPA in Michigan until I go jump
21 through some hoops and pay some fees.

3 22 Q. Are you required to do anything to maintain your
23 license?

24 A. A lot of self study mostly and attend training
25 seminars to keep up to date on things. I

1 usually do anything to do with -- with fraud, or
2 taxes, you know, stuff that renews every year and
3 has changes.

4 So I try to keep up with everything I
5 can.

4 6 Q. I am handing you Proposed Exhibit 8. Please
7 take a look at this. And this is actually a
8 two-page exhibit. Please look up when you're
9 finished reviewing.

10 A. Okay.

5 11 Q. What is that?

12 A. That's my resume'.

6 13 Q. And is that an accurate and complete version of
14 your resume'?

15 A. Yes. The only thing not matching what we talked
16 about earlier is that it has the old division
17 title, Corporate Oversight Division, on it that I
18 forgot to change.

7 19 Q. All right. So it says that you currently work in
20 the Corporate Oversight Division even though the
21 name of your division that you currently work is
22 different?

23 A. Yes.

8 24 Q. But everything else is correct?

25 A. Yes.

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MS. STINEDURF: People move for admission of Proposed Exhibit 8.

MR. JOHNSON: Your Honor, we would oppose admission of 8. We feel this is a document that's hearsay and there is no exception to establish to make it -- to supercede that particular requirement. And -- and quite frankly, Your Honor, it is simply a -- it's duplicative as the individual has already testified to it.

Third, it's -- it's a document that provides information strictly provided by the same witness whose given us the testimony. And therefore, it is not -- were not simply by nature being a resume' beyond the capacity of any defense team to check and to verify. It's simply not. It's a document of some 40 years basically.

Therefore, we would -- we would oppose admission of Exhibit 8.

THE COURT: Thank you.

In this situation we have a resume' of the witness that is basically in writing what he has testified to, and what he has testified to is he has testified under oath on the stand. I

1 think that is a better use than what the resume'
2 is.

3 So I don't see how it's relevant, and
4 it's just cumulative to what he has already told
5 the jury, which they heard firsthand.

6 So I'm going to deny the admission of 8.

7 MS. STINEDURF: Thank you, Your Honor.

8 People move to offer Richard Boyer as an
9 expert in bank record keeping procedure.

10 MR. JOHNSON: No objection.

11 THE COURT: The Court will acknowledge
12 the witness as an expert in bank-- What was it
13 again?

14 MS. STINEDURF: Record keeping
15 procedure.

16 THE COURT: Bank record keeping
17 procedure.

9 18 Q. (BY MS. STINEDURF) In preparation for today's
19 hearing, have you reviewed any financial account
20 records held for Gary Haynes or his companies?

21 A. Yes, I have.

0 22 Q. What financial institution did those accounts
23 come from?

24 A. Huntington National Bank and Flagstar Bank. I
25 think that was it, was the primary ones.

1

1 Q. So you reviewed records that came from Huntington
2 Bank and Flagstar Bank?

3 A. Right.

4 Q. After you reviewed those--

5 THE COURT: Let me stop you a moment.
6 Now that we're going into a whole new category,
7 it's like almost five to. So I will have you
8 break. This seems like a good time to break.

9 So at this point I will ask you to go
10 ahead and step down. You will come back at 1:30,
11 and we will take up where we left off.

12 THE WITNESS: Okay.

13 THE COURT: Anything before I give the
14 instructions to the jury before we take a break?

15 MS. STINEDURF: No, Your Honor.

16 MR. JOHNSON: No, ma'am.

17 THE COURT: Please do not discuss this
18 case amongst yourselves or with any third person
19 during any of our recesses or adjournments.

20 Please do not have any conversations of
21 any kind with either attorney or any party of
22 anybody who might be called as a witness.

23 Please do not read, watch, or listen to
24 any news media reports regarding this case.

25 Also make sure that you keep your-- If

1 you leave the courthouse, you leave your juror
2 badges on and they're outside of your jackets so
3 that people can see that you are jurors. And we
4 will come back at 1:30. Thank you.

5 MR. JOHNSON: Thank you.

6 (Whereupon, Jury excused at
7 approximately 11:53 A.M.; with
8 the following transpiring out
9 of the presence of the Jury.)

10 THE COURT: Anything before we leave for
11 break?

12 MR. JOHNSON: No, ma'am.

13 MS. STINEDURF: No, Your Honor.

14 THE COURT: All right. Thank you.

15 (Whereupon, noon-hour recess
16 taken at approximately 11:53 A.M.;
17 with proceedings resuming at
18 approximately 1:33 P.M., out of
19 the presence of the Jury.)

20 THE COURT: We are back on the record.
21 Anything before we begin?

22 MS. STINEDURF: No, Your Honor.

23 MR. JOHNSON: No, ma'am.

24 THE COURT: Thank you. You can bring
25 the jury in.

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(Whereupon, Jury returned to
the courtroom at approximately
1:34 P.M.)

THE COURT: You may be seated. Thank
you. Thank you for being so prompt in coming
back.

You're still under oath at this time.

THE WITNESS: (Nodding head indicating
affirmative.)

THE COURT: And you may begin.

MS. STINEDURF: May I hand these to the
witness, Your Honor?

THE COURT: You may.

DIRECT EXAMINATION (continuing) OF MR. RICHARD
BOYER, JR., BY MS. STINEDURF, J.D.:

Q. I'm handing you what has been marked as Exhibit
10. I am also handing you what has been marked
as Binder 1 of 2 for Exhibit 9 and Binder 2 of 2
for Exhibit 9.

Exhibit 9 is labeled as Huntington Bank
Spreadsheets prepared by Richard Boyer.

Exhibit 10 is labeled as Flagstar Bank
Spreadsheets prepared by Richard Boyer.

Have you previously reviewed the

1 documents in these binders?
2 A. Yes.
3 Q. And are these the spreadsheets that you prepared?
4 A. Yes.
5 Q. And these particular spreadsheets, are they based
6 on your review of bank records in the name of
7 Gary Haynes or his companies?
8 A. Yes.
9 MS. STINEDURF: People move for
10 admission of Exhibits 8 and -- excuse me, 9 and
11 10.
12 MR. JOHNSON: I have no objection to
13 their admission.
14 THE COURT: Thank you. So People's
15 Exhibits 9 and 10 then will be admitted.
16 Q. (BY MS. STINEDURF) Okay. How many accounts did
17 you review that are associated with Huntington
18 Bank? You may review your spreadsheets.
19 A. Thank you. Six.
20 Q. Have you reviewed the accounts in both binders?
21 A. Yes, we have. The -- the DHMP, the two East
22 Pointe Automotive. One, two, three, four. Oh
23 yeah, eight.
24 Q. And I know that you do not have the information
25 in these binders memorized I'm assuming?

1 A. No, I don't. Sorry.

9
2 Q. So what I'm going to ask you to do is I'm going
3 to ask you to go through one at a time and we're
4 just going to ask you to explain the spreadsheets
5 that you have prepared and the information that
6 is in them.

7 A. Okay.

0
8 Q. So if you could, as you're looking at the binder
9 that's labeled 1 of 2 for Exhibit 9, you will see
10 that there are colored tabs and they're sticking
11 outside of the binder.

12 A. Right.

1
13 Q. Please turn to Tab A.

14 A. Okay.

2
15 Q. And as you're looking at that, is there account
16 identification information on that page?

17 A. Yes.

3
18 Q. And what does the account identification
19 information reflect?

20 A. Okay. The first page of each spreadsheet
21 reflects the account name, the account number,
22 what type of account, tax payer ID number,
23 account signers, usually an open and close date.
24 Sometimes I examine a range of statements that
25 aren't the beginning of when the account was

1 opened or the end. So it could be a period of
2 time.

3 Q. Because you only reviewed the bank records that
4 you have been provided; correct?

5 A. Yes.

6 Q. And as you look at the account identification
7 information for that account, what is the account
8 number on that account?

9 A. The Account Number is [REDACTED].

10 Q. And what is the account name?

11 A. The capital letters DHMP LLC.

12 Q. And who are the account signers?

13 A. Gary E. Haynes and Mark A. Pursley.

14 Q. And please turn to the tab that is marked B.

15 A. Okay.

16 Q. And that should also contain account
17 identification information.

18 A. Right.

19 Q. What is the name of that account?

20 A. East Pointe Automotive. The Account Number is
21 [REDACTED].

22 Q. And who is the authorized signer on that account?

23 A. Gary E. Haynes.

24 Q. Please turn to the tab that's marked C. What is
25 the name of that particular account?

1 A. This one is also East Pointe Automotive LLC.
2 Account Number [REDACTED].
3 Q. And who is the authorized signer on that account?
4 A. Gary E. Haynes.
5 Q. And please turn to the tab that is marked D now.
6 What is the name of that account?
7 A. Okay. This is Gary E. Haynes Doing Business As
8 Future By Design LLC.
9 Q. And who is the authorized signer on that account?
10 A. Gary E. Haynes.
11 Q. Now please turn to the tab that's marked K.
12 A. Okay.
13 Q. What is the account identification for that
14 account?
15 A. Gary and Shelly Haynes Revocable Trust. Account
16 Number [REDACTED].
17 Q. And who are the authorized signer or signers on
18 that account?
19 A. Gary E. Haynes and Shelly A. Haynes.
20 Q. Please turn to the tab marked O.
21 A. Okay.
22 Q. What is the account identification information
23 for this account?
24 A. Account name Gary E. and Shelly A. Haynes
25 Revocable Trust. Account Number [REDACTED].

1 1 Q. And who are the authorized signers on that
2 account?
3 A. Gary E. Haynes and Shelly Haynes.
4 Q. Please turn to the tab that's marked Q.
5 A. Sorry. Got to fix something. Which tab?
6 Q. Q.
7 A. Q.
8 Q. Should be the next red tab in that binder.
9 A. I think it's in the next binder.
10 Q. Okay. Please turn to the second binder then.
11 For convenience sake, we will be
12 referring to Exhibit 9 that is across both
13 binders because Exhibit 9 is contained in two
14 binders altogether.
15 A. Okay.
16 Q. And what is the account identification at Tab Q?
17 A. Okay. The account name on this one is Gary E.
18 Haynes. The Account Number is [REDACTED].
19 Q. And whose is the authorized signer or signers on
20 that account?
21 A. Gary E. Haynes.
22 Q. Now please turn to the tab marked S.
23 A. Okay.
24 Q. What is the account identification information?
25 A. The account name is Senior Planning Resource.

0 1 Q. What is the account number?
2 A. Account Number is [REDACTED].
1 3 Q. Who are the signers on that account?
4 A. There are two -- Gary E. Haynes and Shelly
5 Haynes.
2 6 Q. Is anyone listed as an owner of that account?
7 A. Gary E. Haynes.
3 8 Q. Please turn to the tab marked CC.
9 A. Okay.
4 10 Q. What is the account identification information
11 for that account?
12 A. Okay. Account name is Gary E. Haynes Doing
13 Business As Senior Planning Resource. The
14 Account Number is [REDACTED].
5 15 Q. Who is the authorized signer or signers on that
16 account?
17 A. There is just one -- Gary E. Haynes.
6 18 Q. And you mentioned that you also reviewed
19 additional bank records from Flagstar Bank?
20 A. Yes.
7 21 Q. Can you please turn to Binder Number 10. Please
22 turn to Tab A in that binder.
23 A. Okay.
8 24 Q. And what is the account identification
25 information in that binder?

1 A. The account name is Gary E. Haynes Doing Business
2 As Future By Design LLC. Account Number is
3 [REDACTED].
4 Q. Who are the authorized signer or signers on that
5 account?
6 A. Just one -- Gary E. Haynes.
7 Q. And please turn to Tab D in Exhibit 10.
8 A. Okay.
9 Q. What is the account identification information
10 for that account?
11 A. Account name Gary E. Haynes Doing Business As
12 Future By Design LLC. Account Number [REDACTED].
13 Q. Who are the authorized signers on that account?
14 A. Gary E. Haynes.
15 Q. So all of these bank accounts that you reviewed
16 is it correct that Gary Haynes is the authorized
17 signer on these accounts?
18 A. Yes.
19 Q. I'm going to ask you to review some individual
20 transactions at this time. So if you could
21 please turn back to Exhibit 9. And first of all,
22 if you could turn to Tab A.
23 A. Okay.
24 Q. And to avoid confusion, if you could please give
25 the name of the account and the last 4 digits of

1 that account.

2 A. Okay. The name of the account is DHMP LLC. It's
3 through Huntington Bank.

4 Q. And what are the last four digits of that
5 account?

6 A. Oh, yes, I'm sorry. 6984.

7 Q. When you were reviewing all of these accounts,
8 were you looking for specific transactions?

9 A. Yes. I worked with our investigator to try to
10 find -- find information that he gave me, some
11 various deposits, and that's what I was looking
12 for for Ardis Liddle.

13 Q. So you were looking for transactions that
14 pertained to Ardis Liddle?

15 A. Yes, mainly deposits.

16 Q. And at one point were you also asked to look for
17 transactions that pertained to Mary-Lou Budek and
18 Ronald Morris?

19 A. Yes. My normal process is to pull and not just
20 targeted ones to start with, but identify any
21 additional ones that seem similar.

22 Q. When you reviewed the DHMP account that ends in
23 6984, did you notice any significant transactions
24 of note?

25 A. No. There was very little activity initially.

1 Just opening a thousand dollar deposit, checking
2 expenses, and then what appeared to be personal
3 expenses and fees and ATM withdrawals.

4 Q. And please turn to Tab B.

5 A. Okay.

6 Q. And again, please state the name of the account
7 and the last 4 digits.

8 A. Okay. Again through Huntington Bank, it's East
9 Pointe Automotive. The account number last four
10 digits is 2523.

11 Q. When you reviewed this account, did you notice
12 any significant activity pertaining to the
13 matters that you have previously listed?

14 A. This one was a little bit different. It -- it
15 appeared to be checks paid to East Pointe
16 Automotive from a number of parties. No specific
17 names that I was looking for. I just detailed
18 the deposits.

19 Q. And then please turn at this point then to Tab
20 6. Excuse me. To Tab C.

21 A. Tab C.

22 Q. And please state the name of the account and the
23 last four digits.

24 A. Okay. This is the East Pointe Automotive LLC.
25 The last four digits are 2565.

6

1 Q. When you reviewed this account, did you notice
2 any significant activity pertaining to Ardis
3 Liddle?

4 A. No. The account was opened, and then it appeared
5 to be closed within a couple months. So there
6 was one deposit -- one or two small deposits and
7 then cash withdrawals.

7

8 Q. Please turn to Tab D.

9 A. Okay.

8

10 Q. And again, please state the name of the account
11 and the last four digits of the account.

12 A. Okay. Gary E. Haynes Doing Business As Future By
13 Design LLC. Last four digits of the account
14 number is 2947.

9

15 Q. Please turn to Tab E.

16 A. Okay.

0

17 Q. And as you're looking at that, is that the
18 beginning of a summary or description of any
19 particular statement time?

20 A. Yes. It's October 31st, month end of that
21 deposit.

1

22 Q. So to clarify then, is that a summary of the
23 statement that ends October 31st, 2013?

24 A. Yes.

2

25 Q. And if you turn to Tab F then, please.

1 A. Okay.

3 2 Q. Are there any transactions pertaining to Ardis
3 Liddle noted on that page?

4 A. Yes. On October 31st there was a \$14,000 deposit
5 by personal check, 5662, by Ardis Liddle.

4 6 Q. Please turn to Tab F, or excuse me, to Tab G.

7 A. Okay. This is the month-end statement for
8 December 31st, 2013. December 2nd there were --
9 there was a \$13,000 deposit by Ardis Liddle,
10 personal check 2894.

5 11 Q. Now, when you say there is a deposit by Ardis
12 Liddle, does that mean that she made the deposit,
13 or does that just mean that's where the money
14 came from in her accounts?

15 A. That's where the money came from.

16 Q. So you're not saying that you can tell from the
17 bank records that she went to the bank and made
18 the deposit?

19 A. No. No. It was payable to Future By Design. So
20 it would make sense that it was anyone associated
21 with that business made the deposit.

7 22 Q. Please turn to Tab H.

23 A. Okay.

8 24 Q. What is that?

25 A. This is the month-end statement for July 31st,

1 2014. And it's on July 14th there was a \$12,000
2 deposit from, say, an on-line bill payment type
3 check by Ardis Liddle for \$12,000, made payable
4 to Future By Design, endorsed by Gary E. Haynes.

9 5 Q. And again, when you say that that's by Ardis
6 Liddle, for clarification, because that is an
7 on-line transfer, are you saying that you can
8 tell from the bank records that she made that
9 transfer, or are you just saying you can tell it
10 came from her accounts?

11 A. It came from her account.

0 12 Q. And then please turn to Tab I.

13 A. Okay.

1 14 Q. And what is this?

15 A. All right. This is what I call a snapshot
16 activity. Instead of being a several-page detail
17 of a one-month statement, this is a more
18 consolidated picture.

19 So like if there were several bank fees,
20 I would -- would only list one line instead of
21 three lines, just to consolidate it. So it's
22 easier to -- hopefully easier to follow.

2 23 Q. What time period does that snapshot or snapshots
24 cover?

25 A. Okay. This particular one covers a three-month

1 period from October 2013 to December of 2013.

3
2 Q. And is there any additional activity of note
3 during that time period that you haven't already
4 mentioned?

5 A. Besides the \$14,000 deposit in October that was
6 from Ardis Liddle's checking account, it -- it
7 shows in bank withdrawals by Gary Haynes; checks
8 issued to Gary Haynes, or a check; a \$300 check
9 to Lyndsay Haynes; and \$6,000 to Mike Murphy.

10 And then I consolidated the other
11 expenses, which related to like Menard's
12 payments, auto repair, plumbing, bank fees, water
13 fees, the IRA deposit payment to another client.
14 That's sort of the way I summarized those
15 payments.

16 Q. Please turn to Tab J now.

17 A. Okay.

5
18 Q. What is that?

19 A. Okay. This is a summary comments where I looked
20 at this particular account for the full period
21 under review, July -- July of 2011 through
22 September 2014.

6
23 Q. And-- .

24 A. And--

7
25 Q. Excuse me. Continue.

1 A. Go ahead. Well, and then I filled out certain
2 items and possible concerns about what I saw in
3 the information.

4 Q. And did you note any significant activity in that
5 summary?

6 A. Okay. Well, in Item Number 1 I noticed the first
7 couple years, July 2011 into April of 2013, there
8 was very little activity and low balance amounts.
9 General activity had basic spending on food, gas,
10 shopping, phone expense, camera expense, and
11 other basic personal type items.

12 Starting in May 2013, the next following
13 thing, large deposits were made. One party, Mark
14 Pursley, contributed \$112,500 between May 13th
15 and June 2014.

16 Another person, Dorothy Wolovik (sp?)--
17 Sorry if I pronounced it wrong. --contributed
18 \$78,893.39 in 2013. This does not represent all
19 the deposits, but were significant ones that I
20 saw going through that period.

21 Aside from that, personal and other
22 spending dramatically increased. Over this range
23 of time Gary Haynes had 30 plus, meaning more
24 than 30 but not 40, withdrawals of cash totaling
25 \$32,000.

1 Other spending was on auto, food
2 purchases, rent payments, retail shopping,
3 taverns and bars, furniture, and credit card
4 payments.

9 5 Q. Did you see any significant outgoing transactions
6 that appeared to be associated with investments
7 or annuities?

8 A. There were three: August 9th, 2013, 11,000 to
9 Matt McNaughtin.

10 September 17th, 2013, 13,500 to Leon
11 John Oochwin (sp?).

12 And November 16th, 2013, 28,000 to Mike
13 Murphy.

0 14 Q. Why, when I asked you the question of whether you
15 saw any significant outgoing transactions
16 regarding investments or annuities, why do you
17 say those are regarding investments or annuities?

18 A. Because that's-- Well, that's what most of the
19 deposits of any significance over like a thousand
20 dollars or so had a name associated with them.
21 And so I thought that I should detail these
22 because they are larger.

1 23 Q. I think I want to clarify my question just to
24 make sure that we are speaking about the same
25 thing.

1 So you said those are significant
2 outgoing transactions. Do you know what those
3 outgoing transactions have to do with?
4 A. No. They were just-- You know, with -- with
5 limited information, all I knew is that payments
6 were made to those parties.
7 Q. So you know that payments were made to those
8 parties. Do you know if that has anything to do
9 with investments or annuities?
10 A. No, I don't know.
11 Q. I'm going to ask you to turn to Tab K.
12 A. Okay.
13 Q. And please just state the account name and the
14 last four digits of that account.
15 A. Okay. This is-- The account name is Gary and
16 Shelly Haynes, Revocable Trust. The account
17 number last four digits is 0916.
18 Q. Please turn to Tab L.
19 A. Okay.
20 Q. And do you see any significant transfers
21 reflected on that page?
22 A. Okay. On this page, this is December 31st of
23 2011, \$3500 deposit, and it's a business check
24 from Senior Planning Resource for \$3500, and
25 that's one of the other business accounts

1 [REDACTED]. It was paid to the order of Gary
2 Haynes.

3 Q. So when you say that's one of the other accounts,
4 the account ending in 7267, you mean that's one
5 of the other accounts that Gary Haynes is an
6 authorized signer on?

7 A. Yes.

8 Q. Please turn to Tab M.

9 A. Okay.

10 Q. And do you see any significant transactions on
11 that page?

12 A. Okay. Do you want me to address-- This is one
13 of the summary comments page for the whole
14 account.

15 Q. Were there any particular transfers that you made
16 note of?

17 A. Yes. Some significant deposits coming from the
18 Senior Planning Resource account was again the
19 \$3500 I just mentioned from Account 7267.

20 But in January 2013 there was two
21 separate deposits -- one 2500, one 500, that were
22 also deposited from the Senior Planning Resource
23 account by the same number.

24 Q. Please turn to Tab O at this point.

25 A. Okay.

2

1 Q. And please state the name of the account and the
2 last four digits.

3 A. Okay. This account is Gary E. Haynes and Shelly
4 A. Haynes Revocable Trust, and Account Number
5 ends in 1973.

3

6 Q. Please turn to Tab P. P as in Paul.

7 A. Okay.

4

8 Q. And what is that page?

9 A. This is the summary comments page for this
10 account.

5

11 Q. Did you notice any significant transactions on
12 that account?

13 A. Well, the -- I guess it would be the Item 6 on
14 that page. It shows cash deposits were often
15 found, some with significant dollar amounts.

16 Example amounts include: 1200, 2,000,
17 2500, 3,000, 5500.

6

18 Q. Did you see any transfers to or from any other
19 accounts?

20 A. Yes. The cross check of these deposits found
21 that the source was from Senior Planning Resource
22 Accounts 7267.

23 And then there was also, relative to
24 these deposits, where checks paid to cash. Gary
25 Haynes or -- or Shelly Haynes were cashed through

1 a teller, then immediately deposited in Account
2 1973. Direct--
3 Q. Continue.
4 A. Direct transfers or checks were also found from
5 the Senior Planning Resource Accounts 7267 and
6 1722; also, the Future By Design Account 2947;
7 and let's see, in April of 2016 deposits of
8 checks from Gary Haynes from Flagstar Account
9 [REDACTED], Future By Design LLC. This all just
10 showed transfer of money to -- from the business
11 account Senior Planning Resource accounts to the
12 personal trust.
13 Q. Please turn to Tab Q, and that should be on that
14 second binder for Exhibit 9.
15 A. Oh, okay.
16 Q. Please state the account name and the last four
17 digits of the account number.
18 A. Okay. This is the Huntington National Bank
19 account for Gary E. Haynes. The last four
20 digits of the account are 8600.
21 Q. Please turn to Tab R.
22 A. Okay. This is the summary comments for 8600.
23 Q. And did you note any significant transfer
24 activity in this account?
25 A. Okay. The first item what I identified, there

1 was a considerable amount of cash deposits for
2 the period under review, which in that case no
3 identification of the source was in the bank
4 statements.

5 Other personal and business accounts of
6 Haynes, examples include: Checks written to
7 cash, or to Gary Haynes, Shelly Haynes, Duke
8 Haynes, that are cashed first and then deposited
9 into other accounts. It appears to be the way
10 to cover up the source of the funds.

11 And -- and I identified transfers of
12 money into this account from Flagstar Bank
13 Account [REDACTED] naming Gary Haynes and Flagstar
14 Bank Account [REDACTED] in the name of Future By
15 Design LLC and Gary Haynes.

16 Q. Please turn to Tab S.

17 A. Okay.

18 Q. And please state the name of the account and the
19 last four digits.

20 A. Okay. This is the Huntington National Bank
21 Senior Planning Resource Account Number 7267.

22 Q. And please turn now to Tab T.

23 A. Okay.

24 Q. What does this page describe?

25 A. This is the October 31st, 2011 statement.

6

1 Q. Please turn to Tab U.

2 A. Okay.

7

3 Q. Do you see any significant activity there
4 pertaining to Ms. Liddle?

5 A. Yes. On October 28th of that year, 2011, there
6 was Personal Check 2827 by Ardis Liddle for
7 \$20,000 paid to the order of Senior Planning
8 Resource.

8

9 Q. Please turn to Tab V. V as in Victor.

10 A. Okay.

9

11 Q. And what does this page describe?

12 A. This is the month of December 31st, 2011. The
13 first page here has deposits and is for Ardis
14 Liddle. There were two checks deposited --
15 Number 2046 for 5,000, and Number 6047 for
16 5,000. Total of \$10,000.

0

17 Q. And you said those were deposited on the same day
18 or a different day?

19 A. Same day. And when we say deposited, we're
20 talking about when it was credited to the bank,
21 not say when like if somebody went and deposited
22 it on Friday late and it didn't get posted until
23 Monday. I'm talking about the posting dates of
24 these spreadsheets.

1

25 Q. So whenever you say the word deposit, that's the

1 posting date?

2 A. Yeah.

3 Q. Please turn to Tab W.

4 A. Okay.

5 Q. And what does this page describe?

6 A. This is May 31st, 2012 account statement.

7 Q. Please turn to Tab X.

8 A. Okay.

9 Q. Are there any significant transactions there
10 pertaining to Ardis Liddle?

11 A. Yes. On May 24th, 2012 on National Western Life
12 Insurance Company, I guess an annuity deposit for
13 \$117,490.42.

14 Q. Please--

15 A. It is payable to Ardis Liddle, and the check was
16 signed over to Senior Planning Resource.

17 Q. Please turn to Tab Y. What does this page
18 describe?

19 A. It's July 31st of 2014, statement for this
20 account 7267.

21 Q. Please turn to Tab Z.

22 A. Okay.

23 Q. Do you see any activity pertaining to Ardis
24 Liddle?

25 A. Yes. On July 29th, 2014 there was an ATM deposit

1 that included a \$1,000 deposit from the account
2 of Ardis Liddle payable to Future By Design.
3 This was a Chase on-line bill -- bill payment
4 where you can call in and order the check being
5 cut without physically having it.

0 6 Q. When you say that you can call in and order a
7 check being cut, so that means the person who
8 would want to have the check cut just calls Chase
9 Bank and asks for that to be issued?

10 A. Right. And as long as they're authorized on the
11 account, they will issue the check and mail it.

1 12 Q. Please turn to Tab AA.

13 A. Okay.

2 14 Q. And what is this?

15 A. This is another one of those snapshot summaries
16 that I put together that covers a period of time
17 -- March of 2011 to June of 2011. So March,
18 April, May, June -- four months.

3 19 Q. During that four-month time period is there any
20 significant activity that you haven't already
21 mentioned?

22 A. Well, I think I have, but we have the -- the one
23 annuity that was redeemed for 107,735.10 payable
24 to Ardis Liddle, endorsed over to Senior Planning
25 Resource. That was the main deposit in the

1 account. The balance forward before that was
2 only \$3.98.

3 Do you want me to explain this chart
4 further?

4 5 Q. If there is additional information that you think
6 is significant, yes.

7 A. Okay. There is actually, for that four-month
8 period, there's five more transactions. They all
9 involve transfers to the Senior Planning Resource
10 Account 7267, that's 17,700.

11 Another one for 60,000.

12 Another one for 115,000.

13 And another one for 10,000.

14 In the middle of that is one for \$5,000
15 payable to cash, signed and endorsed by Gary E.
16 Haynes. And what it shows as the balance forward
17 at the end of that period is there was only
18 \$39.08 left.

5 19 Q. Please turn to Tab BB. That's B as in boy.

20 A. Okay.

6 21 Q. And what is this?

22 A. This is the summary comments that I put together
23 for this Account 7267 for March 2010 through
24 October 2014. And the way I explained it,
25 there's three items. Large amount of transaction

1 activity in this account especially with
2 transfers to and from related Senior Planning
3 Resource Account 1722.

4 However, this spending activity appears
5 to be mainly for personal items. Examples
6 include: Payment for car repairs, gas, oil
7 change, grocery, sunglasses, restaurants,
8 out-of-state hotels, phone charges, other
9 shopping, parking, bar and grills, animal
10 hospital, Sam's Club, Wal-Mart, insurance, large
11 number of overdraft charges, air travel,
12 Victoria's Secret, cash, credit card, and loan
13 payments.

14 The payments made to or for family
15 members Gary Haynes, Shelly Haynes, Katie Haynes,
16 Lyndsay Haynes, and Jeff Haynes. This includes
17 payment for college expenses.

18 There were no bank statement
19 transactions or checks found that were salary or
20 payroll payments from these two Accounts 7267 and
21 1722. And I looked at it because it was a
22 business account expecting to see those kinds of
23 transactions.

24 Q. And you did not see those transactions?

25 A. And I did not.

8

1 Q. Please turn to Tab CC, and please state the name
2 of the account and the last four digits.

3 A. Okay. This is Huntington National Bank, Gary E.
4 Haynes Doing Business As Senior Planning
5 Resource, and it's Account 1722.

9

6 Q. Please turn to Tab DD. And that's D as in dog.

7 A. Okay.

0

8 Q. And what do you see noted on that page?

9 A. Okay. There is one deposit, and it's probably
10 the one annuity life insurance redemption --
11 \$107,735.10 payable to Ardis Liddle, endorsed
12 payable -- endorsed payable to Senior Planning
13 Resource. And it was March deposited. Credit
14 was given on March 8th, 2011.

1

15 Q. Please turn to Tab EE.

16 A. Okay.

2

17 Q. And what is this?

18 A. Okay. This is a snapshot again talking about the
19 period of time from March 2011 to June 2011.

3

20 Q. Did you observe any significant activity in that
21 time period that you have not mentioned?

22 A. Actually no. This is-- I already repeated that
23 earlier. It was the \$107,000 annuity with the
24 five transfers to the larger Senior Planning
25 Resource Account 7267, and with the \$5,000 cash

1 over-the-counter check signed by Gary Haynes for
2 5,000.

3 Q. Please turn to Tab FF. And that's F as in
4 Frank.

5 A. Okay.

6 Q. And what is this?

7 A. All right. This is a summary comments for
8 Account 1722, period of March 10 to August 2000
9 -- excuse me, March 2010 to August 2014.

10 Primary activity through this account
11 both deposits and payments were transfers to and
12 from the other Senior Planning Resource Account
13 7267.

14 From October 10 to January 2013 over
15 112,000 was withdrawn by Gary E. Haynes. This
16 was through eight transactions, with the largest
17 on January 30th, 2013 of 94,422.74.

18 Other activity of note is phone check
19 payments. Again, those are the automated you can
20 call in and have the check cut and -- and mailed.
21 Payments mailed to Bank of America home loan, the
22 total of \$14,971.04. The address of payor Gary
23 Haynes was represented as 23 North Uclid Avenue,
24 Villa Park, Illinois, 60181.

25 And then the last item again talks about

1 the 107,735 decimal 10 annuity payable to Ardis
2 Liddle that was deposited.

3 So what I recommended on here is to go
4 to the account for the detail on how these funds
5 were spent. It appears that the funds of Ardis
6 Liddle was not being used for her benefit and
7 possibly used for other purposes.

6 8 Q. When you reviewed all of these accounts through
9 -- for Huntington Bank, did you see evidence of
10 significant outgoing activity towards annuities
11 or investments?

12 A. As far as the purchase of, no.

7 13 Q. I'm going to have you turn to Exhibit 10,
14 please. Turn to Tab A.

15 A. Okay.

8 16 Q. Please state the account name and the last four
17 digits of the account.

18 A. Okay. This is the Flagstar Account, Gary E.
19 Haynes Doing Business As Future By Design LLC.
20 Last four digits of the account is 4525. This is
21 a business savings plus account.

9 22 Q. Please turn to Tab B.

23 A. Okay.

0 24 Q. And what is summarized there?

25 A. Okay. This is the opening of the account, and

1 there is one transaction. It's a deposit on
2 February 26th of 2015, \$5,000 deposit, personal
3 check 2193 by Ardis Liddle, trustee, paid to the
4 order of Future By Design, deposited by Duke
5 Haynes.

1 6 Q. Please turn to Tab C.

7 A. Okay.

2 8 Q. And what is this?

9 A. Okay. This is one of the snapshots that again in
10 this case, yes, it covers a couple periods --
11 February of 2015 from the opening of the account
12 to -- through to March 15th or March 2015. And
13 what it does is it shows the initial \$5,000
14 deposit that opens the account. No other
15 activity for February.

16 And then in March it shows, other than
17 five cents interest, it shows transfers going out
18 -- \$4500 transfer to Gary Haynes' personal
19 checking; and then a second one, \$450 transfer
20 of funds to Gary Haynes' personal checking; and
21 then a two dollar fee. The checking account is

22 [REDACTED].

3 23 Q. Was that one of the Huntington Bank accounts?

24 A. No, I don't believe so.

4 25 Q. Do you need to review Exhibit 9 to verify that

1 one way or another?

2 A. I can maybe check right here.

3 Q. All right.

4 A. Yeah, I guess it's not there. I was thinking
5 maybe it was an account that we didn't obtain
6 from the bank. That was Flagstar; right?

6 7 Q. Exhibit 10 is Flagstar. Exhibit 9 is Huntington
8 Bank.

9 A. Yes. That -- that account that ends 1197 is not
10 one that we obtained.

7 11 Q. But you can tell that is an account belonging to
12 him?

13 A. Yes. It was in his name, and it was a Flagstar
14 Bank account.

8 15 Q. Please turn to Tab D.

16 A. Okay.

9 17 Q. And again, this should be in Exhibit 10. That
18 Flagstar Bank--

19 A. Right.

0 20 Q. --exhibit.

21 A. Right.

1 22 Q. And when you're looking at Tab D, please state
23 the name of the account and the last four digits
24 of the account.

25 A. Okay. Flagstar account Gary E. Haynes Doing

1 Business As Future By Design LLC. Last four
2 digits of the account number are 4533.

3 Q. Please turn to Tab E.

4 A. Okay.

5 Q. And what is this?

6 A. Okay. This is the May 31st month-end statement
7 for 2015 of Flagstar Bank Account 4533.

8 Q. Do you see any activity in there pertaining to
9 Ardis Liddle?

10 A. Yes. On May 27th, 2015 a thousand dollar deposit
11 under the name of Ardis Liddle, payable to Future
12 By Design. Again, it was like a phone check that
13 was ordered through the bank and issued from that
14 source. So any signature on it would have been a
15 bank signature.

16 The question I had was who ordered the
17 check because, you know, I don't know the source;
18 and if there were multiple parties on the
19 account, you know, either one could have ordered
20 it.

21 Q. So all you can tell from the bank records you
22 have reviewed belonging to Gary Haynes is that
23 money was transferred from her account to Mr.
24 Haynes' account?

25 A. Yes.

6 1 Q. Please turn to Tab F. F as in Frank.
2 A. Okay.
7 3 Q. And what does this page describe?
4 A. Okay. This is June 30th, 2015 month statement,
5 and I'm looking at the deposits for that period.
6 The primary thing for Ardis Liddle was, again,
7 this time on June 16th, 2015 a \$1,000 deposit and
8 again a similar phone check from Chase Bank,
9 payable to Future By Design.
8 10 Q. Please turn to Tab G.
11 A. Okay.
9 12 Q. What does this describe?
13 A. This is the June 31st, 2015 month-end statement,
14 the page for the deposits. And for Ardis Liddle
15 was on -- deposited or credited on July 13th of
16 2015, a \$1,000 deposit of, again, a Chase phone
17 check on behalf of Ardis Liddle payable to Future
18 By Design. And then with my same comments, you
19 know, who arranged the check.
0 20 Q. Please turn to Tab H.
21 A. Okay.
1 22 Q. What is this?
23 A. All right. This is a snapshot of February 2015
24 for the same account, Account 4533; and it
25 includes two months, February and March.

1 So the first part for February was the
2 initial \$4,000 deposit from personal check of
3 Ardis Liddle, drawn on Huntington National Bank,
4 Account [REDACTED]. There were no payments out
5 during that period. So the \$4,000 balance
6 carries forward.

7 And then in March, the -- the expenses
8 or payments were transfers of \$3,000 to Gary
9 Haynes' personal checking account [REDACTED].

10 A second transfer to the same account of
11 \$915.

12 And then just a couple of debit card
13 payments -- one for Shot on the River, and the
14 other one for Marathon Petroleum.

15 So out of that \$4,000, there was 25000
16 -- \$25 left.

2 17 Q. When you reviewed the Flagstar Bank accounts
18 associated with Gary Haynes, did you see any
19 significant outgoing activity associated with
20 investments or annuities?

21 A. No.

3 22 Q. Now, you mentioned before that you were also
23 reviewing for transactions related to Ron Morris
24 and Mary-Lou Budek; is that correct?

25 A. Yes.

4 1 Q. I'm going to have you turn back to Exhibit 9.
2 Turn to Tab S in that binder. That should be the
3 second of the two binders.

4 A. Okay.

5 5 Q. And again, please just state the name of the
6 account and the last four digits.

7 A. Okay. This is a Huntington Bank Senior Planning
8 Resource account, Number 7267.

6 9 Q. And please turn to Tab MM, and that's M as in
10 Michael. Should be a light blue tab.

11 A. Oh, sorry. I was looking at it as EE.

7 12 Q. Yes. They are handwritten.

13 A. Yeah, okay.

8 14 Q. Do you see any activity associated with Ron
15 Morris on that page?

16 A. Yes. This is the 2012 January statement, January
17 31st of 2012.

18 On January 24th there was a \$40,000
19 deposit, personal check 121 by Mr. Ronald L.
20 Morris. I put Margie next to the name.
21 Whenever there is a joint check, I include both
22 names. But for \$40,000 payable to Senior
23 Planning Resource.

9 24 Q. Please turn to Tab NN. This should also be a
25 light blue tab.

1 A. Okay.

2 Q. Do you see any activity associated with Ron
3 Morris on that page?

4 A. Yes. This is the January 31st, 2013 statement,
5 and the first page has all the deposits:

6 January 3rd, 2013 -- \$150,000 deposit,
7 personal check 130 by Ronald Morris payable to
8 Senior Planning Resource.

9 Q. Still in that same account, turn to Tab GG.
10 This should be a pink tab.

11 A. Okay.

12 Q. Do you see any activity there associated with
13 Mary-Lou Budek?

14 A. You said CC; right?

15 Q. No, GG. G as in goat.

16 A. Yellow tab?

17 Q. Should be GG.

18 MS. STINEDURF: May I approach, Your
19 Honor?

20 THE COURT: You may.

21 THE WITNESS: I don't know if I have to
22 go back. Oh, I do need to go back. Sorry.

23 Q. (BY MS. STINEDURF) That's okay. For the record,
24 I have turned to Tab GG. Please take a look at
25 that.

1 A. Okay.

2 Q. Do you see any activity there associated with
3 Mary-Lou Budek?

4 A. Yes. This is a Huntington Bank account, last
5 four digits 7267. The deposit of -- deposits of
6 statement August 31st, 2010.

7 This shows on August 23rd, 2010 a
8 \$10,000 deposit, personal check 263, by Mary-Lou
9 Budek. It says: For vacation fund, was the memo
10 portion of the check, payable to Senior Planning
11 Resource.

12 Q. Now I'm going to ask you to turn to Binder 1 of
13 2, and that's still in Exhibit 9. Once you have
14 that binder, please turn to Tab HH, and that
15 should also be a pink-colored tab.

16 A. Okay.

17 Q. And do you see any activity there associated with
18 Mary-Lou Budek?

19 A. Yes. This is the month statement for February
20 28th, ending February 28th of 2014.

21 On February 21st there was an \$8,000
22 deposit, personal check 1165, by Mary-Lou Budek
23 for \$8,000. It says: For my investment, was on
24 the memo of the check, payable to Mr. Duke
25 Haynes.

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1 Q. And while you're looking at that page, are there
2 any other typed page numbers on that page?

3 A. Oh, yes. At the bottom-- The top has Page
4 94. The bottom has Page 95. Just
5 copying/pasting error.

0

6 Q. And I know that those tabs on these exhibits are
7 quite small. So for the record, what you were
8 just referring to right now, that's actually
9 tabbed as II.

10 I'm going to ask that you turn to the
11 other pink tab remaining in that binder that is
12 tabbed HH. They look very similar, as I said.

13 A. Oh, right. Okay.

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14 Q. And when you look at that, again, do you see if
15 there are any page numbers reflected on that that
16 are typed on the page?

17 A. Yes. It has Page 71 at the top, and Page 72 at
18 the bottom.

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19 Q. And then take a look at that page and see if you
20 notice any transactions associated with Mary-Lou
21 Budek.

22 A. Yes, there is one. This is for December 31st,
23 2013 statement period. And on December 12th,
24 2013 there was a deposit of a personal check,
25 Number 1149, by Mary-Lou Budek, for \$4,000. The

1 memo line said: For annuity. Pay to the Order
2 of Future By Design.

3 Q. And then please turn back to Exhibit 10. Again,
4 that should be the Flagstar Bank records. And
5 please refer to what's been tabbed as J. That
6 will also be in a light pink color.

7 A. Okay.

8 Q. Do you see any activity on that page associated
9 with Mary-Lou Budek?

10 A. Yes. On this statement period, period ending
11 February 29th of 2016, Flagstar Bank Account
12 4533, on February 22nd there is a \$55,000
13 deposit, personal check 1268, by Mary-Lou Budek.
14 For, again, a memo line comment: For Duke Haynes
15 to invest. Pay to the order of Future By Design
16 LLC. The check was drawn on Bank of America
17 account.

18 Q. The check was drawn on a Bank of America account
19 you said?

20 A. Right.

21 MS. STINEDURF: I have no additional
22 questions. Thank you.

23 THE COURT: Thank you. And is yours--

24 MR. JOHNSON: No, ma'am. It won't take
25 long.

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THE COURT: Okay. Go ahead.

MR. JOHNSON: Thank you.

CROSS-EXAMINATION OF MR. RICHARD BOYER, JR.,

BY MR. JOHNSON, J.D.:

Q. Mr. Boyer, good afternoon.

A. Good afternoon.

Q. Mr. Boyer, you went through a list of bank accounts here that were for my client Mr. Haynes; is that correct?

A. Yes.

Q. Okay. Were you-- Did you also go through the -- the -- the bank accounts for -- for anyone by the name of Ardis Liddle?

A. No.

Q. It never--

A. Not at this time, no.

Q. Okay. So you didn't review any of her bank accounts, any of her statements or losses or any -- any funds that maybe listed any banks anywhere; correct?

A. Correct.

Q. Okay. And so without having access to or not having gone through her accounts, do you have any way of knowing whether or not any of this money

1 that she gave to Mr. Haynes was -- was returned
2 to her, put into her accounts?

3 A. I can only report on what I have reviewed at--

4 Q. So the answer is no. You have no way of knowing
5 if he paid any of this money back.

6 A. If it didn't -- if -- it definitively didn't show
7 in these listed accounts.

3 8 Q. Okay. So if he paid her back but it came out of
9 those accounts, then it would show, hey, he wrote
10 her a check on this date and it went back to
11 her. Okay? Correct?

12 A. Yeah. Complete information would confirm it,
13 yes.

4 14 Q. But if he paid her back and he didn't run the
15 money through his account, suppose his -- his
16 great grandmother loaned him the money in cash
17 and gave it to her, you would have no way of
18 knowing that, would you?

19 A. Right.

5 20 Q. So if he has access to funds that's not in those
21 accounts, and if he paid that money back to
22 Ms. -- Ms. Liddle, your information would not
23 tell you that; is that correct?

24 A. Right. I can only report on what I see here.

25 MR. JOHNSON: Yes, sir. Thank you,

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sir. I have no further questions.

THE COURT: Thank you. Any follow-up?

MS. STINEDURF: No, Your Honor. Thank you.

THE COURT: Thank you very much. You may step down. May this witness be excused?

MS. STINEDURF: Yes, Your Honor.

MR. JOHNSON: Yes, ma'am.

THE COURT: And you may be excused. So, thank you--

THE WITNESS: Thank you.

THE COURT: --very much.

(Whereupon, witness excused at approximately 2:50 P.M.)

THE COURT: At this time we're going to take a break at this time. I usually take a break about quarter after three, but it's been a long afternoon so far with some of the information. So what we will do is come back at ten after.

Any-- Oh, hold on a second. I forgot. I've got to read this.

Please do not discuss the case amongst yourselves or with any third person during any of our recesses or adjournments.

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Please do not have any conversations of any kind with any -- with either attorney or any party of anybody who might be called as a witness.

Please do not read, watch, or listen to any news media reports regarding the case. And make sure you always wear your juror badges.

Thank you.

(Whereupon, Jury excused for recess at approximately 2:50 P.M., with the following transpiring out of the presence of the Jury.)

THE COURT: Anything before we break?

MS. STINEDURF: No, Your Honor.

MR. JOHNSON: No, ma'am.

THE COURT: All right. Thank you very much. Back at ten after.

MR. JOHNSON: Ten after, yes, ma'am.

(Whereupon, recess taken at approximately 2:50 P.M.; with proceedings resuming at approximately 3:13 P.M., out of the presence of the Jury.)

THE COURT: We're back on the record.

Anything before we begin?

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MS. STINEDURF: No, Your Honor.

MR. JOHNSON: No, ma'am.

THE COURT: Thank you. You may bring
the jury in.

(Whereupon, Jury returned to
the courtroom at approximately
3:14 P.M.)

THE COURT: You may be seated. You can
call your next witness.

MS. STINEDURF: People call Richard
Grandy.

THE CLERK-BAILIFF: Right up here,
please. Can you get turned around, sir?

MR. GRANDY: I can.

THE CLERK-BAILIFF: Could you raise your
right hand, please.

In this cause now pending do you
solemnly swear or affirm to tell the truth, the
whole truth, and nothing but the truth, so help
you?

R I C H A R D G R A N D Y , J R . ,
after having been duly administered an oath, was
examined and testified as follows:

THE WITNESS: Yes, sir.

THE CLERK-BAILIFF: Would you mind using

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this for us, please.

THE WITNESS: Not at all.

THE COURT: Could you state your name and spell your first and last names, please.

THE WITNESS: Sure. Richard Grandy, Junior -- R-I-C-H-A-R-D, G-R-A-N-D-Y.

THE COURT: Good afternoon.

THE WITNESS: Good afternoon.

THE COURT: Go ahead.

DIRECT EXAMINATION OF MR. RICHARD GRANDY, JR.,
BY MS. STINEDURF, J.D.:

Q. Where do you work?

A. I work at the Michigan Department of Treasury Office of Privacy and Security Disclosure Unit.

Q. And what is your job title?

A. My job title is Disclosure Specialist.

Q. Who is your direct supervisor?

A. Brenda Lyndsay, our disclosure officer.

Q. And how long have you worked in the Disclosure Section of the Michigan Department of Treasury?

A. It was three years back in October.

Q. And what are your job responsibilities?

A. I handle data sharing agreements with different state agencies, local government units. I also

1 handle -- my unit handles disclosure requests in
2 the forms of subpoenas, search warrants,
3 individual requests, requests from the agencies
4 that we have data sharing agreements with.

1 5 Q. And when you're talking about data sharing
6 agreements, what do you mean?

7 A. I mean we provide tax data, confidential tax data
8 to like local governments that have city income
9 tax they do match up, to make sure if they file
10 the state tax return from their unit that they
11 are also filing a city tax return.

12 We also provide data to other state
13 agencies for various reasons. CMH would be an
14 example where they're checking a taxpayer's
15 return to make sure that they're claiming what
16 they said they're claiming in order to provide
17 aid to them.

2 18 Q. And are part of your job responsibilities to
19 provide tax data to law enforcement agencies?

20 A. Yes.

3 21 Q. Do you review all disclosure requests that your
22 three staff members respond to?

23 A. Not all of them, it depends on the nature of the
24 request.

4 25 Q. What type of requests do you review?

1 A. I review requests from the Attorney General's
2 Office to make sure that the data that is going
3 for criminal cases is accurate. And subpoenas.
4 Q. And how many people altogether do you supervise?
5 A. Supervise three that report directly to me. And
6 then I have a fourth that's an auditor that she
7 reports directly to my supervisor, but she gets
8 her direction from me.
9 Q. Are you familiar with the Treasury Record Keeping
10 System?
11 A. I am.
12 Q. In what forms does the Michigan Department of
13 Treasury accept tax returns?
14 A. We get paper-filed returns or electronic-filed
15 returns.
16 Q. How does the Michigan Department of Treasury
17 store paper-filed returns?
18 A. Paper-filed returns are scanned and then stored
19 in a system called File Net where we can pull up
20 the image of the return.
21 Q. And how does the Department of Treasury store
22 electronic returns?
23 A. Electronic-filed returns are stored in another
24 system. It's called our Kelf (sp?) System.
25 That allows us to pull up the extra amount of

1 data and put that extra amount of data, which is
2 the digital data from that return, into a form
3 layout to look like a paper form based off of the
4 fields in that data.

0 5 Q. So is it correct then that the paper and
6 electronic returns are stored in two different
7 systems?

8 A. Yes.

1 9 Q. When you receive a disclosure request from an
10 agency, how do you know which system to check for
11 those tax returns?

12 A. We look in the tax system itself; and based on
13 the tax system, on the return screen it will tell
14 us whether or not that return is electronically
15 filed or paper filed.

2 16 Q. I am handing you--

17 MS. STINEDURF: May I approach, Your
18 Honor?

19 THE COURT: You may.

3 20 Q. (BY MS. STINEDURF) I am handing you a binder of
21 documents; and if it assists you at all, because
22 I realize you're holding your microphone as well,
23 you're welcome to set these on the table.

24 A. May I set the microphone here (indicating)?

4 25 Q. Or you can pull the microphone stand over there.

1. THE COURT: Should just slide right in.

2 Push.

3 THE WITNESS: Oh, sorry.

4 THE COURT: There we go.

5 THE WITNESS: Got it.

5 6 Q. (BY MS. STINEDURF) All right. And I have
7 handed you a binder containing several exhibits.

8 A. Okay.

6 9 Q. And each exhibit is marked with a separate tab.

10 A. All right.

7 11 Q. I would ask you at this time to turn to what has
12 been tabbed as 12.

13 A. Okay.

8 14 Q. And do you recognize this document?

15 A. This is a disclosure request form received from
16 the Attorney General's Corporate Oversight
17 Division and then our certification letter back
18 stating that it -- that we did not have records
19 on file for this particular request.

9 20 Q. And can you please read aloud the content of the
21 disclosure letter that you sent back?

22 A. Yes. It says: I, Brenda Lyndsay, the Disclosure
23 Officer of the State of Michigan, Department of
24 Treasury, do hereby certify that staff from the
25 Michigan Department of Treasury has -- have

1 diligently searched Treasury records and
2 determined that the above-referenced business has
3 not filed any tax returns with the Department for
4 tax years 2011 through 2016.

0 5 Q. And what is the above-referenced business on that
6 letter?

7 A. Future By Design.

1 8 Q. And did you personally review this letter to
9 verify that this is accurate?

10 A. This letter I did not, no.

2 11 Q. Did you review the attachments to the letter?

12 A. This-- The only other attachment would be the
13 disclosure request form. So no, I did not.

3 14 Q. Did you--

15 A. That would have been one of my staff.

4 16 Q. One of your staff would have looked for it?

17 A. Um-hum.

5 18 Q. Would you have reviewed your staff's work to
19 confirm that this was an accurate response
20 essentially, that -- that there are no tax
21 returns filed?

22 A. Not on this particular request, no.

6 23 Q. And why is that?

24 A. Because there was no returns filed, I did not
25 need to look at the system. My staff is fully

1 trained to look at all the systems to identify
2 whether returns are filed or not.

7
3 Q. And again, when you refer to the system, for
4 instance, if you were completing a search in the
5 paper system for a particular entity -- in this
6 case, Future By Design, what process would you
7 follow?

8 A. We would pull up the -- the business based off
9 the account number, which is the FDIN. We would
10 enter into the tax system and -- and enter in
11 that FDIN and -- and pull up any account with
12 that FDIN on that and identify whether or not
13 returns were filed.

14 In this particular case, there was not.

8
15 Q. And if you could please turn-- And excuse me.
16 That date the letter is dated, what is the date
17 on that?

18 A. March 16th of 2018.

19 MS. STINEDURF: Okay. And if I could
20 please approach? I want to make sure that we're
21 referring to the same documents.

22 THE COURT: You may.

23 THE WITNESS: 12?

9
24 Q. (BY MS. STINEDURF) If I could?

25 A. Sure.

0 1 Q. I am handing you back the binder of exhibits.
2 A. Okay.
1 3 Q. And could you please turn to what has been marked
4 as People's Exhibit 13.
5 A. Sure.
2 6 Q. And what is this?
7 A. This is another disclosure request from the
8 Attorney General's Corporate Oversight Division
9 requesting information on a taxpayer by the name
10 of Gary Haynes for tax years 2011 through '16.
3 11 Q. And what is the date on that request?
12 A. We received this request on April 20th of 2018.
4 13 Q. And do you see a response letter in that same
14 exhibit?
15 A. I do.
5 16 Q. And what is the date on the response letter?
17 A. April 23rd of 2018.
6 18 Q. And what does the response letter indicate?
19 A. It says that: I, Richard Grandy, under the
20 authority of Brenda Lyndsay, Disclosure Officer
21 for the State of Michigan, Department of
22 Treasury, do hereby certify that I have compared
23 these copies of Individual Income Returns for tax
24 years 2011 through 2016 for the above-referenced
25 entity, and I have determined they are true and

1 correct.

7 2 Q. And did you personally review these records?

3 A. I did.

8 4 Q. And did you verify that they were complete and
5 correct?

6 A. I did.

9 7 Q. Now, you'll also notice within Exhibit 13 there
8 are individual letter tabs. So I would ask that
9 you please turn to Tab A.

10 A. Okay.

0 11 Q. And what is contained within Tab A?

12 A. This is the 2011 tax return for the individual of
13 Gary Haynes, jointly filed with Shelly Haynes.

1 14 Q. And please turn to Tab B.

15 A. Okay.

2 16 Q. What is that?

17 A. This is the 2012 Michigan Individual Income Tax
18 Return for Gary Haynes, jointly filed with Shelly
19 Haynes.

3 20 Q. Please turn to Tab C. What is that?

21 A. The 2013 Michigan Individual Income Tax Return
22 for taxpayer Gary Haynes, jointly filed with
23 Shelly Haynes.

4 24 Q. Please turn to Tab D. What is within Tab D?

25 A. The 2014 Michigan Individual Income Tax Return

1 for taxpayer Gary Haynes, again jointly filed
2 with Shelly Haynes.

3 Q. And then please turn to Tab E. What is that?

4 A. This is the 2015 Michigan Individual Income Tax
5 Return for taxpayer Gary Haynes, jointly filed
6 with Shelly Haynes.

7 Q. And then please turn to Tab F. What is that?

8 A. This is the 2016 Michigan Individual Income Tax
9 Return for taxpayer Gary Haynes.

10 Q. And then I would ask you to please turn to what
11 has been admitted as Exhibit 14.

12 A. Okay.

13 Q. Do you recognize this?

14 A. I do.

15 Q. And what is that?

16 A. This is a certification of treasury records,
17 again signed by me, dated the 12th of July of
18 this year.

19 Q. And what records is that certifying?

20 A. That is for Future By Design LLC, and it states
21 that:

22 The staff of the Michigan Department of
23 Treasury has diligently searched Treasury records
24 and determined that the above-referenced business
25 has not filed any tax returns with the Department

1 of Treasury for tax years 2011 through '16.

1 2 Q. And again, I inquired earlier about the systems
3 that are used for storing tax returns and for
4 paper returns.

5 Now, you mentioned that when a paper
6 return is received, it's scanned in and
7 essentially stored in the system.

8 Do you know if there are any security
9 measures in place to protect the integrity of
10 these paper returns when they are received?

11 A. We have passwords, log-in user ID's and passwords
12 to enter into our network before you get into the
13 system that allows you to view the returns.

2 14 Q. And these paper returns, are they ever stored in
15 any -- in any paper form, or are they shredded?
16 What's done with them after they're received and
17 scanned in?

18 A. They are kept for a retention period before they
19 are destroyed.

3 20 Q. And are they stored securely?

21 A. Yes.

4 22 Q. What kind of facility are they stored in?

23 A. They are stored at our bank facility. When
24 they're received, they are imaged and -- and sent
25 to Treasury and stored in their warehouse, which

1 is dual-entry secure with cameras in the
2 warehouse itself.

3 Q. And so when you said they're scanned, are they
4 scanned at the Department of Treasury, or are
5 they scanned at the bank facility?

6 A. It depends. If they are sent in normal filing,
7 they are scanned at the bank facility and then
8 sent to Treasury via the compact disk.

9 If they are received in-house at our
10 Operations Center, they are scanned in-house at
11 the Operations Center.

12 MS. STINEDURF: I have no further
13 questions at this time. Thank you.

14 THE WITNESS: Um-hum.

15 THE COURT: Thank you. Any questions
16 of this witness?

17 MR. JOHNSON: Yes, Your Honor, if I
18 may.

19
20 CROSS-EXAMINATION OF MR. RICHARD GRANDY, JR.,

21 BY MR. JOHNSON, J.D.:

22 Q. Good afternoon, Mr. Grandy.

23 A. Good afternoon.

24 Q. My name is Fred Johnson. I don't think we've
25 ever met, so I will introduce myself.

1 A. No, sir.
2 Q. I'm -- I'm just wondering, your role -- your role
3 with the Treasury Department is -- is basically
4 record keeping itself? Is that-- You -- your
5 office compiles the records or -- or receives the
6 records and -- and makes sure that they are
7 available if they need to be researched or
8 whatever?

9 A. Our office responds to requests for records.

9 10 Q. Okay. All right. So -- so you're not in the --
11 you're not an attorney?

12 A. I am not.

0 13 Q. You are not a taxing expert?

14 A. I am not.

1 15 Q. Okay. And what you have testified to is that
16 there is no tax returns filed for -- for the --
17 the business, but all the tax returns for -- for
18 the years in question for Mr. Haynes and his wife
19 from 2011 to 2016, all those personal tax
20 returns, those joint returns, were filed?

21 A. Correct.

2 22 Q. All right. One moment, please.

23 A. Sure.

24 MR. JOHNSON: Mr. Grandy, thank you very
25 much. I don't have any additional questions.

1 THE COURT: Thank you. Any follow-up?

2 MS. STINEDURF: No, Your Honor. Thank
3 you.

4 THE COURT: Thank you. So at this time
5 you may be excused, and thank you very much.

6 THE WITNESS: Thank you.

7 MR. JOHNSON: Thank you, sir.

8 THE WITNESS: You're welcome.

9 MS. STINEDURF: Thank you.

10 THE WITNESS: You're welcome.

11 (Whereupon, witness excused.)

12 MS. STINEDURF: Next witness will be
13 Scott Darnell.

14 THE CLERK-BAILIFF: Could you raise your
15 right hand, please.

16 In this cause now pending do you
17 solemnly swear or affirm to tell the truth, the
18 whole truth, and nothing but the truth, so help
19 you?

20 S C O T T D A R N E L L ,
21 after having been duly administered an oath, was
22 examined and testified as follows:

23 THE WITNESS: I do.

24 THE CLERK-BAILIFF: Please have a seat.
25 Speak directly into the microphone. State your

1 full name and spell your first and last names for
2 the record, please.

3 THE WITNESS: Scott Darnell spelled
4 S-C-O-T-T. Last name Darnell -- D-A-R-N-E-L-L.

5 THE COURT: Good afternoon.

6 THE WITNESS: Good afternoon.

7

8 DIRECT EXAMINATION OF MR. SCOTT DARNELL

9 BY MS. STINEDURF, J.D.:

3 10 Q. Where do you work, Mr. Darnell?

11 A. I work for the Michigan Department of Treasury,
12 Tax Enforcement Unit.

4 13 Q. What is your title there?

14 A. Well, the Civil Service title would be Auditing
15 Specialist 14. In laymen's terms, title for
16 that is Tax Enforcement Investigator.

5 17 Q. And how long have you worked as a Tax Enforcement
18 Investigator?

19 A. Approximately nine years.

6 20 Q. And what are your job responsibilities?

21 A. Well, I'm involved -- I'm the primary liaison
22 between the Attorney General and the Michigan
23 Department of Treasury for all cases. I handle
24 non-filers and any -- and I handle all fraudulent
25 submissions by the different departments or the

1 public.

2 In addition to handling those types of
3 cases, I also do my own queries to -- against the
4 state data base as to identify -- to identify
5 fraudulent activity within the State of
6 Michigan.

7 Q. And what educational background do you have?

8 A. I have a Bachelor of Arts from Michigan State
9 University with a major in accounting.

8 10 Q. Do you have any special licenses or
11 certifications?

12 A. I passed the Certified Public Accounting exam in
13 1991 and was licensed from '91 to '95 and have
14 maintained a registration ever since.

9 15 Q. And what is the difference between a license and
16 a registration?

17 A. Well, licensure is -- a licensed CPA that does --
18 is on the public sector that -- that -- that does
19 financial statement auditing, whereas my training
20 is much more specialized in the tax -- taxes,
21 Michigan tax law.

22 So as a result-- In fact, the state
23 doesn't pay for my -- the -- the -- any of those,
24 the trainings that really don't pertain to my
25 job. I have just maintained a registration,

1 which means that it's kind of on hold; and then
2 if I ever left the state and decided I wanted to
3 go into private practice, I would call HERA (sp?)
4 or the Michigan Board of Accountancy and say
5 activate me, and they would activate me as a
6 public accountant.

0 7 Q. So you were able to become licensed as a public
8 accountant if you were working in a private
9 sector. But since you're working for the
10 government, you're a registered public
11 accountant?

12 A. Correct.

1 13 Q. And what jobs did you hold before you began
14 working at the Michigan Department of Treasury as
15 a Tax Enforcement Investigator?

16 A. Well, prior to that I was in -- in '07 I was an
17 audit manager for the Audit Division of the
18 Michigan Department of Treasury, and I held that
19 position for approximately three years.

20 And then the ten years prior to that I
21 was a senior auditor with the Michigan Department
22 of Treasury, with an eight-month manager position
23 in our New York office when my boss asked me to
24 sit in. And in 2001 for our New York office, our
25 audit manager there, while they tried to find a

1 permanent person to handle the New York office, I
2 did that as a favor to him.

3 And then prior to '97 I was a -- a
4 journeyman and auditor with the Michigan
5 Department of Treasury going back to-- I was
6 originally hired in 1989 by the Michigan
7 Department of Treasury.

2 8 Q. And when you talk about being an auditor, what
9 does it mean to be an auditor?

10 A. An auditor for -- for the Michigan Department of
11 Treasury in the Tax Compliance Bureau basically
12 does tax audits of corporations, individuals, for
13 the -- for the main taxes, for -- for the main
14 taxes of revenue streams in the State of
15 Michigan. What I mean by that is sales tax,
16 withholding tax, Michigan income tax, the
17 corporate taxes.

18 When I was back in my field auditing
19 days, the big corporate tax, the single business
20 tax, I was pretty heavily involved in that. It
21 has changed a multitude of times since then,
22 but. So that being a field auditor does review
23 records and verifies that the proper amount of
24 taxes have been paid.

3 25 Q. And you said that you were a journeyman auditor,

1 and then a senior auditor, and then an audit
2 manager; is that correct?

3 A. That's correct.

4 Q. And so what's the difference between a
5 journeyman auditor and an auditor?

6 A. A journeyman auditor is a-- There is no real
7 difference between a journeyman auditor and an
8 auditor. The-- It's a -- it's a number game and
9 Civil Service 9, 10, 11 for the number of years
10 you have had with them.

11 A journeyman is someone that's seasoned,
12 that -- that can handle audits on his own, and
13 that's after your first couple years of training
14 you become a journeyman auditor.

15 A senior auditor is something you
16 actually get promoted to.

5 17 Q. And does it typically also rely in part on
18 experience?

19 A. Absolutely.

6 20 Q. And as an audit manager, how many people were you
21 responsible for supervising?

22 A. I had five professional auditors that were under
23 me, that worked for me during that time frame and
24 then the -- when I was -- from 2005 to 2007.

25 In 2001 when I was in the New York

1 office, I approximately had eight that were
2 working for me at that time.

3 Q. Now, when you were working as a Tax Enforcement
4 Investigator, do you have any specialized
5 training or experience looking for indicia of
6 fraud?

7 A. Yes, I do. I-- We have ongoing trainings within
8 the Michigan Department of Treasury constantly
9 for taxes.

10 In addition, they -- the State of
11 Michigan routinely sends me to an annual
12 conference in which all the states we get
13 together and we discuss the various fraud cases
14 and what they're seeing, what we're seeing
15 throughout the year, and what's -- what's --
16 what's the hot fraud thing that's -- that's
17 happening maybe that particular year, and we
18 discuss it and the -- the ways that the other
19 states are combatting it. And we try to maybe
20 incorporate some of those things into the way
21 Michigan handles it.

22 MS. STINEDURF: People offer Mr. Darnell
23 as an expert in Michigan tax code enforcement.

24 MR. JOHNSON: No objection.

25 THE COURT: The Court will acknowledge

1 an expert in tax--

2 MS. STINEDURF: Tax code enforcement,
3 Your Honor.

4 THE COURT: Thank you.

8 5 Q. (BY MS. STINEDURF) Are you familiar with the
6 types of income that a person has to report on
7 their State of Michigan tax return?

8 A. Yes.

9 9 Q. Have you had the opportunity to review the
10 Individual Income Tax records filed by Gary
11 Haynes for tax years 2011 through 2016?

12 A. 2012 through 2015 for sure I have. I'm -- I'm
13 pretty familiar with those years.

14 You're asking about 2011. I -- I -- I
15 probably did look at it. I don't specifically
16 recall '11. And the '16 I don't specifically
17 recall that, but I know '12, '13, '14, and '15
18 I'm very familiar with.

19 MS. STINEDURF: Okay. May I approach,
20 Your Honor?

21 THE COURT: You may.

0 22 Q. (BY MS. STINEDURF) I am handing you a binder of
23 several exhibits. Contained within each
24 separate exhibit it's separated by a numbered tab
25 within the binder.

1 A. Okay.

2 Q. Please take a look at Exhibit 13, and just look
3 up when you're finished reviewing.

4 A. Okay. I want to re-familiarize myself with '11
5 and '16. Okay.

6 Q. And now that you have looked at those documents,
7 please specifically look at what should be Tab B,
8 and that is the tax return for tax year 2012.

9 A. Okay.

10 Q. And as you look at that, evidence was admitted
11 earlier today that Gary Haynes' business --
12 Senior Planning Resource, had income in the form
13 of \$117,490.42 in the form of a check from Ardis
14 Liddle.

15 If that money was stolen or embezzled
16 from Ardis Liddle, would Gary Haynes be required
17 to report that money as income?

18 A. Yes, he would.

19 Q. Can you tell whether that income has been
20 reported on Gary Haynes' tax returns?

21 A. I see no evidence of that type of number on this
22 return.

23 Q. If you knew that Gary Haynes had stolen or
24 embezzled \$117,490.42 that year, would he be
25 required to file tax returns in that year?

1 A. Yes. Yes.

6 2 Q. Please look at the next tabbed tax return; that
3 should be Tab C.

4 Evidence has been previously admitted
5 that Gary Haynes' business -- Future By Design,
6 had income in tax year of 2013, which included
7 money transferred from Ardis Liddle's accounts of
8 one \$14,000 check and one \$13,000 check.

9 If that money was stolen or embezzled
10 from Ardis Liddle, would Gary Haynes be required
11 to report that money on tax returns?

12 A. Yes, he would.

7 13 Q. Can you tell whether the income has been reported
14 on Mr. Haynes' tax returns?

15 A. I see no evidence of that -- that number on this
16 return.

8 17 Q. If that information was correct, that one \$14,000
18 and one \$13,000 check had been stolen or
19 embezzled in tax year 2013, would Mr. Haynes be
20 required to file tax returns that year?

21 A. Yes.

9 22 Q. Now please look at the tax return for tax year
23 2014.

24 A. Okay.

0 25 Q. Evidence has previously been admitted that Gary

1 Haynes' business -- Future By Design, had income
2 in tax year 2014 that included money transferred
3 from Ardis Liddle's accounts in the amounts of
4 one \$12,000 on-line payment and one \$1,000
5 on-line payment.

6 If that money was stolen or embezzled
7 from Ardis Liddle, would Gary Haynes be required
8 to report that money as income on tax returns?

9 A. Yes, he would.

1 10 Q. Can you tell whether the income has been reported
11 on those tax returns?

12 A. I see no evidence of that number on this return.

2 13 Q. If that information was true regarding the
14 \$12,000 and the \$1,000 transfer, would Mr. Haynes
15 be required to file tax returns for tax year
16 2014?

17 A. Yes.

3 18 Q. And then please look at tax return for tax year
19 2015. That should be the next tab there.

20 A. Yeah.

4 21 Q. And evidence has previously been admitted that
22 Gary Haynes' business -- Future By Design, had
23 income in tax year 2015, which included money
24 transfers from Ardis Liddle's accounts, including
25 the amount of one \$5,000 check and three \$1,000

1 checks.

2 If that money was stolen or embezzled
3 from Ardis Liddle, would Gary Haynes be required
4 to report that money on tax returns for tax year
5 2015?

6 A. Yes, he would.

5 7 Q. Can you tell if that income has been reported on
8 those tax returns?

9 A. I do not see that income level on this return.

6 10 Q. If that information was true regarding the \$5,000
11 check and the three \$1,000 checks, would Mr.
12 Haynes be required to file tax returns for tax
13 year 2015?

14 A. Yes, he would.

15 MS. STINEDURF: I have no additional
16 questions. Thank you.

17 THE COURT: Thank you. Mr. Johnson, any
18 questions?

19 MR. JOHNSON: I do, Your Honor.

20

21 CROSS-EXAMINATION OF MR. SCOTT DARNELL

22 BY MR. JOHNSON, J.D.:

7 23 Q. Mr. Darnell, good afternoon.

24 A. Good afternoon.

8 25 Q. Welcome back to Muskegon.

1 A. Yes. Thank you.

2 Q. I have a couple questions, and -- and I can -- I
3 can tell you that the tax code is Greek to me. I
4 -- I -- I just do what they tell me.

5 Let me -- let me ask you a couple
6 questions, make sure I understand. Not all money
7 that you get into your hands is considered income
8 under tax code; is that correct?

9 A. (Whereupon, no response.)

10 Q. Let me give you an example.

11 A. Okay.

12 Q. If I borrow a thousand dollars bucks from you, is
13 that considered income to me if I'm going to pay
14 the money back?

15 A. The principal, no.

16 Q. Okay.

17 A. Yeah.

18 Q. The -- the thousand bucks I get is not income?

19 A. Right.

20 Q. Okay. But if I make money off that thousand,
21 then whatever I make, that's income?

22 A. That would be income, yes.

23 Q. Okay. But if I just-- If you were kind enough
24 to loan me a thousand bucks, that in and of
25 itself is not income; is that correct?

1 A. That is correct.

6 2 Q. Suppose -- suppose I -- I receive money. You
3 have a great business. I'm in private practice,
4 my law firm is doing great, and you want to
5 invest in my law firm. Well, strike that. That
6 example is wrong.

7 Suppose I have a great investment. I've
8 got this business you heard about that's going to
9 be great, and you give me a thousand bucks to go
10 invest in the business.

11 Is the money that you give me to invest
12 somewhere else considered income to me?

13 A. Once again, the principal would not be.

7 14 Q. And the principal is? For the jury's sake, what
15 is the principal in that -- in that example?

16 A. Well--

8 17 Q. What would be the principal?

18 A. In your example, when the -- the money is
19 invested, it's -- you're buying stock.

9 20 Q. I'm sorry. I want to make sure the folks can
21 hear you all the way back here (indicating).
22 You're sort of a soft-spoken guy.

23 A. Yeah.

0 24 Q. Okay. Go ahead.

25 A. So you're buying stock I believe in your -- in

1 your example?

2 Q. Yes, sir.

3 A. So if -- if I'm purchasing stock, I wouldn't --
4 until I sold that stock, I wouldn't realize the
5 gain or the loss.

6 Q. Okay. Let me -- let me rephrase that just a
7 little bit.

8 You're -- you're -- you give me a
9 thousand bucks to invest in another company.
10 Okay? It's just -- I'm just going to invest in
11 the other company for you.

12 Is the thousand bucks you gave me, is
13 that considered interest -- or I'm sorry. Is
14 that considered income for me?

15 A. Well, what am I buying, if you don't mind? I
16 guess I'm trying to--

17 Q. Suppose you're buying--

18 A. --clarify the question I guess.

19 Q. Sure. You're buying interest in a business.

20 A. Which would be--

21 Q. I mean, it's not my business. It's a buddy's
22 business. You heard it's great, and I know how
23 to give you stock in it, whatever.

24 A. Is it a percent? I mean, I -- I would have to
25 see the particulars of the contract to know for

1 sure.

6 2 Q. So if you--

3 A. But in -- in general, I understand where you're
4 going. I can see where you're going with this,
5 but there would be a contract that I would have
6 to review for me to say with any certainty.

7 7 Q. Okay. I want to make sure that we make sure
8 everyone understands. The -- the -- the money
9 held-- If you give me money to invest someplace
10 else, are there situations where that's not
11 considered income to me?

12 A. Yes, I can see that.

13 MR. JOHNSON: Okay. Mr. Darnell, I
14 don't have any other questions.

15 THE WITNESS: Okay.

16 MR. JOHNSON: Thank you.

17 THE COURT: Any follow-up?

18 MS. STINEDURF: No, Your Honor. Thank
19 you.

20 THE COURT: Thank you. May this witness
21 be excused?

22 MS. STINEDURF: Yes.

23 MR. JOHNSON: Yes. Yes, Your Honor.

24 THE COURT: And you may be excused.

25 Thank you very much.

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THE WITNESS: Thank you.

(Whereupon, witness excused.)

THE COURT: You can call your next
witness.

MS. STINEDURF: Yes. Jerome Troke.

THE CLERK-BAILIFF: Would you raise your
right hand, please.

In this cause now pending do you
solemnly swear or affirm to tell the truth, the
whole truth, and nothing but the truth, so help
you?

J E R O M E T R O K E , J R.,
after having been duly administered an oath, was
examined and testified as follows:

THE WITNESS: I do.

THE CLERK-BAILIFF: Please have a seat.
Speak directly into the microphone. State your
full name and spell your first and last names for
the record, please.

THE WITNESS: Jerome J. Troke, Junior.
First name is J-E-R-O-M-E. Last name is
T-R-O-K-E.

THE COURT: Good afternoon.

THE WITNESS: Good afternoon.

THE COURT: Go ahead.

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DIRECT EXAMINATION OF MR. JEROME TROKE, JR.,
BY MS. STINEDURF, J.D.:
Q. What do you do for work, Mr. Troke?
A. I own a company called Market Net Solutions up in
Spring Lake. Down in Spring Lake.
Q. And how long have you owned that company?
A. That acquisition-- I bought that company from
the existing owner in September of 2014.
Q. Does Market Net Solutions have anything to do
with Market Net Services?
A. Market Net Services was the predecessor company.
Market Net Services LLC was the company that my
company, Market Net Solutions, bought the assets
of that deal. That closed on September 14th or
13th, 2014.
Q. And who owned Market Net Solutions or Services--
I realize they've had different names. --before
you became the president of the company?
A. The owner was J.T. McDonald.
Q. When you became the president of the company, did
you receive all the records associated with that
company?
A. Yes, I did.
Q. Since you have owned the company, has Gary Haynes
ever worked for the company?

1 A. No, he has not.

4 2 Q. Has Shelly Haynes ever worked for the company?

3 A. Yes.

5 4 Q. When did she work for the company?

6 5 A. For Market Net Solutions from the time that we
6 acquired the -- closed the business in September
7 of 2014, until she left the company in-- Can I
8 refer to my notes? --April 21st of 2018.

6 9 Q. And did she also work for the company before you
10 became the president?

11 A. Yes, she did.

7 12 Q. And do you know, based on reviewing records
13 associated with the company, how long she worked
14 there?

15 A. Yes, I do. She was initially hired by the
16 company in September of -- 14th of 2002. Left
17 for a period during 2007 and came back in May of
18 2010 and was working for the company at the time
19 that I acquired it.

8 20 Q. Now, when you reviewed the company's records and
21 based on your experiences as the president, did
22 you see if Gary Haynes ever worked for the
23 company?

24 A. To the best of my knowledge, absolutely not.
25 There was one record of a transaction in his

1 name, a check for \$100 that was cut to him in
2 April of 2011, with a note of: Repairs and
3 maintenance. The memo was: Moved cubicles in
4 Customer Service.

9 5 Q. And is your company affiliated with another
6 company called Future By Design?

7 A. No, it's not.

0 8 Q. Is your company affiliated with a company called
9 Senior Planning Resource or Senior Planning
10 Resources?

11 A. No, it is not.

1 12 Q. What does your company do?

13 A. We are a marketing services and lead management
14 company. We -- we have software that we license
15 to customers. We do tela-qualification and
16 tela-sales activities, outbound calling, and
17 customer service activity, and we manage an
18 E-Commerce business for a major client of ours.

2 19 Q. Okay. Is the company involved in anything like
20 house flipping or house renovating?

21 A. No, not at all.

3 22 Q. Does the company sell annuities of any kind?

23 A. No.

24 MS. STINEDURF: I have no further
25 questions.

1 THE COURT: Thank you. Any questions of
2 this witness?

3 MR. JOHNSON: I have no questions of
4 Mr. Troke. Thank you, sir.

5 THE COURT: Thank you. You may step
6 down.

7 THE WITNESS: Thank you.

8 THE COURT: May this witness be
9 excused?

10 MS. STINEDURF: Yes, Your Honor.

11 THE COURT: And you may be excused.
12 Thank you very much.

13 (Whereupon, witness excused
14 at approximately 3:52 P.M.)

15 THE COURT: You can call your next
16 witness.

17 MS. STINEDURF: Nancy Ritchie.

18 THE CLERK-BAILIFF: Could you raise your
19 right hand, please.

20 In this cause now pending do you
21 solemnly swear or affirm to tell the truth, the
22 whole truth, and nothing but the truth, so help
23 you?

24 N A N C Y R I T C H I E ,
25 after having been duly administered an oath, was

1 examined and testified as follows:

2 THE WITNESS: I do.

3 THE CLERK-BAILIFF: Please have a seat.
4 Speak directly into the microphone. State your
5 full name and spell your first and last names for
6 the record, please.

7 THE WITNESS: Nancy Ritchie. My last
8 name is spelled R-I-T-C-H-I-E.

9 THE COURT: Good afternoon. If you
10 want, you can sit back and pull that microphone
11 to you.

12 THE WITNESS: Okay.

13 THE COURT: That will make it a little
14 more comfortable.

15 THE WITNESS: Okay. Thank you.

16

17 DIRECT EXAMINATION OF MS. NANCY RITCHIE

18 BY MS. STINEDURF, J.D.:

4 19 Q. Where do you work, Ms. Ritchie?

20 A. Well, currently MediLodge at the Shore in Grand
21 Haven.

5 22 Q. Did MediLodge at the Shore in Grand Haven
23 previously have another name?

24 A. Yes. Prior to September of this year it was
25 Sanctuary at the Shore.

6 1 Q. And where is that facility? You mentioned it was
2 located in Grand Haven. Is there just one
3 branch of that facility?

4 A. Yes, um-hum.

7 5 Q. And how long did that facility go by Sanctuary at
6 the Shore?

7 A. Since several years. I'm not sure exactly.
8 1990?

8 9 Q. When did you first start working at the facility
10 by any name?

11 A. I started there in 1983.

9 12 Q. And when you started there, do you recall what it
13 was referred to at that time?

14 A. It was Shore Haven Nursing Home.

0 15 Q. What position did you have when you first started
16 working there?

17 A. Administrator.

1 18 Q. Is that the position you hold now?

19 A. Yes.

2 20 Q. And have you worked there since you began working
21 there then?

22 A. Um-hum. I've been there--

23 THE COURT: Is that a yes?

24 THE WITNESS: Yes.

25 THE COURT: Thank you.

1 THE WITNESS: I have been there--

3 2 Q. (BY MS. STINEDURF) And what does it mean to be
3 -- what does it mean to be an administrator?

4 A. I'm responsible for day-to-day operations,
5 financial management, regulatory compliance,
6 human resource management.

4 7 Q. Is this similar to being an executive director in
8 a different kind of business?

9 A. Yeah, it would be similar to an executive
10 director.

5 11 Q. And are you familiar then with the manner that
12 your facility stores resident records?

13 A. Yes.

6 14 Q. In 2013 how were resident records stored?

15 A. Electronic medical records.

16 Q. And when you store an electronic medical record,
17 in general how are those stored?

18 A. Well, they are in a computer and we -- much of it
19 is just put right in at the time that the care is
20 delivered. Things like lab work, physician
21 records, those types of things are often scanned
22 and then filed in the appropriate place in the
23 medical record.

8 24 Q. Do you have to have any type of licenses or
25 certifications to be an administrator of a

1 nursing home?

2 A. Yes. I'm licensed as a nursing home
3 administrator in the State of Michigan. It's a
4 state and federal license.

9 5 Q. Were you able to determine, before coming here
6 today, if Ardis Liddle was ever a resident at
7 Sanctuary at the Shore?

8 A. Yes, she was.

0 9 Q. And how did you determine if she was a resident
10 at Sanctuary at the Shore?

11 A. By looking up the medical record.

1 12 Q. Is maintaining those records one of the
13 responsibilities of a nursing home administrator?

14 A. Ultimately, yes.

15 MS. STINEDURF: And may I approach?

16 THE COURT: You may.

2 17 Q. (BY MS. STINEDURF) Showing you a document within
18 a binder. This has been tabbed. You will see
19 the front tab there is 17. This is People's
20 Proposed Exhibit 17.

21 A. Okay.

3 22 Q. I'm going to ask that you take a look at this,
23 and there should be a few pages within that
24 section. Review it and look up when you're
25 finished.

1 A. I'm sorry?

4 2 Q. If you can please review those pages and just
3 look up once you've had a chance to review them.

4 Do these records look like the records
5 that you pulled for Ms. Liddle?

6 A. Yes.

5 7 Q. And what type of records are contained within
8 17?

9 A. The first page is the face sheet, which handles
10 -- which covers all the demographics of a
11 patient, including address, name, Social Security
12 number, admission date, birth date, diagnoses.

13 The next one is a physician history and
14 physical that's conducted by either a physician
15 or a physician's assistant or a nurse
16 practitioner, and that's usually done within the
17 first -- either just prior to admission or within
18 the first 48 hours of admission to the nursing
19 home.

20 The next page is physical therapy
21 progress notes and discharge summary, functional
22 limitations assessment, and then an occupational
23 therapist progress note and discharge summary.

6 24 Q. Were you able to determine if these records were
25 kept in the ordinary course of business?

1 A. Yes.

2 MS. STINEDURF: People move for
3 admission of Proposed Exhibit 17.

4 MR. JOHNSON: No objection.

5 THE COURT: 17 then will be admitted.

7 6 Q. (BY MS. STINEDURF) And please take a look at the
7 face sheet in that Tab 17, and can you tell from
8 that when Ms. Liddle was admitted to Sanctuary at
9 the Shore?

10 A. Yes. [REDACTED]

11 P.M..

8 12 Q. Can you tell when she was discharged?

13 A. Yes. She was discharged on August 15th, 2013.

9 14 Q. Can you tell if she was discharged to another
15 facility or to her home?

16 A. I'm not certain if it's on here. I believe she
17 was discharged, from looking through other parts
18 of the records, I believe she was discharged to
19 another lesser-care facility.

0 20 Q. Can you tell why she was admitted to the nursing
21 home?

22 A. Yes. She was admitted from [REDACTED]

23

24

1 25 Q. And please turn to the next page beyond the face

1 sheet, and is this the medical assessment that's
2 completed when she was accepted into the nursing
3 home?

4 A. Yes.

5 Q. Can you tell from reviewing that assessment what
6 the major concerns were or why she was admitted?

7 A. 

8

9

10

11 Q. Now, you've worked at the nursing home for some
12 time?

13 A. Yes.

14 Q. Do you recall whether you met Ms. Liddle or not
15 when she was a resident at the facility?

16 A. I do not.

17 Q. And again, as you were reviewing those records,
18 can you tell if she was admitted as a walk-in
19 from the street, or if she was admitted from some
20 other type of facility?

21 A. No. She came from Hackley Hospital.

22 MS. STINEDURF: I have no further
23 questions. Thank you.

24 THE COURT: Any questions of this
25 witness?

1 MR. JOHNSON: I do, in fact.

2
3 CROSS-EXAMINATION OF MS. NANCY RITCHIE

4 BY MR. JOHNSON, J.D.:

6 5 Q. Good afternoon, Ms. Ritchie. My name is Fred
6 Johnson. I would like to ask you a couple more
7 questions.

8 A. Sure.

7 9 Q. Your staff there is -- is medically trained
10 obviously; correct?

11 A. Yes.

8 12 Q. And is there a cross-training too so that if
13 someone comes in with -- with -- with issues that
14 weren't initially reported, they can bring it
15 perhaps to a doctor's attention?

16 A. Sure. Yes.

9 17 Q. Okay. So someone comes in and they show other
18 symptoms or whatnot--

19 A. Yes.

0 20 Q. --they are trained to bring it to somebody's
21 attention?

22 A. Yes.

1 23 Q. Would that include psychological or intellectual
24 or mental limitations as well as physical or just
25 -- or just the -- the physical?

1 A. It could include all of that.

2 Q. Okay. Is there any indication in those files
3 that there were any medical -- not medical, but
4 psychological or intellectual limitations or
5 emotional or mental-health issues presented by
6 Ms. Liddle at the time, other than she didn't
7 want to be there?

8 A. I don't see any, not from this initial report.

9 MR. JOHNSON: Thank you, Ms. Ritchie.

10 THE WITNESS: Um-hum.

11 MR. JOHNSON: I have no further
12 questions.

13 THE COURT: Anything further?

14 MS. STINEDURF: None, Your Honor. Thank
15 you.

16 THE COURT: Thank you. You may step
17 down. And may this witness be excused?

18 MS. STINEDURF: Yes, Your Honor.

19 MR. JOHNSON: Yes, ma'am.

20 THE COURT: And you may be excused.

21 THE WITNESS: Thank you.

22 THE COURT: Thank you.

23 (Whereupon, witness excused.)

24 THE COURT: Call your next witness.

25 MS. STINEDURF: Cheryl Crays.

1 THE CLERK-BAILIFF: Could you raise your
2 right hand, please.

3 In this cause now pending do you
4 solemnly swear or affirm to tell the truth, the
5 whole truth, and nothing but the truth, so help
6 you?

7 C H E R Y L C R A Y S ,
8 after having been duly administered an oath, was
9 examined and testified as follows:

10 THE WITNESS: I do.

11 THE CLERK-BAILIFF: Please have a seat.
12 Speak directly into the microphone. State your
13 full name and spell your first and last names for
14 the record, please.

15 THE WITNESS: Okay. Cheryl Darlene
16 Crays -- C-H-E-R-Y-L, C-R-A-Y-S.

17 THE COURT: Good afternoon.

18 THE WITNESS: Good afternoon.

19 THE COURT: If you would like, you can
20 move back because as long as you move that
21 microphone back with you, it can swing right back
22 there.

23 THE WITNESS: Is that better?

24 THE COURT: That's better.

25 THE WITNESS: Okay.

1 DIRECT EXAMINATION OF MS. CHERYL CRAYS
2 BY MS. STINEDURF, J.D.:
3 Q. Are you currently working, Ms. Crays, or are you
4 retired?
5 A. I'm retired.
6 Q. And before you retired, what were you doing?
7 A. I took care of my Aunt Ardis. I took care of my
8 mother and dad. I worked part-time at two jobs,
9 raised a family, was a housewife.
10 Q. Okay.
11 A. Still am.
12 Q. So you mentioned your Aunt Ardis. Is that Ardis
13 Liddle?
14 A. Yes, ma'am.
15 Q. Are you aware that Ms. Liddle lived in Arizona
16 for most of her life?
17 A. Yes, I am.
18 Q. Was there a point when she moved back to
19 Michigan?
20 A. Yes, there was.
21 Q. Do you know when she moved back to Michigan?
22 A. I flew out there in the summer of 2005 and drove
23 her back.
24 Q. And I'm going to ask you to speak up a little bit
25 because I think they might be having trouble

1 hearing.

2 A. Okay.

3 Q. And do you also live in Michigan?

4 A. Yes, ma'am, I do.

5 Q. Where in Michigan do you live?

6 A. Spring Lake, Michigan.

7 Q. Is that fairly close to Fruitport, Michigan?

8 A. Yeah, um-hum, four or five miles probably.

9 Q. When Ms. Liddle first moved back to Michigan in
10 2005, approximately how often did you see her?

11 A. Couple times a week. Talked to her on the phone
12 a lot, but -- and it depended on how many
13 doctors' appointments she had, but I would say on
14 average two times a week.

15 Q. And was there a time that that changed and you
16 had to see her less often?

17 A. Yes, ma'am.

18 Q. And what changed?

19 A. In 2013 my younger brother that lived with my
20 mother and dad passed away. So then that
21 responsibility fell on me. So then I couldn't
22 take care of her as much.

23 Q. You had to assume the care of your parents?

24 A. Yes, ma'am.

25 Q. So from 2005 to 2013 you were assisting once or

1 twice a week?

2 A. Um-hum, I was.

3 Q. What kind of things were you doing for Ms.
4 Liddle?

5 A. I would take her to doctors' appointments, take
6 her grocery shopping, to pick up her
7 prescriptions.

8 In the house I would vacuum, generally
9 clean, do laundry, straighten things out, and
10 anything else that needed to be done.

11 We would always go to the mail shack and
12 get her mail. I would do that for her.

13 Q. What was difficult about the mail shack?

14 A. Well, when she first moved back, she was able to
15 go there herself. And then she passed out one
16 time and hit her head. It's all cement when you
17 drive up and cement steps, cement inside. So
18 she could no longer do that.

19 Q. Was that fairly soon after she moved here or some
20 time after?

21 A. Gosh, I really don't know. I -- I would say a
22 few years maybe.

23 Q. So it wasn't recently as we stand here today?

24 A. No. No, ma'am.

25 Q. Was there anything else that you did for her as

1 far as her food was concerned?

2 A. Yeah. I would -- would check out the food in the
3 -- the refrigerator and sometimes you would have
4 to throw it out and restock it and then take it
5 out to the, you know, the garbage out to the
6 curb. She wasn't able to do that.

4 7 Q. And you mentioned that you took her to her
8 doctors' appointments. Why did you need to take
9 her to her doctors' appointments?

10 A. Well, several of them she couldn't. They were
11 farther away and she wasn't able really to drive
12 to them. She would drive, but she was nervous
13 about some of her doctors' appointments. Like at
14 the Pain Clinic, they would give her
15 medications. So she couldn't drive herself; she
16 had to be taken.

5 17 Q. Do you know if anyone else was helping her with
18 anything before your brother passed in 2013 and
19 you had to step back?

20 A. Her neighbor would help her out. She would get
21 the mail for her or do things, if this came up
22 that needed to be done right away and I couldn't
23 be there.

6 24 Q. All right.

25 A. The neighbor's daughters got to be teenagers and

1 they would vacuum for her and do little things
2 for her.

7
3 Q. Now, after you had to take over more of your own
4 parents' care, do you know if anyone else started
5 helping Ms. Liddle?

6 A. Yes, later on. And a couple of months probably
7 went by and then Jody Elliot hired on to -- to
8 clean for Ardis, and -- and then she did a lot
9 more than that. Then she would take her to
10 doctors' appointments, help her make decisions,
11 grocery shopping, that type of thing.

8
12 Q. Was there a period of time where you were trying
13 to both take care of your parents and take care
14 of Ms. Liddle?

15 A. Yes, there was. My brother passed in April of
16 2013 and I helped her through the -- the summer,
17 but not as much because they were really elderly
18 and -- and they needed daily care everyday.

9
19 Q. Have you ever met Gary Haynes?

20 A. Yes, ma'am.

0
21 Q. How many times have you met him?

22 A. Twice I believe.

1
23 Q. And when did you meet him?

24 A. I met-- I don't know the year. I don't know the
25 year. He gave my aunt tickets to go see plays at

1 Spring Lake High School because his daughters
2 were in the plays, and he would meet us there.

3 So basically I met him twice.

4 Q. So you met him twice at the plays at Spring Lake
5 High School?

6 A. At the plays, um-hum.

7 Q. Did you ever see him in Ms. Liddle's house?

8 A. No, ma'am, I did not.

9 Q. Were you involved in Ms. Liddle's decision to
10 start working with Gary Haynes?

11 A. No, I was not.

12 MS. STINEDURF: May I approach, Your
13 Honor?

14 THE COURT: You may.

15 Q. (BY MS. STINEDURF) I'm handing you a binder
16 containing several exhibits. The tab I have
17 turned to for you is Tab 16. You are free to
18 take that off the shelf and hold onto that,
19 whatever you need to do to review it.

20 Just take a minute to look at those
21 documents in Exhibit 16.

22 A. Can you get my purse? It has my glasses in it.

23 Q. Absolutely. I will hand you your purse now so
24 that you can get to your glasses.

25 A. Sorry. Yes. Thank you. Okay. Now what did you

1 ask me about it?

7 2 Q. I was asking you if you could first review
3 those.

4 Have you had a chance to review those?

5 A. Pretty much.

8 6 Q. Have you seen those documents before?

7 A. Yes, I have.

8 MR. JOHNSON: Excuse me, counsel.

9 Which exhibit are you referring to here?

10 MS. STINEDURF: We are on Exhibit-- If
11 I may approach?

12 THE COURT: You may.

13 MS. STINEDURF: We are on Exhibit 16.

14 MR. JOHNSON: Thank you.

9 15 Q. (BY MS. STINEDURF) And have you seen those
16 before?

17 A. Yes, I have.

0 18 Q. And what are these documents?

19 A. Her Power of Attorney.

1 20 Q. Did she ask you about becoming a Power of
21 Attorney?

22 A. Yes, she did.

2 23 Q. Do you recall when she asked you about that?

24 A. I don't. I want to say 2008, but I can't say for
25 sure.

3

1 Q. Did you want to become her Power of Attorney, or
2 was this her preference that you become a Power
3 of Attorney?

4 A. That was her choice, and I was okay with that.

4

5 Q. And if you're able to, do you see a date on those
6 documents?

7 A. Yes, I do.

5

8 Q. What is the date on those documents?

9 A. January 16th, 2008.

6

10 Q. Do you believe that date is approximately correct
11 as to the time she approached you?

12 A. Yes, I believe it is.

7

13 Q. And after she asked you about becoming a Power of
14 Attorney, if you look at those documents, you
15 should see at the bottom there is a section where
16 those documents are notarized.

17 A. By her?

18 MS. STINEDURF: May I approach, Your
19 Honor?

20 THE COURT: You may.

21 MS. STINEDURF: If I could please see
22 that, I can point out the section I'm referring
23 to. And I'm turning, for the record, to Pages
24 Number 3640 in the bottom right corner.

25 If you can please take a look at that,

1 you will see that there is a stamp. That is
2 what's called a notary stamp.

3 Can you tell who that was notarized by?

4 A. Gary Edward Haynes.

8 5 Q. Were you present when these documents were
6 notarized?

7 A. No, ma'am.

9 8 Q. And I am now referring to Page Number 34 --
9 excuse me, 3646. And if you can please take a
10 look down at the bottom again. There is a
11 notary stamp.

12 A. And that says Gary Edward Haynes.

0 13 Q. And what is the date on that, if you can read the
14 date on that page?

15 A. Where it expired, or up here (indicating)?

1 16 Q. Appears to be a date right above the notary
17 stamp.

18 A. January 16th of 2008.

2 19 Q. Were you present when these documents were
20 notarized?

21 A. No, I was not.

3 22 Q. After Ms. Liddle began working with Mr. Haynes,
23 did she talk with you about her financial
24 affairs?

25 A. No, not much. She just said she had somebody

1 taking care of it, and she was of sound mind.

2 So that's what happened.

3 Q. Did she talk with you about her financial affairs
4 before she began working with Gary Haynes?

5 A. No, not really.

6 Q. And when you said that she was of sound mind, did
7 you medically assess her at all?

8 A. No. She acted okay for a person her age, and she
9 had things under control.

10 Q. And do you know if Ms. Liddle ever had any other
11 people in her life that helped her with her
12 finances?

13 A. She previously had I believe it was a CPA that
14 sort of helped her out with her stuff. Besides
15 doing her taxes and that, he would give her
16 advice.

17 Q. That was before Gary Haynes?

18 A. Yes, it was.

19 MS. STINEDURF: I have no further
20 questions. Thank you.

21 THE WITNESS: You're welcome.

22 THE COURT: Thank you. Any questions of
23 this witness?

24 MR. JOHNSON: I do, Your Honor. Thank
25 you.

1 CROSS-EXAMINATION OF MS. CHERYL CRAYS
2 BY MR. JOHNSON, J.D.:
3 Q. Good afternoon, Ms. Crays.
4 A. Good afternoon.
5 Q. My name is Fred Johnson. I would like to ask you
6 a few more questions, if I may.
7 A. Okay.
8 Q. Okay. And I'm going-- Ma'am, I'm going to stand
9 back here because you're very soft-spoken. I
10 want to make sure this gentleman, these jurors
11 all the way back over here (indicating) can hear
12 you. So if I can hear you, I know they can.
13 Okay?
14 A. Okay.
15 Q. We will do it that way. If I can't hear you,
16 I'll raise my hand to my ear and you will have to
17 speak up a little bit. Is that okay?
18 A. I will do that.
19 Q. Super. The Power of Attorney you were just --
20 just referring to--
21 A. Yes.
22 Q. --names you as the person receiving the Power of
23 Attorney?
24 A. Yes.
25 Q. And -- and not Mr. Haynes as far as you know?

1 A. No.

2 Q. Okay. And -- and the -- the second thing is,
3 your aunt -- your Aunt Liddle is not the -- an
4 attorney; is that correct?

5 A. No, she's not.

6 Q. So -- so am I correct in assuming she didn't
7 draft up that Power of Attorney. She had
8 somebody else do it?

9 A. Yes.

10 Q. Okay. And -- and do you know who the other --
11 who drafted it up for her? Who wrote it out for
12 her? Did she have a lawyer, do you know, I guess
13 is what I'm asking?

14 A. I don't know.

15 Q. Okay. Do you know where she got the document
16 itself that she signed and had notarized by
17 Mr. Haynes?

18 Do you know where--

19 A. No. I assumed Mr. Haynes did it.

20 Q. Okay. You assumed Mr. Haynes drafted it up
21 giving you, the Power of Attorney, control over
22 whatever, giving you Power of Attorney over
23 Ms. Liddle. That's your assumption?

24 A. Could you say that again, please.

25 Q. Yeah. That didn't come out very well, did it.

1 A. This is all new to me. It's--

2 Q. That's -- that's fine.

3 A. It's confusing.

4 Q. I'm glad you asked again.

5 Your assumption is that Mr. Haynes wrote
6 up the Power of Attorney, and that's the one your
7 aunt signed?

8 A. That's my assumption.

9 Q. Okay. Thank you. This was in 2008; correct?

10 A. Yes.

11 Q. And you, as the prosecutor mentioned, you're not
12 a psychiatrist or psychologist or anything like
13 that; is that correct?

14 A. That's correct.

15 Q. But did you have any -- did you have any concerns
16 that your aunt wasn't capable of granting a Power
17 of Attorney? That she didn't understand, or she
18 was confused, or she was under duress or anything
19 like that when she offered it to you?

20 A. Well, I assumed that she knew what she was
21 doing. She -- she seemed capable at the time.

22 MR. JOHNSON: Yes, ma'am. Thank you. I
23 have no further questions.

24 THE COURT: Anything?

25 MS. STINEDURF: None, Your Honor.

1 THE COURT: Thank you. Thank you. May
2 this witness be excused?
3 MS. STINEDURF: Yes.
4 MR. JOHNSON: Yes, ma'am.
5 THE COURT: Thank you. Thank you very
6 much.
7 THE WITNESS: You're welcome.
8 THE COURT: You may be excused.
9 THE WITNESS: Thank you.
10 (Whereupon, witness excused
11 at approximately 4:18 P.M.)
12 THE COURT: Call your next witness.
13 MS. STINEDURF: And I just want to
14 confirm, it is unlikely the next witness will be
15 finished today. So I want to confirm the Court
16 would still like me to call the next witness.
17 THE COURT: Yes, please.
18 MS. STINEDURF: People call Doctor
19 Herbert Miller.
20 THE CLERK-BAILIFF: Can you raise your
21 right hand, please.
22 In this cause now pending do you
23 solemnly swear or affirm to tell the truth, the
24 whole truth, and nothing but the truth, so help
25 you?

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H E R B E R T M I L L E R ,

after having been duly administered an oath, was
examined and testified as follows:

THE WITNESS: I do.

THE CLERK-BAILIFF: Please have a
seat. Speak directly into the microphone.
State your full name and spell your first and
last names for the record, please.

THE WITNESS: Herbert Francis Miller --
H-E-R-B-E-R-T, F-R-A-N-C-I-S, M-I-L-L-E-R.

THE COURT: Good afternoon.

THE WITNESS: Good afternoon.

THE COURT: Go ahead.

DIRECT EXAMINATION OF DR. HERBERT MILLER
BY MS. STINEDURF, J.D.:

Q. How are you employed, Mr. Miller?

A. I'm a -- now an employee of Spectrum Health.

Q. How long have you been working at Spectrum
Health?

A. Two years.

Q. In what capacity do you work at Spectrum Health?

A. I'm an internal medicine physician in the office.

Q. And how long have you been employed during the
course of your career as an internal medicine

1 physician?

2 A. I have been in town since 1988.

3 Q. And so you said that you work at Spectrum Health
4 now. Do you have your own practice, or do you
5 work within the hospital?

6 A. No. We are part of the Spectrum Health Medical
7 Group. We do out-patient internal medicine only
8 at this time.

9 Q. And when we refer to internal medicine, is that
10 similar to primary care, or is this something
11 different?

12 A. It's basically primary care for adults.

13 Q. Before you were part of Spectrum, where did you
14 work?

15 A. I had a private practice initially with Internal
16 Medicine Associates of Muskegon from
17 approximately 1988 to 2000, at which point we
18 were bought out by Hackley Hospital and stayed
19 with -- with Hackley Hospital -- Hackley Health
20 Care for about six years.

21 And then Doctor Brown, Doctor Keur, and
22 I decided not to stay with Hackley Hospital,
23 formed our own private practice, which was Great
24 Lakes Internal Medicine until 2016.

25 Q. You said that you have been in town then since

1 1988.

2 A. Correct.

3 Q. Did you work someplace else before 1988?

4 A. No. I trained in internal medicine at the
5 University of Iowa from 1985 to 1988 as part of
6 my residency. And before that, I was in medical
7 school at the University of Michigan.

8 Q. And did you complete any special internship or
9 programing with regards to internal medicine then
10 aside from the residency?

11 A. No. No. I am board certified.

12 Q. Board certified in internal medicine?

13 A. Correct.

14 Q. And you mentioned that internal medicine is
15 essentially primary care for adults. Do you see
16 individuals of all ages at your practice?

17 A. At one point we started seeing kids when they
18 were 12. Generally when the pediatricians say
19 you're too big for my practice, or the kids say,
20 you know, I'm too tall, I don't want to be around
21 those little kids, then we usually start taking
22 them as patients. I think currently you have to
23 be 16 to be part of our practice now I think is
24 where we start.

25 Q. And do you also see elderly individuals?

1 A. Probably close to 90 percent of my patients are
2 over the age of 80.

3 MS. STINEDURF: The People move to offer
4 Doctor Herbert Miller as an expert in internal
5 medicine.

6 MR. JOHNSON: No objection.

7 THE COURT: Court will--

8 Q. (BY MS. STINEDURF) Is Ardis-- Excuse me.

9 THE COURT: The Court will qualify as an
10 expert in internal medicine; correct.

11 MS. STINEDURF: Yes. Thank you.

12 THE COURT: Thank you.

13 Q. (BY MS. STINEDURF) Is Ardis Liddle one of your
14 patients?

15 A. She is.

16 Q. And how long have you been Ms. Liddle's primary
17 care physician?

18 A. Since 2009.

19 MS. STINEDURF: May I approach the
20 witness?

21 THE COURT: You may.

22 Q. (BY MS. STINEDURF) Currently handing you two
23 binders. These binders have been marked as 1 of
24 2 and 2 of 2, and Exhibit 19 is noted on the
25 front.

1 I would ask that you take a look at the
2 first binder that's been marked as 1 of 2 and
3 confirm that you recognize these as associated
4 with Ardis Liddle.

5 A. I do recognize this as being part of her medical
6 record.

3 7 Q. And if you would please also take a look at the
8 second binder once you're satisfied with the
9 first, just to verify that this information is
10 part of her medical record.

11 A. I do recognize this as well.

4 12 Q. And do you maintain medical records as part of
13 your practice as a physician as part of your
14 ordinary course of business?

15 A. Yes.

5 16 Q. And are you responsible for insuring that those
17 records are complete and accurate when you see
18 patients?

19 A. Yes.

20 MS. STINEDURF: People move for
21 admission of Proposed Exhibit 19.

22 MR. JOHNSON: No objection.

23 THE COURT: All right. People's Exhibit
24 19 will be admitted.

6 25 Q. (BY MS. STINEDURF) And you said that you have

1 been Ms. Liddle's physician since 2009; is that
2 correct?

3 A. Correct.

4 Q. And how often do you see Ms. Liddle?

5 A. On the average probably every three months.

6 Q. And this has been fairly consistent since 2009?

7 A. Yes.

8 Q. When was her last wellness visit? And if you
9 need to refer to those records, you may do so.

10 A. It looks like March of 2018. Looks like March
11 20th of 2018.

12 Q. And you're basing that on those records?

13 A. Correct.

14 Q. I see you're continuing to review. Would you
15 like a minute to finish that?

16 A. If you wouldn't mind. I just wanted to make
17 sure that that was accurate.

18 Q. Yes. We want to make sure your testimony is
19 accurate and complete.

20 A. Yes. I do believe that's correct.

21 Q. And you're basing that on the information
22 contained in those medical records contained
23 there?

24 A. That's correct.

25 Q. And since you began treating Ms. Liddle in 2009,

1 has she needed any assisted devices to walk?

2 A. Yes.

3 Q. What has she needed to assist her with walking?

4 A. She has used a cane in the past. She's had a
5 walker in the past, and she's come to my office
6 in a wheelchair in the past.

7 Q. Has she needed those devices since 2009, or has
8 that been more recent?

9 A. No, that's since 2009. More recently she's
10 actually improved, and most of the time is either
11 walker or cane.

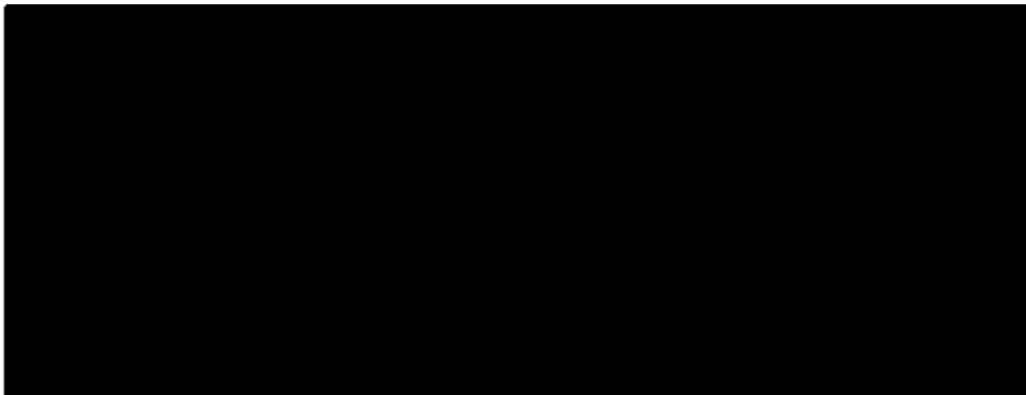
12 Q. So her ability to walk is actually better now
13 than it used to be?

14 A. Yes, it has. At one time it was absolutely
15 awful.

16 Q. Now, do you know why she's required an assisted
17 device to walk?

18 A. Yes.

19 Q. Why is that?

20 A. 

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Q. Would those conditions affect her ability to perform tasks around her home?

A. Absolutely.

Q. Would those affect her ability to perform tasks out in public, such as shopping or other errands?

A. I would say so as well. I would think that would be very, very difficult for her to be able to deal with.

Q. During the time you have been treating Ms. Liddle, you have just mentioned she had a number of conditions she has that have impaired her walking, her ability to move.

Has she been prescribed any significant pain killers?

A. Yes.

Q. And was there any particular period of time where she was prescribed more pain killers than other periods of time?

A. Yes.

Q. And what periods of time was she prescribed the higher doses of pain killers?

1 A. [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 Q. And a Fentanyl patch, is that something you would
6 describe as a strong medication or weak
7 medication? How would you describe that?.

8 A. It's actually a very strong pain medicine. It's
9 equivalent to about a hundred times that of
10 morphine.

11 Q. And before 2013 were there other times that she
12 had to be on strong pain medications?

13 A. [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED].

17 Q. And when you talk about Norco, what class of
18 drugs would you describe Norco as being in?

19 A. It is a narcotic combined with Tylenol.

20 Q. And when you talk about Fentanyl, is that a
21 narcotic, or is that something else?

22 A. That is a narcotic and very potent.

23 Q. Do narcotics have the ability to affect anyone's
24 mental acuity?

25 A. Yes.

0

1 Q. And how can they affect someone's mental acuity?

2 A. They cause drowsiness. They cause difficulty
3 with cognition, difficulty with -- with memory,
4 and makes it very difficult a lot of times for
5 people to be able to function on narcotics and
6 function to the -- to the ability that you would
7 expect them to function.

1

8 Q. And particularly for the elderly population,
9 would there be an increased effect at all due to
10 the age?

11 A. The problem with narcotics in the elderly is
12 their body doesn't-- As we get older, our body
13 doesn't metabolize these drugs well. And so the
14 -- the -- the effects last longer, the
15 side-effects last longer.

16 So oftentimes you can withdraw a
17 narcotic from a person, but the effect might last
18 two, three, four, five days just because their
19 body doesn't clear that.

2

20 Q. Now, would that class of medication -- narcotics,
21 would that affect a person's ability to drive or
22 perform higher-level thinking tasks?

23 A. Yes.

3

24 Q. Now, you have been Ms. Liddle's physician since
25 2009, but as part of acting as her primary care

1 physician, do you also review medical records
2 from previous treatments or other medical
3 treatments that she has received?

4 A. Yes.

5 Q. And when you reviewed those records, was there
6 anything that occurred prior to the time that you
7 treated her that might have an effect on her
8 thinking or her mobility?

9 A. Yes.

10 Q. And was there anything significant that stands
11 out to you?

12 A.

[REDACTED]

13
14
15
16 So generally when we put people on blood
17 thinners like Morphirin to prevent the stroke
18 from [REDACTED] [REDACTED]

19 [REDACTED] [REDACTED]

20 [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. When she suffered that fall, did she suffer any
25 kind of a head injury?

1 A. Yes.

2 Q. And what type of head injury did she suffer at
3 that time?

4 A. [REDACTED]

5 [REDACTED]

6 [REDACTED].

7 Q. Is that something that can affect someone's
8 thinking?

9 A. Yeah. That actually is something that you can
10 die from. So thinking difficulty would be
11 relatively common afterwards.

12 She at that time had different
13 physicians, and she had seen a neurosurgeon at
14 that time. And the neurosurgeon at the time she
15 was hospitalized for that injury decided that she
16 did not need to have any kind of brain surgery to
17 remove the blood within the brain, and the blood
18 resolved spontaneously on its own.

9 Q. Would any thinking difficulties that were a
20 result of that 2006 fall have continued long
21 after that fall?

22 A. Possibly. It's hard to know because you would
23 really have to test that person's -- person's
24 capabilities before the injury and then after the
25 injury to really know what the cognitive

1 disabilities were as a result of the fall and the
2 injury.

3 We currently have programs for
4 concussions in the schools, and -- and
5 professionally now that all the -- the players'
6 cognitive abilities are always tested before they
7 start playing sports. And then after a
8 concussion or after a head injury, they are
9 tested again to see if they're ready to go back
10 and play their sport or if they have sustained
11 enough damage to their brain from the concussion
12 to say, look, you're not capable of going back
13 and playing again.

0 14 Q. Aside from the narcotics that you previously
15 mentioned, does Ms. Liddle experience any medical
16 events that would cause significant mental status
17 changes between March 2011 and September 2015?

18 A. Not that I can remember.

1 19 Q. For example, for some people they might suffer
20 catastrophic medical events like a stroke, that
21 type of thing.

22 A. Sure.

2 23 Q. Did Ms. Liddle suffer any type of event like
24 that?

25 A. As far as I know, she didn't have a stroke. As

1 far as I know, she hasn't had any other serious
2 illness to cause a mental decline.

3 Q. And as her primary care provider, would you
4 expect that that would be information that you
5 would have contained as part of her medical
6 records, if that had happened?

7 A. Yes.

8 Q. Are you aware if Ms. Liddle was ever admitted to
9 a nursing home?

10 A. Yes, she was.

11 Q. And do you recall approximately when she was
12 admitted to a nursing home?

13 A. In July of 2013.

14 Q. And do you remember why she was admitted to that
15 nursing home?

16 A. [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 After evaluation in the Emergency Room,
23 it was felt that she did not require
24 hospitalization. So she was transferred from the
25 Emergency Room to one of the nursing homes and

1 stayed in the nursing home for a period of time.

2 I think it was approximately a month.

7
3 Q. And do you recall if she was discharged from the
4 nursing home directly to her home, or if she was
5 discharged with any type of care?

6 A. She actually went from the nursing home to an
7 assisted living center and as well had a home
8 health agency that came in and helped provide for
9 physical/occupational therapy at that time while
10 she was in the assisted living center.

8
11 Q. At the time that-- I mean, she was of course
12 discharged from the assisted living facility;
13 correct?

14 A. Correct.

9
15 Q. At the time she was discharged from the assisted
16 living facility, was it your recommendation that
17 she return home?

18 A. When she was discharged from the assisted living
19 center, I actually had no say in terms -- she
20 just went right home.

0
21 Q. Did you have an opinion at that time as to
22 whether or not she should continue?

23 A. I always have an opinion. I was not happy with
24 -- with her decision to go home. I -- I felt
25 that she needed more care. At the time that I

1 had seen her in the office, she was in a
2 wheelchair and I could barely lift her out of the
3 wheelchair to hold on to her so she wouldn't
4 fall, and I was a -- I was very concerned that
5 she would end up getting hurt had she gone home.

1 6 Q. Now, are you aware that Ms. Liddle currently
7 lives alone?

8 A. Yes.

2 9 Q. Do you have any concerns that that is something
10 that may be difficult for her?

11 A. Yes, I do.

3 12 Q. She's not in the courtroom right now. What
13 concerns do you have?

14 A. Ms. Liddle happens to be very, very headstrong,
15 very independent, and I guess the way -- the best
16 way to put it is, by God, if her opinion differs
17 from yours, your opinion does not matter.

4 18 Q. So in other words, it sounds like she has
19 expressed to you very strongly her preference is
20 to continue to live on her own?

21 A. Yes. Yes. She is very independent and wants to
22 remain as independent as possible for as long as
23 possible, and her feeling is is that she would --
24 would -- she would rather do things the way she
25 wants to do them or she might as well be gone.

5

1 Q. What concerns do you have about her choice to
2 continue to live alone?

3 A. You know, the -- her fall risk is huge. She's
4 fallen many, many times since I have taken care
5 of her. [REDACTED] and had to
6 have it repaired. [REDACTED] f

7 [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED]

10 She has all the equipment that she
11 needs, but the -- the falls are still going to
12 continue. If she has no one there or no way to
13 summons help at the time that she falls, she
14 could break a hip and lay in one spot for a
15 relatively long period of time. If you lay in
16 the same spot for a long enough period of time,
17 your muscles deteriorate. You get what we call
18 rapid myelosis, which is muscle breakdown that
19 causes kidney failure and -- and potentially
20 death.

6

21 Q. Have you had concerns about her living alone for
22 some time, or is this fairly recent?

23 A. No. This has been quite awhile. This has been a
24 number of years. I have lost that battle. I
25 have already given up.

1 Q. When you see Ms. Liddle do you typically assess
2 her mental status at all?

3 A. Sure, yes.

4 Q. And has her mental status remained fairly
5 consistent since 2009 or--

6 A. She has had-- Most of the difficulties
7 interpreted in her mental status have come around
8 either a head injury or around pain medicine.
9 Her mental status off of the Fentanyl patch has
10 been a hundred times better than it was when she
11 was using the Fentanyl patch.

12 So more recently she's actually pretty
13 bright, pretty chipper, pretty aware, and seems
14 able to understand, you know, things pretty well
15 as far as, you know, what you are trying to get
16 across to her.

9 17 Q. So her mental status is actually better now than
18 it was because of the pain medication difference?

19 A. Correct. That's what -- that's what I attribute
20 it to.

21 MS. STINEDURF: I have no further
22 questions. Thank you.

23 THE COURT: Thank you. Any questions of
24 this witness?

25 MR. JOHNSON: Yes, ma'am. Let me--

1 CROSS-EXAMINATION OF DR. HERBERT MILLER

2 BY MR. JOHNSON, J.D.:

3 Q. Doctor Miller, good afternoon.

4 A. Good afternoon.

5 THE COURT: Hold on a second. Hold on,
6 Mr. Johnson. It is like ten, quarter to. So
7 is this something that you would like -- prefer
8 to start fresh in the morning, or do you think
9 that we can complete this?

10 MR. JOHNSON: Judge, I would like to
11 give it a shot. Otherwise the -- the doctor has
12 to come back tomorrow.

13 THE COURT: All right.

14 MR. JOHNSON: Let's see if I can get him
15 done this afternoon.

16 THE WITNESS: I will do whatever you
17 would like.

18 MR. JOHNSON: There you go. There you
19 go.

1 20 Q. (BY MR. JOHNSON) All right. I'm Fred Johnson.
21 I'm the defense attorney here. I would like to
22 ask you a few more questions. Your last question
23 was about Ms. Liddle's mental acuity, and -- and
24 I want to make sure I understand.

25 When you said she was -- she's much

1 better now, is that because she is not on the
2 Fentanyl now?

3 A. That's what I relate it to.

4 Q. Okay.

5 A. She's much more alert, less lethargic. I -- I --
6 I do not do a long formal mental status exam on
7 my patients unless there is a question of
8 capabilities, and then generally what I do is I
9 send them to one of the professionals that does a
10 one- or two-hour long cognitive evaluation.

11 Q. Okay. All right. You've mentioned during your
12 testimony that a person who is-- And I assume
13 they both have similar effects. --receiving
14 Fentanyl, receiving Norco, is going to -- is
15 going to-- You know those commercials with all
16 the side effects of the medication? Sometimes
17 the side effects might be drowsiness, some
18 difficulty in cognition, memory issues, that sort
19 of thing. Correct?

20 A. Correct.

21 Q. Is that correct? Okay. Now, for the sake of
22 this next question, you weren't here, but my
23 recollection is some of the testimony we had here
24 is we had a couple people at least who have known
25 Ms. Liddle over the years, but they are not

1 doctors. Okay?

2 Is it -- is it possible that a person
3 might be on these medications and that the people
4 around them may not notice all these adverse
5 effects that we're talking about?

6 A. That's correct.

5 7 Q. Okay. Ms. -- Ms. Liddle has been living by
8 herself for I think since about 78, 79 years,
9 something like that. She's still doing so--

10 A. Yes.

6 11 Q. --you're aware?

12 A. Yes.

7 13 Q. And it's your testimony, is it not, that her
14 medication, her age, the -- the life she -- what
15 she has been through, what she's going through
16 may affect her memory at times?

17 A. Yes.

18 MR. JOHNSON: See, that didn't hurt at
19 all, Judge.

20 THE COURT: Sure didn't.

21 MR. JOHNSON: Oh, hold on a second.

22 Hold on a second. Just--

23 (Whereupon, discussion between
24 Mr. Johnson and the Defendant,
25 out of the hearing of the Jury

1 and the Court Reporter.)

8 2 Q. (BY MR. JOHNSON) Oh, yeah. Did you ever refer
3 her to a cognition specialist or anything along
4 those lines?

5 A. I have not.

6 MR. JOHNSON: All right. We are done.
7 Thank you.

8 THE COURT: Any follow-up?

9 MS. STINEDURF: Yes, quickly though.

10

11 REDIRECT EXAMINATION OF DR. HERBERT MILLER

12 BY MS. STINEDURF, J.D.:

9 13 Q. You said it's possible that individuals could be
14 on narcotics and those around them wouldn't
15 notice the adverse effects?

16 A. Correct.

0 17 Q. Now, there's different kinds of tasks that
18 persons could perform. If they are something
19 simple like washing the dishes, that requires
20 less mental function. And then there are things
21 that require higher-level cognition, like
22 managing finances.

23 Would there be a difference in the
24 visible effects on a person if they were doing a
25 simple task or a task that required more mental

1 acuity?

2 A. Yes.

3 Q. Is it more likely that individuals around them
4 would not see the difference if they were doing a
5 task that required higher-level mental
6 functioning as opposed to something simple?

7 A. Yes.

8 MS. STINEDURF: No further questions.

9 THE COURT: Thank you. Any follow-up
10 from those?

11 MR. JOHNSON: No, ma'am. Thank you.

12 THE COURT: May this witness be
13 excused?

14 MS. STINEDURF: Yes, Your Honor.

15 MR. JOHNSON: Thank you very much, and
16 you may be excused so you don't have to come back
17 tomorrow.

18 THE WITNESS: All right. Can I just get
19 up?

20 MR. JOHNSON: (Nodding head indicating
21 affirmative.)

22 (Whereupon, discussion between
23 Mr. Johnson and the witness, out
24 of the hearing of the Jury and the
25 Court Reporter.)

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THE COURT: All right. It's now 4:50.

So instead of starting a new witness at this time, what we will do is finish for tonight.

Is there anything before I allow the jury to leave?

MS. STINEDURF: No, Your Honor.

MR. JOHNSON: No, Your Honor. Oh, yes, yes. Your Honor, may we have a side bar?

THE COURT: Yes.

(Whereupon, side-bar conference between counsel and the Court, out of the hearing of the Jury and the Court Reporter.)

THE COURT: All right. Instead of starting another witness, seeing it's close -- so close to five, we are going to finish for today.

Please do not discuss the case amongst yourselves or with any third persons during any of our recesses or adjournments.

Please do not have any conversations of any kind with either attorney or any party of anyone who might be called as a witness.

Please do not read, watch, or listen to any news media reports regarding this case.

Make sure that you also wear your juror

1 badges in and out of the courtroom, the
2 courthouse, outside of your clothing. I mean,
3 your -- your jackets, if you have your jackets
4 on.

5 Also, tomorrow we do have a couple of
6 things that have to be taken care of. So I will
7 have you come in at 9:30 tomorrow morning.

8 Anything further?

9 MS. STINEDURF: None, Your Honor.

10 MR. JOHNSON: No, ma'am. Thank you.

11 THE COURT: All right. Thank you very
12 much, and we will see you in the morning.

13 (Whereupon, Jury excused for the
14 day at approximately 4:51 P.M.; with
15 proceedings resuming as follows, out
16 of the presence of the Jury.)

17 THE COURT: If I could see the attorneys
18 for just a moment?

19 MR. JOHNSON: Certainly. Thank you,
20 Your Honor.

21 (Whereupon, proceedings concluded
22 at approximately 4:52 P.M.)

23 * ** *

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STATE OF MICHIGAN)

) ss

COUNTY OF MUSKEGON)

I, Kathy E. Stevens, Certified Court Reporter/Registered Professional Reporter and Notary Public of the 14th Judicial Circuit, County of Muskegon, State of Michigan, do hereby certify that the foregoing Pages 1 through 244, inclusive, comprise a full, true, and accurate transcript of the proceedings and testimony taken in the matter of THE PEOPLE OF THE STATE OF MICHIGAN versus GARY EDWARD HAYNES, File No. 18-4131-FH, on December 18, 2018.



Kathy E. Stevens, CSR-4091
Certified Official Court Reporter
Hall of Justice, 14th Circuit Court
990 Terrace Street
Muskegon, MI 49442-3357

ENFORCEMENT EXHIBIT 3



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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

**CERTIFIED
ORIGINAL TRANSCRIPT**

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

vs

File No.: 18-4131-~~219~~

GARY EDWARD HAYNES,

TRIAL

Defendant.

219 JUN -5 P 4:45

NANCY A. WATERS
MUSKEGON COUNTY CLERK
FILED

VOLUME III
STENOGRAPHIC RECORD

of the proceedings had in the above-entitled
cause on the 19th day of December 2018 before
the HONORABLE ANNETTE R. SMEDLEY, 14th Judicial
Circuit Judge, and a Jury.

APPEARANCES:

MS. KRISTEN STINEDURF, J.D.
Attorney General's Office
on behalf of the Plaintiff;

MR. FREDERICK JOHNSON, JR., J.D.
Attorney at Law
on behalf of the Defendant.

KATHY E. STEVENS CSR-4091
Official Court Reporter

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* ** *

1 Muskegon, Michigan

2 Wednesday, December 19, 2018

3 At approximately 9:34 A.M.

4 R E C O R D

5 THE COURT: We are on the record.

6 Anything before we bring the jury in?

7 MS. STINEDURF: Yes, Your Honor. I had
8 Ms. Crays look at Exhibit 16 yesterday, the Power
9 of Attorney documents. I don't believe I
10 actually requested those be admitted. I'm
11 asking that those be admitted at this time.

12 THE COURT: And that was-- Which
13 exhibit was that?

14 MS. STINEDURF: That was Exhibit 16.

15 THE COURT: Any objection on those?

16 MR. JOHNSON: No, ma'am.

17 THE COURT: All right. Exhibit 16 will
18 be admitted.

19 THE COURT: Anything further?

20 MS. STINEDURF: No, Your Honor. Thank
21 you.

22 THE COURT: Anything before we bring the
23 jury in?

24 MR. JOHNSON: No, ma'am. Thank you.

25 THE COURT: Let's bring the jury in.

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(Whereupon, Jury entered the
courtroom at approximately 9:35 A.M.)

THE COURT: You may be seated. Thank
you for your prompt return this morning.

You can call your next witness.

MS. STINEDURF: Mary-Lou Budek.

THE CLERK-BAILIFF: Could you raise your
right hand, please.

In this cause now pending do you
solemnly swear or affirm to tell the truth, the
whole truth, and nothing but the truth, so help
you?

M A R Y - L O U B U D E K ,

after having been duly administered an oath, was
examined and testified as follows:

THE WITNESS: I do.

THE CLERK-BAILIFF: Please have a
seat. Speak directly into the microphone.
State your full name and spell your first and
last names for the record, please.

THE WITNESS: Mary-Louise Budek. Goes
by Mary-Lou. M-A-R-Y, capital L-O-U, capital
B-U-D-E-K.

THE COURT: Good morning. If you could
bring that microphone to you and then you can

1 speak into that so that they can hear you all the
2 way to the back, if they have to.

3 THE WITNESS: Can you hear me? Is it
4 on? Can you hear me?

5 MS. STINEDURF: Yes. Thank you.

6 THE COURT: All right. Good morning.

7 THE WITNESS: Good morning.

8 THE COURT: Go ahead.

9

10 DIRECT EXAMINATION OF MS. MARY-LOU BUDEK

11 BY MS. STINEDURF, J.D.:

1 12 Q. And Ms. Budek, are you currently working, or are
13 you retired?

14 A. I'm retired, 79.

2 15 Q. And you-- Did you say you are 79?

16 A. I'm 79 years old.

3 17 Q. Thank you. And where did you formerly work,
18 before you retired?

19 A. Just the last job?

4 20 Q. Yes.

21 A. I worked at the IHM Sisters as a pastoral care
22 minister.

5 23 Q. And are you currently married?

24 A. No. I've been blessed with having three --
25 married three husbands and buried three husbands.

6 1 Q. Where do you currently live?

2 A. In Clinton, Michigan; and then in Florida in the
3 winter in Fort Myers.

4 Q. Do you currently live alone?

5 A. Yes.

8 6 Q. How long have you lived alone?

7 A. Aub died August 16th -- August 6th, 2016.

9 8 Q. August 6th, 2016?

9 A. 20th day, 2018. So he just died last year in
10 '17.

0 11 Q. Okay. Well, are you nervous today?

12 A. A little. I never remember dates. It's just
13 sequence, but I don't remember dates. But Aub
14 died last year.

1 15 Q. So we're here now in December of 2018. When you
16 say he died last year, does that mean he passed
17 this previous August? So that would have been
18 August 2018, or the year before?

19 A. The year before.

2 20 Q. So August of 2017?

21 A. Yes.

3 22 Q. Okay. Was there a time when you met someone
23 named Gary Haynes?

24 A. Absolutely.

4 25 Q. How did you come to meet Mr. Haynes?

1 A. Well, my husband Joe died in January 24th, '09,
2 okay, and I was with him in health insurance,
3 okay, but it ended when he -- he died.

4 Q. When you say with him, do you mean your husband?

5 A. Yes, my husband Joe. But when he died, it --
6 that was cancelled. So I had to get my own.

7 So I -- I found Tom Corbin. And so how
8 I met him, I do not know. I must have made some
9 calls. Anyway he came and talked and we talked
10 about health insurance; and as the process went
11 along, I think he talked about maybe that do I
12 have a will. Well, you know, I did not. And
13 like I should probably get my act together and
14 look towards the future. And he introduced me
15 to Gary Hays (sic) who I know as Duke.

16 Q. So you met Tom Corbin first?

17 A. Tom Corbin first.

18 Q. And then Tom Corbin introduced you to Gary
19 Haynes?

20 A. Yes.

21 Q. And that was still in 2009?

22 A. Yes.

23 Q. And you said you know Gary Haynes as Duke Haynes?

24 A. As Duke.

25 Q. And when he introduced you to Duke, were you

1 still looking for health insurance at that time,
2 or had you taken care of that with Mr. Corbin?

3 A. I took care of health insurance with Tom Corbin.

4 Q. Okay. And when you started talking to Mr.
5 Haynes, what were you talking to him about?

6 A. I was talking about a will, getting a will set up
7 and a funeral trust.

8 Q. And was that in 2009 you were first talking to
9 him about that?

10 A. Correct.

11 Q. Were you able to--

12 A. And then I also I think in talking about life, I
13 had with my first husband, he had an annuity
14 where -- where he was -- he had stock with shares
15 with his company he worked with, and they closed
16 the doors. And so he took that money and put it
17 right into an annuity, a savings annuity or
18 whatever you do. I don't know all the terms.
19 Anyway, he did that.

20 And so Duke told me that I could just
21 switch that on over, he would do that. And so
22 he -- we switched it over, and I trusted Duke
23 completely.

24 Q. So your first husband had money in an annuity?

25 A. It was only like 20,000.

5 1 Q. 20,000?

2 A. Right.

3 Q. And Duke told you you could transfer that 20,000
4 over to him?

5 A. Correct.

7 6 Q. Okay. And you trusted him to do that?

7 A. Correct.

8 8 Q. Did you also talk to him about additional money
9 that you wanted to do things with when you spoke
10 with Mr. Haynes?

11 A. Well, I didn't have any money, and I didn't
12 anticipate any money, but I did have in my own
13 head that I wanted to increase the amount of
14 money so each one of my grand kids would get
15 something, at least \$500 each. And at that time
16 they were increasing in number, and right now I
17 have 14.

9 18 Q. You have 14 grandchildren right now?

19 A. Yeah.

0 20 Q. Did you talk to Mr. Haynes about doing anything
21 with your money for your grandchildren?

22 A. Just putting it in the fund, however it was
23 developed from the will that I had established.
24 I had money there for the kids and money for the
25 grand kids, and just to increase the

1 grandchildren amount.

1 2 Q. And did you say you wanted to put that money in--
3 You're pretty soft-spoken. So if you can try to
4 speak up just a little bit.

5 A. Okay. Okay.

2 6 Q. I believe you said that you wanted to put that
7 money into a fund? Is that the word you used?

8 A. What do you mean?

3 9 Q. Well, I asked if you talked to Mr. Haynes about
10 doing something with money for your
11 grandchildren.

12 A. Right, but I didn't have any money until I think
13 after I married Aub, Aub McCollum, in 2011. He
14 kept -- he paid for his home in Canada-- He was
15 Canadian. --and his home in Fort Myers, and I
16 paid for my home in Michigan, and I paid for my
17 home in Fort Myers.

18 Okay. But we -- when we did most
19 things, he took care of the expenses. So
20 consequently, I was able to save a little bit of
21 money. And when I think I got a little bit one
22 time, maybe \$3,000, maybe another time I got more
23 than that-- I do not remember exactly.

24 --anyways, I sent that to him. I said put that
25 for the grand kids.

4

1 Q. You sent that to Gary Haynes, when you say him?

2 A. Yes. Yes.

5

3 Q. Okay. You told him to put that for the grand
4 kids?

5 A. Correct.

6

6 Q. Do you recall whether you sent any additional
7 money to Gary Haynes?

8 A. Yes. Then I went-- Let me see. I'm trying to
9 think sequences here. Okay. After Joe died, I
10 went and I had a little trailer in Tennessee.
11 Nothing, but anyways, this all happened in
12 Tennessee, and that was a vacation trailer.
13 Okay? And it wasn't going to work for my
14 family.

15 So I decided to sell it, which was only
16 like \$10,000 I think, something of that sort, and
17 put it in a vacation fund for the kids. I
18 figured we can do some family things like that.

19 So I did. I gave him 10,000 for a
20 vacation fund.

7

21 Q. You gave Gary Haynes \$10,000 for a vacation fund?

22 A. Yes. And every summer or whenever we decided to
23 go on vacation, I would ask him for that, how
24 much I figured we needed. And so he sent it to
25 me. I had no problem. He sent it to me every

1 single year.

2 Q. Was there another time that--

3 A. Oh.

4 Q. Okay. Go ahead.

5 A. Okay. Then in-- Okay. I-- In 2000 -- in 2015
6 or 2016 I had my trailer that I had in Florida.
7 I kept it because even though I did live with Aub
8 in his, I kept it because my sister and her
9 husband had come down to Florida, enjoyed
10 Florida. And instead of me keeping that, keeping
11 that, I give it to them for their cheap rent.
12 All right?

13 So at that point she said they didn't
14 care to continue coming down, and I didn't want
15 to be a landlord. So I sold it. I sold the
16 trailer, and then that trailer I got for
17 71,000. So I took 55.

18 Q. 55 for the sale of the trailer?

19 A. 55,000 from that, and I wrote to Duke and talked
20 to him and asked him to do five into the vacation
21 fund. Okay? And to do ten for a ten-year deal
22 because it was a gift from the kids' bonus
23 Grandpa Aub McCollum. He was giving them each a
24 thousand, and that was to be-- He didn't want to
25 do it until ten years. He didn't know how long

1 he was going to live. We thought the kids were
2 young, they didn't need it now, let them have it
3 in ten years.

4 So he's written a note and had pictures
5 and everything all set up to give it to them. So
6 he said ten was to go for the ten deal -- a
7 ten-year investment, okay, five for the
8 vacation.

9 And then the other 40 I wanted -- I
10 tried to say to Duke of course I want it to be
11 safe. He knew that all along. All of my
12 investments had to be safe. And I said that I
13 didn't know for sure how long Aub was going to
14 live. He was having health problems, serious
15 health problems and--

16 Q. Aub was ill at the time you were talking about
17 giving the--

18 A. Absolutely. And I knew that when he died, I was
19 not going to keep his trailer. He -- he wanted
20 to give it to me, but I did not want it because
21 he had his trailer in a park where you don't own
22 the property, and the fee goes higher every
23 year. There is no limit. I wanted it into a
24 place where I owned the property because, as you
25 recall the other one, I sold it after having it

1 for ten years and got a profit of \$500. That
2 was very much better and you're there when you
3 want it.

4 So anyways, what -- okay. So then I
5 didn't -- I said put it into investments because
6 I'm not sure he will be here in a year. I don't
7 know if he will be here, how long Aub would
8 live. But after that, he knew I needed that
9 money to get a trailer.

2 10 Q. So that--

11 A. Because I like being down in Florida.

3 12 Q. I've got to interrupt just for a second, just to
13 make sure we're staying on track.

14 A. Okay.

4 15 Q. All right. So you said you gave him five and
16 ten. So then that would leave--

17 A. 40.

5 18 Q. 40 left. So you gave him 40 at that time?

19 A. Yes. And 40 was to go to the trailer.

6 20 Q. Okay.

21 A. That would be in '16; correct.

22 Well then lo and behold what happened is
23 Aub was in the nursing home in '17. I was going
24 down to clean out his trailer so that they could
25 sell it, and I have a sister right down there

1 too, brother-in-law, and they asked me what I was
2 going to do. And I said: Well, I'm going to get
3 a trailer in the park right next door, which you
4 own the property.

5 So they like, you know, they were
6 retired. They like going around. So they
7 checked the place out and they found a trailer
8 that they thought was really nice and they said:
9 Mary-Lou, you have to put up a deposit and
10 offer. Okay.

11 So I-- They said-- I was going down to
12 clean out the other trailer. So they said: You
13 won't lose your money; you have 12 days. So I
14 went down anyways, I liked it. So I put -- I put
15 in the offer, and they accepted it. And so here
16 I was going -- I'm buying this trailer.

17 So I had to figure out where to get that
18 money. So I-- Then I had 40, but Duke told me
19 that it was tied up; it was invested; that it
20 wasn't free right at that time, you know,
21 available.

22 So I did ask him for five from the
23 vacation fund, which he sent to me. So I had
24 that five. And he said that I should get a loan
25 from the bank and then maybe the -- the group

1 that he invested with, which was -- I was
2 understanding was a group that was flipping
3 homes, investing in real estate and fixing them
4 up. And he said maybe they could pay the -- the
5 interest. I didn't really--
7 Q. On that loan for the trailer?
7 A. On that loan, but I didn't want to do that. But
8 I did go ahead and I did get it. It took awhile
9 and took frustration, but I did get it.
8 10 Q. When you say you did get it, you got the loan?
11 A. I got the loan, and -- and so I did buy the
12 trailer.
9 13 Q. Now, that \$40,000 that you asked for from
14 Mr. Haynes, since that time have you ever
15 received that money?
16 A. No. My first-- I should receive money in
17 February. And if I -- if I don't receive money
18 in February, then I will be concerned.
0 19 Q. February of 2019?
20 A. Correct.
1 21 Q. And now you said that you asked about the
22 vacation fund; and when you asked him about the
23 vacation fund, what did you want to do with that
24 at that time when you were talking about the
25 money for the trailer?

1 A. Well, I took -- I took the 500 out from the
2 vacation fund to buy the new trailer. So I knew
3 that -- that my vacation money fund was empty or
4 almost empty. So I just asked him to close that
5 out and send it to me. So it was only \$488 I
6 think.

7 Well, that was when the little concern
8 came about is because it took forever to get that
9 check, and -- and when I did, if -- if Duke
10 doesn't respond to them, I call him again or I
11 text him and we go back and forth.

12 So finally he came to the house and
13 dropped off a check to me. I cashed it. And
14 pretty soon I got an -- an account that I had a
15 \$13 charge for having that check, that it was no
16 good.

17 So of course I got on the phone and --
18 with Duke and told him. He said that, oh, I'm
19 sorry about that, but his account was closed up
20 because of this, what you're doing right now,
21 checking things out. But he would get back and
22 he would get me a certified check.

23 Okay. So when I didn't get it in a few
24 days, I'd call him again. When I didn't get it,
25 I'd call him. So finally I got a certified check

1 from him, and it did not bounce, but he -- he
2 made it a round 500 to pay for my -- the -- the
3 \$13 bill that I got, you know, charged for the
4 bounce of the check, yes.

2 Q. So he said that the account that he sent the
6 check from was closed up?

7 A. Yes.

3 Q. And what did he say when he said it was closed
9 up?

10 A. He told me because you were investigating.

4 Q. And when you say you, who are you referring to?

12 A. I-- Kevin.

5 Q. Is he an agent with the Attorney General's
14 Office?

15 A. Yes.

16 Q. And when you spoke to Mr. Haynes, did he say it
17 was because of the investigation the Attorney
18 General's Office was doing, or did he say
19 something else?

20 A. He indicated that, or I put the two and two
21 together and figured that was it.

7 Q. And you mentioned that when you spoke to Mr.
23 Haynes, you said that you wanted your investments
24 to always be safe?

25 A. Correct.

8

1 Q. Did you tell him that?

2 A. Absolutely.

3 Q. And when you say you wanted it to be safe, what
4 did that mean to you?

5 A. It means I didn't want any high risk, that I
6 wasn't going to lose on it. I -- I, you know, I
7 don't know much about investments, but I do know
8 and you hear about high risk or -- or safe ones,
9 and I want safe. I don't want-- That money was
10 very important to me. I did not want to lose
11 it.

0

12 Q. Did you think that there was any risk you could
13 lose money?

14 A. Not unless I took it out early, no.

15 MS. STINEDURF: May I approach the
16 witness, Your Honor?

17 THE COURT: You may.

1

18 Q. (BY MS. STINEDURF) I'm handing you what has been
19 admitted as Exhibit 19. These are Huntington
20 Bank records, and I'm asking that you look at the
21 page that's numbered 4247, and I'm directing your
22 attention to a check that's approximately in the
23 middle of the page.

24 Do you recognize that check?

25 A. That would be the one for the vacation fund 2010.

2 1 Q. Okay. And is it correct then that that is a
2 check for \$10,000. It's dated August 18th of
3 2010. It's written to Senior Planning Resource?
4 A. Sure.

5 MR. JOHNSON: Your Honor? I'm sorry,
6 ma'am. Could you try to remember to speak into
7 the mike?

8 THE WITNESS: Oh, I'm sorry. Yes. I'm
9 old. Sorry about that.

10 MR. JOHNSON: Thank you.

11 THE WITNESS: Just let me know.

12 MR. JOHNSON: Yes, ma'am. Thank you.

13 THE WITNESS: Yes. That's a \$10,000
14 check in 2010, and it's for the vacation fund.

3 15 Q. (BY MS. STINEDURF) I'm again handing you Exhibit
16 9. I'm directing your attention to a page
17 that's numbered 4075, and please take a look at a
18 check towards the top.

19 A. 1213?

4 20 Q. The check number on that is 1149. The date is
21 12-4, 2013.

22 A. Okay. What about it?

5 23 Q. Do you recognize that check?
24 A. I recognize my writing, but I don't remember
25 exactly if that was for grand kids or not. I do

1 not know.

6 2 Q. Can you read the memo line in the bottom of that
3 check (indicating)?

4 A. Oh, I wrote down: For annuity.

7 5 Q. You said that you wrote down: For annuity, on
6 that check. For the record, this check is in
7 the amount of \$4,000. The date on that is 12-4,
8 2013.

9 If it said annuity in the memo line,
10 when it says annuity, do you know what that was
11 for?

12 A. In my own mind that would mean it was going back
13 into where the kids were, the grand kids.

8 14 Q. Where the grand kids' money, that fund?

15 A. (Nodding head indicating affirmative.)

16 THE COURT: Is that a yes?

17 THE WITNESS: Yes.

18 THE COURT: Thank you.

9 19 Q. (BY MS. STINEDURF) Now handing you what's been
20 numbered as 4708 in the corner. I'm asking you
21 to look at a check at the bottom of that page.

22 Do you recognize that check?

23 A. I recognize the writing. I recognize the
24 handwriting, but in my mind I cannot remember
25 that exact check.

0 1 Q. Okay. And that is a check in the amount of
2 \$8,000. It's dated 2-11, 2014. It's written:
3 Pay to the Order of Mr. Duke Haynes.

4 And look to see if you can read the memo
5 line in that corner. It's very faint.

6 A. My investment. My investment.

1 7 Q. Does that help refresh your memory at all as to
8 what that check is for?

9 A. Well, in my mind then that would go for the
10 general fund that I had, like in the will. The
11 general amount of money that I would have.

2 12 Q. And when you talk about that general fund, was
13 that also supposed to be safe as you described
14 it--

15 A. Oh, absolutely.

16 Q. --before?

17 MR. JOHNSON: Your Honor?

18 THE COURT: Yes.

19 MR. JOHNSON: Can we have a side bar for
20 just a moment?

21 THE COURT: Sure.

22 (Whereupon, side-bar conference
23 between counsel and the Court,
24 out of the hearing of the Jury
25 and the Court Reporter.)

4 1 Q. (BY MS. STINEDURF) I'm now handing you what's
2 been admitted as Exhibit 10. I'm directing your
3 attention to a page that's numbered 7045, and
4 please take a look at that. I know that's quite
5 small.

6 Are you able to read that?

7 A. Yes.

5 8 Q. Do you recognize that check?

9 A. Absolutely.

6 10 Q. And that check is dated 2-17, 2016. It's written
11 to Future By Design LLC in the amount of
12 \$55,000.

13 Were you able to read the memo line?

14 A. I have: Duke Hays (sic) invest, which means I
15 wanted him to invest it as I had indicated
16 earlier.

7 17 Q. And this particular check-- You previously
18 mentioned that you had money following the sale
19 of a trailer?

20 A. Correct.

8 21 Q. Is that that check?

22 A. Yes.

9 23 Q. To date, how much of your money do you believe
24 that Mr. Haynes currently has?

25 A. You mean everything?

0 1 Q. Yes.

2 A. You mean from back to Louis' annuity, all that?

1 3 Q. Well, over the course of time you said you gave
4 him quite a bit of money to take care of.

5 A. Uh-huh.

2 6 Q. And you said that there was one point, for
7 instance, you actually cashed out the vacation
8 fund.

9 So as we're sitting here today, how much
10 money would you expect that he would have for
11 you?

12 A. Probably about 90,000.

3 13 Q. 90,000?

14 A. I think so.

15 MS. STINEDURF: Thank you. I have no
16 further questions.

17 THE COURT: Thank you. Mr. Johnson, any
18 questions?

19 MR. JOHNSON: Yes, ma'am.

20

21 CROSS-EXAMINATION OF MS. MARY-LOU BUDEK

22 BY MR. JOHNSON, J.D.:

4 23 Q. Is it Budek?

24 A. Budek.

5 25 Q. Budek. Good morning, ma'am.

1 A. Morning.

6 2 Q. Sorry for not being able to hear you too much.

3 Rock and roll as a teenager.

4 Good morning. My name is Fred

5 Johnson. I would like to ask you a few more

6 questions, and let's start with the last question

7 that the prosecutor asked you.

8 When you say you think Mr. Haynes has

9 about \$90,000 of your investment money, is that

10 -- did you subtract the money that you got back,

11 or is that altogether?

12 A. You mean, like a vacation fund?

7 13 Q. Yeah. If you gave him some money, then got it

14 back, did you subtract that out?

15 A. No. Yeah. Right.

16 Q. Okay. So that just includes what he has?

17 A. Correct.

9 18 Q. And not what he's returned? Okay. Thank you.

19 From listening to your testimony, it

20 sounds to me as if, when you asked him for money

21 back, you got the money back except for that

22 \$40,000 situation; is that correct?

23 A. Correct.

0 24 Q. And there was that bad situation with -- with the

25 bad check, but you got that back with a little

1 A. Yes. From Kevin.

4 2 Q. And when you say Kevin, you mean Kevin Hiller?

3 A. Yes.

4 Q. The gentleman sitting here in the middle there
5 (indicating)?

6 A. Yes.

6 7 Q. All right. So Mr. Hiller sent you a letter.

8 You -- you referred to him as Kevin. I assume
9 you two have met or at least spoken over the
10 phone--

11 A. Yes.

7 12 Q. --you and Mr. Hiller?

13 A. Yes.

8 14 Q. Which one was it -- on the phone or the other?

15 A. It would be both.

16 Q. Okay. And during the course of that -- that --
17 those conversations, did Mr. Hiller also offer
18 you an explanation as to what might be going on
19 with -- with Duke?

20 A. Not much. Just that they were concerned about
21 investments.

0 22 Q. Okay. And -- and that's the impression you got
23 when you spoke to Mr. Hiller?

24 A. Correct.

1 25 Q. Kevin? Okay. All right. And since that time,

1 since speaking to -- to Mr. Hiller, have you --
2 have you made any other investments with Duke?

3 A. No.

4 Q. Has -- has this investment, this investigation,
5 has that impacted your thinking as to whether or
6 not you want to continue working with Duke or --
7 or should work with him?

8 A. Duke or anyone else.

9 Q. Okay.

10 A. I think under the mattress might be better.

11 Q. Okay. And -- and certainly then you wouldn't
12 recommend any friends or family to work with him
13 either, is that correct, at this point?

14 A. I wouldn't recommend anybody for anybody.

15 Q. Okay.

16 A. Because I trusted Duke very much.

17 Q. And -- and even though he hasn't defaulted on
18 anything yet, your faith in him is shaken?

19 A. Absolutely.

20 MR. JOHNSON: Okay. One moment,
21 please. Ma'am, thank you very much. I don't
22 have any further questions.

23 THE WITNESS: Thank you.

24 THE COURT: Any follow-up?

25 MS. STINEDURF: None. Thank you, Your

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Honor.

THE COURT: Thank you. May this witness
be excused?

MS. STINEDURF: Yes, Your Honor.

THE COURT: Mr. Johnson?

MR. JOHNSON: Yes. Yes, ma'am. I'm
sorry.

THE COURT: Thank you very much.

THE WITNESS: Thank you.

THE COURT: And you may be excused.

THE WITNESS: Thank you.

THE COURT: So if you head back to
Florida, have a nice trip.

THE WITNESS: After Christmas.

(Whereupon, witness excused.)

THE COURT: You can call your next
witness.

MS. STINEDURF: Ronald Morris.

THE CLERK-BAILIFF: Would you raise your
right hand, please.

In this cause now pending do you
solemnly swear or affirm to tell the truth, the
whole truth, and nothing but the truth, so help
you?

R O N A L D M O R R I S ,

1 after having been duly administered an oath, was
2 examined and testified as follows:

3 THE WITNESS: I do.

4 THE CLERK-BAILIFF: All right. Sir, can
5 you get up there okay?

6 THE WITNESS: I believe so, yes, sir.

7 THE CLERK-BAILIFF: All right, sir.
8 Speak directly into the microphone.

9 THE WITNESS: All right.

10 THE CLERK-BAILIFF: State your full
11 name, and spell your first and last names for the
12 record, please.

13 THE WITNESS: Ronald Morris --
14 R-O-N-A-L-D, M-O-R-R-I-S.

15 THE COURT: Good morning.

16 THE WITNESS: Good morning, ma'am.

17 THE COURT: Go ahead.

18

19 DIRECT EXAMINATION OF MR. RONALD MORRIS

20 BY MS. STINEDURF, J.D.:

7 21 Q. Mr. Morris, are you currently working, or are you
22 retired?

23 A. I'm retired.

8 24 Q. And where did you work before you were retired?

25 A. Bradford White, Middleville, Michigan.

9 1 Q. And what position did you hold there?
2 A. I was a press operator for awhile, and then I
3 drove a forklift.
4 Q. And when did you retire?
5 A. December 20th of 2005.
6 Q. Do you know someone named Gary Haynes?
7 A. Yes.
8 Q. And how did you first meet him?
9 A. We met him at a seminar in White -- or in
10 Newaygo, Michigan.
11 Q. Do you remember where in Newaygo, Michigan that
12 seminar was?
13 A. That was at Cronks Restaurant.
14 Q. And how did you hear about that seminar?
15 A. We got a brochure in the mail.
16 Q. Do you remember if there was a name of a company
17 on the brochure?
18 A. I believe there was. The exact name I don't
19 remember.
20 Q. When you went to the seminar, do you recall when
21 it was that you went?
22 A. I believe it was the fall of 2007.
23 Q. And when you went up to that seminar, who ran it?
24 A. Gary Haynes.
25 Q. When he ran that meeting, do you recall what

1 topic he talked about?

2 A. Only thing I can remember is something about
3 investing.

4 Q. At that seminar, were there other people present?

5 A. Yes.

6 Q. And who was there?

7 A. I believe there was about 20 people or
8 thereabouts.

9 Q. And those 20 people, were they all different
10 ages, or were there any particular age range?

11 A. I would say between 45 and 60, 65 maybe.

12 Q. 45 and 65?

13 A. Yes, ma'am.

14 Q. And when you went to the seminar, did anyone come
15 with you?

16 A. My wife.

17 Q. And after the seminar, did you speak with Mr.
18 Haynes at all?

19 A. Yes.

20 Q. When you spoke with him, did you speak with him
21 that day or another time?

22 A. It was awhile later.

23 Q. All right. Did you give him any of your personal
24 information before speaking with him?

25 A. Yes.

7 1 Q. Did you eventually decide to make any investments
2 with Mr. Haynes?

3 A. Yes.

4 Q. When you said it was awhile later before you
5 spoke with him, why did you wait awhile?

6 A. Well, he contacted us.

9 7 Q. He contacted you after the seminar?

8 A. Yes.

0 9 Q. And is that when you decided to invest with him?

10 A. Yes.

1 11 Q. And at that time when he first spoke with you and
12 contacted you after the seminar, how much did you
13 invest?

14 A. I believe initially it was 40,000, but I'm -- I
15 got two investments. The first one I don't
16 remember if it was 40,000 or 150,000.

2 17 Q. Well, I will ask the question a little bit
18 differently because sometimes people remember
19 things differently.

20 When you first talked to him about
21 investing, were you investing in any particular
22 type of investment?

23 Some types of investments that you might
24 have considered are stocks, bonds, annuities.
25 Anything like that?

1 A. Annuities.

3 2 Q. And when you first invested in an annuity, at
3 that time do you remember how much you put into
4 that?

5 A. Yes. That was 40,000.

4 6 Q. Was there a time that you invested an additional
7 amount of money?

8 A. Yes.

5 9 Q. And how much did you invest at that time?

10 A. That time it was 150,000.

6 11 Q. When you invested that \$150,000, did you give
12 that to Mr. Haynes to invest?

13 A. Yes.

7 14 Q. Before you gave that to him, did you have to take
15 it out of any other accounts or savings you had?

16 A. Yes.

8 17 Q. And where did you have to take it from?

18 A. I believe it was we cashed in a CD.

9 19 Q. Did you have any annuities at all before you
20 started investing with Mr. Haynes?

21 A. No.

0 22 Q. Okay. When you decided to invest that \$40,000,
23 did you talk about where that money was going to
24 go?

25 A. No.

1 1 Q. Did you talk to him about whether you wanted the
2 investment to be safe or not?
3 A. No, not really.
4 Q. Did you think that there was a risk that you
5 could lose money on that \$40,000?
6 A. No.
3 7 Q. And when you say no, does that mean you thought
8 that there was no risk?
9 A. There was no risk.
4 10 Q. When you gave him the \$150,000 to invest, did you
11 think there was a risk you could lose money?
12 A. No.
5 13 Q. After you gave Mr. Haynes that \$150,000, did you
14 feel comfortable that your money was invested, or
15 did you have any concerns right at that time?
16 A. I thought it was invested.
6 17 Q. When did you think that you would first get an
18 update or any kind of status report about your
19 money?
20 A. There was never a discussion on that, that I can
21 remember.
7 22 Q. Was it supposed to take awhile before you got
23 information on that?
24 A. Yes.
8 25 Q. Did you think there was any kind of maturity

1 period?

2 A. Yes.

3 Q. Do you recall what that maturity period is?

4 A. Seems to me like it was ten years, but I'm not
5 sure.

6 Q. So if it was ten years, did you expect him to
7 give you regular updates, or did you just think
8 you would hear from him in ten years?

9 A. I would expect it in ten years.

10 MS. STINEDURF: May I approach, Your
11 Honor?

12 THE COURT: You may.

13 Q. (BY MS. STINEDURF) For the record, I'm handing
14 you what has been marked as Exhibit 9. There is
15 a number in the bottom corner. It says 4265.

16 I'm going to direct your attention to a
17 check that's at the bottom of that page.

18 A. Um-hum.

19 Q. It's fairly small. Can you read that?

20 A. Yes.

21 Q. Okay. Do you recognize that check?

22 A. Yes.

23 Q. And what was that check for?

24 A. That was for an investment.

25 Q. Okay. Is that a check that you wrote to Gary

1 Haynes?

2 A. Yes.

3 Q. And that check is in the amount of \$40,000. It's
4 dated the 24th of January, 2012. It's written to
5 Senior Planning Resource. It appears to have the
6 name of Ronald L. Morris at the bottom on the
7 signature block.

8 Did you sign that check?

9 A. Yes.

7 10 Q. Handing you Exhibit 9 again. I'm going to direct
11 your attention to a page numbered 4273. I will
12 ask you to take a look at the check that's the
13 second from the top.

14 A. Um-hum. All right.

8 15 Q. Do you recognize that check?

16 A. Yes.

9 17 Q. And what is that check for?

18 A. That's for investment.

0 19 Q. And did you write that check to Gary Haynes?

20 A. Yes.

1 21 Q. And that check is written to Senior Planning
22 Resource. It's dated January 3rd of 2013. It's
23 in the amount of \$150,000?

24 A. Yes.

2 25 Q. Was there a time that you asked Mr. Haynes to

1 take any of your money out of your investment?

2 A. Yes.

3 Q. And when did you ask him to do that?

4 A. That was the 7th of May this year, 2018.

5 Q. So on the 7th of May of 2018 did you call him?

6 A. Yes.

7 Q. And did you speak with him at that time?

8 A. I believe he was going to call back. I left a
9 message.

10 Q. And when he called back, what did you tell him?

11 A. We wanted the money back. We're going to sell
12 out and move south.

13 Q. And after you told him that, what did he tell
14 you?

15 A. He said that possibly we could get the money
16 back, but we can lose all the interest, part of
17 the payment, and a penalty.

18 Q. And what did you tell him?

19 A. I said: Well, we need the money, and we're going
20 to go south.

21 Q. And so that was on the 7th of May. And when you
22 told him you needed the money back, what happened
23 after that?

24 A. I contacted him, and he contacted me three, four,
25 five times before we finally met. Seems like it

1 was the end of -- end of May, but I'm not sure.

0 2 Q. Okay. So the end of May, from what you recall,
3 is when you met?

4 A. Yes.

1 5 Q. And when you met, did he tell you anything more
6 about your request to take your money out?

7 A. He said again there will be a penalty, lose
8 interest, penalty, and could lose part of the
9 investment.

2 10 Q. And what did you tell him you wanted to do?

11 A. We wanted the money out so we can move south
12 again.

3 13 Q. What did he tell you then?

14 A. He said-- I don't remember. Only thing I
15 remember is we could lose penalty -- or lose --
16 lose interest and have a penalty and lose part of
17 the investment.

4 18 Q. Did he write you a check right then, or did he
19 tell you it would be a period of time?

20 A. He said it would take 2-to-3 months to get the
21 money back.

5 22 Q. And did you make additional attempts to contact
23 him after he told you it would be 2-to-3 months?

24 A. Yes, I believe I did. The dates I don't
25 remember.

6 1 Q. Do you think that you contacted him over the
2 period of a couple weeks or over the course of a
3 few months?

4 A. Probably months. I think it seemed like about a
5 month and a half or so I called him.

7 6 Q. Did you ever get any of your money back after
7 asking for it?

8 A. None.

9 MS. STINEDURF: No further questions.

10 Thank you.

11 THE COURT: Thank you. Mr. Johnson, any
12 questions of this witness?

13 MR. JOHNSON: I do, Your Honor.

14

15 CROSS-EXAMINATION OF MR. RONALD MORRIS

16 BY MR. JOHNSON, J.D.:

8 17 Q. Mr. Morris, good morning.

18 A. Good morning, sir.

9 19 Q. My name is Fred Johnson. Can I ask you a few
20 more questions?

21 A. Yes, sir.

0 22 Q. Okay. You met my-- Did you -- did you call him
23 Gary or Duke?

24 A. Duke.

1 25 Q. Okay. You met my client Duke about 2007 you

1 recall? Best as you can recall?

2 A. Yes, sir.

2 3 Q. Yeah. I assume you didn't write this stuff
4 down.

5 A. No, sir.

3 6 Q. So you're just trying to remember the best you
7 can?

8 A. Yes, sir.

4 9 Q. Sir, may I ask you what your age is at this
10 point?

11 A. (Whereupon, no response.)

5 12 Q. How old are you now?

13 A. Right now?

6 14 Q. Yes, sir.

15 A. I'm 76.

16 Q. Okay. So back then you would have been, 12 years
17 ago, 64?

18 A. Thereabouts, yes, sir.

8 19 Q. Okay. Cool.

20 And at the time that you met with my
21 client-- And it's going to seem like a silly
22 question. --you weren't suffering under any
23 mental handicaps or disabilities or -- or
24 intoxications or anything that effected your
25 ability to think and -- and understand the world

1 around you; is that correct?

2 A. That's correct.

3 Q. Okay. Thank you. Let's see, you remember asking
4 for your money back from my client in May; is
5 that correct?

6 A. Yes.

0 7 Q. Do you know and -- and -- and you were informed
8 that -- that the investment period had not
9 completed at that point; is that correct?

10 A. Yes.

1 11 Q. How much longer did it have to run, do you know,
12 if you can remember?

13 A. I don't remember, to tell you the truth.

2 14 Q. That's -- that's fine.

15 Sir, did you get one of those letters
16 from the Attorney General's Office telling you
17 there was an investigation--

18 A. Yes.

3 19 Q. --in this matter?

20 Do you remember when about you got that?

21 A. Not exactly, no, sir.

4 22 Q. Was it this year?

23 A. Yes, sir.

5 24 Q. Okay. Spring, summer, or fall?

25 A. I believe it was summer.

6

1 Q. Okay. Did you get it before or after you make
2 the request from my client to get money back?

3 A. That was after.

4 Q. Okay. So you got that request after. And after
5 that, did you -- did you actually meet with
6 anyone from the Attorney General's Office, any
7 investigators, any -- any lawyers?

8 A. Yes.

8

9 Q. Okay. And how often did you meet?

10 A. I believe it was twice.

9

11 Q. Okay. And -- and since that time, have you made
12 any additional investments with -- with Mr.
13 Haynes?

14 A. No.

0

15 Q. Okay. One moment, please. I will be right
16 back.

17 A. Yes, sir.

18 (Whereupon, discussion between
19 Mr. Johnson and the Defendant,
20 out of the hearing of the Jury
21 and the Court Reporter.)

22 MR. JOHNSON: Mr. Morris, I thank you
23 for your time. I have no further questions.

24 THE WITNESS: All right.

25 THE COURT: Thank you. Any follow-up?

1 MS. STINEDURF: None, Your Honor. Thank
2 you.

3 THE COURT: May this witness be
4 excused?

5 MS. STINEDURF: Yes.

6 MR. JOHNSON: Yes, Your Honor.

7 THE COURT: Thank you very much, and you
8 may be excused.

9 THE WITNESS: All right. Thank you.

10 THE COURT: Careful on that step.

11 (Whereupon, witness excused
12 at approximately 10:22 A.M.)

13 THE COURT: You can call your next--
14 Oh, is your next witness going to be probably the
15 same amount of time as the ones you've had, or is
16 it going to be a little longer?

17 MS. STINEDURF: It may be a little
18 longer, not much.

19 THE COURT: Okay. Because we usually
20 take a break about quarter after ten. Why don't
21 we go ahead and take our morning break at this
22 time.

23 Please do not discuss this case amongst
24 yourselves or any -- or with any third persons
25 during any of our recesses or adjournments.

1 Please do not have any conversations of
2 any kind with either attorney or any party of
3 anybody who might be called as a witness.

4 Please do not read, watch, or listen to
5 any news media reports regarding this case.

6 And please, if you go outside, wear your
7 badges on the outside of your jackets so that
8 people know that you are part of the jury.

9 At this time we will take our 15-minute
10 morning break. Be back at twenty to.

11 Thank you.

12 (Whereupon, recess taken at
13 approximately 10:23 A.M.; with
14 the following transpiring out
15 of the presence of the Jury.)

16 THE COURT: Anything prior to break?

17 MS. STINEDURF: No, Your Honor.

18 MR. JOHNSON: No, Your Honor.

19 THE COURT: Thank you. Be back at
20 twenty to.

21 MR. JOHNSON: All right.

22 (Whereupon, recess taken; with
23 proceedings resuming at approximately
24 10:46 A.M., out of the presence of
25 the Jury.)

1 THE COURT: We are back on the record.

2 Anything before I bring the jury in?

3 MS. STINEDURF: No, Your Honor.

4 MR. JOHNSON: No, ma'am.

5 THE COURT: Thank you. We will bring
6 the jury in.

7 (Whereupon, Jury returned
8 to the courtroom.)

9 THE COURT: You may be seated. You can
10 call your next witness.

11 MS. STINEDURF: Jody Elliott.

12 THE CLERK-BAILIFF: Would you raise your
13 right hand, please.

14 In this cause now pending do you
15 solemnly swear or affirm to tell the truth, the
16 whole truth, and nothing but the truth, so help
17 you?

18 J A C K L Y N N E L L I O T T ,
19 after having been duly administered an oath, was
20 examined and testified as follows:

21 THE WITNESS: I do.

22 THE CLERK-BAILIFF: Please have a
23 seat. You can pull that microphone back to
24 you. Speak directly into the microphone. State
25 your full name and spell your first and last

1 names for the record, please.

2 THE WITNESS: My name is Jacklynn

3 Elliott -- J-A-C-K-L-Y-N-N, E-L-L-I-O-T-T.

4 THE COURT: Good morning.

5 THE WITNESS: Good morning.

6 THE COURT: If you can bring that just a
7 little closer because we have to have the fellow
8 all the way over there in the back row be able to
9 hear what you have to say.

10 THE WITNESS: Okay.

11 THE COURT: Yes.

12 THE COURT: Go ahead.

13

14 DIRECT EXAMINATION OF MS. JACKLYNN ELLIOTT

15 BY MS. STINEDURF, J.D.:

16 Q. Are you currently working, Ms. Elliott?

17 A. No, I'm not.

2 18 Q. Are you retired?

19 A. Yes.

3 20 Q. And where did you work before you retired?

21 A. I worked at Magna Donnelly.

4 22 Q. And what kind of business is Magna Donnelly?

23 A. Automotive.

5 24 Q. I'm going to ask you to speak up a little bit.

25 I'm having trouble hearing you.

1 A. I'm a little nervous.

6 2 Q. That's okay. We will go slow.

3 A. Okay.

4 Q. Do you know someone named Ardis Liddle?

5 A. Yes, I do.

8 6 Q. And how do you know her?

7 A. I met her through some friends.

9 8 Q. When did you first meet her?

9 A. Seven years ago.

0 10 Q. And did you ever provide services or assistance
11 of any kind for Ms. Liddle?

12 A. Yes, I did.

1 13 Q. And approximately how many years do you think
14 that you did that?

15 A. Five.

2 16 Q. When did you stop helping Ms. Liddle?

17 A. In August.

3 18 Q. Have you seen Ms. Liddle since August?

19 A. No, I have not.

20 THE COURT: Excuse me a moment. Let's
21 clarify the year.

4 22 Q. (BY MS. STINEDURF) August of 2018?

23 A. Yes. I'm sorry. Yeah.

24 THE COURT: Thank you.

25 THE WITNESS: Um-hum.

5 1 Q. (BY MS. STINEDURF) And so when I ask you these
2 questions, I'm going to be asking you questions
3 about before August 2018.
4 A. Yes.

6 5 Q. When you stopped helping Ms. Liddle, did you let
6 anyone know that you wouldn't be able to do that
7 anymore?
8 A. Yes, I did.

7 9 Q. And who did you let know that you had to stop
10 helping Ms. Liddle?
11 A. I let her niece, her neighbor, her other niece,
12 and her nephew.

8 13 Q. And why did you let people know that you weren't
14 going to be able to help her anymore?
15 A. Because I needed -- I wanted to know that someone
16 from the family would be helping her when I left.

9 17 Q. Until August of 2018 what kind of things did you
18 do for Ms. Liddle?
19 A. I cleaned. I brought her to her -- all of her
20 appointments. I brought her to the grocery
21 store, ran errands.

0 22 Q. And you said that you brought her to the grocery
23 store. Did you have to help her with things at
24 the grocery store?
25 A. Yes, I did.

1 1 Q. What kind of things did you have to help her
2 with?
3 A. Well, she -- she wasn't walking well. So she
4 would go to the produce, and then I would get the
5 rest of the groceries and then come back and get
6 her.

2 7 Q. And when you came back and got her, would she be
8 waiting for you seated, or would she be standing
9 waiting for you?
10 A. She would be seated.

3 11 Q. While you were helping her, you said that you did
12 some cleaning for her?
13 A. Yes.

4 14 Q. So you were in Ms. Liddle's house?
15 A. Yes.

5 16 Q. And are there parts of her house that she was not
17 able to access?
18 A. Yes. She would not go down to the bottom floor.

6 19 Q. Were there stairs to go down to the bottom floor?
20 A. Yes.

7 21 Q. While you were helping her, did Ms. Liddle have
22 any other friends or family members that
23 regularly spent time with her?
24 A. No.

8 25 Q. Did she have any professionals helping her out,

1 like nurses or house cleaners?

2 A. No.

9 3 Q. If you weren't helping her out, do you think it
4 would have been safe for her to live alone?

5 A. No.

0 6 Q. Did you have concerns about her safety while you
7 were helping her?

8 A. Yes, I did.

1 9 Q. What kind of concerns did you have?

10 A. Falling; if there was a fire.

2 11 Q. How often do you think you saw Ms. Liddle while
12 you were helping her out?

13 A. Depended. Sometimes I was over there every day
14 of the week. I saw her quite a bit.

3 15 Q. Did you come when she needed you?

16 A. Yes.

4 17 Q. Do you know if Ms. Liddle ever spent time in an
18 assisted living facility or nursing home?

19 A. Yes.

5 20 Q. Do you know approximately when that was?

21 A. No, I do not.

6 22 Q. Do you know how long she was there?

23 A. Not sure.

7 24 Q. When you were helping Ms. Liddle, you said
25 sometimes you were there everyday?

1 A. Yes.

8 2 Q. Sometimes you were there less often?

3 A. Yes.

4 Q. Did you ever see Gary Haynes when you were at
5 Ms. Liddle's house?

6 A. Yes, I did.

0 7 Q. How many times did you see him?

8 A. At least three times at the house.

1 9 Q. Those three times that you saw him, what would he
10 be doing when you saw him?

11 A. He would be paying her bills.

2 12 Q. When he was paying her bills, where was he in the
13 house?

14 A. Well, in the first time he was using the computer
15 in her little side room there, and then he was at
16 the dining room table one time paying them.

17 One time he came to the door and I gave
18 him the bills and he said he would take them home
19 and pay them at home.

3 20 Q. And how do you know that he was paying her bills?

21 A. That's what I was assuming. That's what Ardis
22 said that he was doing.

4 23 Q. Did Ms. Liddle want you to be there when Mr.
24 Haynes was there?

25 A. Most of the times, no.

1 MS. STINEDURF: I have no further
2 questions. Thank you.

3 THE WITNESS: Okay.

4 THE COURT: Thank you. Mr. Johnson,
5 any questions of this witness?

6 MR. JOHNSON: If I may have just a
7 moment, Your Honor.

8
9 CROSS-EXAMINATION OF MS. JACKLYNN ELLIOTT

10 BY MR. JOHNSON, J.D.:

5 11 Q. Ms. Elliott, good morning.

12 A. Good morning.

6 13 Q. My name is Fred Johnson. May I ask you a few
14 more questions?

15 A. Yes.

16 Q. Thank you, ma'am. You mentioned that -- that
17 you began working with Ms. Liddle about seven
18 years ago?

19 A. No. I've worked for her for five years. I have
20 known her for seven.

8 21 Q. I see. And so -- so first, how -- the first two
22 years that you weren't working with her, what was
23 your relationship like during those two years?

24 A. We were just casual friends.

9 25 Q. Okay. So you were in fact in the house for the

1 last five years?

2 A. Five years, yes.

3 Q. Okay. So we are talking about 2000 -- about 2013
4 to 2018?

5 A. Yes.

6 Q. Okay. And before that, you were casual friends
7 for a couple years?

8 A. Right.

9 Q. Is that right? Okay. All right. Ma'am, do you
10 remember when Ms. Liddle was in the assisted --
11 the nursing home?

12 A. Yes, I do.

13 Q. Do you remember how she got home?

14 A. From the nursing home?

15 Q. Yes, ma'am.

16 A. No, I do not.

17 Q. Do you recall calling Mr. Haynes and -- and
18 asking him to come help move Ms. Liddle home?

19 A. No. No, I did not.

20 Q. You didn't do that?

21 A. Not from the nursing home, no.

22 Q. Okay.

23 A. No. I did not call Gary Haynes at all.

24 Q. Okay. And -- and do you know if he was involved
25 in helping her move from the nursing home back to

1 her home?

2 A. Not from the nursing home. From the assisted
3 living home.

4 Q. Thank you. Thank you.

5 A. Yeah.

6 Q. So he -- he helped her from the assisted living
7 home?

8 A. Right.

9 Q. And you didn't have anything to do with setting
10 that up?

11 A. No, I did not.

12 Q. But you had heard that he did?

13 A. I was there when he came to help. I helped also.

14 Q. Okay. All right. Thank you.

15 A. Um-hum.

16 Q. You mentioned you were there about three -- three
17 times a week and -- and maybe more, sometimes
18 less?

19 A. Right.

20 Q. Okay. And -- and -- but you also mentioned that
21 you weren't always there when Mr. Haynes was
22 there?

23 A. No, I was not.

24 Q. Okay. Did you keep track of the folks who came
25 and -- and went from Ms. Liddle's home?

1 A. No, I did not.

7 2 Q. Okay. So -- and do you -- are you the next door
3 neighbor, or do you live elsewhere?

4 A. No. I live elsewhere.

8 5 Q. Okay. So you didn't have-- You weren't a
6 neighbor that could look out from your front
7 window and see what's going on with Ms. Liddle's
8 home?

9 A. No.

9 10 Q. You also mentioned that there is -- there is a
11 bar restraining her, to keep Ms. Liddle from
12 going downstairs?

13 A. Yes, there is.

0 14 Q. Do you remember when that was installed?

15 A. No, I do not.

- 16 Q. Okay. Was it there when you got there five years
17 ago?

18 A. No.

2 19 Q. And five years ago she had the bar she -- she
20 would -- she had the ability -- the bar and she
21 couldn't go up and down the stairs?

22 A. Pardon? I didn't understand what you said.

3 23 Q. Before the bar was put in, was there anything
24 blocking her from going up and down those stairs?

25 A. Just her inability to go up and down them, yes.

4 1 Q. Okay. But there was no -- there was no barrier
2 up then?

3 A. No.

4 Q. Okay. Did you ever go down those stairs?

5 A. Yes, I did.

6 Q. Okay. Were Ms. Liddle's things down there?

7 A. Yes.

7 8 Q. All right. Did she ever ask you to go downstairs
9 and get anything from downstairs or see if
10 anything was downstairs, that sort of thing?

11 A. Yes, she did.

8 12 Q. Did you get the impression that at some point or
13 another she had actually been downstairs?

14 A. Yes.

15 MR. JOHNSON: All right. I have no
16 further questions. Thank you, ma'am.

17 THE COURT: Thank you. Anything
18 further?

19 MS. STINEDURF: No. Nothing further,
20 Your Honor.

21 THE COURT: May this witness be
22 excused?

23 MS. STINEDURF: Yes, Your Honor.

24 MR. JOHNSON: Yes, Your Honor.

25 THE COURT: All right. Now, you can--

1 THE WITNESS: Okay. Thank you.

2 THE COURT: Thank you very much. Be
3 careful down those steps.

4 THE WITNESS: Yep.

5 (Whereupon, witness excused
6 at approximately 10:58 A.M.)

7 THE COURT: You can call your next
8 witness.

9 MS. STINEDURF: People recall Kevin
10 Hiller.

11 THE CLERK-BAILIFF: Would you raise your
12 right hand, please.

13 In this cause now pending do you
14 solemnly swear or affirm to tell the truth, the
15 whole truth, and nothing but the truth, so help
16 you?

17 K E V I N H I L L E R ,
18 after having been duly administered an oath, was
19 reexamined and testified as follows:

20 THE WITNESS: Yes, sir, I will.

21 THE CLERK-BAILIFF: Please have a
22 seat.

23 THE WITNESS: Thank you.

24 THE CLERK-BAILIFF: Speak directly into
25 the microphone. State your full name and spell

1 your first and last names for the record,
2 please.

3 THE WITNESS: Kevin Hiller -- K-E-V-I-N,
4 H-I-L-L-E-R.

5 THE COURT: Good morning.

6 THE WITNESS: Morning, Judge.
7

8 REDIRECT EXAMINATION OF SPECIAL AGENT KEVIN
9 HILLER BY MS. STINEDURF, J.D.:

9 10 Q. It's been previously mentioned that during the
11 course of the Attorney General's investigation,
12 that some letters were sent.

13 Did you send letters while conducting
14 the investigation on behalf of the Attorney
15 General's Office?

16 A. Yes, ma'am, I did.

0 17 Q. And what was the nature of these letters?

18 A. The nature of the letters was basically a
19 fact-finding endeavor on my behalf to try to
20 ascertain if there were any further victims of
21 Gary Haynes.

1 22 Q. And did the letters request information?

23 A. Yes, they did, but the letter itself was very
24 generic in nature. I asked for information if
25 they had been a client of Gary Haynes, and then

1 basically if they had anything good and/or bad to
2 say about the handling of their money and
3 investments with Mr. Haynes.

4 Q. Now, there has also been testimony today that Mr.
5 Haynes had bank accounts which may have been
6 affected by the Attorney General investigation.

7 During the course of your investigation
8 did you do anything to close any of Mr. Haynes'
9 accounts?

10 A. Absolutely not.

11 Q. Did you do anything to freeze any of Mr. Haynes'
12 accounts?

13 A. No, ma'am.

14 MS. STINEDURF: Nothing further. Thank
15 you.

16
17 RE-CROSS-EXAMINATION OF SPECIAL AGENT KEVIN HILLER
18 BY MR. JOHNSON, J.D.:

19 Q. Mr. Hiller, good morning.

20 A. Good morning, Mr. Johnson.

21 Q. Let's talk about the letters that you sent out.
22 These are letters sent on Attorney General
23 stationery?

24 A. Yes, sir.

25 Q. So it would have the Attorney General's name at

1 the top and the heading?

2 A. Yes, sir.

7 3 Q. Seal of the Attorney General?

4 A. Yes, sir.

8 5 Q. And they were -- they were sent under your name?

6 A. Yes, sir.

9 7 Q. And it would have gone out Special Agent Kevin
8 Hiller, or is there another -- is there more to
9 it than that?

10 A. The envelope? Are you pertaining to the envelope
11 itself?

0 12 Q. No, sir. I'm talking about the portion where you
13 sign at the bottom.

14 A. It just says Special Agent Kevin Hiller.

1 15 Q. Does it say that you are involved in what your --
16 what your area of specialty is, that you're
17 involved in certain areas within the Attorney
18 General's Office, or just your name and special
19 agent?

20 A. It just said name, special agent.

2 21 Q. Was the fact that you were a special agent
22 involved in this type of investigation that you
23 perform anywhere in the body of the letter?

24 A. In the narrative portion I did believe (sic) I
25 placed Corporate Oversight Division, which was

1 the name of our division at the time.

3 2 Q. All right. And you-- Did anyone else send out
3 letters involved in this investigation, other
4 than yourself?

5 A. I'm only aware of what I've sent out.

4 6 Q. Okay. So you don't know-- So someone else may
7 have also sent out letters?

8 A. I do not know.

5 9 Q. Okay. And do you have any idea how many letters
10 you sent out involving this? You know what we're
11 talking about, the -- the -- the potential
12 clients of my -- my -- my client.

13 A. Yes. There were four letters that were sent out.

6 14 Q. Was there any particular-- How did you choose
15 who to send letters to?

16 In other words, what population were you
17 looking to -- to -- to speak to?

18 A. The letters were sent out to individuals that
19 were identified through Mr. Haynes' bank
20 accounts--

7 21 Q. Okay.

22 A. --in which there was a deposit into Mr. Haynes'
23 account of \$10,000 or more.

8 24 Q. Okay. So if a person -- if -- if persons were --
25 were say providing him checks of less than

1 10,000, say \$5,000 or \$1,000, whatever, those
2 names weren't sent letters?

3 A. That's correct.

4 Q. Do you have any idea-- I guess you have no idea
5 how many of those -- the people who were not
6 contacted; is that correct?

7 A. I would hate to speculate.

0 8 Q. And letters were also sent to Mr. Haynes'--
9 Well, strike that. Strike that. That's a
10 different issue.

11 When did you begin sending letters?

12 When was the first letter sent out?

13 A. April.

1 14 Q. April of?

15 A. 2018.

16 Q. Okay. So did Mr. Morris get his letter sent out
17 in April?

18 A. Yes, sir.

3 19 Q. Okay. So when he said he-- If you recall, he
20 mentioned that he had a conversation with my
21 client in May of 2018, but it was his
22 recollection that the first letter he got from
23 you was after that.

24 A. Yes, sir.

4 25 Q. Your recollection is the first letter to him

1 would have been before that?

2 A. Yes, sir.

5 3 Q. Okay. Before this meeting with my client?

4 A. Yes, sir.

6 5 Q. Okay. You also made telephone calls to
6 individuals that you identified?

7 A. Yes, sir.

7 8 Q. Was it the same four individuals, or were there
9 others?

10 A. There were others.

8 11 Q. How many others would you say?

12 A. There were two additional people that I met with.

9 13 Q. Uh-huh. And did you -- you and -- and were there
14 additional-- I'll slow it down.

15 Were there additional people that you
16 also telephoned and not met with?

17 A. I'm sorry. Could you clarify?

0 18 Q. You said there was two people that you met with.
19 I'm wondering if there are people that, in
20 addition, that you may have made a telephone call
21 to, or an email to, or some other form of
22 communication?

23 A. Yes, sir.

1 24 Q. Do you have any idea how many of those people
25 there were?

1 A. There were two additional.

2 Q. So two people you met with, two people that had
3 additional contact, and then in addition the four
4 people that -- that you spoke of initially got
5 letters?

6 A. Yes, sir.

7 Q. So we're talking about eight people total?

8 A. My recollection is six total. I'm talking about
9 two additional that I spoke with and sent emails
10 to.

11 Q. Okay. Were these -- these additional folks
12 selected in the same manner? In other words,
13 people who have deposited over a certain amount?

14 A. Yes, sir.

15 Q. And what was -- what was their threshold?

16 A. It was still the \$10,000 threshold.

17 Q. Okay. Okay. In addition to-- In addition to
18 the folks who made -- who invested over \$10,000,
19 my client's banks were contacted?

20 A. Yes, sir.

21 Q. Did you contact tax-- Well, that's -- that's a
22 little bit too broad. Strike that.

23 MR. JOHNSON: Special Agent Hiller, I
24 have no further questions. Thank you, sir.

25 THE COURT: Thank you. Any follow-up?

1 MS. STINEDURF: None, Your Honor. Thank
2 you.

3 THE COURT: Thank you. You may step
4 down.

5 THE WITNESS: Thank you, Judge.

6 (Whereupon, witness excused.)

7 THE COURT: Call your next witness.

8 MS. STINEDURF: I have no further
9 witnesses, Your Honor.

10 THE COURT: Thank you.

11 Mr. Johnson-- The People rest at this
12 time?

13 MS. STINEDURF: Yes, Your Honor.

14 THE COURT: People have rested. Do you
15 have any witnesses at this time?

16 MR. JOHNSON: Yes, Your Honor.

17 THE COURT: Call your first--

18 MR. JOHNSON: At this time we call Gary
19 Haynes to the stand.

20 THE COURT: Thank you. Oh, can I see
21 the attorneys first?

22 (Whereupon, discussion between
23 counsel and the Court, out of
24 the hearing of the Jury and
25 the Court Reporter.)

1 THE COURT: We're going to have to take
2 a couple minutes. I'm going to send you back to
3 the jury room and then I will bring you back
4 out.

5 So at this time if you would please go
6 to the jury room.

7 (Whereupon, Jury excused to the
8 jury room at approximately 11:07 A.M.;
9 with the following proceedings
10 transpiring out of the presence
11 of the Jury.)

12 THE COURT: Thank you. You may be
13 seated.

14 Mr. Johnson, any motions at this time?

15 MR. JOHNSON: Certainly, Your Honor. We
16 will start with the Motion for a Directed
17 Verdict. We feel that as far as the tax counts
18 are concerned, the People have not met the burden
19 in showing that our client had additional
20 income.

21 The testimony from the witnesses was --
22 was all unanimous indicating that the money that
23 he was sent, he received, was for investment
24 purposes or loan purposes. Neither one of those
25 qualify as income.

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Therefore, we don't believe the People have met their threshold in demonstrating that my client had additional income with which he should have reported to the IRS or the state. And therefore, they haven't met their burden on the tax counts.

As far as the -- the -- the remaining counts, Your Honor, it's our position that these are matters that are all civil; that the People have not shown this beyond a reasonable doubt that my client intended to defraud anyone.

Therefore, we move that all those counts be dismissed as well.

THE COURT: Thank you. Response?

MS. STINEDURF: I think the evidence has been ample in that an enormous amount of money was taken from Ardis Liddle that she did not intend to transfer to Gary Haynes. She did not intend to transfer as loans, as a payment of any kind or an investment in his business. Yet that money has found its way into their account.

There has also been ample testimony that she was a vulnerable adult indicating that she has physical difficulties; that she has mental limitations sometimes because she was taking

1 fentanyl and norco.

2 And I think under the context of all of
3 that information, the jury could certainly infer
4 that if this money was an investment from Ms.
5 Liddle, that based on Mr. Darnell's testimony,
6 that money should have been reported on Mr.
7 Haynes' tax return. And this was not reported on
8 Mr. Haynes' tax return.

9 So I would ask the Court to deny the
10 Motion for a Directed Verdict.

11 THE COURT: Thank you. In this case I
12 must look at the -- the motion in the light most
13 favorable to the non-moving party, which is the
14 prosecution at this time.

15 Evidence has come forward in this trial
16 that a jury may consider and may come to a
17 conclusion that the Defendant is guilty beyond a
18 reasonable doubt.

19 As to the tax issue, there was testimony
20 from the witness stating that if this was
21 considered embezzled, if the jury can find that,
22 that it would have to be reported. So
23 therefore, that a jury may be able to have
24 evidence of that also.

25 Therefore, I am going to deny the Motion

1 for Directed Verdict at this time.

2 MR. JOHNSON: Thank you, Your Honor.

3 MS. STINEDURF: Thank you, Your Honor.

4 THE COURT: And you stated that your
5 client is going to testify; is that correct?

6 MR. JOHNSON: Yes, Your Honor.

7 THE COURT: And could you please rise at
8 this moment and raise your right hand.

9 MR. HAYNES: Yep.

10 THE CLERK-BAILIFF: In this cause now
11 pending do you solemnly swear or affirm to tell
12 the truth, the whole truth, and nothing but the
13 truth, so help you?

14 G A R Y H A Y N E S ,
15 after having been duly administered an oath, was
16 examined and testified as follows:

17 THE DEFENDANT: I do.

18 THE COURT: And Mr. Johnson, if you
19 would inquire of your client at this time of his
20 right not to testify.

21 MR. JOHNSON: Thank you.

22 Mr. Haynes, what we're talking about
23 this morning is a person's right not to testify
24 at their own trial. You have an absolute right
25 not to testify if you choose not to.

1 Do you understand?

2 THE DEFENDANT: I do.

3 MR. JOHNSON: And that no inferences can
4 be made whether you are guilty -- or no
5 inferences can be made if you choose not to
6 testify.

7 THE DEFENDANT: (Nodding head indicating
8 affirmative.)

9 MR. JOHNSON: Do you understand that?

10 THE DEFENDANT: I understand that.

11 MR. JOHNSON: So if you decide not to
12 testify, no one can say, well, because you didn't
13 testify, well we can't argue that because you
14 didn't testify. That means -- that shows that
15 he's guilty of something.

16 THE DEFENDANT: Right.

17 MR. JOHNSON: Do you understand that?

18 THE DEFENDANT: I understand that.

19 MR. JOHNSON: And -- and you understand
20 that if you choose to testify, that you have to
21 answer my questions, but you also have to answer
22 the prosecutor's questions.

23 Do you understand that?

24 THE DEFENDANT: Absolutely, yes.

25 MR. JOHNSON: That means you're subject

1 to what's called Cross-Examination.

2 THE DEFENDANT: Understand.

3 MR. JOHNSON: And that you will be under
4 oath; and if you don't speak the truth, that
5 could subject you to other criminal issues.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 MR. JOHNSON: Understanding all that, do
9 you still feel -- do you still feel comfortable
10 with our decision to take the stand and testify?

11 THE DEFENDANT: Yes, I do.

12 MR. JOHNSON: Do you still want to take
13 the stand and testify?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Thank you. And a couple
16 follow-ups. Has anyone threatened you that you
17 must testify?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Has anyone promised you
20 anything to testify?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Are you testifying because
23 you have counseled with your attorney and you
24 have chosen that this is what you want to do?

25 THE DEFENDANT: Yes, ma'am.

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THE COURT: All right. Thank you.

So anything further before we bring in
the jury?

MS. STINEDURF: None, Your Honor. Thank
you.

THE COURT: All right. We will bring
the jury back in.

(Whereupon, Jury returned to
the courtroom at approximately
11:12 A.M.)

MR. JOHNSON: Thank you, Judge.

THE COURT: You may be seated.

Mr. Johnson, as I had stated before we
went to break, the prosecutor has rested her
case.

Do you have any witnesses at this time?

MR. JOHNSON: Yes, we do, Your Honor.
We will call Gary Haynes to the stand.

THE COURT: Thank you. Mr. Haynes, if
you would come forward. Could you raise your
right hand, please.

THE CLERK-BAILIFF: In this cause now
pending do you solemnly swear or affirm to tell
the truth, the whole truth, and nothing but the
truth, so help you?

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G A R Y H A Y N E S ,

after having been duly administered an oath, was
examined and testified as follows:

THE DEFENDANT: I do.

THE CLERK-BAILIFF: Please have a
seat. Speak directly into the microphone.
State your full name and spell your first and
last names for the record, please.

THE DEFENDANT: My name is Gary Haynes
-- G-A-R-Y, H-A-Y-N-E-S.

THE COURT: Good morning.

THE DEFENDANT: Morning, Your Honor.

THE COURT: Go ahead, Mr. Johnson.

MR. JOHNSON: Thank you, Your Honor.

DIRECT EXAMINATION OF MR. GARY HAYNES
BY MR. JOHNSON, J.D.:

Q. Good morning, Mr. Haynes.

A. Good morning.

Q. Mr. Haynes, have you ever testified in a
courtroom before?

A. I have not.

Q. Okay. There's a couple rules of the road here
that we like to inform you of so we make sure
that your testimony is heard by all the jurors.

1 Okay?

2 A. Yes.

1 3 Q. All right. First -- first couple things you are
4 already doing. You're answering all the
5 questions out loud. When we talk to one another
6 in passing, it's not uncommon to nod or shake
7 your head. But because this lovely lady here is
8 typing everything that you say up, she can't type
9 up a nod.

10 So if you would endeavor to try to
11 answer the questions verbally whenever possible,
12 and that would be appreciated.

13 A. I will try to do that.

2 14 Q. Okay. Second thing is, is you're keeping your
15 voice up. That's -- that's important. This is a
16 cavernous room, and what happens is sometimes we
17 get so involved in talking to one another, we
18 forget that we're talking to a whole group of
19 people.

20 So I'm going to ask you to try to keep
21 your voice up, and I'm going to try to make sure
22 I'm standing over here as often as I possibly can
23 so that the jurors also can see your lips moving.

24 Okay?

25 A. Being loud is usually not a problem for me.

3

1 Q. All right. That's good.

2 Finally-- And this is the one -- this
3 is the one that always messes me up. --in
4 conversations, in casual conversations, human
5 beings get very complicated, and we can talk to
6 one another, you and I can talk to each over
7 other conversations. We can-- If you start
8 asking me a question and I know where you're
9 going, I can start answering the question even
10 before you end.

11 That's -- that's a conversation that
12 happens to all of us all the time. But in a
13 courtroom, again, everything is being typed up.
14 So if you would try to wait--

15 A. Right.

16 Q. --until you hear the whole question before
17 answering.

18 A. Okay.

5

19 Q. And more importantly, I will try to wait until
20 I've heard your whole answer before I
21 interrupt.

22 Can you try to do those things?

23 A. It's a deal, yes.

6

24 Q. Okay. Now, we will remind you if ever we get to
25 the point where we need to.

1 A. Okay.

2 THE COURT: We will.

7 3 Q. (BY MR. JOHNSON) Nervous?

4 A. Yes.

8 5 Q. All right.

6 A. Little bit, yeah.

9 7 Q. Okay. Let's -- let's talk about some stuff
8 here. You've-- You are the Defendant in this
9 case. You've been here the whole trial; correct?

10 A. Everybody wants to hear from me.

0 11 Q. Okay. Let's hear from you. Where are you from?

12 A. I grew up in Bellevue, Ohio.

1 13 Q. Okay. And how long have you been in the Muskegon
14 area?

15 A. We moved to Michigan about 30 or about 22 years
16 ago. 21, 22 years ago.

2 17 Q. Okay. And you are -- what would you state --
18 what would you state your profession was before
19 this investigation began?

20 A. Right before this investigation began?

3 21 Q. Yes, sir.

22 A. Entrepreneur, independent businessman.

4 23 Q. Okay. And were you involved in any specific type
24 of activities in regards-- And I'm referring
25 specifically to the investment information.

1 A. Yes. Yes. Actually I have -- I was a licensed
2 insurance agent in the State of Michigan, and I
3 was also a registered investment adviser
4 representative, which is a Series 65.

5 Q. And how long have you been a licensed -- have you
6 been licensed in those capacities?

7 A. The insurance license, a little bit longer. That
8 might have been like probably right about 2000.
9 Again, I've got to remember exactly when I got my
10 insurance license. Maybe 7 or 8, 6, 5, in
11 there. I'm not -- I'm not sure. But it was when
12 I first started, I went self-employed in -- in
13 this business.

6 Q. Well, what about those qualifications made you
15 think you were qualified to provide investments?

16 A. Well, on the insurance side, as a licensed
17 insurance agent there are insurance products
18 available through insurance companies --
19 annuities specifically, that you can use for
20 senior investments, and I was licensed to be able
21 to do that.

22 I have my life and health license. I
23 got both of them at the same time. But certainly
24 as a licensed insurance agent, you -- you can
25 sell any product offered by an insurance

1 company. Annuities were one of those things.

7 2 Q. All right. And was there training involved as to
3 understanding annuities, understanding investment
4 opportunities, understanding investment tools, et
5 cetera, et cetera?

6 A. Yeah, a couple different things. First of all,
7 you have to take a fairly lengthy test for the
8 licensing for -- for life insurance and the
9 health insurance side of things.

10 And then as far as the annuities side,
11 what happens is these insurance companies hire
12 independent groups called FMO's -- Field
13 Marketing Organizations. They have some other
14 acronyms, but that's-- It's an independent group
15 that takes a contract from an insurance company
16 and tries to hire agents around the country to
17 sell those products.

18 So, for example, a senior advisory group
19 out of Phoenix, Arizona, Scottsdale, Arizona
20 contacted me. They realized I had my life
21 insurance license, and they had some new annuity
22 products they wanted me to start to sell for --
23 for them on their behalf, and those -- those
24 annuities--

8 25 Q. Is that uncommon?

1 A. No. That's very common. That's usually the way
2 it's done. So there's insurance agents.
3 There's this middle group of people called FMO's.
4 Then there's the insurance companies. These
5 middle groups take a lot of the every day burden
6 away from the insurance companies. They take a
7 lot of customer service calls, they train the
8 agents, those kinds of things.

9 So I, for example, they would fly me out
10 to Arizona several times to do training on the
11 new products. So we've got to sit through
12 seminar after seminar on these annuities, these
13 products out there, how they're safe for people,
14 how they work, and I'm -- and I'm a
15 nuts-and-bolts kind of guy. So I certainly
16 became very adept at understanding annuities, at
17 least the ones that I wanted to sell, and
18 knowledgeable about the products.

9 19 Q. Were you also involved in other investment
20 opportunities, other investment products?

21 A. Yeah. Can I get my glass of water? I have -- my
22 mouth is very dry right now.

0 23 Q. I think--

24 A. And yes, I was because of my Series 65 license.

1 25 Q. And what other -- what type of -- what other

1 investment vehicles were you involved in or were
2 you -- are you familiar with?

3 A. Well, the reason-- Let me have a sip of this.

4 Q. Uh-huh.

5 A. In the insurance agency, a couple years into it
6 when I was starting to do these annuities,
7 specifically I would use what's called a fixed
8 indexed annuity for my clients, and I had a
9 couple very specific ones that were new to the
10 market. They had some proprietary things about
11 them. They were great for seniors and -- and
12 retirees. Great products.

13 But there was -- there was a commotion
14 in the -- in the securities industry at the time
15 because all of the brokers, you know, the Edward
16 Jones kind of companies, those kinds of places,
17 were a little upset because there literally were
18 billions of dollars getting taken away from
19 securities and going into indexed fixed annuities
20 because they were so safe in the way they
21 worked.

22 So through the SEC and through some
23 lobbying, they were trying to make a fixed
24 indexed annuity a security. And if they were
25 going to do that, that meant you had to have a

1 securities license to be able to sell them.

2 So in the insurance industry, the big
3 uproar at one point in time was that we are all
4 going to have to get a securities license and go
5 through a dealer broker, because they want their
6 cut of the pie. They aren't going to get their
7 one or two percent, you know, every day or every
8 month or every year if we're selling these
9 products and they don't have them available and
10 if it's taking money away from them.

11 So you can imagine the two lobbies
12 between the insurance companies nationally and
13 these big brokers. It was quite a -- quite a
14 thing.

15 As far as agents caught in the field, we
16 were told that we might have to have a securities
17 license. The best one at the time from our
18 industry, what they talked about, was a Series
19 65. And a Series 65 basically allowed us to be,
20 it's a -- it's a fiduciary responsibility, which
21 we have anyways, with -- with regard to insurance
22 anyway, but--

3 23 Q. Let me stop you just there. What's a fiduciary
24 responsibility?

25 A. Well, as a fiduciary, you're -- you're

1 responsible to do what's best for the client, not
2 for you. So -- so as a -- for example, as a --
3 with a Series 65, as an independent and
4 investment adviser representative that works for
5 a registered investment advisor group-- That's
6 -- the acronyms are a little crazy, but that's
7 how it works.

8 THE COURT: Can I interrupt just for a
9 moment? My Court Reporter is very, very good.
10 I just want to make sure, because you are talking
11 very fast and--

12 THE DEFENDANT: I need to slow down.

13 THE COURT: Hold on one second. Off
14 the record.

15 (Whereupon, discussion between
16 the Court and the Court Reporter,
17 out of the hearing of the Jury.)

18 THE WITNESS: I'm sorry.

19 THE COURT: I just wanted to make sure.
20 And usually she's pretty good about going: Hold
21 on, slow down.

22 THE WITNESS: Okay.

23 THE COURT: So she will tell you if she
24 needs you to slow down.

25 THE WITNESS: Okay.

1 THE COURT: I just wanted to make
2 sure. Go ahead.

3 THE DEFENDANT: Perfect. Perfect.

4 Q. (BY MR. JOHNSON) So I think you were telling us
5 that you-- Did you in fact get that Series--

6 A. Series 65; correct. It's fairly extensive
7 training, and the test is pretty elaborate. They
8 made it pretty hard the last couple years. And
9 when-- Specifically when I did that--

5 10 Q. All right.

11 A. --you had to learn about everything. Okay? So--
12 And then as a licensed, if I wanted to go through
13 my -- my broker, my -- my registered investment
14 advisor, I really had the ability to sell them
15 anything. I could have put them in stocks,
16 mutual funds, whatever. And instead of that
17 being a commission-based business, those are
18 fee-based businesses.

19 Okay. So which, I mean, you can argue
20 either way. So instead of just making a
21 commission like I did as an insurance agent on an
22 annuity, an investment advisor representative
23 would make a two-percent fee maybe every year
24 forever on your money.

25 You know, do the math. You figure out

1 what's best for you. Usually that's what we help
2 do with a client. Or you can just sell them a --
3 an -- an -- an advice portfolio. So I can put
4 together some advice, say: Here, this is X
5 dollars, and then walk away and they can go do it
6 whenever they wanted to.

6 7 Q. Okay. I asked you all that to ask you this:
8 Based on your training and experience and
9 expertise, did you feel you were adequately
10 prepared to -- to get into this new business of
11 assisting others in investments?

12 A. They do a good job of making sure you know your
13 stuff. You won't -- you won't pass the testing
14 if you don't do that.

7 15 Q. Okay. And so you start your own business?

16 A. Correct.

8 17 Q. And this-- What was the name of the business?

18 A. Well, if-- I need to back up a little bit.

19 I started into this industry, I went to
20 work for a company called CLA Estate Services.
21 They're a national company, and I went to work
22 for them in their Estate Planning Division.

23 Okay?

24 Now no--

9 25 Q. What is estate planning?

1 A. No license required. As a matter of fact, they
2 don't want you to have a license. Estate
3 planning is wills, trusts, make sure people have
4 all the documents they should have, that most
5 people don't, you know, if something would happen
6 to them, if they become incapacitated or they
7 pass away.

0 8 Q. All right.

9 A. Okay.

1 10 Q. Now -- now, so you started working with this
11 other company?

12 A. Correct.

2 13 Q. How long did you work with them?

14 A. I worked for CLA for I think three, four years.

3 15 Q. And I assume there were other folks working for
16 CLA?

17 A. Oh, they're still around. They're a national
18 company.

4 19 Q. So these folks, you have supervisors. You have
20 co-workers?

21 A. Yes.

5 22 Q. People looking at what you're doing and--

23 A. Everyday.

6 24 Q. --making sure you're--

25 THE COURT: Hold on. You're talking

1 over.

2 THE WITNESS: Okay.

7 3 Q. (BY MR. JOHNSON) Making sure that you're --
4 you're crossing your t's and dotting your i's?

5 A. Yes.

8 6 Q. Okay. All right. So after three years of that,
7 then what?

8 A. I -- I saw the other side of that business, and I
9 -- that looked -- looked like a better fit for
10 me. That was-- So what I did on the estate
11 planning side is the company would set up
12 seminars all over west Michigan. I did two
13 seminars every week for three years. I was in
14 front of literally thousands of people, and I
15 would do a seminar with a partner two times a
16 week, sometimes three times a week, and we had --
17 we had a route that we went around west
18 Michigan. They were all set up for us ahead of
19 time.

20 So we would work out of these
21 restaurants. We had people that were invited
22 in, they sat down, it was all seniors, retirees,
23 and we would do a presentation about estate
24 planning.

9 25 Q. Let me -- let me stop you for just a moment.

1 A. Um-hum.

0 2 Q. And if you know, in -- in terms of the
3 demographics, the type of people you were
4 attracting, does that type of business more
5 likely attract younger folks or folks who are
6 older, maybe retired or getting ready to retire?

7 A. It's targeted towards older folks.

1 8 Q. Okay.

9 A. Retired and -- and -- yes.

2 10 Q. Are older folks or younger folks more likely to
11 have disposable income for investments?

12 A. Older folks.

3 13 Q. Okay.

14 A. Obviously, yes.

4 15 Q. All right. So you go into these seminars?

16 A. Yep.

5 17 Q. And the folks you attracted are people who have
18 investment money?

19 A. Correct.

6 20 Q. In fact if somebody was 25 but wanted to come and
21 invest, you didn't close the door on them. They
22 could come?

23 A. Of course not.

7 24 Q. Okay. So -- so people who wanted to come came to
25 these seminars. And you did that for how long?

1 A. About three years.

8 2 Q. All right. So -- so now we're talking about, oh,
3 about six years into this idea. And how long--
4 What did you do after -- after those retirement--

5 A. Well, so what happens is we do the -- we do the
6 seminar, I schedule an appointment to anybody
7 that's interested in what they saw at the
8 seminar, and then I would go see them at their
9 home over the course of the next couple days.

9 10 Q. How do you know if they were interested?

11 A. They would fill out -- we would have them fill
12 out a sheet, and then we would say at the end of
13 that: If you're interested in anything, if you
14 think we can help you out, let's schedule -- come
15 with me, because we feed them dinner. After
16 you're done with dinner, come on up and schedule
17 an appointment with me.

18 And people would come up and they would
19 schedule appointments for us to go see them--

0 20 Q. Okay.

21 A. --my partner and I, which I had several
22 partners.

1 23 Q. All right. So how-- And you did that for about
24 three years?

25 A. About three years.

2

1 Q. And what happens then?

2 A. So then -- so then I go on my scheduled
3 appointment with the client.

4 Q. I don't mean about the appointment. I mean
5 professionally.

6 A. Oh, okay.

4

7 Q. Where do you go from there?

8 A. So -- so I saw the backside of that business,
9 which is what happens after I would meet them at
10 their home. They became a client of CLA based on
11 my efforts, and I was very good at what I did. I
12 was in the top five, ten percent of the people
13 that did the estate planning thing in the
14 country. Got awards for that every year.

15 But the people that came in afterwards,
16 that delivered the estate planning documents for
17 example, that did the financial planning stuff
18 for these people, they made very, very good
19 money. I made great money, don't get me wrong,
20 doing my estate planning, but that was a little
21 bit more lucrative, and it was more technical.
22 It seemed a little bit more in my -- in my field.

5

23 Q. Okay. So at this-- And so you left?

24 A. CLA Estate Services, went and got my life
25 insurance license, and then eventually a couple

1 years later got my Series 65 license.

6 2 Q. Okay. So now you're up and running?

3 A. Right.

4 Q. Are you--

5 A. I didn't -- I didn't go to work-- I'm sorry. I
6 didn't go to work directly for myself right away.

8 7 Q. Who did you work for?

8 A. I took a small term with I think the company was
9 out of Detroit called Estate Planning Institute,
10 EPI. You met people in the industry. They
11 tried to get me to come work for them a couple
12 different times; and then when I was ready to
13 make the move, I did. But I only worked for them
14 for a couple months.

9 15 Q. Okay. So by the time you opened your own
16 business--

17 A. Yes.

0 18 Q. --how much experience do you have in this estate
19 planning thing?

20 A. Oh, gosh, four or five years probably at least on
21 the estate planning side.

1 22 Q. Okay. And you have all of the licenses; correct?

23 A. Correct.

2 24 Q. All right. So you opened a business?

25 A. Um-hum.

3 1 Q. Did -- did you open under your own name, or was
2 it a different name?

3 A. Senior Planning Resource.

4 4 Q. All right. And we've heard some testimony about
5 how people would come to seminars.

6 A. Uh-huh.

5 7 Q. Is that how it worked with you?

8 A. Absolutely.

6 9 Q. How did you find the names of the people to
10 address?

11 A. I hired a company called Seminar Crowds. Usually
12 I used one or two other ones, but they were
13 primarily the one I used. They're fairly big in
14 the industry, and they would give me a
15 demographic. I would tell them I wanted people
16 from 45 to above, in retirement, and they would
17 say where are you doing this at.

18 So for example, if I wanted to do one in
19 Newaygo at Cronks Restaurant, I would say: I've
20 got Newaygo, and I'd pick out the zip codes
21 around there, and they would do a 5,000 mailing
22 piece to that area or whatever I paid for.

23 And -- and to ensure I could get 20-30
24 people to show up over a two-day period, I'd
25 usually do two dates at a restaurant.

7 1 Q. I forgot to ask you, when did you -- when did you
2 start your own shingle? When did you start your
3 own business?

4 A. When I started, I did my DBA for Senior Planning
5 Resource had to be 2005, '6.

8 6 Q. Okay.

7 A. You know, somewhere in that range because I was
8 already thinking about what I'd call my company
9 when I was working for the other one.

9 10 Q. Okay.

11 A. You know.

0 12 Q. All right. So, and how -- how long did you
13 continue in that business or that line of work?

14 A. I -- I -- I really did it all the way up and
15 through-- Just trying to think of the last
16 seminar I did was probably 2000 maybe 13, 14',
17 something like that.

1 18 Q. All right. But you still had clients?

19 A. Yes. Oh, yeah.

2 20 Q. You still have clients today?

21 A. I do.

3 22 Q. Do you have any idea how many clients that you
23 have?

24 A. Well, on the estate planning side when I did
25 this, I was the original one to do the contract

1 for an attorney to do a will or a trust for
2 them. With CLA I had close to 500, and I still
3 get calls from them every now and then that still
4 have my business card that say: Hey, you know,
5 something happened, we had your business card.
6 Can you call me? I want to change something in
7 my trust or -- or -- and I will refer back to CLA
8 because I had a non-compete with them at the
9 time.

10 But the -- the clients that I had on my
11 own when I did my own workshops, probably close
12 to 50.

4 13 Q. And did you have any other type of clients that
14 you were attracting through your workshops?

15 A. No, not really. That was -- that was -- that was
16 the target of what -- what I tried to do.

5 17 Q. All right.

18 A. Yeah.

6 19 Q. And do you recall Ms. Liddle testifying that she
20 came to one of your workshops?

21 A. She did. She came to a couple actually.

7 22 Q. She came to a couple?

23 A. Yeah.

8 24 Q. Okay. So she didn't bite at the first one, but
25 she came back for a second time?

1 A. Well, no. So what happened is -- is she actually
2 was in the range in between. When I worked for
3 EPI that couple months, we did one in Muskegon.
4 That's the first one she originally came to, in
5 2007. That's where I met her.

9 6 Q. Okay. And so she came to a second one?

7 A. That was back after she was already a client of
8 mine. What we will do is when we have a
9 workshop like locally, like in Spring Lake, if I
10 have existing clients there, I will invite them
11 to come. They get a free meal on me. And then
12 they will -- I usually ask them to bring a guest;
13 or if nothing else, you seat them with people and
14 she'll say: Yeah, no, I do work with Duke and
15 he, you know, he does a great job. He does a
16 great job for me. The attorney did a great job.

17 So it's a -- a part of the process to
18 invite. It's a thank you too to invite existing
19 clients. So she did come to one as a guest of
20 mine in Spring Lake.

0 21 Q. Okay. So when she testified as to Duke or to
22 Gary Haynes, you're the gentleman she was
23 referring to?

24 A. Oh, yes, yes.

1 25 Q. All right. You worked with Ms. Liddle for

1 approximately how many years do you think?

2 A. Right up until this incident.

3 Q. Okay. So you met her in 2007?

4 A. '7; correct.

5 Q. When you-- Now, you knew her back in 2007. She
6 was about 85?

7 A. Something like that.

8 Q. 84? And you saw her here today?

9 A. Yes.

10 Q. Last couple days. Has there been any changes in
11 her physically since when you first met her?

12 A. Yes. She obviously is quite a bit less mobile
13 than she was. And even back then, you know, she
14 -- she walked with -- with a cane back then.

15 Sometimes she didn't, but-- And then eventually
16 graduated to a walker, and obviously she is quite
17 a bit physically worse than she was when I met
18 her, which is normal I guess.

19 Q. All right. How about intellectually and
20 mentally, cognitively, have you noticed any
21 change in her since when you first met her?

22 A. I didn't up until the last couple years, you
23 know, throughout, and this incident is what
24 brought most of -- of that to light for me
25 because the Ardis that I knew the whole time I

1 worked with her was the most meticulous, one of
2 the most intelligent people I've ever met in my
3 life and ended up to me being a good friend. We
4 can talk about that more I guess.

7 Q. Okay. But you see when she testified, she
5 couldn't remember things, and she -- was she
6 having memory difficulties during the time?
7

8 A. I -- I never recognized anything like that
9 ever. And at one point in time I had what was
10 considered -- it was called a CSA designation. I
11 got that with CLA, which is a Certified Senior
12 Advisory designation. It's -- it's now become
13 an accredited designation. It wasn't at the
14 time. But it trains you, when you deal with
15 seniors, to look for signs of dementia,
16 Alzheimer's. It was an elaborate test that we
17 had to set (sic) through and then what to do in
18 case you saw that.

19 So in other words-- And I did have a
20 client in Jackson that I started to see those
21 signs, and I immediately contacted one of the
22 kids and said: I can't meet with your mom unless
23 one of you is there. I just can't do it because
24 I -- I -- I see this as an issue.

8 Q. So when you saw that, your standard practice was
25

1 to bring someone else in?

2 A. Correct, a family member or, you know, yes,
3 someone she would know.

4 Q. And it's your testimony that you didn't see those
5 issues?

6 A. I never saw that with Ardis.

7 Q. There is testimony that she was on medications
8 for -- for at least half the time that you were
9 working with her.

10 A. Yeah.

11 Q. And some of those medications caused a lot of
12 different symptoms -- drowsiness, forgetfulness,
13 that sort of thing.

14 Did you ever see those symptoms in her?

15 A. The only part of the drowsiness I would see is
16 when I told her I would be there tomorrow at one
17 o'clock, I'd show up at one o'clock, I'd knock on
18 the door and I could see her sleeping in a chair
19 in the back corner. I would knock on the door,
20 she would wake up, and we would have our
21 meeting.

22 Q. Did she ever seem drowsy to you?

23 A. No, never during the meeting.

24 Q. Did she ever seem to the point confused?

25 A. Never during our meetings.

4

1 Q. Did she ever say: Hey, I don't get this. I
2 need to bring someone else in to help me
3 understand?

4 A. The only thing -- time she did that is when I was
5 trying to teach her how to print pictures off her
6 phone to her printer, and I had to show her that
7 a couple times. And I have a hard time doing
8 that sometimes.

5

9 Q. Okay. But never in the -- the investment stuff
10 that you were talking about?

11 A. Yeah, never. She's -- she's meticulous about,
12 like when I'd pay her bills, we'd talk about this
13 bill, paying that bill, about me paying her
14 bills. I've never seen somebody so accurate in
15 my life with -- with her bill paying. It's
16 amazing.

6

17 Q. All right. You were there at the Preliminary
18 Examination; correct?

19 A. Yes.

7

20 Q. And at the Preliminary Examination I mentioned
21 journals to her. Do you remember that testimony
22 at that time?

23 A. Yes.

8

24 Q. Did you ever see any journals?

25 A. Yes, all -- quite a few. I mean, the example is

1 the one you already showed her, the tax--

9 2 Q. Okay.

3 A. --journals, because I did her taxes for her for
4 several years. The other one was the one that
5 had to do with our business together. She kept a
6 very detailed list of money in, money out.

0 7 Q. So to your knowledge, was -- was that journal
8 accurate?

9 A. Oh, to the penny.

1 10 Q. Okay.

11 A. To the penny.

2 12 Q. Did you ever take money out, or did she ever
13 remove money that wasn't listed in that journal,
14 as far as you know?

15 A. I -- I didn't hear you.

16 Q. Did she ever provide-- Did she ever provide you
17 with--

18 A. Oh, that she didn't put in the journal?

4 19 Q. That's correct.

20 A. No. No.

5 21 Q. You're referring to a page I showed her; correct?

22 A. Correct.

23 MR. JOHNSON: All right. Your Honor,
24 may I approach the witness?

25 THE COURT: You may.

6

1 Q. (BY MR. JOHNSON) I'm going to approach you with
2 a document, Defense Exhibit A.

3 A. Um-hum.

4 Q. Have you seen that particular document before?

5 A. Yes, this and several like it.

8

6 Q. Okay. Can you describe to the jury what that
7 is?

8 A. This is her donations list for year 2013 and it
9 details-- Every time Ardis writes a check to
10 anybody, not only does she -- she was very
11 meticulous in her -- in her checkbook registry,
12 but she also did something like this, especially
13 if it had to do with her taxes.

14 So these are donations. Obviously she
15 talked about her cat. She was very -- she loved
16 the Humane Society. So, you know, once you get
17 on those mailing lists, they bombard you from
18 around the country. So she would send donation
19 checks out to around the country, some still in
20 Arizona where she used to live, and -- and she
21 would write the -- the company, the name, the
22 amount, the date, you know. Then -- then we
23 would check them off as we put them into her
24 taxes.

25 MR. JOHNSON: Thank you. Your Honor, I

1 would move to admit Exhibit A.

2 THE COURT: Any objection?

3 MS. STINEDURF: Yes, Your Honor. There
4 has been no testimony or foundation as to where
5 that information came from.

6 THE COURT: I believe that when Ms.
7 Liddle testified, she testified that, yes, that
8 was her writing, and that was for tax purposes.

9 So I will allow that to be admitted at
10 this time.

11 MS. STINEDURF: Thank you, Your Honor.

12 MR. JOHNSON: Thank you.

9 13 Q. (BY MR. JOHNSON) And how-- Again, how did you
14 come along-- Well, how did you end up-- You did
15 end up receiving that document?

16 A. Yes.

0 17 Q. And how did you get it?

18 A. Okay. So back in 2010 the -- the gentleman that
19 did Ardis' taxes for her ever since she was
20 there, she had a meeting with him one morning and
21 later that afternoon he -- [REDACTED]
22 [REDACTED] Okay. Sad. She called me up in
23 kind of a panic, she said: I don't have anybody
24 to do my taxes. I said: Well, let me take a
25 look at them. I've done mine for years. I use

1 Turbo Tax. I've done my kids'. I help friends
2 do theirs. And I'm not -- okay.

3 So anyways, make a long story short, I
4 looked at it like this is simple. I'll do them
5 for you.

6 Now, I never charged her to do her taxes
7 because they're very simple, and I can't charge
8 because I'm not a licensed tax preparer. But
9 it's pretty simple on Turbo Tax when I do my
10 own. So I'm allowed, and the IRS allows it, that
11 I can -- I can do somebody's taxes. I go right
12 to Turbo Tax with them, I'd print hers out for
13 her, she'd sign them, and she would mail them
14 in. I never signed as a preparer, but I did them
15 for her every year.

16 So she would keep an envelope for me,
17 which this was a part of, this was a part of, or
18 any other journal, with all her other items that
19 I needed. And then I would do her -- and she
20 would give me an envelope like that and it would
21 be labeled 2013. For whatever reason, I still
22 have that particular one because typically it
23 went back to her.

24 MR. JOHNSON: Okay. Your Honor, may I
25 publish the exhibit?

1 THE COURT: You may.

1 2 Q. (BY MR. JOHNSON) How do you know that came out
3 of one of her journals?

4 A. I saw her write it, and she would rip it out and
5 put it in the envelope for me when it was time to
6 do taxes.

2 7 Q. How many times did you prepare her taxes, do you
8 think?

9 A. I think I-- Well, I did them right up until 2016
10 I would have done them. It was that year and the
11 incident occurred here, so.

3 12 Q. Okay. There are all-- How long did you do the
13 taxes?

14 A. From -- from 2010 I believe. So I did them for
15 five, six years.

16 Q. The taxes were not part of what she had retained
17 you for?

18 A. Correct.

5 19 Q. What else did you do that was not on the books,
20 as it were? It was just--

21 A. Oh, whatever she needed that needed some physical
22 strength. I -- I changed her light bulbs. Like
23 even in the garage, I would have to bring my
24 truck and ladder and change the light bulbs
25 there. All the light bulbs around her house, her

1 microwave light bulb.

2 I would do -- carry up all of her
3 Christmas ornaments. She loved Christmas. She
4 has a nativity scene that is the most beautiful
5 thing I've ever seen in my life. It's white
6 porcelain characters. They're just -- it's just
7 gorgeous. And I would bring that up for her
8 every year. And then after Christmas I would
9 help her take it down and take it back down to
10 the basement.

11 I took the screen doors in and out, made
12 sure to check that the batteries were good. I
13 installed, after her fall incident with -- with
14 her in the nursing home, I put handrails in her
15 bathroom for her.

16 I've drove up to her second home in
17 Roscommon and helped her fix her furnace at one
18 point in time. I made a couple trips up there to
19 help bring furniture back that she wanted that
20 was in her second home up north.

6 21 Q. Now, was she requesting these things of you?

22 A. She -- she asked me. She goes, I want to go up
23 to my home, and I would -- I said I'll do that
24 for you. People that know me, know that I go out
25 of my way to help.

1 Q. All right. Did your relationship with her, was
2 it -- it was professional?

3 A. Yes.

4 Q. But was it also a personal relationship?

5 A. Oh, absolutely.

6 Q. How so?

7 A. I mean, we took each other to our favorite
8 Mexican restaurant El Burrito every year for our
9 birthdays. As a matter of fact, when you asked
10 her her birthday, I'm like: I know what it is,

11

12 So that was usually a date for us to
13 have lunch at El Burrito, and mine is [REDACTED]
14 [REDACTED] and she would usually take me out for
15 lunch.

16 Q. What about your family, did she get to know your
17 family?

18 A. She did. She did. She loved musicals and --
19 and when my youngest daughter did Les Mis for
20 example at Spring Lake High School, I made sure
21 she had tickets for her and Cheryl. And then two
22 times I picked her up and brought her to the
23 night of the -- but one or two times I think
24 Cheryl brought her because it was a later showing
25 or whatever.

1 But yes, she came, she met my family,
2 met my kids, yes.

3 Q. Okay. There was an exhibit provided to the jury,
4 an exhibit showing that there was a Power of
5 Attorney--

6 A. Um-hum.

7 Q. --that was developed for Ms. Liddle.

8 Do you know anything about that?

9 A. I sure do. I witnessed it and delivered it to
10 her from the attorney.

11 Q. And so you notarized it as well?

12 A. I sure did.

13 Q. Okay. Do you know where the -- that -- the form
14 at least, the form that came from?

15 A. Yes. An attorney called Ronald Farington. He
16 was out of like Saline/Ann Arbor. He's one of
17 the ones that I-- Actually I also used him with
18 CLA Estate Services too. There were two
19 attorneys.

20 Q. So you didn't draft up the Power of Attorney?

21 A. No. No. I'm not a lawyer.

22 Q. And did you suggest or imply as to -- to Ms.
23 Liddle as to who should get this Power of
24 Attorney?

25 A. No. No. In the process of taking the

1 application for estate planning, I mean it's a
2 pretty simple question when you get to the point
3 where like there's a loss of capacity and say if
4 Ardis ever had a stroke and -- and you were
5 incapacitated and you wanted somebody to make
6 business decisions for you, who would that be.
7 And she said: Cheryl.

8 So I -- guess what, Cheryl becomes her
9 POA for that document. It might be different
10 for the medical Power of Attorney, and hers it
11 might have been.

7 12 Q. So the Power of Attorney would have allowed the
13 person with the power to make business decisions?

14 A. Yeah, in case of -- it's called a springing Power
15 of Attorney, the way the attorneys write that
16 according to how they described it to me.

17 So if she ever becomes incapacitated,
18 this document is already filled out, she already
19 talked to Cheryl to say: Hey, if something ever
20 happens to me, you need to know this is here and
21 it puts you in charge of my business activities.

8 22 Q. Puts Cheryl in charge?

23 A. Yes, absolutely.

9 24 Q. Okay. Whose idea was it?

25 A. Cheryl's, Ardis'. I mean it's hers.

0 1 Q. Whose idea was it to get a Power of Attorney?
2 A. Well, I mean the attorney.
1 3 Q. I mean, did you suggest it?
4 A. It's a part of the estate planning package. So
5 in other words, I took the -- I took her whole
6 application. We call it an application for
7 estate planning, which looks at what does she
8 own, you know, what does she have. It's -- it's
9 an asset work sheet. It shows houses, vehicles,
10 investments, CD's. It's a fairly elaborate
11 thing you do. And then you also take some basic
12 information from her. You send it to the
13 attorney. The attorney will come back then with
14 a recommendation based on, okay, she has two
15 homes, she has this, she has that. I think you
16 should have a revocable living trust.

17 So she would talk to the attorney, she
18 would pay the attorney a fee. The attorney
19 would send all-- Once the documents are all
20 prepared and come to me, I would take those out
21 and deliver it to her with a witness.

22 And then including (sic) in a good
23 estate plan is going to be like a revocable
24 trust. There's going to be Powers of Attorney.
25 There's going to be medical Powers of Attorney.

1 You need those too. And then there's some other
2 little things that we would help them with, like
3 asset distribution and things that were all part
4 of the trust package from the attorney.

2 Q. Okay.

6 A. And I'm a notary. I became a notary to do the
7 -- to deliver it. So yeah, that was how she got
8 that.

3 Q. All right. So she-- Let's go back to the
10 beginning of your relationship with her and --
11 and the -- the -- the official purposes of the--

12 A. Sure.

4 Q. She requested of you what? What did she want you
14 to do for her?

15 A. She wanted me to do an estate plan for her. That
16 was the first -- that was why the original --
17 that's what the original seminar was all about
18 was estate planning and making sure to keep her
19 -- her two -- her home and her condo out of --
20 out of probate, for example.

21 I talk about probate a little bit at the
22 workshops and the effects and the time and the
23 costs that that could be versus-- And when an --
24 when an attorney advises somebody to have a
25 revocable living trust, it just makes it a

1 private document. Probate is public. I mean,
2 there's a lot of reasons why people would want to
3 choose a revocable living trust over a will, and
4 we demonstrate that at the workshop.

5 Q. Okay. And was an estate plan that you described
6 developed for Ms. Liddle?

7 A. Yes, it was.

8 Q. Okay. And who is explaining to Ms. Liddle what
9 all this stuff is and what it means?

10 A. Me.

11 Q. Did she give you any indication that she didn't
12 understand what you were doing?

13 A. Oh, never. Ardis is sharp.

14 Q. All right. So she testified that her original
15 interest in you was to help her pay bills?

16 A. Yeah. That didn't come up for quite awhile.

17 Q. When did that -- when did you start-- Okay. Why
18 don't you tell the jury, the estate plan was done
19 when and then when did you start--

20 A. Okay. So the estate plan was done, and -- and
21 part of that when-- In the workshop we talk
22 about things that also affect your income as a
23 senior. One of the big things that can affect
24 your income when you're only on Social Security
25 is how that Social Security becomes taxed by the

1 IRS.

2 So when you receive Social Security, if
3 you have other income -- interest on CD's, things
4 like that, the IRS is going to tax none of your
5 Social Security, half of your Social Security, or
6 80 percent of your Social Security based on other
7 incomes. Okay?

8 So when -- after we did the asset work
9 sheet, we did the -- the estate plan and all
10 that, said, well, let's take a look at anything
11 that's impacting your income. So at the time
12 Ardis had five or six CD's at various banks.

0 13 Q. What's a CD?

14 A. A Certificate of Deposit at a bank.

1 15 Q. Okay.

16 A. It's a savings account with the bank.

2 17 Q. Okay.

18 A. And when you did the math on the little bit of
19 interest they were paying her, it -- it -- it
20 bumped her up from a bracket where she was paying
21 tax on half of her Social Security, to 80 percent
22 of her Social Security. So it was a net loss
23 for her.

24 So -- so the smart thing to do for her
25 would be to put that -- take those moneys out of

1 the CD's and put those in a tax-deferred
2 vehicle.

3 Q. Okay.

4 A. Which is what an annuity is. A fixed annuity is
5 a CD in an insurance company that's tax
6 deferred. Same as a CD in a bank. There's some
7 other benefits actually, but -- and it usually
8 pays a little higher than the other. That's
9 because they require a longer length of time that
10 you keep it there.

4 11 Q. Okay. So this was done and these discussions
12 were held with Ms. Liddle?

13 A. Yes. That's -- that's how our financial
14 relationship started.

5 15 Q. And did she ever-- I think I asked you, did she
16 ever request that anybody else be there with her?

17 A. No, never.

6 18 Q. Did she ever express to you that she was confused
19 or didn't understand what was going on?

20 A. Never.

7 21 Q. Were there relatives around? Were there people
22 coming in and -- and checking with you and
23 saying: Hey look, what are you doing with --
24 with my aunt, that sort of thing? Did those
25 folks come around?

1 A. Most of the people that have come and testified
2 here that I have heard of the nieces or nephews
3 other than Cheryl Crays, I've never met. In the
4 10, 11 years, they've never been mentioned or I
5 have never met them.

6 The only names that I recall a little
7 bit are part of the trust is her distribution,
8 who gets your stuff when you die. So she would
9 list the people, like the Sheila. I remember the
10 Sheila name, a niece, but back then Sheila was
11 probably six, you know.

12 So I know Cheryl was there. So Cheryl
13 was going to get some of Ardis' stuff. She had
14 some other nieces or nephews because she didn't
15 have any direct children herself.

16 Q. Okay. All right. When-- How long are you
17 working with Ms. Liddle before she asked you to
18 start helping her with the bills?

19 A. Oh, it was probably maybe another six, eight
20 months after that and--

21 Q. Okay.

22 A. --at the time she wasn't paying them herself
23 anyways. The manager at the bank was doing it
24 for her, from what she told me.

25 But she was getting tired of driving

1 down there with her bills, having him do it.

2 She goes: He seems annoyed with me when I show
3 up with -- with my bag of bills. I said:
4 Ardis, I will do them for you. It's not a big
5 deal.

0 6 Q. And so do you have any idea of what you were
7 talking about when you started helping her with
8 the bills?

9 A. Like what do you mean?

1 10 Q. What year?

11 A. Oh, what year. When I started paying them for
12 her it was within a year or two of me doing the
13 trust with her I would say.

2 14 Q. Okay.

15 A. I mean, in the original--

16 Q. 2009?

17 A. Probably. Yeah, probably.

4 18 Q. Okay.

19 A. Yeah.

5 20 Q. All right. So you're doing her bills. In order
21 to do her bills, you've got to have access to her
22 bank?

23 A. Correct.

6 24 Q. All right. How do you -- how do you gain access
25 to her bank?

1 A. Okay. So when we originally started, her
2 computer was down in the basement and -- and she
3 had her user name and password on a little sticky
4 on the side of the monitor, which is where it
5 stayed for a long, long time.

6 So she says she didn't, but that's right
7 where it was. It was her choice. Her user name
8 was A L Katrina (sp?) at AOL dot com. I still
9 remember it because I thought it was
10 interesting.

11 But anyways, and then she -- her -- her
12 password was usually her -- her cat's name, with
13 -- with some year designation or something
14 behind that. But it was stuck right to the side
15 of her computer.

16 Q. All right.

17 A. So she asked me to do that for her, and she sat
18 right beside me 95 percent of the time when we
19 did that.

8 20 Q. All right. So 95 percent of the time when you
21 were in her account, she was sitting right there
22 with you?

23 A. Yeah. Okay. I need to explain the process
24 because this shows you the -- the level of
25 meticulousness that -- that she was, how good she

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was.

So I would show up, she goes-- she'd call me, I have some bills to pay. Okay. I come over within a day or two, which might make her mad because she wanted me there that day.

Anyway, I would show up and she would have a list of bills and there would be a highlighter on the amount, on the amount due that she wanted to pay. And then on the top of all those highlighted bills was a little sticky note that had, for example, \$1472.72. And I did her bills for her every two, three weeks, for whatever years. Never one time was she off a penny. Not one penny was she ever off. I'd even tease her, I'm like: I'm going to catch you sooner or later. You're going to miss a penny here on adding up the bills. And it was registered. It was already in her checkbook when she would do that, okay. And she just liked doing it on-line because she didn't like to pay.

So I would go and it was a two-step process. It wasn't just one bank account; she had two bank accounts that I -- that we used at Chase. So even the manager -- I guess the bank

1 manager didn't realize that either.

2 So the reason she would total it upfront
3 first is because I -- her Social Security came in
4 to like a savings account, and I would have to
5 transfer the money from the savings account into
6 her checking. And she kept very little in
7 there. That's why I couldn't pay the bills with
8 no money in that account.

9 So I would have to transfer, like the
10 example I used, \$1700. I would have to take
11 \$1800 out of the savings account, transfer it
12 over to the checking, and then we would start to
13 pay her bills. And then that \$1772, whatever,
14 whatever was right, whatever her sticky note
15 said, that's what came out, because she was never
16 wrong.

9 17 Q. She also talked about her checkbook and keeping
18 records in her checkbook.

19 Did you ever see how-- You mentioned
20 that you saw her put stuff in there?

21 A. I -- I -- I saw her register, but I've never -- I
22 never touched her checks. I didn't need to. She
23 was meticulous at keeping -- at keeping the
24 detail in there. It was just like her journals.

0 25 Q. All right. So she's got all this detail, and

1 this goes on for how many years?

2 A. I mean, the whole time.

3 Q. And she's never wrong?

4 A. Yeah, never. Not one time did I ever catch her
5 with even a penny off.

6 Q. Okay. And it's your observation that she kept
7 records of everything that she--

8 A. Oh, she was -- yes. Yes, she did.

9 Q. Okay. And you saw her in the courtroom -- in the
10 courtroom a couple days ago?

11 A. Yeah.

12 Q. That did not appear to be a person who takes that
13 type of meticulous care--

14 A. No.

15 Q. --do you agree?

16 A. No.

17 Q. Is that the person you knew for all those years?

18 A. No.

19 Q. All right. Now, there are allegations being
20 made-- In fact, let's start with this: You saw
21 what the prosecutor put up on the screen;
22 correct?

23 A. Yes. Yes.

24 Q. You saw all those checks for a thousand dollars,
25 5,000, \$14,000, all that stuff?

1 A. Yeah.

9 2 Q. First question, did you -- were you able to see
3 the signatures on the checks?

4 A. Yes.

0 5 Q. On the documents?

6 A. Yes. Yes.

1 7 Q. Have you seen Ardis' signature before?

8 A. Oh, yes.

2 9 Q. Have you seen it-- You saw it on her taxes?

10 A. Taxes.

3 11 Q. Have you seen it on other documents or other
12 locations?

13 A. The withdrawal forms for her CD's when I-- The
14 very first thing I did is I put all the CD's into
15 an annuity for her with National Western. I'm
16 the agent that did that for her, and she had
17 signed all those documents, suitability,
18 everything.

4 19 Q. All right. The-- Now, you are not a handwriting
20 expert; correct?

21 A. Correct.

5 22 Q. But the -- the signatures that you saw on those
23 documents, did they look to you to be like the
24 signatures you have seen for Ms. Liddle over the
25 course of years?

1 A. Yes. She signed them.

6 2 Q. Did you sign any of those documents using her
3 name?

4 A. I never would do that.

7 5 Q. There -- there are a number of checks and
6 documents made out to your company.

7 A. Okay.

8 8 Q. Were any of them ever executed without Ms.
9 Liddle's knowledge and understanding that they
10 were -- that that was going to happen?

11 A. No, none of them.

9 12 Q. So every time that a check or a document was made
13 out, whether it was in note fashion or paper
14 check, or the annuity check, or the electronic
15 transfers that the banker talked about--

16 A. Right.

0 17 Q. --did Ms. Liddle know about all of those?

18 A. She did. Absolutely.

1 19 Q. Did she agree to all of those?

20 A. Absolutely, yes.

2 21 Q. Did she keep records of all of those?

22 A. Absolutely she did, right in her journal.

3 23 Q. There was one comment-- And this is kind of out
24 of sequence. --there was one comment about the
25 \$117,000 check.

1 Do you remember that one?

2 A. I think so, yeah.

3 Q. And the banker said it's unusual for the check to
4 come from an annuity and not go into an account,
5 the account writing the check?

6 A. Yeah, and I disagree with that. Most of the
7 times-- Like when we did company-to-company
8 transfers, like if it was a like type investment,
9 like insurance to insurance company, you wanted
10 it to go directly. That was the easiest tracking
11 method is to go from company to company. 1035
12 exchange, like for example, in the insurance
13 industry that would be.

14 So it doesn't go to you personally. It
15 goes right to-- Especially, and that's a lot
16 more important when it's like an IRA where, you
17 know, you don't want it to go to the person
18 because you don't want the IRS to think that you
19 just cashed in your IRA and they're going to
20 charge you.

21 So it's a little bit more important that
22 way. They weren't IRA funds, but to me that
23 always made the most sense from a tracking
24 perspective. I would want them to go right from
25 the insurance company into my account. That's

1 why they did it that way. And -- and they mailed
2 her the check. We talked about what we were
3 going to do. We did the surrender forms for
4 those documents. She signed the surrender
5 forms. She mailed them in to the company. I
6 probably did it -- put the stamp on, but whoever
7 does her mail, took that stuff, mailed that stuff
8 out for her. They sent her the check. She
9 called me up and said: Hey, the check was here.
10 I went and did it, we endorsed it over.

5 11 Q. I'm sorry. When -- when she cancelled out the
12 annuity--

13 A. Yeah.

6 14 Q. --where did they send the check?

15 A. To her. Directly to her.

16 Q. All right. And -- and you got the word that
17 arrived how?

18 A. She would call me.

8 19 Q. You didn't go over to her house, open her mail
20 and--

21 A. No. No.

9 22 Q. All right.

23 A. No. She had a locked mail box, and I think
24 Laurie or maybe whoever was doing her -- her
25 housekeeping at the time might have went and got

1 her mail. But usually I think it was the
2 neighbor.

3 Q. So she called you and tells you the check is
4 here?

5 A. Correct.

6 Q. And then you see her sign it?

7 A. Yes.

8 Q. All right. Did you explain to her where -- what
9 was going to happen with that money, where it was
10 going to go?

11 A. Yes. We talked about-- The part of our always
12 conversation, we had great conversation about
13 everything, politics, but certainly business. We
14 loved talking about business, real estate
15 investment, how you can make money in housing.

16 To me, real estate has always been the
17 -- the safest thing you could do, put your money
18 in houses. Most of us, the only reason we're
19 worth a dime or at least like my parents know
20 enough, the only reason they ended up having a
21 dollar to their name after taxes is because they
22 bought a house, it went up in value, and they
23 slowly paid it off over the years.

24 Q. Okay. And that's what you explained to her?

25 A. We -- we had conversations about rental

1 properties all the time. She had a house up
2 north that, you know, she never really wanted to
3 rent out. She wanted to sell it a couple times;
4 I talked her out of it because the market was
5 bad. But we had -- we had real estate
6 conversations all the time.

7 After I bought the rental properties, I
8 talked to her about -- because she -- she'd keep
9 such good records, I told her like you should be
10 my records and bookkeeper; and besides, you
11 should be the one that collects the rent because
12 I can't seem to do it very well. I think she --
13 I think she would have done a much better job
14 than I would have.

15 THE COURT: Okay. Mr. Johnson, at this
16 time, it is noon.

17 MR. JOHNSON: Yes, ma'am.

18 THE COURT: And I'm sure you have many
19 more questions for this witness.

20 MR. JOHNSON: You're correct, Your
21 Honor.

22 THE COURT: So why don't we take our
23 noon break at this time, and if you would please
24 step down.

25 Find your instructions.

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Please do not discuss the case among yourselves or with any third persons during any of our recesses or adjournments.

Please do not have any conversations of any kind with either attorney or any party of anybody who might be called as a witness.

Please do not read, watch, or listen to any news media reports regarding this case. If you go out, make sure that you have your juror badges on the outside of your coats.

Anything before the jury leaves?

MS. STINEDURF: None, Your Honor.

MR. JOHNSON: No, Your Honor. Thank you.

THE COURT: Thank you very much. We will start back up at 1:30. So thank you very much.

(Whereupon, Jury excused for noon-hour recess at approximately 11:59 A.M.; with the following transpiring out of the Jury's presence.)

THE COURT: Anything further before we break?

MS. STINEDURF: No, Your Honor.

MR. JOHNSON: No, Your Honor. Thank

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you.

THE COURT: Thank you. Everybody be
back at 1:30. Thank you.

(Whereupon, noon-hour recess
taken at approximately 12:00 P.M.;
with proceedings resuming at
approximately 1:44 P.M., out
of the presence of the Jury.)

THE COURT: We are back on the record
with File 18-4131-FH.

Anything before we begin?

MS. STINEDURF: No, Your Honor.

MR. JOHNSON: No, ma'am.

THE COURT: Anything? And Mr. Haynes,
you were on the stand at the time.

THE DEFENDANT: Yes.

THE COURT: So if you would please
retake the stand, and you are still under oath.

THE DEFENDANT: Yes, ma'am. I will try
to slow down.

THE COURT: And we will bring the jury
in at this time.

(Whereupon, Jury returned
to the courtroom.)

THE COURT: Thank you, and you may have

1 a seat.

2 THE COURT: Mr. Johnson?

3 MR. JOHNSON: Thank you, Your Honor.

4 Q. (BY MR. JOHNSON) All right. Mr. Haynes, there
5 were a couple things I wanted to make sure I
6 talked to you about before we get into the
7 details of the charges here just very briefly.
8 Okay?

9 A. Okay.

10 Q. Do you remember when -- when Ms. Jacklynn Elliott
11 was testifying?

12 A. I do.

13 Q. And you know who Ms. Jacklynn Elliott is?

14 A. I do.

15 Q. Okay. And she testified as I recall it in -- in
16 that -- that you told her that your bank account
17 was closed due to the Attorney General's action.

18 Do you recall that testimony?

19 A. That's Mary-Lou Budek.

20 Q. I'm sorry. I -- I got them confused.

21 Mary-Lou Budek testified to that?

22 A. Correct.

23 Q. And but-- So obviously you remember the
24 testimony?

25 A. I do.

7 1 Q. Do you remember that conversation?
2 A. Yes, I do.

8 3 Q. Can you explain to the jury what your
4 recollections of that conversation was and the
5 information you expressed to Ms. Budek.

6 A. Right. And -- and I think she misunderstood what
7 I was saying to her. I said because of this
8 investigation, I was having trouble, you know,
9 keeping current with -- with basically a lot of
10 my bills. I had expected a couple checks coming
11 in, they didn't come in, but I said a lot of it
12 has to do with -- with the -- the way this
13 investigation has impacted my personal ability to
14 make some money and cover check -- checks.
15 Excuse me.

16 Q. Okay. So when -- when she testified that you
17 told her your account was closed, is that what
18 you told her?

19 A. I don't recall ever telling her that they closed
20 my account, because they -- they never did.

0 21 Q. Okay. And one of the things that we talked about
22 over lunch is -- is the -- the filing of tax
23 documents for -- for your businesses.

24 A. Correct.

1 25 Q. According to your understanding, when are you

1 required to file documents for -- for

2 corporations that you own?

3 A. So I know part of these charges is that I didn't
4 file tax returns for my corporate -- my companies
5 and their corporations, their companies or
6 DBA's.

7 I mean, I would think their expert would
8 have known that, but I -- I never filed for an
9 EIN for any of them.

2 10 Q. What is an EIN?

11 A. It's an Employer Identification Number. You do
12 that through the IRS if you're going to have
13 employees. I never was going to have
14 employees.

15 So all of those entities pass -- are
16 called pass-through entities, and they go through
17 my Social Security number. I never applied for
18 an EIN for any of them. That's pretty public
19 record I would think if they were digging into
20 that stuff, and I'm not required by the IRS to
21 file a tax return for those because the IRS knows
22 everything goes through my Social Security
23 number.

3 24 Q. Okay.

25 A. So I--

4

1 Q. So what are you required to file when you have a
2 -- a company that doesn't have an EIN?

3 A. Well again, an LLC is a Limited Liability
4 Company. It's not a corporation.

5

5 Q. Okay.

6 A. If you have an LLC that's got multiple partners,
7 then you would have to.

6

8 Q. All right.

9 A. And there's some others, but I, you know, I --
10 whatever the other requirements are, I -- I know
11 I didn't meet the threshold to have to file for
12 an EIN because I never had employees. I never
13 had multiple owners of the LLC's. They were
14 going to be short-lived anyways.

15 Part of the only reason I started doing
16 some of these LLC's was some of the real estate
17 seminars that I went to that talk about flipping
18 houses and giving you those formulas that you use
19 to do that stuff, when I started to get busier
20 there, they tell you to put an LLC for every
21 individual project or house that you have, just
22 from a liability standpoint. That's -- that's
23 all it is.

24 But from a -- a tax standpoint, they're
25 pass-through entities. They go right to my

1 personal Social Security number. So I could have
2 a hundred of them, but as long as they're just my
3 Social Security number, I don't have to file a
4 tax return for all hundred of them. Just one.

7 Q. Just one. And that would be your personal tax?

6 A. Correct.

8 Q. Okay. And did you file for your personal tax?

8 A. Yes, I did.

9 Q. All right. Let's-- There are a number of-- As
10 I understand the testimony, there's a number of
11 issues here which were brought up by the
12 prosecutor-- Make sure I get the right page
13 here. --basically checks that were or money
14 that -- that ended up in your care. Okay? And
15 -- and I would like to bring your attention to
16 one from July 20 -- well, July 7th, 2014 for
17 \$12,000.

18 Do you remember that check from Ms.
19 Liddle?

20 A. I mean, there was a number of checks from-- I
21 don't necessarily remember any of them
22 specifically. I know some of the things I was
23 going through at the time.

0 24 Q. Why don't you tell the jury what you were going
25 through.

1 A. Well -- well, for example, I mean, one of the
2 first real estate projects that I tried to do on
3 my own-- It wasn't-- And even during the time
4 that I did my financial planning business or did
5 the seminar stuff, I was always living in a house
6 getting it fixed up. I grew up in
7 construction. So, you know, my fall-back
8 position is always to be-- And I like to stay
9 busy. --I fix houses up, I sell them, I move on.

10 So there was a lot of different things
11 that -- that I talked to her about that I used
12 some money for. One was a project on Boone
13 (sp?) Road.

14 2014, is that-- I think that was the
15 year you just asked about?

16 Q. July. July 23rd, 2014.

17 A. 2014.

18 Q. July 7. I'm sorry. July 7th.

19 A. That might have been -- that might have been one
20 of the condos in Greenville that I was redoing
21 with one of my partners.

22 Q. What does her money have to do with that?

23 A. Well, what I did is I -- I mean, I would ask
24 her-- We would talk about projects I'm working
25 on and I would say: Hey, I need some money to

1 get by until I get the next phase of this project
2 done, and if she had -- if she had it available,
3 she would -- she would lend it to me.

4 Q. So this was a personal loan, or was this a
5 business?

6 A. Personal/business, I mean it's all the same.
7 Again, my businesses are me personally. So I
8 mean, I see it as a personal loan. But I mean,
9 even though I deposited it into my business, it's
10 still me personally.

5 11 Q. Was -- was there an expectation that you repay
12 this money?

13 A. Yes.

6 14 Q. Was there an expectation that there was interest
15 involved in this \$12,000 check?

16 A. Yes.

7 17 Q. And what was -- what is the result of that? Has
18 that money been repaid, or is that still owed?

19 A. Some of it -- some of it's been repaid,
20 absolutely.

8 21 Q. But there is some of it that's still owed?

22 A. Yes.

9 23 Q. Is any of it past due?

24 A. No.

0 25 Q. There -- there were a number of \$1,000 checks.

1 So between July-- Let's see, June 11th to, looks
2 like, July 23rd is the last one of them.

3 Do you remember receiving those twenty
4 \$1,000 checks?

5 A. A lot of those were the on-line transfers. So
6 when I was paying her bills, there was a point in
7 time where Ardis wanted me to bring her some cash
8 when I came to see her on a -- you know, every
9 few weeks. I don't know if she was paying Jody
10 with cash or what she was doing with it, but I
11 would also bring her cash. But she would mark
12 that in her journal.

13 And there were other times when I paid
14 her back, for example, with some cashiers checks
15 for bigger amounts.

16 Q. Okay. So was any of this money going to you?

17 A. (Whereupon, no response.)

18 Q. Any of these thousand dollar checks, was any of
19 that income going to you?

20 A. The ones where she -- the ones where I borrowed
21 back cash, no. I would -- I would get the
22 money, I would cash it and bring it back because
23 I was going to be there a couple days.

24 Q. Okay. So none of this money ended up in -- for
25 your personal use?

1 A. Not those. I'm pretty sure all of those fall
2 into that category.

3 Q. Okay.

4 A. Those on-line.

5 Q. Okay. And Ms. Liddle knew about all these
6 transactions?

7 A. Yes, she did. Like I said, very meticulous about
8 what came in and went out of her accounts.

9 Q. And Ms. Liddle requested these transactions?

10 A. Yes. She approved them.

11 Q. There was a check from looks like December 11th
12 -- I'm sorry, December 12th, 2011-- So this was
13 about seven years ago.

14 A. Right.

15 Q. --for \$5,000?

16 A. Yep. That one I do remember quite vividly.

17 Q. Why don't you tell us about that.

18 A. Two of my daughters decided to get married within
19 six months of each other. So as the -- as the --
20 as the -- the father of the bride, the bride's
21 side pays for weddings, I -- I asked Ardis to
22 borrow some money for that.

23 Q. So that was strictly personal?

24 A. Yes.

25 Q. And--

1 A. All -- all -- again, all a part of the same
2 ledger that we kept together.

3 Q. And did she -- did she know about this?

4 A. Yes.

5 Q. Did she sign the checks?

6 A. Yes, she did.

7 Q. And you explained--

8 A. Right in front of me.

9 Q. And was this going to be repaid to her, or was
10 this a gift?

11 A. Absolutely to be repaid to her.

12 Q. And was this an interest-bearing situation?

13 A. They all were. It was on top of the original
14 note that I did with her. That was -- yes.

15 Q. Okay.

16 A. That she signed.

17 Q. There was a second one again-- Well, another
18 \$5,000 check on February 25 of 2015.

19 Do you recall that one?

20 A. Again, I would have to go back and look and see
21 what project I was on at the time, but.

22 Q. Again, how many years did you and Ms. Liddle work
23 together?

24 A. I mean, ten years, you know, plus or minus.

25 Q. How many financial transactions do you think you

1 were involved with?

2 From paying her bills to investing her
3 money, how many financial transactions were you
4 involved in?

5 A. Quite a few. I mean, where I brought her either
6 back some money or paid her back or borrowed some
7 money from her. Oh, yeah.

1 8 Q. Let's see, there are -- there's a check for I
9 think it was \$13,000.

10 A. Um-hum.

2 11 Q. Do you recall what that one was for?

12 A. Do you know what year that was?

3 13 Q. I will find it somewhere in here. One for 12
14 and one for 13; correct?

15 I'm sorry. I don't see it in my notes
16 right now. You don't have a 15? Well, wait a
17 minute. I'm sorry. Number 2894. I don't
18 have a date. I'm sorry. Oh, December 2013.

19 A. Isn't that the one we just talked about? I'm not
20 sure.

4 21 Q. There was one for 12,000 in December -- in July
22 2014.

23 A. And again, I would have to look back at what the
24 real estate projects I was working on at the
25 time. Again, I -- I think I was still working on

1 the condos in Greenville.

5 2 Q. All right. And there's a second one for
3 \$14,000. Do you recall that one either?

4 A. Probably the same scenario.

6 5 Q. Was that -- was that anything unusual about your
6 working method that--

7 A. Not -- not at all.

7 8 Q. And -- and Ms. Liddle was informed that this is
9 what you were doing?

10 A. Yeah. I talked about -- she knew about all the
11 projects I had going on at the time anytime I
12 asked her to borrow some money.

8 13 Q. Did you ever put anything in writing that you
14 were going to pay her back or?

15 A. Yeah, we did. We had a note. I originally did
16 a note with her. And then when it got beyond
17 that where I asked to borrow some more and -- and
18 we did some other transactions, that's when she
19 started the journal. Instead of me doing a note
20 every time I borrowed some money from her, it
21 made a lot more sense for her to just keep track
22 of it.

23 You know, on some of the bigger ones I
24 would actually even sign that for her, that
25 journal.

9

1 Q. Okay. And so there was a written record of
2 these transactions--

3 A. Correct.

4 Q. --in her journals?

5 A. Correct. And -- and my mistake, I didn't ever
6 make a copy of that. I never thought that was
7 ever going to be necessary. She was the one that
8 it was important for her to have that.

1

9 Q. Do you remember a \$20,000 check in October of
10 2011?

11 A. Probably. I mean again, back in 2011 that was
12 -- that was right when my daughters were getting
13 married. That was 2011. I also ended up in the
14 hospital for awhile after that. I had a staph
15 infection in my arm from a job where I -- I was
16 on a PICC Line, and I was about out of work for
17 almost six months, and she helped me through that
18 period.

2

19 Q. Uh-huh.

20 A. I was also paying for projects along that time
21 too, so.

3

22 Q. You mentioned that there were some repayments of
23 some of this money that you could find?

24 A. Correct.

4

25 Q. Now, were you able to find all the documentations

1 of all the repayments that--

2 A. No, I didn't. I -- I would just throw receipts
3 into some boxes because she was the one that was
4 very meticulous about that stuff. I was pretty
5 busy working all the time. I pretty much spent
6 seven days a week out there doing everything I
7 can to -- to make it happen.

8 And I did go through and found a couple
9 of cashier's checks that I had issued her.

10 MR. JOHNSON: Your Honor, may I
11 approach?

12 THE COURT: You may.

5 13 Q. (BY MR. JOHNSON) All right. Mr. Haynes, will
14 you take a look at that document. Have you seen
15 that before?

16 A. Yeah. It's a double page, but they're--

6 17 Q. I don't want you to show the jury yet because
18 they haven't been admitted yet.

19 A. They were individual, yes.

7 20 Q. I want-- What does that document show me?

21 A. It shows you a copy of the two checks, cashier's
22 checks, that were made out from me personally and
23 a combination of me and my company, to Ardis
24 Liddle.

8 25 Q. And -- and the -- the amount that each check is

1 for?

2 A. Each one is \$4,000. One is dated September
3 11th, 2015. The other one is dated December
4 21st, 2015.

9 5 Q. Do you-- From whom are those payments coming?

6 A. From Gary Haynes and then slash FBD, which is
7 Future By Design.

0 8 Q. And to whom are they going?

9 A. To Ardis Liddle.

1 10 Q. And do you recall the purpose of those payments?

11 A. She-- I don't remember what it was she needed
12 done. I don't know if it was a roof on her house
13 up north or it-- I don't remember. She wanted a
14 little bit more than I had been bringing her.

15 For example, with -- with the cash that she went
16 and asked me to bring her every now and then.

17 So I didn't feel comfortable having
18 \$4,000 in cash to bring her. So I did it in the
19 form of a cashier's check.

2 20 Q. Was that money-- So this money was requested by
21 her?

22 A. Yes.

3 23 Q. Okay. And are these part of the repayments or
24 are these--

25 A. Repayments. Again, part of the ledger -- money

1 in/money out.

4 2 Q. Okay.

3 A. So, and then she would put that -- she would mark
4 that in there, and then I would get credit for
5 that \$4,000 each time she did that.

5 6 Q. And you saw her actually record that?

7 A. I made sure she did it. Not that I didn't trust
8 her, but yes, I made sure she did it.

6 9 Q. Okay. And is that document basically as you
10 recalled it at the time?

11 A. Yes. They were individual checks, but -- and we
12 copied them both on one page. But yes, they're--

7 13 Q. Any alterations or additions made to those
14 copies--

15 A. No.

16 Q. --that you're aware of?

17 A. No, not at all.

9 18 Q. Did you actually deliver those documents?

19 A. Yes, I did.

0 20 Q. Do you know whether or not Ms. Liddle deposited
21 them?

22 A. I have no clue what she did with them.

23 MR. JOHNSON: Okay. Thank you. Your
24 Honor, I'd move for the admission of Exhibit B.

25 MS. STINEDURF: May I voir dire, Your

1 Honor?

2 THE COURT: You may.

3

4 VOIR DIRE EXAMINATION OF MR. GARY HAYNES

5 BY MS. STINEDURF, J.D.:

1 6 Q. Where did you say you have that check, those
7 copies of those checks?

8 A. In a box of files that -- that I had at my
9 house.

2 10 Q. Where in your house?

11 A. In the garage.

12 MS. STINEDURF: Nothing further. No
13 objection.

14 THE COURT: Thank you. Defendant's
15 Exhibit B will be admitted.

16 MR. JOHNSON: Thank you, Your Honor.
17 May I publish?

18 THE COURT: You may.

19 MR. JOHNSON: Where did I put my stuff.
20 May I approach the witness, Your Honor?

21 THE COURT: You may.

3 22 Q. (BY MR. JOHNSON) Mr. Haynes, I would like to
23 show you what has been marked as Proposed Exhibit
24 C. I would like you to just take a look at
25 that. Don't show that to anybody yet. Okay?

1 A. Okay.

4 2 Q. All right. Have you seen that document before?

3 A. Yes, I have.

4 Q. What is that and what is purported to be
5 displayed in that particular document?

6 A. That is a promissory note from Future By Design
7 LLC to Ardis Liddle. I can't quite read the
8 address, her address, for a given amount, which
9 is 116,000 I think it's 353.90. I didn't bring
10 my cheaters.

6 11 Q. I'll grab them. Is that a copy of a document
12 that you're familiar with?

13 A. Yes. She has the original.

7 14 Q. What does that-- What does that document purport
15 to-- And I assume the document purports to show
16 an agreement between you and she?

17 A. Correct.

8 18 Q. What is the agreement?

19 A. The agreement is a promissory note back from my
20 company, Future By Design LLC, to Ardis Liddle to
21 repay principal and interest on 4-5 of 2015 at
22 3-1/2 percent interest, \$116,353.90.

9 23 Q. Now, there's a check out there for 117,000. Now,
24 this is for 116,000. Is there any relation
25 between those two documents?

1 A. I don't recall.

0 2 Q. What does the figure 116,000 represent? How is
3 that figure arrived at, do you recall?

4 A. I don't recall. This is April 5th of 2011.
5 This was when we first started. So there might
6 have been some give and take even before that a
7 little bit, but when -- when we decided to do a
8 big amount, I thought it was important that we --
9 that she had a promissory note.

1 10 Q. And did you receive funding to -- to -- from her
11 to support that particular--

12 A. I did. That was part of one of those large
13 checks.

2 14 Q. Which one?

15 A. I think there was -- there was one that was less
16 than that. There was-- I don't remember at the
17 time, but there was also -- there might have been
18 at the time a balance here. I -- I know the
19 number was correct or she wouldn't have signed
20 it.

3 21 Q. Now, there's some-- Now, above the promissory--

22 A. Yep.

4 23 Q. --there's some writing. What is that?

24 A. Yeah. On 4-2 of '15--

5 25 Q. No. I don't need you to tell us what it is.

1 What is it, not what does it say.

2 What is-- That's not part of the
3 promissory note?

4 A. It's a copy of a sticky note.

6 5 Q. Okay. But that's not part of the promissory
6 note?

7 A. No, it's not.

7 8 Q. So that wasn't part of the original document?

9 A. Correct.

10 MR. JOHNSON: Okay. With that, Your
11 Honor, I would move to admit Exhibit -- Proposed
12 Exhibit C.

13 MS. STINEDURF: May I voir dire, Your
14 Honor?

15 THE COURT: You may.

16

17 VOIR DIRE EXAMINATION OF MR. GARY HAYNES

18 BY MS. STINEDURF, J.D.:

8 19 Q. Where did you find this document?

20 A. I had a copy of this.

9 21 Q. Where?

22 A. In -- in her file.

0 23 Q. Where was her file?

24 A. In my office.

1 25 Q. In your office in your house? In an office in a

1 separate building?

2 A. In my office in my house I think this one was.
3 At the time this whole thing started, I had to
4 pull these things. I didn't have an office in a
5 separate building.

6 MS. STINEDURF: No objection. Thank
7 you.

8 THE COURT: Thank you. Defense Exhibit
9 C will be admitted.

10 MR. JOHNSON: Thank you, Your Honor.

2 11 Q. (BY MR. JOHNSON) Let's talk about the check for
12 \$117,000.

13 A. Uh-huh.

3 14 Q. Do you remember that one?

15 A. I -- I do.

16 Q. Where did the money to fund that check come from?

17 A. I think that was the one from National Western
18 Life.

5 19 Q. Okay.

20 A. I believe.

6 21 Q. And what was supposed-- The check was signed
22 over to one of your companies; is that correct?

23 A. Correct.

7 24 Q. What were you supposed to be doing with that
25 money?

1 A. I was using it to buy properties.

2 Q. Okay.

3 A. Working on projects, or it was up to my
4 discretion. I mean, you know, she didn't ask
5 for me to put properties necessarily in her
6 name. As a matter of fact, the conversations we
7 had about it from her nursing home stays, about
8 Medicaid look back, she preferred that not to be
9 the case.

10 I have other people that want the
11 properties in their names, and I do that.

12 Q. Okay. Now, we have heard the term annuity--

13 A. Correct.

14 Q. --banded about.

15 A. Right.

16 Q. And yet these investments aren't annuities, are
17 they?

18 A. They are not.

19 Q. These are land?

20 A. Correct.

21 Q. Real property; correct?

22 A. Correct.

23 Q. Did Ms. Liddle know that? Did she know that this
24 was--

25 A. Yes.

5

1 Q. --investments in land as opposed to annuities?

2 A. Yes. Yeah. She -- she understood very clearly
3 when I put her money originally into that single
4 fixed -- that fixed annuity originally from the
5 CD's that I explained earlier.

6 The problem with -- with these annuity
7 companies-- And again, you learn this after
8 you're in it for a couple years and after you've
9 done a few. --they have this introductory period
10 where it's great for the client. And then when
11 they get to the renewal periods, they take away a
12 lot of the goodies from you, and the expenses
13 start to go through the roof.

14 So all of a sudden things aren't as
15 great as they used to be, and there were better
16 ways to make a return on the money, which was
17 real estate, from my opinion. So we decided to
18 do that. She thought the same thing.

6

19 Q. How much time did you spend explaining this?

20 A. Oh, we spent -- we spent a lot of time talking
21 about real estate. All the time we talked about
22 it, but -- and she understood because she got to
23 see the renewal rates, you know, when they would
24 come due on her annuities.

7

25 Q. I think we're off subject just a little bit, but

1 there was some conversation during the course of
2 this trial about the -- the -- the impact that
3 nursing care has on Ms. Liddle's retirement.

4 Did you have any discussions along those
5 lines?

6 A. Well, part of the real -- part of the seminars we
7 used to put on, we used to talk about nursing
8 homes and what it can do to a retiree and a
9 benefit, and you talk about look-back periods for
10 Medicaid spend down. If you end up in a nursing
11 home, what's the average cost of a nursing home
12 per year. And then how much do you have saved
13 up. How much do you think that you would last if
14 that was the case.

15 There are some very legal structures in
16 place, and -- and there's lawyers that specialize
17 in Medicaid-- I call it Medicaid spend down or
18 Medicaid qualification. --to get people
19 qualified so that they end up -- they can be --
20 still collect Medicaid and not completely lose
21 everything they've worked for their whole life.

22 And for example, at the time I think
23 when -- when I first met with Ardis, the -- the
24 --

25 MS. STINEDURF: I'm going to object at

1 this point. This is nonresponsive. I don't
2 believe that I asked if he ever spoke with
3 Ms. Liddle about nursing home care.

4 THE COURT: Sustained. That's true.

5 MR. JOHNSON: I'll ask-- I'll ask you a
6 direct question. That's fine.

8 7 Q. (BY MR. JOHNSON) You talked to her about nursing
8 home care?

9 A. Yes.

9 10 Q. And did you explain to her what impact nursing
11 home care in her -- in her late years might have
12 on her life savings?

13 A. Yes.

0 14 Q. What was the explanation you gave her?

15 A. That in Michigan, the law at the time was there
16 was a three-year look back for Medicaid spend
17 down. And in between this time since then it's
18 moved up to a five-year look back for Medicaid
19 spend down.

1 20 Q. And what does that mean?

21 A. Okay. So it means when you go to qualify for
22 Medicaid, there's certain things that -- that the
23 State of Michigan is going to look at; the income
24 they might not take away, which is why you might
25 want to turn it into an actual annuity where

1 you'd get payments, because all annuities you
2 don't necessarily have to get payments for. You
3 have to annuitize it to get a payment. Some of
4 them are just like the CD's I explained.

5 So you can either turn it into an income
6 stream, or you can -- you can gift it away, for
7 example. A lot of people gift. The IRS will
8 allow you I think at the time you could do up to
9 11, 12,000, or might be 13 or 14 now every year
10 to as many people as you want. And -- and you
11 can do that every year.

12 But you have to get beyond five years
13 before the State of Michigan would look back at
14 you and say, hey, that money is still yours.

2 15 Q. How much time did you spend explaining this to
16 Ms. Liddle?

17 A. We had a lot of detailed conversations. Again,
18 she was really sharp. I mean, she understood a
19 lot of these things and concepts.

3 20 Q. Okay.

21 A. Absolutely.

4 22 Q. Well, let me ask you: Is any of the money that
23 you received from Ms. Liddle that -- that was
24 supposed to be repaid to her, is any of it at
25 this point overdue, according to the contract?

1 A. No. No.

5 2 Q. According to the contract you had?

3 A. No. No.

6 4 Q. There has been some suggestion that some of this
5 money at least was converted to your personal
6 use; that you used some of the money.

7 Now, you've testified that you -- you
8 were given authorization you said for personal
9 use?

10 A. Yeah.

7 11 Q. But -- but did you ever take money that was
12 supposed to go to investments and apply it to
13 your own personal needs -- your housing, your --
14 your -- the marriage, the--

15 A. Yes, absolutely. Yes, I did.

16 Q. What was-- Did you have permission to do that?

17 A. Yes, I did. I talked to her about that. I--
18 When I needed it for something, whether it was
19 personal or business, which I see is all the same
20 thing, I talked to her about it.

9 21 Q. All right. Now, this -- this money, do you have
22 any idea how much is -- do you have any idea how
23 much is due to Ms. Liddle?

24 A. The last recollection I had of the journal
25 balance was in about the hundred and eighty-four

1 thousand dollar range.

0 2 Q. All right. Now, how-- When was this money
3 begun-- When was this money to begin to be
4 repaid?

5 A. Well, the -- the -- can I back -- refer back to
6 this, the note?

1 7 Q. I need you to just, yes, tell me now.

8 A. Yes. So -- so this -- this note was originally
9 due on 4 -- April 5th of 2011, or that -- that's
10 when it was-- I'm sorry. That was when it was
11 -- that's when it was executed. It was due in
12 four years.

2 13 Q. So was it repaid in four years?

14 A. No. She verbally agreed, we decided to renew it
15 on April 2nd of 2015 for four years.

16 Q. So--

17 A. 4-5. Yes, 4-5 of '15 is when it was originally
18 due.

4 19 Q. So according to the terms of the note, when is
20 the money due?

21 A. This coming April.

5 22 Q. In 2019?

23 A. Correct.

6 24 Q. This-- Okay. You have a contractual obligation
25 with Ms. Liddle and with others; correct?

1 A. Correct.

7 2 Q. To repay money?

3 A. I do.

4 Q. How did you expect to do that?

5 A. I currently right now, for example, I own six
6 houses in Muskegon Heights. I was--

9 7 Q. And?

8 A. Well, I've been fixing them up. I either had
9 them as in rental positions, fixing them up, and
10 I would liquidate them all.

0 11 Q. All right. To pay back these notes?

12 A. Correct.

1 13 Q. What--

14 A. Other projects that I have also in the works.

2 15 Q. What impact, if any, has this prosecution namely,
16 or the investigation of your business, had on
17 your ability to repay your clients their money?

18 A. I-- Well, I had seven other projects that I was
19 going to be able to use in the future to -- to --
20 to pay some of the other notes that are coming up
21 due, and I've already had a couple of them pulled
22 because of the investigation.

3 23 Q. Have you seen a copy of the AG letter yourself?

24 A. I did. Right away when Mary-Lou got it, she took
25 a picture of it and sent it to me. I had

1 another -- another client send me a letter -- a
2 copy of it also.

4 3 Q. And they're sending -- they're contacting you
4 once they're getting these letters?

5 A. Yes, they were.

5 6 Q. Is it fair to say that these -- that they contact
7 you out of concern once they get these letters?

8 A. Yes.

6 9 Q. Is it fair to say they have stopped investing
10 with you since they've gotten these letters?

11 A. Yes.

7 12 Q. You read the 14 charges against you. Are you
13 guilty of any of them?

14 A. No, I am not.

8 15 Q. Did you fairly and accurately express your income
16 in the tax charges?

17 A. I did.

9 18 Q. Did you embezzle, cheat, steal from Ms. Liddle?

19 MS. STINEDURF: I'm going to object to
20 the leading questions.

21 THE COURT: Sustained.

0 22 Q. (BY MR. JOHNSON) Did you improperly acquire
23 property of Ms. Liddle's?

24 MS. STINEDURF: I'm going to object to
25 the leading question.

1 MR. JOHNSON: I will rephrase it a third
2 time.

3 MS. STINEDURF: Thank you.

4 Q. (BY MR. JOHNSON) The money you got from Ms.
5 Liddle, how did you get that?

6 A. I asked her to borrow it.

7 Q. And?

8 A. She agreed to it.

9 Q. And were there any other ways you received this
10 money?

11 A. We talked about every check that she signed. We
12 talked about every transfer that we did on-line,
13 which wasn't very many.

14 Q. Did you ever receive money from her that she was
15 not aware of?

16 A. No, I did not.

17 Q. Did you ever receive money or anything of proper
18 -- of value from her that she had not agreed to
19 transfer to you?

20 A. No, I did not.

21 Q. Has-- Is it still your intention to-- When
22 these notes come due, what is your intention to
23 do with those?

24 A. To pay them back.

25 MR. JOHNSON: Thank you. I don't have

1 any further questions.

2 THE COURT: Thank you. Any questions
3 for this witness?

4 MS. STINEDURF: Yes, Your Honor.

5

6 CROSS-EXAMINATION OF MR. GARY HAYNES

7 BY MS. STINEDURF, J.D.:

7 8 Q. Senior Planning Resource, is that your company?

9 A. It is, yes.

8 10 Q. Future By Design, is that your company?

11 A. Future By Design LLC, yes.

9 12 Q. You met Ardis Liddle at a seminar you conducted
13 using the name of Senior Planning Resource?

14 A. No. It was the Estate Planning Institute I
15 worked for at the time that advertised that first
16 one that she came to me with.

0 17 Q. Did they advertise Senior Planning Resource?

18 A. No. Senior Planning Resource came along after
19 the fact.

1 20 Q. Okay. And what did you use for the name of the
21 company that you were working for at that time?

22 A. She had a business card, you know, I would have
23 handed out. The proprietor, the -- the people in
24 charge of that company, were at that original
25 workshop that she came to.

2 1 Q. So you met Ardis Liddle through one company, and
2 then later you continued a business relationship
3 with her through--

4 A. Yes, she wanted to. I left that company--

5 THE COURT REPORTER: Sir, you cut off
6 her question.

7 THE WITNESS: I'm sorry.

8 THE COURT REPORTER: I couldn't hear
9 it.

3 10 Q. (BY MS. STINEDURF) So you met Ardis Liddle
11 through one company, then continued working with
12 her through your own company Senior Planning
13 Resource?

14 A. Correct.

4 15 Q. You said that you started working with Ms. Liddle
16 in 2005; correct?

17 A. No. She didn't come to a seminar until 2007 I
18 believe.

5 19 Q. When did you stop working with her?

20 A. When I got the call from Mr. Sternberg (sic).

6 21 Q. When was that?

22 A. Whatever those dates were -- September 28th or
23 29th of 2016.

7 24 Q. So you mentioned then you got a call from
25 Mr. Stenberg is his name; and when you talked to

1 him, did you tell him that you could get her
2 money back within a few days?

3 A. Actually Ardis called me. I--

4 Q. It's a yes or no question.

5 Did you tell him you could get her
6 money--

7 A. Not--

8 Q. --back in two days?

9 A. Not -- not when I originally talked to him. Not
10 in the original conversation, no.

11 Q. Did you tell him later that you could get her
12 money back within a few days?

13 A. I made an offer to him.

14 Q. What did you offer to pay him?

15 A. I offered to give him a check -- give her a
16 check, not him, for about \$38,000, and I could
17 try and get rid of the rest of the properties to
18 help her out within 6-to-8 weeks.

19 Q. So you told him that you would be able to pay the
20 rest of the money within 6-to-8 weeks?

21 A. I would have tried to, yes.

22 Q. And that was in 2016?

23 A. Thereabouts, yes.

24 Q. Did you talk to Detective Sergeant Rypstra also
25 in 2016?

1 A. I did.

5 2 Q. Did you tell him that you would be able to repay
3 Ms. Liddle within 6-to-8 weeks?

4 A. I told him I would try to.

6 5 Q. You've heard the testimony here?

6 A. Uh-huh.

7 7 Q. You've heard from Detective Sergeant Rypstra.
8 You were in the courtroom; correct?

9 A. Yes.

8 10 Q. Did he say that you told him you would try?

11 A. He didn't say that, but that was the conversation
12 that I remember.

9 13 Q. And you heard the testimony from Don Stenberg;
14 correct?

15 A. Correct.

16 Q. Did he say that you told him you would try to get
17 the money?

18 A. He told me no deal is what he testified. All or
19 nothing.

1 20 Q. Did you also speak with Ryan Rimedio at Chase
21 Bank?

22 A. I don't remember the conversation with him on the
23 phone. I -- I -- he says he called me a couple
24 times, but at this stage I had met -- not ever
25 met or talked to Don. I knew her for 11 or 12--

2 1 Q. Do you recall if you spoke with Ryan Rimedio in
2 2016?
3 A. I don't recall; correct.
4 Q. So now here it is in 2016 -- excuse me, 2018.
5 That was the fall of 2016--
6 A. Yes.
7 Q. --you were asked about that money. You said you
8 would be able to get some money within a few
9 days. The rest of the money within 6-to-8
10 weeks. As you say, you would try.
11 Since that time have you repaid Ms.
12 Liddle \$38,000?
13 A. Not yet. It's not due.
14 Q. And you certainly haven't repaid her \$100,000; is
15 that correct?
16 A. Correct.
17 Q. Now, you were here in the courtroom when Ardis
18 Liddle testified on Monday; correct?
19 A. I was.
20 Q. You were also here when she testified on Tuesday?
21 A. Yes, I was.
22 Q. Could you see and hear Ms. Liddle clearly when
23 she was testifying?
24 A. I could.
25 Q. And were you in the courtroom when she walked to

1 the witness stand?

2 A. I was.

3 Q. Would you describe her as vulnerable when she
4 testified on Monday and Tuesday?

5 MR. JOHNSON: Objection, Your Honor,
6 Relevance for one thing. Her situation today is
7 not at issue. So I -- I would ask that that
8 question is irrelevant and, quite frankly,
9 subjective and not relevant, so.

10 MS. STINEDURF: It's certainly relevant
11 to his perception of what a person is or is not
12 vulnerable. He's testified repeatedly today that
13 Ms. Liddle was sharp, and that she was completely
14 in control of her finances and her financial
15 decisions. I would think if he is able to make
16 that judgment as to when he worked with her when
17 he felt she was alert and able to make these
18 decisions, he can certainly make that decision
19 today and tell us if he thinks how she is today
20 is any different than how she was before.

21 THE COURT: Well, as to-- She is-- He
22 could definitely tell you if seeing her now is
23 the same as he seen her then, but asking if he
24 believes she is a vulnerable person today is not
25 relevant, so.

1 MS. STINEDURF: I will rephrase the
2 question.

3 THE COURT: Thank you. Sustained.

1 4 Q. (BY MS. STINEDURF) So you said you saw and heard
5 her clearly while she was testifying?

6 A. Yes, I did.

2 7 Q. And you said that she appears different today
8 than she was before?

9 A. Yes, I would say different. She didn't recognize
10 me when she walked in front of me.

3 11 Q. Well, when she was testifying, what else did you
12 notice, if anything, that was different about how
13 she was before?

14 A. Her memory.

4 15 Q. And before the times that she was here in court,
16 you said that you stopped working with her in
17 2016. Was she the same as she was here today as
18 she was in 2016?

19 A. Up until-- No, she was not.

5 20 Q. Would you describe her as appearing less capable
21 of handling her affairs as compared to how she
22 was in 2016, or more capable?

23 MR. JOHNSON: Your Honor, I'm -- again,
24 I think this is just the same question asked in a
25 different way.

1 THE COURT: Overruled. It's not.

2 MR. JOHNSON: All right.

3 Q. (BY MS. STINEDURF) And again--

4 A. I'm not going to make a medical designation about
5 her condition right now. I -- I haven't talked
6 to her in--

7 THE COURT: Okay. Hold on. That's
8 not what the question was. They're not asking--
9 It's your opinion on what she was then and what
10 you observed in the courtroom, so.

11 THE WITNESS: It's different.

7 12 Q. (BY MS. STINEDURF) Okay. It's different.
13 Again, how is it different?

14 As she appeared in the courtroom, does
15 she appear to be more capable of handling her own
16 affairs, or was she more capable of handling her
17 own affairs in 2016?

18 A. 2016.

8 19 Q. What about in 2015, does she appear to be more
20 capable of handling her affairs here in 2018, or
21 was she more capable of handling her affairs in
22 2015?

23 A. 2015 she was more capable.

9 24 Q. What about 2014, was she more--

25 A. More capable.

0

1 Q. --then? She was more capable in 2014?

2 A. Um-hum.

3 THE COURT: Is that a yes?

4 THE WITNESS: Yes.

1

5 Q. (BY MS. STINEDURF) What about 2013, was she more
6 capable then?

7 A. Yes.

2

8 Q. What about 2012?

9 A. Yes.

3

10 Q. Was she also more capable in 2011?

11 A. Yes.

4

12 Q. Now again, you saw her testifying here in the
13 courtroom. Would you feel comfortable asking her
14 for a business loan today?

15 A. No, I wouldn't, not without--

-

16 Q. Would you -- would you ask her to invest money in
17 your business today?

18 MR. JOHNSON: Objection, Your Honor.

19 Today is not relevant.

20 MS. STINEDURF: Again I think it is

21 relevant. There is a difference between--

22 There has been testimony as to what she was like

23 then and what she is now. He has indicated that

24 he believes she is less capable than she was

25 then, and he said he felt perfectly fine asking

1 her to invest money, give him money at that
2 time.

3 So I think it's important to know today,
4 based on her current status, if there is a
5 difference.

6 THE COURT: But it's not relevant as of
7 today because he's not having any other contact.
8 With all of the situation that we have here and
9 what the jury has to decide is what happened
10 then, not what it is today.

11 MS. STINEDURF: Thank you, Your Honor.

12 THE COURT: So I will sustain.

6 13 Q. (BY MS. STINEDURF) And you said that when you
14 first started working with Ms. Liddle, you
15 weren't originally paying her bills?

16 A. Correct.

7 17 Q. And how long was it before you started paying her
18 bills?

19 A. I don't recall.

8 20 Q. And you mentioned she had a computer in the
21 basement. Is that--

22 A. Yes, she did.

9 23 Q. Is that the computer you used to pay her bills?

24 A. No.

0 25 Q. What computer did you use to pay her bills?

1 A. By the time I started doing it with her, I had
2 helped her pick out a lap top. She had a lap
3 top. And then eventually she didn't like the
4 size of that screen and she picked out a larger
5 computer. As a matter of fact, one of the first
6 Windows ones, and it was upstairs.

1 7 Q. Okay. So you used the computer upstairs in her
8 home to pay her bills?

9 A. Correct. I don't ever remember doing the
10 downstairs computer.

2 11 Q. How did you access her bills?

12 A. She would-- Her user name and password was on
13 the side of the computer, and we would enter it
14 and we would go to the -- her account and pay the
15 bills.

3 16 Q. At that time did you know where her bank accounts
17 were?

18 A. No. Well, yeah I did, I mean obviously because
19 she had me go to Chase, the user name, and I
20 would -- I would know the web site.

4 21 Q. She had a bank account at Chase Bank then.

22 Did she have a bank account at Fifth
23 Third Bank?

24 A. I don't recall because we didn't use that to pay
25 the bills. We used the two at Chase.

5 1 Q. She have a bank account at Bank of America?
2 A. I don't recall.
3 Q. She have any investments or annuities with AVIVA
4 Life?
5 A. When I first met her, yes, she did.
7 6 Q. Did she have any investments or annuities with
7 National Western Life?
8 A. I'm the one that wrote that policy, so yeah.
8 9 Q. Yes?
10 A. She did.
9 11 Q. Now, you mentioned previously that you were a
12 registered investment advisor. Is that what you
13 said?
14 A. Correct.
15 Q. Are you still a registered investment advisor?
16 A. Well, it's -- it's an investment advisor
17 representative.
1 18 Q. Are you still a registered investment--
19 A. No, I'm not.
2 20 Q. --representative?
21 A. No, I'm not.
22 THE COURT: Okay. Hold on a minute.
23 Wait until she finishes.
24 THE WITNESS: Okay. Okay. Sorry.
3 25 Q. (BY MS. STINEDURF) Why not?

1 A. Because of this incident and--

4 2 Q. Do you still have a license?

3 A. No, I don't.

5 4 Q. Who suspended your license?

6 A. The -- the SEC.

6 6 Q. When was it suspended?

7 A. I don't recall because I don't -- I didn't go,
8 attend the hearing.

7 9 Q. Is that not an important detail?

10 A. I didn't know I had a hearing.

8 11 Q. You determined that your license was suspended?

12 A. They-- The only registered letter that they sent
13 me was after the fact about where to pay the
14 fine.

15 Q. When did you determine your license was
16 suspended?

17 A. When I got the letter about the fine.

0 18 Q. When did you get the letter--

19 A. Oh--

1 20 Q. --about the fine?

21 A. --in April of this last year. Yeah, I think it
22 was April 2018.

2 23 Q. Now, you mentioned that you have quite a bit of
24 training in finances and experience working with
25 other people's finances.

1 Do you have a responsibility to ensure
2 that your client understands what they are doing
3 as far as their finances and where their money is
4 going?

5 A. Yes, I do.

6 MS. STINEDURF: May I approach the
7 witness, Your Honor?

8 THE COURT: You may.

3 9 Q. (BY MS. STINEDURF) For the record I am handing
10 you a binder containing several exhibits. I am
11 turning to what has been marked as Exhibit 13.
12 You will notice throughout there are several
13 tabs. There is Tab A--

14 A. Yes.

4 15 Q. --B, C, D?

16 A. Yes.

5 17 Q. Go ahead and take a look through those.

18 A. Yes. Yes, um-hum.

6 19 Q. And look up once you've had a chance to review
20 them.

21 MR. JOHNSON: Exhibit 13, counsel?

22 MS. STINEDURF: Yes.

23 THE WITNESS: So you want me to look at
24 each one of these tabs?

7 25 Q. (BY MS. STINEDURF) Yes.

1 A. These look like requests and copies of my tax
2 returns.

3 Q. Those the tax returns associated with your
4 personal Social Security number; correct?

5 A. Correct.

6 Q. Show me on there where there is income reflected
7 from transfers from Ardis Liddle's accounts.

8 A. There isn't. It wasn't income.

9 Q. Did you ever speak with Cheryl Crays about Ardis
10 Liddle's business activity?

11 A. I don't recall ever hardly speaking to Cheryl at
12 all.

13 Q. You knew she was Ardis' Power of Attorney;
14 correct?

15 A. Ardis chose her as her Power of Attorney;
16 correct.

17 Q. Did you charge Ardis for your services regarding
18 her estate planning?

19 A. No, I did not. Me personally, no. The company
20 charges her. I don't remember exactly what it
21 was back then.

22 Q. And after that when you began working under the
23 umbrella of Senior Planning Resource, did you
24 ever charge her?

25 A. No.

4 1 Q. You said you did her taxes?
2 A. Correct.
5 3 Q. That was from 2010 til 2015. Is that--
4 A. I believe--
6 5 Q. --what you said?
6 A. --that's roughly when it started.
7 7 Q. You never charged her for that?
8 A. No, I did not. I wasn't allowed to.
8 9 Q. Charge her for any of the work that you did for
10 her?
11 A. No.
9 12 Q. And what year did you begin working under the
13 umbrella of Senior Planning Resource when you
14 worked with her?
15 A. I don't recall when I did my DBA. I'm not sure.
16 With her specifically, it was probably right
17 after she got her original estate planning
18 documents.
0 19 Q. So what year would that have been?
20 A. Probably I think her estate plan was written in
21 2008, January of 2008. So some time probably
22 later in 2008.
1 23 Q. So from 2008 to 2016 you didn't charge her?
24 A. Correct.
2 25 Q. You mentioned previously that you thought real

1 estate was one of the safest investments you can
2 make?

3 A. Yes.

4 Q. How long have you been working in the financial
5 industry?

6 A. With my licenses, just half a dozen years or
7 so. Five, ten years.

8 Q. And refresh my memory, what were you doing before
9 you got those licenses?

10 A. I was a salesman.

11 Q. Salesman of what?

12 A. Well, I did estate plans.

13 Q. How long have--

14 A. And other jobs prior to.

15 Q. How long have you been investing in real estate?

16 A. My whole life.

17 Q. And so you were investing in real estate during
18 2008?

19 A. Yes.

20 Q. Okay.

21 A. I believe I had a house.

22 Q. And to your recollection were there any financial
23 issues regarding real estate that hit the entire
24 country in 2008?

25 A. Yes.

1 Q. You mentioned that you also know construction?

2 A. Correct. I grew up doing construction work.

3 Q. So you have been doing construction work your
4 entire life as well?

5 A. I -- I have been.

3 6 Q. Now, we have introduced several documents today
7 including copies of two checks and a copy of a
8 promissory note. You said you found the checks
9 in a box in your house and the promissory note in
10 a box in your office.

11 Is there any other places that you store
12 records?

13 A. No. I try to keep it all together, but it was in
14 the process of a move. I didn't realize I didn't
15 have all my boxes up in the office at the time.

16 Q. And you said you primarily relied on Ms. Liddle
17 to keep records of any loans that she had
18 provided you?

19 A. Yes. She was good at that.

5 20 Q. And she kept track of her bills?

21 A. Yes, very meticulously so, yes.

22 MS. STINEDURF: Thank you. Nothing
23 further.

24 THE COURT: Any follow-up?

25 MR. JOHNSON: No, ma'am. Thank you.

1 THE COURT: Thank you. You may step
2 down.

3 (Whereupon, witness excused
4 at approximately 2:32 P.M.)

5 THE COURT: Mr. Johnson, any other
6 witnesses?

7 MR. JOHNSON: No, ma'am. The defense
8 rests.

9 THE COURT: Any rebuttal witnesses?

10 MS. STINEDURF: None, Your Honor. Thank
11 you.

12 THE COURT: Thank you. Well, it looks
13 like we are done with testimony at this time.

14 What happens next in the procedure is I
15 have -- we will have closing arguments, and then
16 I will have jury instructions. Before we give
17 you the closing arguments in this case, we have
18 to make sure that all of the jury instructions
19 are what needs to be there for me to read to
20 you. So it takes us a little bit to get those
21 altogether and make sure that they are what we
22 need.

23 So at this time, instead of at 3:15
24 taking the break, I will take the break at this
25 time and have you come back-- I will give you an

1 extra long break at this time. --and have you
2 come back at 3:00. That will give us enough
3 time to get everything that we need and ready for
4 the closing arguments at that time.

5 Anything before I have the jury leave?

6 MS. STINEDURF: None, Your Honor. Thank
7 you.

8 THE COURT: Anything?

9 MR. JOHNSON: No, ma'am. Thank you.

10 THE COURT: Seems like I would have this
11 memorized by now, but I don't.

12 Please do not discuss the case amongst
13 yourselves or with any third persons during any
14 of our recesses or adjournments.

15 Please do not have any conversations of
16 any kind with either attorney or any part (sic)
17 of anybody who might be called as a witness.

18 Please do not read, watch, or listen to
19 any news media reports regarding this case.

20 If you go out of the courtroom, make
21 sure that you wear your badges on the outside of
22 your clothes or jackets.

23 And anything further at this time?

24 MR. JOHNSON: No, ma'am.

25 THE COURT: All right. We will excuse

1 the jury and have you back here at 3:00. Thank
2 you.

3 (Whereupon, Jury excused for break
4 at approximately 2:34 P.M.)

5 THE COURT: If I can see the attorneys
6 at this time. At this time have the parties back
7 at 3. I'll see the attorneys now.

8 (Whereupon, recess taken at
9 approximately 2:35 P.M.; with
10 proceedings resuming at
11 approximately 3:00 P.M., out
12 of the presence of the Jury.)

13 THE COURT: We are back on the record.
14 Anything before we bring the jury back?

15 MR. JOHNSON: No, ma'am.

16 MS. STINEDURF: No, Your Honor.

17 THE COURT: Thank you. We will bring
18 the jury in.

19 (Whereupon, Jury returned to
20 the courtroom at approximately
21 3:03 P.M.)

22 THE COURT: You may be seated. Thank
23 you for your prompt return.

24 And at this point we will have closing
25 arguments. First to the prosecutor.

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MS. STINEDURF: Ardis Liddle never wanted to give Gary Haynes her money. She went to a seminar looking for help. She wanted help paying her bills. When she went to that seminar, that was in 2005, she was already in her mid 80s. That's when she met Gary Haynes. Gary Haynes worked with her for years. He said that first he was involved in her estate planning, and then only later did he pay her bills. She said she only wanted him to pay her bills. Ardis Liddle didn't want to give him a loan. She didn't want him as a business partner. She just wanted him to help pay her bills.

But Gary Haynes talked a good game. He told her that he had been working in finance his whole life. He told her about his licenses, his credentials, and all that he knew about real estate, about annuities, about all the different ways that you could invest. And he kept talking. He told her about everything he could do, everything he knew about.

He also gained her trust. He helped her out around the house. He changed light bulbs, changed screen doors. He delivered furniture for her. He went to dinner with her on

1 her birthday. Worked with her for years, and
2 she trusted him. She didn't check her
3 accounts. She didn't check her bank balances.
4 He was paying her bills as far as she was
5 concerned.

6 And this never would have changed except
7 for in 2016, she needed money and she couldn't
8 get it. That's when she went to Ryan Rimedio.
9 Ryan Rimedio at Chase Bank was the first one that
10 realized something was wrong. That's when people
11 started looking further at her bank accounts.
12 That's when she first started asking for help.

13 She asked Don Stenberg for help. They
14 went to Officer Bryan Rypstra; they asked him
15 for help. And one after the other, Gary Haynes
16 told everyone who had talked to him: I'll get
17 her money soon. It's fine. Just a few days,
18 6-to-8 weeks tops.

19 Now today he told you, he said: I would
20 try. I tried to get her money. That was back
21 in 2016. But he testified today: I haven't
22 paid her back any of that money, not since
23 2016. It's not due yet. He was willing to say
24 whatever he had to say in 2016 to make this go
25 away.

1 Today Ardis Liddle is 97 years old.

2 You saw a promissory note today --
3 \$116,000 due to Ardis Liddle, 2019, when she's 98
4 years old.

5 Ask you to consider as you deliberate
6 today whether this is something that Ardis Liddle
7 really wanted to do. Whether she wanted an
8 outstanding promissory note of \$116,000 on loan
9 for her at this point in her life.

10 And I'll also ask you to consider
11 whether she knew what was going on, whether she
12 knew whether this money was being transferred for
13 her -- from her accounts, what this money was
14 doing, and what he was asking her to do. And I'm
15 going to ask you to look at where the money went,
16 where the money came from, where the money
17 went. Follow the money.

18 Now, you will be asked to consider
19 several counts today when you deliberate. You
20 will be considering the charge of racketeering,
21 conducting an enterprise.

22 You will be considering one count of
23 embezzlement from a vulnerable adult \$100,000 or
24 more.

25 You will also be considering eight

1 counts of embezzlement from a vulnerable adult
2 \$1,000 to \$20,000.

3 Finally you will be considering four
4 counts of failure to file tax returns.

5 Now, I've broken down the elements for
6 you so that you can see one at a time.

7 The first element of conducting a
8 racketeering enterprise is:

9 The Defendant was an employee of or
10 associated with an enterprise. And you will see
11 the definition in your jury instructions.

12 An enterprise can be an individual
13 person, a proprietorship, a corporation, a
14 limited liability company, any other legal
15 entity.

16 And you've heard testimony today from
17 multiple witnesses, including Gary Haynes
18 himself. Senior Planning Resource, that's his
19 company. Future By Design, that's his
20 company.

21 You have also seen the bank accounts,
22 and you have heard testimony from Richard
23 Boyer. Several of these bank accounts, they're
24 in the name of Gary Haynes. Some of them are
25 Gary Haynes Doing Business As Future By Design.

1 Some of them are Gary Haynes As Senior Planning
2 Resource.

3 Element two is:

4 The Defendant knowingly conducted or
5 participated in the affairs of the enterprise,
6 directly or indirectly, through a pattern of
7 racketeering.

8 So an act of racketeering is committing,
9 attempting to commit, or conspiring to commit a
10 listed offense for financial gain.

11 And so then from there you will be asked
12 to consider the listed offenses.

13 The listed offenses the Defendant could
14 be committing are: Embezzlement by an agent
15 \$100,000 or more;

16 Embezzlement by an agent of \$20,000 or
17 more, but less than 50,000;

18 Embezzlement by an agent of 1,000 or
19 more but less than 20,000;

20 And then also a second listed offense of
21 embezzlement of 1,000 or more but less than
22 20,000. Four listed offenses.

23 Element one: The money belongs to Ardis
24 Liddle. As you're looking at the charge of
25 conducting a racketeering enterprise, there are

1 four transactions I ask you to consider:

2 Transaction one, that AVIVA Life
3 transaction of \$107,735.10. The date on that is
4 March 3rd of 2011.

5 The next transaction is regarding a
6 transaction from Chase Bank. That is dated
7 October 28th, 2011.

8 The next transaction is from Fifth Third
9 Bank in the amount of \$5,000. That's dated
10 December 12, 2011.

11 And then the next transaction is from
12 Bank of America in the amount of \$5,000. That's
13 dated December 12 of 2011 as well. So two
14 transactions on the same day coming from two
15 different bank accounts belonging to Ardis
16 Liddle.

17 The next element is that the Defendant
18 had a relationship of trust with Ardis Liddle
19 because the Defendant was an agent.

20 An agent is a person whose been given
21 authority to represent or act on another person's
22 behalf. Ardis Liddle testified she asked the
23 Defendant to help her pay her bills on the
24 computer. The Defendant used her computer to
25 access her accounts with her permission.

1 The Defendant testified he went to her
2 house, he performed tasks for her, changed light
3 bulbs, changed screen doors, helped move things
4 around her house, spent time with her, went to
5 restaurants with her, invited her to children's
6 plays.

7 Element 3: The Defendant obtained
8 possession or control of the money because of
9 this relationship.

10 The Defendant only had access to Ms.
11 Liddle's money because Ms. Liddle trusted him to
12 pay her bills. He was able to sit at the
13 computer in her house. He was able to look at
14 her user name and password. He told you that
15 that was on a sticky note that he could see.
16 That's how he was able to access her accounts.
17 He knew that she had several accounts at
18 different financial institutions.

19 Element 4: The Defendant dishonestly
20 disposed of the money or converted the money to
21 his own use. So conversion means using or
22 keeping someone else's property without that
23 person's permission.

24 Ms. Liddle has testified she wanted the
25 Defendant to pay her bills. Ms. Liddle didn't

1 want to give the Defendant money, loan the
2 Defendant money, or form a business relationship
3 with him. Ms. Liddle's money went to the
4 Defendant's bank accounts.

5 And again, I ask you to consider how
6 reasonable it might be that Ms. Liddle, in her
7 90's, would decide that she wanted to embark on a
8 new business venture with Mr. Haynes. That she
9 wanted to participate in this house flipping
10 venture. That she wanted to give him personal
11 loans. That she just wanted to be his personal
12 bank account.

13 And I ask you to consider whether she
14 really understood that that was what he intended
15 with any transfers of money he made from her
16 accounts, and whether she was even aware that
17 this money was being transferred from her
18 accounts.

19 Mr. Haynes had unfettered access to her
20 accounts as he was able to get into her home, use
21 her computer to access her money. She reviewed
22 each one of those transactions that went out of
23 her accounts and into his accounts and said she
24 did not want that money to go to a loan, to a
25 business relationship, or to any other kind of

1 transaction to benefit Mr. Haynes.

2 Now Element 5 is that when the Defendant
3 did this, he intended to defraud or cheat Ardis
4 Liddle of some money or property. You're not
5 required to check your common sense at the door.
6 I ask you to consider what you think the
7 Defendant was doing when he transferred her money
8 into his accounts and used that money to pay his
9 own personal expenses.

10 And again, the Defendant's intent may be
11 proved by what he said, what he did, how he said
12 it or how he did it, or any other facts and
13 circumstances in evidence.

14 Now, the next element of conducting a
15 racketeering enterprise. So now you've already
16 reviewed the listed offense. Now we're moving
17 back to the original elements of the racketeering
18 charge. So there's almost a charge within a
19 charge when you consider the racketeering
20 offense.

21 So this element is the fair market value
22 that the property was, and that's that listed
23 amount in the charge. So that's when we're
24 talking about a hundred thousand dollars or more,
25 20,000 to \$50,000, and \$1,000 to \$20,000.

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And so I ask you to look at those transactions:

The \$107,000 transaction;

The transaction from Chase Bank that was in the amount of \$20,000;

The transaction of \$5,000 from Fifth Third Bank;

And the transaction of \$5,000 from Bank of America.

All those transactions took place in 2011, and I provided a chart to explain where the money went.

As you can see, on March 3rd of 2011 there is a withdrawal from Ms. Liddle's AVIVA Life annuity account. The money then goes to Mr. Haynes' Senior Planning Resource account. That's an account that is at Huntington Bank and has an Account Number 1722. That entire amount is transferred directly into Mr. Haynes' account.

From there the money goes into Mr. Haynes' Huntington account, and that number ends in 7267.

Between March 22nd of 2011 and June 23rd of 2011, \$102,700 is transferred into that second

1 account. So it goes first from Ms. Liddle's
2 account, to Mr. Haynes' account ending in 1722,
3 to Mr. Haynes' account ending in 7267. Almost
4 all of that money is transferred twice.

5 \$5,000 is written as a check to cash
6 after it is transferred to Mr. Haynes' second
7 account.

8 \$102,700 is spent on miscellaneous
9 expenses, including car repairs, retail stores,
10 bills, and family members.

11 Then there is that second transaction of
12 \$20,000. You will see that on October 28th of
13 2011 there's a withdrawal from Ms. Liddle's Chase
14 Bank account in the amount of \$20,000. It goes
15 into Mr. Haynes' Huntington account ending in
16 7267, and then a \$6,000 check is written to
17 Shelly Haynes on November 4th of 2011. \$14,000
18 goes to miscellaneous expenses. Those include
19 car repairs, retail stores, bills, and payments
20 to family members.

21 Now, Offense 3 and Offense 4 took place
22 on the same date. So there was a \$5,000 transfer
23 from Fifth Third Bank, and that was dated
24 December 12th of 2011.

25 There was another \$5,000 transfer from

1 Bank of America. That was dated December 12 of
2 2011 as well.

3 Because they were deposited on the same
4 day, you will see that those two transactions are
5 those first boxes on your left side. So the one
6 transaction is noted that it came from Fifth
7 Third Bank. The other transaction came from the
8 Bank of America bank account.

9 \$5,000 from the Bank of America account,
10 \$5,000 from the Fifth Third account goes into the
11 Huntington Bank account belonging to Mr. Haynes
12 ending in 7267, for a total of \$10,000.

13 \$6500 goes to miscellaneous expenses.

14 \$3500 goes to a check written from
15 Mr. Haynes and deposited into Haynes' Huntington
16 account ending in 0916. So again, that money is
17 transferred to a second account belonging to
18 Mr. Haynes.

19 Out of that second account there's
20 numerous transfers totaling over \$3500 to
21 Mr. Haynes' Huntington account. This one ends in
22 1973. So that money actually goes from one
23 account, to the next account, to the third. So
24 three accounts of Mr. Haynes' that pass through
25 from Ardis Liddle's accounts.

1 Now, if you determine beyond a
2 reasonable doubt that the Defendant was an agent
3 of Ardis Liddle; that the Defendant had money
4 entrusted to his care because of this
5 relationship; that the Defendant was asked to
6 pay, refund, or deliver the money to Ardis Liddle
7 and did not do so, then these facts, if not
8 explained, are circumstances from which you may
9 infer that the Defendant intended to embezzle the
10 money.

11 You do not have to make this
12 inference. Remember, Ryan Rimedio asked for her
13 money. Don Stenberg asked for her money.
14 Detective Sergeant Bryan Rypstra asked for her
15 money. Today Ms. Liddle got none of that money
16 that was requested way back in 2016.

17 Now, if you find that the Defendant
18 committed acts of racketeering, you must also
19 determine whether he engaged in a pattern of
20 racketeering. So that means committing at least
21 two acts of racketeering to which all of the
22 following characteristics apply:

23 The acts have the same or substantially
24 similar purpose, result, participant, victim, or
25 method of commission, are otherwise interrelated

1 by distinguishing characteristics, and are not
2 isolated acts.

3 The victim in all of these offenses is
4 Ardis Liddle.

5 The method of commission is Ms. Liddle's
6 money went to Mr. Haynes' bank accounts.

7 The result is that Ms. Liddle's money is
8 gone.

9 You must also find whether the act posed
10 a threat of continued criminal activity. The
11 Defendant has taken money from others in other
12 transfers.

13 Mary-Lou Budek and Ron Morris have both
14 testified today that the Defendant took money
15 from Ms. Liddle for years. This didn't stop
16 until 2016 when Ms. Liddle started asking for
17 help from others.

18 You must find that at least one act
19 occurred in Michigan after April 1st, 1996, and
20 the last act occurred not more than ten years
21 after the act before it. So the first act
22 occurred March 3rd of 2011. The last act
23 occurred on July 6th of 2015.

24 Now, after you're done considering the
25 elements of conducting a criminal enterprise, you

1 must also consider the elements of embezzlement
2 from a vulnerable adult.

3 Embezzlement. One of these offenses is
4 that the Defendant obtained or used the money of
5 Ardis Liddle. And again, you've heard testimony
6 regarding the bank records, and those bank
7 records have been admitted into evidence, which
8 you may request to see if you want to see them at
9 any time during your deliberations. The money
10 was transferred from Ms. Liddle's account to the
11 Defendant's account. The Defendant had access
12 to those accounts.

13 The Defendant used fraud, deceit,
14 misrepresentation, coercion, or unjust enrichment
15 to obtain or use the money. The Defendant had
16 access to Ms. Liddle's money. Ms. Liddle said
17 she did not want to give the Defendant her money
18 as a loan, investment, or business arrangement,
19 and Ms. Liddle's money was transferred to the
20 Defendant's accounts.

21 You have also heard testimony of note
22 from Doctor Miller that in fact, if anything,
23 Ms. Liddle is sharper today than she was back in
24 2013. She's not on some of the same heavy
25 medications that she was on back then. And she

1 was quite clear when she testified both on Monday
2 and Tuesday that she did not want him to have her
3 money as a loan, as any kind of a payment to
4 Mr. Haynes, or as any kind of a business
5 relationship. She's in her 90's. She did not
6 wish to enter into a business relationship with
7 Mr. Haynes regarding his house flipping
8 business.

9 Now Element 3 is: At the time, Ardis
10 Liddle was a vulnerable adult. This means Ardis
11 Liddle was 18 years or older and was aged or
12 physically disabled such that she required
13 supervision or personal care, or she lacked the
14 personal and social skills required to live
15 independently.

16 You have heard from numerous individuals
17 that Ms. Liddle has needed help with cleaning,
18 getting the mail, getting groceries, medications,
19 since 2005.

20 And she has lived on her own because, as
21 many people have testified, Ms. Liddle is
22 somewhat resistant to the idea of moving into a
23 facility of any kind. She wishes to continue to
24 live on her own, but she is able to do that
25 because people are in her home helping her. They

1 are helping her get her food. They can't even
2 access the bottom level of the home where she
3 lives. They are helping her get her mail.
4 They are helping her move things around her
5 apartment, and they are checking to make sure
6 that her food is in the correct date that's in
7 her refrigerator. She is not living completely
8 on her own. She is receiving care from many
9 others, which enables her to live alone.

10 That said, Ms. Liddle does in fact live
11 alone in the sense that no one is with her all of
12 the time. She is not living with a spouse.
13 She's not living with a child or other family
14 member. Mr. Haynes is the only one who had
15 access to her money. No one else was reviewing
16 her finances. No one was looking at her
17 money. Ms. Liddle testified that she trusted
18 Mr. Haynes to do what she wanted him to do with
19 her money. She never reviewed her finances.
20 She didn't look at the electronic bank records.
21 She trusted him to do that. That was his
22 responsibility.

23 She was vulnerable to him in the sense
24 that she is someone who requires personal care,
25 she needs assistance as she's living in her daily

1 life, and yet Mr. Haynes took advantage of that
2 situation by doing with her money what was best
3 for him.

4 Element 4: The Defendant knew or should
5 have known that Ardis Liddle was a vulnerable
6 adult. The Defendant himself has testified he
7 moved Ms. Liddle out of a nursing home in 2013.
8 In fact, he said that he helped put the barrier
9 up across her stairway so that it wasn't such an
10 issue. He put a barrier or a railing up in her
11 bathroom.

12 He knew that she was someone that needed
13 help. He testified that she used a cane since
14 the time he first started meeting with her. Of
15 course she's appeared today and she's using a
16 walker. The Defendant was involved in her
17 finances.

18 While Doctor Miller testified she was on
19 fairly high doses of Fentanyl and she was also on
20 Norco, Doctor Miller said that although it's
21 possible for some lower level function for
22 someone whose close to her to not realize their
23 thinking is impaired, once you get to a higher
24 level task, like managing finances, that is much
25 less likely.

1 And again, Doctor Miller testified that
2 Ms. Liddle is doing better now than she was five
3 years ago. No major medical events have occurred
4 to cause any kind of dramatic decline in Ms.
5 Liddle in the last several years. Doctor Miller
6 said that there were no events such as a stroke,
7 anything like that, that would have caused a
8 sharp decline from where she was back in 2011,
9 2015, until now. And again he's testified, if
10 anything, she's better today.

11 And you watched her testify. You were
12 able to see that she had some difficulty hearing
13 the questions. She wasn't able to see if Mr.
14 Haynes was in the courtroom, even after getting
15 up and looking around the courtroom. And she had
16 a hard time sitting for long periods of time. We
17 took several breaks to enable her to -- to allow
18 her to testify. This is better than it was back
19 in 2013. Mr. Haynes was working with her and her
20 money in 2013.

21 Element 5 of Embezzlement From a
22 Vulnerable Adult is: The amount of money taken
23 was, and that's where you're going to be asked to
24 consider different value amounts.

25 And so Count II, you're going to be

1 asked to consider the value of a hundred thousand
2 dollars or more.

3 Counts 3 through 10 are concerning the
4 value of a thousand dollars or more, but less
5 than \$20,000.

6 Element 6 is: The property was taken
7 for the direct benefit of the Defendant or to
8 indirectly benefit him.

9 An indirect benefit means the Defendant
10 gained some advantage or value other than
11 possession or use of the money or property
12 itself.

13 Remember, the money is transferred from
14 Ms. Liddle's accounts directly to the Defendant's
15 accounts. If that wasn't a benefit to him, then
16 what was that. And again, follow the money as it
17 was transferred from one account to the other.

18 So you can see from this chart, on May
19 21st, 2012 there was a withdrawal from Ms.
20 Liddle's National Western annuity of
21 \$117,490.42. That money went directly to Mr.
22 Haynes' Huntington account ending in 7267. Over
23 \$100,000 in outgoing expenditures came out of
24 that Huntington account ending in 7267 between
25 June 1st, 2012 and August 31st, 2012, including

1 car repairs, retail stores, bills, family
2 members, and checks made out to cash.

3 Also on August 27th of 2012
4 approximately \$6,000 was paid to the University
5 of Detroit Mercy for a Lyndsay Haynes.

6 Next transaction is a withdrawal from
7 Ms. Liddle's account of \$14,000 from the Bank of
8 America account belonging to her. That
9 withdrawal occurred on October 31st, 2013. And
10 that money then went, all \$14,000 of it, to Mr.
11 Haynes' Huntington account ending in 2947. This
12 is a Future By Design account.

13 \$1,000 -- \$1,300 in cash withdrawals
14 occurred between November 1st, 2013 and November
15 7th of 2013.

16 \$12,700 in miscellaneous expenses,
17 including car repairs, retail stores, sporting
18 venues, and bills also went out of that
19 Huntington account ending in 2947.

20 Count 4: \$13,000 went from the Chase
21 Bank account on December 12th -- on December 2nd
22 of 2013. That money was withdrawn from Ms.
23 Liddle's Chase account. All \$13,000 went to
24 Mr. Haynes' Huntington account ending in 2947.

25 \$11,800 was spent including restaurants,

1 retail stores, and bills.

2 On December 12th of 2013 a \$1200 check
3 was written to cash. And again, Mr. Haynes used
4 Ms. Liddle as his personal ATM.

5 Count 5: \$12,000 was withdrawn from the
6 Chase Bank. That was withdrawn on July 7th of
7 2014. \$12,000 was withdrawn from Ms. Liddle's
8 Chase Bank account. \$12,000 went to Mr. Haynes'
9 Huntington account ending in 2947. \$10,000 in
10 miscellaneous expenses, including restaurants,
11 retail stores, and bills went out of that
12 account.

13 And then on July 15th, 2014 a \$2,000
14 check was written to Senior Planning Resource.
15 This is Mr. Haynes' Huntington account ending in
16 7267.

17 There is additional activity there then
18 between one account and the other, all belonging
19 to Mr. Haynes.

20 On Count 6: \$1,000 was withdrawn from
21 Ms. Liddle's Chase Bank account, and the date on
22 that is July 23rd, 2014. That money goes
23 directly to Mr. Haynes' bank account ending in
24 7267. A thousand dollars in miscellaneous
25 expenses were spent, including fuel and overdraft

1 fees. Ask yourself if Ms. Liddle intended to pay
2 for Mr. Haynes' overdraft fees and his gas bill.

3 \$5,000 goes from Ardis Liddle's Chase
4 account on February 26, 2015. That goes from
5 her-- Excuse me. That goes from her-- That
6 \$5,000 comes out of her Fifth Third account, and
7 that money goes to Mr. Haynes' Flagstar account
8 that ends in 4525.

9 \$4,950 goes into an account ending in
10 1197, Mr. Haynes' personal checking account,
11 between March 2nd, 2015 and March 6th of 2015.

12 An additional \$1,000 comes out of
13 Ms. Liddle's Chase Bank account on May 21st,
14 2015. That goes into Mr. Haynes' Flagstar
15 account ending in 4533. A thousand dollars in
16 miscellaneous expenses, including retail and
17 grocery stores all go out of that account by May
18 31st of 2015.

19 \$1,000 goes for (sic) Ms. Liddle's Chase
20 Bank account. On June 11th of 2015 that money
21 goes to Mr. Haynes' Flagstar account ending in
22 4533. That's a Future By Design account.

23 Another thousand dollars in
24 miscellaneous expenses go out of that account,
25 including retail shopping, grocery stores, and

1 ATM withdrawals by June 30th of 2015. So now
2 Ms. Liddle's money is paying for Mr. Haynes'
3 grocery bills.

4 Another thousand dollars comes out of
5 the Chase Bank account on July 6 of 2015. That
6 money is transferred to Mr. Haynes' Flagstar Bank
7 account ending in 4533.

8 There is an ATM withdrawal from that
9 account on July 10 of 2015 for \$782.

10 There is actually another ATM withdrawal
11 from that account on July 17th of 2015 for
12 \$303. So more money that was even transferred
13 into that account of Ms. Liddle's bank account is
14 withdrawn from that account within just a few
15 days after the transfer.

16 You will also be asked to consider
17 whether the Defendant made or caused a fraudulent
18 tax return to be made.

19 Element 1 is: The Defendant either made
20 or caused a tax return or tax payment to be made
21 to the Michigan Department of Treasury.

22 Richard Grandy has verified the accuracy
23 of the tax returns that have been admitted
24 exhibits in this case, and those include tax
25 years 2012 and 2015 through 2016.

1 Element 2 is: That the tax return or
2 tax payment was false or fraudulent. A false or
3 fraudulent return or payment is a return or
4 payment that is incomplete, inaccurate,
5 misleading, or forged.

6 Scott Darnell said embezzled income was
7 not reported on the Defendant's tax returns, and
8 that the embezzled income should be reported on
9 the Defendant's tax returns.

10 And again, the required content of the
11 tax return is the Defendant is required to report
12 income on a tax return. Income does include any
13 gains in money or property that the Defendant
14 obtained during the reported tax period. It does
15 not matter whether the money or property was
16 gained in a legal or illegal manner.

17 Ultimately Mr. Haynes would like you to
18 characterize these transactions as loans taken
19 from Ms. Liddle's bank accounts. For something
20 to be a loan, a person has to agree that a loan
21 be taken out of their account. They have to
22 understand the money that they are handing over
23 to the second person. They have to understand
24 that that money is ultimately to be repaid to
25 them. It has to be a voluntary transfer.

1 If I take something from someone, if I
2 were to take this away from an aged person,
3 they're sitting at the table and walk away with
4 it, if that belonged to him, I can't just call it
5 a loan and make it okay. He has to agree that
6 it's okay that this be taken away, and that I
7 plan to return it at a later time.

8 There is no dispensation for taking
9 money out that does not belong to Mr. Haynes, for
10 Mr. Haynes taking that money from Ardis Liddle
11 characterizing that as a loan to make it okay.
12 If Ms. Liddle didn't agree to it, if Ms. Liddle
13 didn't want it, and if Ms. Liddle didn't
14 understand it, it's not a loan. That is
15 embezzled income.

16 I'm asking you to consider what you
17 think that Ms. Liddle really wanted to happen
18 when she was in her 90's and she was working with
19 Mr. Haynes, Mr. Haynes who felt quite comfortable
20 telling you all today that, gosh, before he
21 started running Senior Planning Resource, he was
22 making great money, and he had an illustrious
23 career working in finance. He was working in
24 sales, then he started working in finance, and he
25 was doing pretty well. If all that is true, why

1 is he taking \$5,000 from Ardis Liddle, a woman in
2 her 90's?

3 Do you really think for a minute that
4 Ardis Liddle wanted \$5,000 to go out of her
5 account to his daughters' wedding loan?

6 Do you think that Ardis Liddle wanted
7 over \$117,000 of her money to be -- excuse me,
8 \$116,000 of her money to be placed in a loan to
9 be repaid when she turned 98?

10 And in fact if you follow the bank
11 transactions, you will see there's more than
12 \$116,000 missing from her accounts. Altogether
13 there is \$303,656.34 that were taken from Ms.
14 Liddle's bank accounts that she did not want
15 taken from her bank accounts. And you can
16 review those bank accounts when you go back to
17 deliberate. Every single one of those bank
18 records has been discussed, has been admitted as
19 exhibits today. You may ask for any exhibit that
20 you wish to review.

21 Those spreadsheets that Richard Boyer
22 testified to, the ones in which he tracked where
23 the money came from when it went into Mr. Haynes'
24 Huntington account and Flagstar accounts, you're
25 permitted to review all of those, if you have any

1 questions about where the money came from and
2 what the testimony was.

3 Ultimately I ask you to consider whether
4 you really believe that Ardis Liddle wanted Gary
5 Haynes to have over \$300,000 from her financial
6 accounts put into his accounts for his personal
7 use and other business expenses.

8 And I ask you to find the Defendant
9 guilty of all counts today. Thank you.

10 THE COURT: Thank you. Mr. Johnson,
11 closing argument?

12 MR. JOHNSON: Thank you.

13 Joe, would you mind bringing up the
14 lights a little bit? Thank you. I appreciate
15 it. Thank you.

16 Ladies and Gentlemen, good afternoon.
17 We started-- I think we started out talking
18 about that if there was a disagreement in the
19 courtroom and whether there was a decision to be
20 made in the courtroom, that we all agree that if
21 there was a disagreement between the parties,
22 that the Judge was boss. That we would all
23 agree that her rulings, her decisions, her rules,
24 they all -- that's what drove the engine. That's
25 -- that's -- she's upfront, and she's calling

1 the shots.

2 In a few minutes that's going to
3 change. In a few minutes the role of boss is
4 going to become your role, because we're going to
5 hand this thing over to you, and we're going to
6 ask you to come to a decision on these counts and
7 all these issues and tell us what a jury of our
8 peers thinks.

9 You will become the boss, and you all
10 get to deliberate as long as you say. We will
11 jump when you say jump. When you -- when you --
12 when you're ready to come in the courtroom, we
13 will be sitting here waiting for you. You become
14 the boss of this. And as such, I'm asking you to
15 remember one other thing, one other thing that's
16 very important is that you took an oath to try
17 these facts based on the evidence and without
18 sympathy for one side or the other because it's
19 -- from our perspective, that really is the
20 prosecutor's case. There is a reason why she
21 keeps telling you Ms. Liddle is 97, she's 90,
22 she's 97, when she knows this event occurred back
23 in 2007 to 2016.

24 And she knows what we all know, that as
25 a person ages, they may remain sharp for

1 decades. She's really pretty sharp for nine-plus
2 decades, but that the decline can also become
3 precipitous.

4 She knows what we know, that the person
5 who is sitting here today is not the same person
6 that her banker saw. Do you remember the banker
7 who testified that Ms. Liddle was always sharp.
8 She always came in, knew exactly what she
9 wanted. She knew exactly what she wanted to do.
10 She knew exactly where her money was, until
11 2016. She came in, that was the first time in
12 all the years he worked with her, never seen her
13 frazzled.

14 See here's the thing, we started this
15 case, second witness I think was Detective
16 Sergeant Bryan Rypstra. Rypstra, I'm sorry.
17 Bryan Rypstra. And if you will recall, Detective
18 Sergeant Bryan Rypstra closed the case when he
19 had it, and he testified to you that he just
20 concluded it was a civil matter; that it was
21 about money, and who owed money, and when it was
22 owed, and -- and how much was owed, but it wasn't
23 criminal in his opinion he thought. So he closed
24 it.

25 I submit to you he was right. I submit

1 to you that that's exactly what's going on
2 here. We're talking about money that's owed,
3 but is not even due yet. That's what we're here
4 for. This case is -- is tantamount to -- it's
5 similar to buying a house, spending all your
6 lifesavings on the house, and then a week after
7 you close the bank comes in and says: We want
8 all the rest of our money right now.

9 This case is like going to Meijer's,
10 filling your shopping carts full of food, and
11 then being charged with shoplifting before you
12 get to the cash registers. This case isn't ripe
13 yet. There's -- there's been no crime here.

14 All these documents, and everyone
15 agrees, this -- this is -- this is a matter where
16 the money isn't due yet. No crime has been
17 committed. The money is not due until April
18 2019, and you will have Exhibit C to show you
19 that. It says right there on that they did that
20 four-years extension. It's due in about five
21 months. It's not due now.

22 Ladies and Gentlemen, Ms. Liddle signed
23 every single document. And let's point out
24 something, Ms. Liddle was the lady who, when the
25 doctor told her to stay in that nursing home, the

1 -- the rehab home, called her friends up -- back
2 up and went home, and has been home ever since.
3 She's been signing checks for my client, with my
4 client, since 2007, 2011, whatever. This is a
5 woman who is such -- that everyone -- what's the
6 consistency? That she's strong-willed. The
7 prosecutor said it herself that this is a woman
8 who -- who makes up her own mind and is her own
9 person.

10 This is a woman who testified herself
11 that between the -- the years that she came from
12 Arizona, there were five years. And two years
13 after she met Mr. Haynes, she was taking care of
14 her own bills and her own situation. She didn't
15 stop taking care of her bills because she didn't
16 know how to take care of her bills. She stopped
17 taking care of her bills because she didn't --
18 she wasn't prepared for the computer age. We
19 just changed how bills were paid.

20 That's why she was in the -- not
21 because she couldn't do it anymore; she could do
22 it. She chose not to. She was not disabled.
23 The charges that you're facing are the ones from
24 then. It's not what she is today (indicating).
25 Bless her heart. It's just not.

1 From 2016 to 2018, when you're 95 years
2 old, is a long time. And the person that she is
3 today just isn't what she was back then when Mr.
4 Haynes was dealing with her back then, when she
5 was signing every check, every document, agreeing
6 and -- and, by signature, showing her agreement
7 to it.

8 One of the things that should jump up at
9 you is this, she had a Power of Attorney done.
10 If she's under the thumb of my client, who does
11 he have her make the Power of Attorney out to?
12 Certainly not a niece, somebody who now has
13 authority to come in and perhaps oversee what he
14 is doing with her aunt. But that's exactly
15 what's done because Ms. Liddle made that choice,
16 just as she made all her choices before about
17 2016.

18 We can quibble and talk and argue and --
19 and -- and kick around the evidence and tell you
20 this means this, and that means that, but here's
21 something that you might be able to set your hat
22 on, you did have medical -- you -- you did have
23 medical testimony, medical evidence from the
24 stand as to what Mrs. Liddle's intellectual
25 capacity was before 2016. I asked Doctor

1 Herbert Miller:

2 Did you ever -- did you ever think to
3 recommend her to a cognitive specialist, someone
4 who can check out her ability? This was a man
5 whose clientele -- whose patients are 90 percent
6 over 80 I think he said. 90 percent over 80
7 years old. He never thought to have it done for
8 this lady.

9 Why would-- If she's this frail, if she
10 can't remember, if she's so helpless, why didn't
11 he ever think to do that for her? Because in his
12 professional medical opinion it wasn't
13 necessary.

14 You don't like his opinion, take the
15 opinion of Nancy Ritchie. She's the lady who --
16 who is a CEO or the manager of the Sanctum from
17 the Shore (sic), the rehab place where -- where
18 -- where my client -- where -- where Ms. Liddle
19 was -- was housed while she was willing to stay
20 there.

21 I asked her: Ma'am, would you look
22 through that file, that medical file, and see if
23 any of the doctors that treated her, even nurses
24 that saw her, even the people who saw her on the
25 rounds, anybody in your facility, anybody with

1, any type of medical background dealing with
2 elderly people all the time, did any of them say
3 that this woman had intellectual limitations?
4 Not one. You remember her testifying. Look
5 through the file. There's no cite in there.

6 If that's your business caring for
7 people like this, wouldn't you note it? It
8 wasn't noted. You've got two medical
9 specialists.

10 You don't like that? How about
11 nonmedical specialists. How about Ms. Cheryl
12 Crays, the person that has the Power of Attorney,
13 the niece Cheryl Crays, quote:

14 She seemed capable.

15 Quote: Acted okay for a person her age.

16 Quote: Seemed to have it under
17 control.

18 Okay. How about Nancy-- I'm
19 sorry. --Ryan Rimedio, the banker: She was
20 always cool, calm, and collected when she came
21 into the bank until 2016 when she seemed
22 frazzled. Under control. Knew what she was
23 doing.

24 How about Jacklynn Elliott, the lady who
25 cleaned house? Never mentioned what, that this

1 woman seemed to have-- She has physical
2 difficulties. That's different than
3 intellectual. She has physical difficulties.
4 And this is a woman who is around her all the
5 time and she never once noted that she just
6 didn't seem to have it upstairs anymore; she
7 just didn't seem to have the intellectual
8 capabilities.

9 She can't walk down the stairs, she told
10 you that. She can't-- Her food, she checked on
11 the food, she told you that. But she never once
12 said: Look, she just couldn't seem to grasp her
13 surrounding, her situation, her -- her -- her
14 life-style.

15 The people-- So Don Stenberg, her
16 nephew, when Don Stenberg in 2016 was called and
17 -- by his aunt and she said: Look, I'm having
18 trouble. Can you help me out. He was Johnny on
19 the spot. He was Johnny on the spot. Do you
20 think if he would have noticed that she didn't
21 need help in 2015, he wouldn't have done the same
22 thing?

23 How about 2010?

24 How about 2011?

25 How about 2013?

1 Do you think that he wouldn't have done
2 the exact same thing if his aunt was in this same
3 difficulty then? Because she wasn't. Because
4 she wasn't.

5 This-- She was on her game still. She
6 was blessed with the genetics that allowed her to
7 keep her facilities (sic)-- God bless her. --for
8 -- for decades. But that was two long years
9 ago. And as my client has testified, the person
10 you seen today is -- is not that same person.
11 She is -- she just doesn't have the -- the -- she
12 just isn't as capable as she was before, and she
13 wasn't as capable as when he dealt with her.

14 And I need you to add something up for
15 me. I need you-- It's -- it's not just enough
16 that the person be incapacitated. There's two
17 things that have to happen:

18 A person is incapacitated, which the
19 doctors and nurses don't think she was. But
20 suppose she wasn't.

21 The second thing is the person dealing
22 with her has to know it. You have to be able to
23 say: Okay. I'm looking at this and she's --
24 she's -- she's just not able to help herself.

25 Well, if her relatives don't know it,

1 and the bankers don't know it, and the doctors
2 don't know it, and her nieces don't know it, and
3 the people cleaning her house don't know it, how
4 is he supposed to know it? He didn't, and she
5 wasn't.

6 She was signing those documents. She
7 signed every check that was presented to her. I
8 asked her: Ma'am, did anyone ever coerce you or
9 try to beat you up or threaten you to make you
10 sign that?

11 No. Nobody did that.

12 So what's left.

13 There is-- Ladies and Gentlemen, part
14 of the problem here is the mixture of the
15 personal and the professional relationship.
16 There's a reason why you don't do that. That's--
17 This is-- You get it all entangled and then
18 somebody else looking at it might think things
19 are askew.

20 But these were two people who were very
21 fond of each other. She'd call my client when
22 she wanted to be moved back home. She'd call my
23 client when she had taxes to do. She'd call my
24 client when she needed some -- some, whatever she
25 needed. They were close. They were close.

1 Her family-- She was spending-- Her
2 family is elsewhere. They were aging, they were
3 passing, and they were out of state. The people
4 who were cleaning the house and -- and my client
5 got in that role. And -- and quite frankly, you
6 say: Well, you should have never mixed business
7 with your personal relationships. But how --
8 how are you not going to? This woman calls you
9 at home and says: I can't change my light bulb.
10 What are you going to say to her? Sorry, lady,
11 I'm not coming over to change your light bulb.
12 Too bad for you.

13 Of course you're going to go over
14 there. She's sitting there all alone. And she
15 likes music, and your daughter is in the musical.
16 What are you going to say?

17 And so that's-- It's an innocent-enough
18 thing, but it creates a mess in the courtroom.
19 But it creates a civil mess, not a criminal
20 mess.

21 As for the tax counts, okay, here's the
22 thing, if you decide that the money he got is
23 income, then his taxes are wrong.

24 If you decide it was a loan or part of
25 --- or part of the -- the investment scenario

1 that they were -- that they were enacting, then
2 it's not income; then it doesn't have to get
3 reported; then it's not a crime. Those -- those
4 are kind of the -- the realm.

5 If you decide-- You know, the People
6 have not proven beyond a reasonable doubt that he
7 stole this money. He could have honestly
8 thought he was borrowing it. She could have
9 thought he was borrowing it. And because she
10 doesn't -- she does not remember, that was the
11 one-- If we were to type up a transcript and run
12 it back to you, the one consistent point in the
13 transcript: I don't remember. I'm not sure. It
14 looks like it. I think so. And she does
15 today. She does today.

16 No one talked about-- None of the
17 caregivers ever talked about, well, because she's
18 on meds, she would get a little loopy with, you
19 know, Fentanyl. That was never mentioned by
20 anybody who was around her and saw her and spent
21 time with her. Nobody ever mentioned that she
22 seemed different when she was on meds or off meds
23 except for what she was reporting to her
24 doctors.

25 Her day-to-day process was the same for

1 decades. It was the same, has been, for
2 decades, and that's what my client saw. He saw
3 an opportunity where they both would come out the
4 better; where he would keep the nursing home
5 from taking her money; where he would keep her
6 money from going to taxes. He would invest in
7 what he knows best, that's real estate.

8 Now, whether or not that's a good
9 investment, whether or not that's a safe
10 investment, that's civil. That's-- If you look
11 -- if you -- when you look at the elements of
12 this case as the Judge will present them to you,
13 as you watch it, there's nothing in there about
14 whether or not you think it was a good
15 investment, because that's not the issue here.
16 Maybe it wasn't. Maybe it wasn't a great
17 idea. Still, it's not stealing to be wrong
18 about investments.

19 If we don't know-- Okay. When I asked
20 Ms. Liddle-- And we've had some testimony about
21 it. --about the journals, she testified today
22 that she had no recollection of not only of the
23 journals, but of me asking about them the summer
24 approximately six months ago. When we put Mr.
25 Hiller on the stand, he said: Yeah, you asked

1 about them, and she said she had journals.

2 That's how fast the decline is. She simply
3 doesn't remember.

4 Oh, do you remember Mary-Lou Budek-- I
5 always pronounce it wrong. --Budek and -- and
6 Ronald Morris? They came up there this morning
7 and they talked about investments they had done
8 with Mr. -- Mr. Haynes. You might wonder why
9 were they called in. If you look at those
10 charges, those -- the 14 counts, their names
11 aren't mentioned in any of those things. Nothing
12 about what they talked about resulted in a
13 charge.

14 Why were they called in? And the answer
15 is, in the business we call those bad boy
16 witnesses. People who come in and say: Look,
17 not only did your client do this to somebody
18 else, he's done it to me, that sort of thing.
19 Okay?

20 The worst they can say about my client
21 was he bounced a check. They didn't ask for his
22 money. Mr. Morris said he thought he got --
23 asked for the money first, then got the letter.
24 But Mr. Hiller said: No. The letter came after
25 that meeting. So he would have gotten the

1 letter first and then asked for the money.
2 Otherwise, these folks were cool. There was--
3 They're sitting back waiting for their money to
4 come in. And these are the two worst bad boys
5 that could be developed for you? Out of 50
6 clients these are the worst 2?

7 My client Mr. Haynes has worked with
8 these folks, he has worked with other folks, and
9 those were the ones they brought before you to
10 say this is a bad guy. You tell me. And part
11 of why he's a bad guy is because his check
12 bounced. Part of why his check bounced is
13 because his business has been ruined.

14 You want to close the door on my client,
15 you want to prove to a jury like yourself that
16 he's -- he's what you're saying they are, that's
17 -- that's -- that's your business if you're a
18 prosecutor. And it's your business, as the
19 jury, you decide what's enough. What is enough
20 to get you convinced beyond a reasonable doubt
21 that my client committed a crime? What's
22 enough?

23 Well, it might have been enough if you
24 had been shown Mrs. Liddle's bank accounts to see
25 if money was actually repaid like my client

1 said.

2 It might have been enough if you had
3 gotten those journals to see if those notes are
4 in there, just like my client says.

5 It might have been enough if you had
6 gotten Ms. Liddle's checkbook which she testified
7 that she kept notes in.

8 It might have been enough, but none of
9 that was provided to you.

10 No human being, no human being other
11 than Ms. Liddle, no human being has ever said
12 that my client got money from her in a manner
13 that was untoward. No conversations by a third
14 party were ever noted that said: Look, he was
15 berating her. He was tricking her.

16 What you have here, folks, is simply a
17 lady who is aging and she has forgotten the
18 things that got her to this point, and she's
19 afraid about her money. That's what you have in
20 2018.

21 What you had in 2011 was a capable
22 woman, handling her own affairs, and doing so for
23 years. Had done so for her family in Arizona.
24 She was in charge. She -- she was capable.
25 She knew to go out and look for a manner in which

1 to protect her money, and that's what she did.

2 Mr. Haynes has not stolen from her. The
3 note is not due. This is not a criminal
4 matter. No criminal intent is involved.

5 And I'm asking, quite frankly, the
6 easiest -- I -- I think I said in the beginning,
7 if you don't feel sorry for this woman, there is
8 something wrong with you. I get that, but-- And
9 then I also asked you to promise me something,
10 that you wouldn't let that affect you. That --
11 that you would fight through that. That you
12 would do what you have to do. That you -- you
13 would do your duty as a jury, and -- and -- and
14 it's the evidence, or the lack of evidence, that
15 you guys determine your outcome. Determine your
16 outcome.

17 Has it been proven to you beyond a
18 reasonable doubt that he stole something from
19 this woman? I don't believe it has. I believe
20 her signature on those checks, on all those
21 checks, screams at you otherwise. Put those
22 against that Power of Attorney. Why wouldn't
23 his name be on that too?

24 Her signature is on all those checks.
25 Her competency to all those people, doctors and

1 not doctors, indicates to you that this woman at
2 that time knew what she was doing. It's been two
3 years and she feels differently, and she is
4 scared, and she doesn't remember. But that's not
5 criminal.

6 I'm asking you for a not guilty verdict
7 on all counts in this matter. Thank you.

8 THE COURT: Thank you. Final closing?

9 MS. STINEDURF: When you consider the
10 time frame of what happened, I ask you to look at
11 the information you will be given in the jury
12 instructions. And remember, you're asked to look
13 at a very limited time frame. You're being asked
14 to consider a time frame of 2011 to 2015.

15 You've heard about what happened in 2006
16 and 2007 because that explained how Mr. Haynes
17 met Ms. Liddle, how their business relationship
18 or their friendship relationship began.
19 However, the charged time period is between 2011
20 and 2015. Again, when Ms. Liddle was in her
21 90s.

22 Now, of course Ms. Liddle's age
23 matters. Again, she is 97 today. Between 2011
24 and 2015 she would have been 90 years old to 94
25 years old. You have been shown, among other

1 things, a promissory note with a handwritten
2 scribble on the top that says: This promissory
3 note is extended until 2019.

4 Her age matters when you think about how
5 reasonable it is that Ms. Liddle knowingly would
6 have loaned \$116,000 to Mr. Haynes when that note
7 was not going to be due until she was 98.

8 It also matters when you think about
9 Mr. Haynes' intent. If Ardis Liddle had not
10 called Don Stenberg, if she had not spoken to
11 Ryan Rimedio, and if those two individuals had
12 not finally taken some action to help her, what
13 do you think would have happened to that money if
14 Ms. Liddle passed?

15 Do you think anyone would have known
16 that that money was transferred from her accounts
17 into Mr. Haynes' accounts?

18 And think about what you really believe
19 Mr. Haynes was intending to do with that money
20 and consider whether there is any reasonable
21 likelihood that Ms. Liddle would have wanted to
22 loan over \$300,000 to Mr. Haynes between that
23 short time period of 2011 and 2015 when she was
24 retired, she was in her 90's, she was living on
25 her own. You can consider in that time frame

1 what age means to her intent and what you really
2 believe that she was likely to have wanted in
3 that time.

4 You have also heard about how nice Mr.
5 Haynes was to Ms. Liddle, all the things he did
6 for her. You know, he was great because he
7 changed light bulbs for her. When she needed
8 something, he ran right over.

9 Do you think that that is how investment
10 advisors, estate planning advisors, deal with
11 clients? Is that how a professional relationship
12 typically takes place?

13 And do you think that it might have been
14 easier for Mr. Haynes to access her money, to
15 move her money where he wanted to, when she
16 trusted him?

17 Who do you trust in your lives? Do you
18 trust people that are kind to you? That are
19 there all the time? That do things for you? Or
20 do you trust people that you never see?

21 Do you think that it's more likely that
22 Ms. Liddle would trust Mr. Haynes if he did these
23 things for her, than if he did nothing at all and
24 was never in her life?

25 And think about what Ms. Liddle's life

1 looked like when Mr. Haynes was still involved in
2 her life. She was living alone. She was
3 widowed. She had no children.

4 You've heard testimony from people that
5 helped her for a time period. You've heard from
6 Cheryl Crays, her niece. Cheryl Crays said:
7 You know, she had a lot going on. Her brother
8 had passed. She took on care of her aging
9 parents. This was her aunt, she helped her when
10 she could, but she considered her affairs her
11 own. She wasn't paying attention to her
12 financial affairs. She certainly wasn't with
13 her all the time.

14 She had a neighbor that helped her with
15 her pills. Her neighbor wasn't involved in her
16 financial affairs.

17 Then she had another lady, Jody Elliott,
18 that came and helped her after Cheryl Crays no
19 longer could. She wasn't with Ms. Liddle all
20 the time. She wasn't involved in taking care of
21 her financial affairs.

22 You've heard from Don Stenberg, Ms.
23 Liddle's nephew. Ms. Liddle saw Don Stenberg
24 maybe once or twice a year. She was isolated.
25 No one lived with her. She didn't see other

1 friends or family members regularly. People
2 came to help her when she needed it to be able to
3 live alone, but they pretty much did the bare
4 minimum and they got out.

5 She was on her own, and the constant in
6 her life was Mr. Haynes. Mr. Haynes was there
7 to do the errands she wanted, to do the tasks she
8 needed done, to do the things she didn't do on
9 her own. And in fact, he paid her bills for
10 her. Didn't charge her for it he said. He just
11 did that out of the goodness of his heart. He
12 helped her out with that.

13 And he would access her computer. He
14 knew where her accounts were. He took care of
15 those things. Her taxes as well, he didn't
16 charge her for that. He just did that for her
17 to be nice to her.

18 And when you think about that, think
19 about all that access that he had to her bank
20 accounts. Think about whether she had any idea
21 what was really going in and out of her bank
22 accounts. Think about how likely it was that
23 Mr. Haynes could have talked her into signing
24 just about anything that he put in front of
25 her.

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Doctor Miller testified especially during 2013 she was on pretty heavy doses of pain medication. She was on Fentanyl, which is a number of times stronger than morphine. She was also on Norco. He said that she is not on those medications anymore. And even though most of you in your experience may see that people, as they get older, decline. He said if anything, Ms. Liddle is doing much better now than she was then.

You all saw her testify. Now, I suppose if you don't think that she's vulnerable today, then you may find that she wasn't vulnerable back then. But if you find as she's sitting here today, that she's vulnerable now, to consider what her state must have been like back when she was on all those pain medications under Doctor Miller's care. Doctor Miller is the person whose been handling her medical care, and he was very clear that she is better now than she was then.

Sure, he didn't send her to a cognitive drug specialist. Ms. Liddle is elderly. What could be done to revert that decline. What purpose would it be to send Ms. Liddle to a

1 cognitive specialist.

2 And then you heard from Detective
3 Sergeant Bryan Rypstra, and he did tell Don
4 Stenberg that he concluded this matter was
5 civil. Now, Detective Sergeant Bryan Rypstra
6 also said he has not really had training in
7 investigating financial crimes.

8 Agent Kevin Hiller has that training.
9 He followed up on this matter. He requested
10 records. He completed the investigation some
11 years later. Detective Sergeant Bryan Rypstra
12 closed the case because he didn't really know
13 what he was doing.

14 And on top of that it's important, he
15 told Don Stenberg that this is civil. It's
16 over. It's done. So when Ms. Liddle didn't get
17 her money back, what was anyone going to do about
18 it? At that point it was 2016. The police had
19 basically just told Don Stenberg, the one person
20 she went to help for: Sorry. Can't help you.
21 Deal with it on your own.

22 So now here we are in 2018 and she
23 doesn't have her money back. And again, \$300,000
24 of her money went to Gary Haynes. Didn't go to
25 investments. You've heard people talk about --

1 particularly Mr. Haynes, about investments, about
2 house flipping, that kind of thing. You can
3 track the money. If you have questions, you can
4 look at those bank accounts which I have showed
5 you. Those have been available to you. That
6 money went to Mr. Haynes' personal expenses, his
7 family members, his groceries bills, for
8 restaurants, bars.

9 Do you think Ms. Liddle really wanted to
10 pay Mr. Haynes' bar tab? Who do you think needed
11 that money more, Ms. Liddle or Mr. Haynes.

12 Do you think that she really thought
13 that that was the best use of her money? Sure,
14 go ahead and take that, use it for whatever you
15 need -- cash withdrawals, your daughter's college
16 tuition, that's fine.

17 Do you really think she was okay with
18 Mr. Haynes using her as his personal piggy bank?

19 Now, you have also heard that they were
20 friends, and again I ask you to think about
21 that. Were they friends, or was this someone
22 that Mr. Haynes had lured into a false sense of
23 security so that he could access her accounts
24 until she found out or until the money was gone.

25 Have you ever heard the expression: You

1 catch more flies with honey? Well, he had the
2 honey available, and Ms. Liddle got stuck.

3 There's a reason that we tell our
4 children not to take gifts or other kindnesses
5 from strangers. That's enticing. When people
6 are nice, that's when you're able to gain their
7 trust. That's when Ms. Liddle said: Well gosh,
8 he's nice to me. It never occurred to her that
9 her money was gone until she needed it in 2016.
10 He wouldn't answer her. Wouldn't call her back.
11 Wouldn't even talk to anyone about it until he
12 talked to Detective Sergeant Bryan Rypstra, until
13 he talked to Ryan Rimedio, until he talked to Don
14 Stenberg, and each one of them he said: Just --
15 just a few days. It will be fine. I will get it
16 to you. Putting off anything further because
17 everyone thought it's fine, they will get their
18 money.

19 Then he didn't do anything.

20 He sat up here and quite confidently
21 told you all: Well, I didn't pay it because it's
22 not due yet. That's an excuse that works pretty
23 well. Yeah, I have a lot of her money. It's
24 not due. It's a loan; it's fine.

25 It's only a loan if she knowingly meant

1 to give him a loan. And if that lady that was
2 working with Mr. Haynes in 2011 to 2015 was more
3 vulnerable then, according to Doctor Miller
4 because of her pain medications, than she was
5 vulnerable here today, ask if you really believe
6 that that was a loan she intended to give
7 Mr. Haynes.

8 Ultimately Mr. Haynes spent over
9 \$300,000 of Ms. Liddle's money on his personal
10 expenses. Ms. Liddle today at 97 has a
11 promissory note.

12 Now, you've heard from Mary-Lou Budek,
13 Ron Morris, and their testimony is important. I
14 think it goes to show that what Mr. Haynes did to
15 Ms. Liddle wasn't a mistake or an isolated event
16 or an accident.

17 Mr. Haynes told Ron Morris: Invest this
18 \$150,000 with him, it will be fine.

19 He took another \$40,000 from him, it
20 will be fine.

21 Ron Morris said he wanted that money.
22 Mr. Haynes said: You know, gosh, it's tied up
23 right now.

24 Mary-Lou Budek trusted Mr. Haynes with
25 her money. She said that she believed that

1 Mr. Haynes should have approximately \$90,000 of
2 her money. She asked for that money.
3 Mr. Haynes said: Oh, gosh, you know, if you take
4 that out, you're going to incur interest and
5 penalties and that kind of thing.

6 So what we have is two other people that
7 Mr. Haynes took money from, both elderly
8 individuals as you can see when they came in to
9 testify; that when they wanted their money, he
10 made excuses. The important difference is that
11 Ms. Liddle is vulnerable. Ms. Liddle is
12 isolated on her own. She is older. She lives
13 on her own. She has physical difficulties.

14 However, you can tell from what happened
15 with Mary-Lou Budek and Ronald Morris, you can
16 use that evidence to judge if you find that there
17 was a common scheme, plan, or system; if this
18 was any kind of a mistake when the Defendant took
19 Ms. Liddle's money.

20 And again, you've heard the Defendant's
21 testimony. He is experienced in financial
22 matters. He's done that his whole life. He
23 knows what he's doing. In fact, he used to be a
24 licensed investment advisor until the SEC took
25 that away.

1 Again, \$300,000 of Ms. Liddle's money
2 goes to Mr. Haynes' account. It does not go
3 back to Ms. Liddle. All she has to show for it
4 is a promissory note. Mr. Haynes meanwhile paid
5 his bar tab, goes grocery shopping, goes to the
6 retail stores.

7 I ask you to find, if you really have a
8 question that Mr. Haynes beyond a reasonable
9 doubt intended to embezzle, to defraud, or to
10 take Ms. Liddle's money, if you really have a
11 question as to whether Ms. Liddle knowingly meant
12 to give this to him when you know that that lady
13 who testified is more cognitively with it,
14 according to Doctor Miller, than she was back in
15 2013.

16 At the end of today, again I ask you to
17 find Mr. Haynes guilty of all counts today.
18 Thank you.

19 THE COURT: Thank you.

20 Members of the Jury, the evidence and
21 arguments in this case are finished and I will
22 now instruct you on the law -- that is, I will
23 explain the law that applies to this case.

24 Remember that you have taken an oath to
25 return a true and just verdict based only on the

1 evidence and my instructions on the law. You
2 must not let sympathy or prejudice influence your
3 decision.

4 As jurors, you must decide what the
5 facts of this case are. This is your job and
6 nobody else's. You must think about all of the
7 evidence and then decide what each piece of
8 evidence means and how important you think it
9 is. This includes whether you believe what each
10 of the witnesses said. What you decide about any
11 fact in this case is final.

12 It is my duty to instruct you on the
13 law. You must take the law as I give it to you.
14 If a lawyer says something different about the
15 law, follow what I say. At various times I have
16 already given you some instructions about the
17 law. You must take all my instructions together
18 as the law you are to follow. You should not pay
19 attention to some instructions and ignore
20 others.

21 To sum up, it is your job to decide what
22 the facts of the case are, to apply the law as I
23 give it to you, and in that way to decide the
24 case.

25 When you go to the jury room, you will

1 be given a written copy of the instructions that
2 I have just read. As you discuss the case, you
3 should think about all my instructions together
4 as the law you are to follow.

5 A person accused of a crime is presumed
6 to be innocent. This means that you must start
7 with the presumption that the Defendant is
8 innocent. This presumption continues throughout
9 the trial and entitles the Defendant to a verdict
10 of not guilty, unless you are satisfied beyond a
11 reasonable doubt that he is guilty.

12 Every crime is made up of parts called
13 elements. The prosecutor must prove each
14 element of the crime beyond a reasonable doubt.
15 The Defendant is not required to prove his
16 innocence or to do anything. If you find that
17 the prosecutor has not proven every element
18 beyond a reasonable doubt, then you must find the
19 Defendant not guilty.

20 A reasonable doubt is a fair, honest
21 doubt growing out of the evidence or lack of
22 evidence. It is not merely an imaginary or
23 possible doubt, but a doubt based on reason and
24 common sense. A reasonable doubt is just that,
25 a doubt that is reasonable after a careful and

1 considered examination of the facts and
2 circumstances of this case.

3 When you discuss the case and decide on
4 your verdict, you may only consider the evidence
5 that has been properly admitted in this case.
6 Therefore, it is important for you to understand
7 what evidence -- what is evidence and what is not
8 evidence.

9 Evidence includes only the sworn
10 testimony of witnesses, and the exhibits admitted
11 into evidence, and anything else I told you to
12 consider as evidence.

13 Many things are not evidence, and you
14 must be careful not to consider them as such. I
15 will now describe some of the things that are not
16 evidence.

17 The fact that the Defendant is charged
18 with a crime and is on trial is not evidence.
19 Likewise, the fact that he is charged with more
20 than one crime is not evidence.

21 The lawyers' statements and arguments
22 are not evidence. They are only meant to help
23 you understand the evidence and each sides' legal
24 theories. You should only accept things that
25 the lawyers say that are supported by the

1 evidence or by your own common sense and general
2 knowledge.

3 The lawyers' questions to the witnesses
4 and my questions to the witnesses are not
5 evidence. You should consider these questions
6 only as they give meaning to the witnesses'
7 answers.

8 My comments, rulings, questions, and
9 instructions are not evidence. It is my duty to
10 see that the trial is conducted according to the
11 law and to tell you the law that applies to this
12 case. However, when I make a comment or give an
13 instruction, I am not trying to influence your
14 vote or express a personal opinion about the
15 case. If you believe that I have an opinion
16 about how you should decide this case, you must
17 pay no attention to that opinion. You are the
18 only judges of the facts, and you should decide
19 this case from the evidence.

20 At times during the trial I have
21 excluded evidence that was offered or stricken
22 testimony that was heard. Do not consider those
23 things in deciding the case. Make your decision
24 only on the evidence that I let in and nothing
25 else.

1 You should use your own common sense and
2 general knowledge in weighing and judging the
3 evidence, but you should not use any personal
4 knowledge you may have about a place, person, or
5 event. To repeat once more, you must decide
6 this case based only on the evidence admitted
7 during this trial.

8 As I said before, it is your job to
9 decide what the facts of this case are. You
10 must decide which witnesses you believe and how
11 important you think their testimony is. You do
12 not have to accept or reject everything a witness
13 said. You are free to believe all, none, or part
14 of any person's testimony.

15 In deciding which testimony you believe,
16 you should rely on your own common sense and
17 every day experience. However, in deciding
18 whether you believe a witness' testimony, you
19 must set aside any bias or prejudice you may have
20 based on race, gender, or national origin of the
21 witness.

22 There is no fixed set of rules for
23 judging whether you believe a witness, but it may
24 help you to think about these questions:

25 Was the witness able to see or hear

1 clearly? How long was the witness watching or
2 listening? Was anything else going on that might
3 have distracted the witness?

4 Did the witness seem to have a good
5 memory?

6 How did the witness look and act while
7 testifying? Did the witness seem to be making an
8 honest effort to tell the truth, or did the
9 witness seem to evade the questions or argue with
10 the lawyers?

11 Does the witness' age and maturity
12 affect how you judge his or her testimony?

13 Does the witness have any bias,
14 prejudice, or personal interest in how this case
15 is decided?

16 In general, does the witness have any
17 special reason to tell the truth or any special
18 reason to lie?

19 All in all, how reasonable does the
20 witness' testimony seem when you think about all
21 the evidence -- other evidence in the case.

22 Sometimes the testimony of different
23 witnesses will not agree and you must decide
24 which testimony you accept. You should think
25 about whether the disagreement involves something

1 important or not, and whether you think someone
2 is lying or is simply mistaken. People see and
3 hear things differently and witnesses may testify
4 honestly but simply be wrong about what they
5 thought they saw or remembered. It is also a
6 good idea to think about which testimony agrees
7 best with the other evidence in the case.

8 However, you may conclude that a witness
9 deliberately lied about something that is
10 important to how you decide the case. If so, you
11 may choose not to accept anything that witness
12 said. On the other hand, if you think the
13 witness lied about some things but told the truth
14 about others, you may simply accept the part you
15 think is true and ignore the rest.

16 The prosecutor also -- must also prove
17 beyond a reasonable doubt that the crimes
18 occurred on or about March 2011 to September 2015
19 within Muskegon County.

20 Possible penalty should not influence
21 your decision. It is the duty of the judge to
22 fix the penalties within the limits provided by
23 law.

24 The Defendant is charged with counts --
25 that is, with the crimes of

1 racketeering/conducting an enterprise;
2 embezzlement from a vulnerable adult 100,000 or
3 more; eight counts of embezzlement from a
4 vulnerable adult, 1,000 or more but less than
5 20,000; and four counts of taxes, failure to
6 file, false return, or false payment of taxes.

7 These are separate crimes, and the
8 prosecutor is charging that the Defendant
9 committed all of them. You must consider each
10 crime separately in light of all the evidence in
11 the case.

12 You may find the Defendant guilty of
13 all, or any combination of these crimes, or not
14 guilty.

15 Facts can be proven by direct evidence
16 from a witness or an exhibit. Direct evidence
17 is evidence about what we actually see or hear.
18 For example, if you look outside and see rain
19 falling, that is direct evidence that it is
20 raining.

21 Facts can also be proven by indirect or
22 circumstantial evidence. Circumstantial evidence
23 is evidence that normally or reasonably leads to
24 other facts. So for example, if you see a
25 person come in from outside wearing a raincoat

1 covered with small drops of water, that would be
2 circumstantial evidence that it is raining.

3 You may consider circumstantial
4 evidence. Circumstantial evidence by itself or a
5 combination of circumstantial evidence and direct
6 evidence can be used to prove the elements of a
7 crime. In other words, you should consider all
8 the evidence that you believe.

9 When the lawyers agree on a statement of
10 facts, these are called stipulated facts. You
11 may regard such stipulated facts as true, but you
12 are not required to do so.

13 You may consider whether the Defendant
14 had a reason to commit the alleged crime, but a
15 reason by itself is not enough to find a person
16 guilty of a crime.

17 The prosecutor does not have to prove
18 that the Defendant had a reason to commit the
19 alleged crime. She only has to show that the
20 Defendant actually committed the crime, and that
21 he meant to do so.

22 You have heard evidence that was
23 introduced to show that the Defendant committed
24 improper acts regarding Mary-Lou Budek and Ron
25 Morris for which he is not on trial. If you

1 believe this evidence, you must be very careful
2 only to consider it for certain purposes. You
3 may only think about whether the evidence tends
4 to show:

5 That the Defendant specifically meant
6 not to pay Ardis Liddle her money when she asked
7 for it;

8 Or that the Defendant acted purposefully
9 -- that is, not by accident or mistake or
10 because he misjudged the situation;

11 Or that the Defendant used a plan,
12 scheme, or characteristic scheme that he has used
13 before or since.

14 You must not consider this evidence for
15 any other purpose. For example, you must not
16 decide that it shows that the Defendant is a bad
17 person or that he is likely to commit crimes.
18 You must not convict the Defendant here because
19 you think he is guilty of other bad acts. All
20 the evidence must convince you beyond a
21 reasonable doubt that the Defendant committed the
22 alleged crime, or you must find him not guilty.

23 The Defendant's intent may be proved by
24 what he said, what he did, how he did it, or by
25 any other facts and circumstances in evidence.

1 You should not decide this case based on
2 which side presented more witnesses. Instead,
3 you should think about each witness and each
4 piece of evidence and whether you believe them.
5 Then you must decide whether the testimony and
6 evidence you believe proves beyond a reasonable
7 doubt that the Defendant is guilty.

8 You have heard that a lawyer talked to
9 one of the witnesses. There is nothing wrong
10 with this. A lawyer may talk to a witness to
11 find out what the witness knows about the case
12 and what the witness' testimony will be.

13 You have heard testimony from a witness,
14 Richard Boyer, who has given you his opinion as
15 an expert in the field of financial institution
16 record keeping procedures;

17 You have also heard testimony from Scott
18 Darnell who has given you his opinion as an
19 expert in the field of tax code enforcement;

20 And from Herbert Miller who has given
21 you his opinion as an expert in the field of
22 internal medicine and primary care.

23 Experts are allowed to give opinions in
24 court about matters they are experts on.

25 However, you do not have to believe an expert's

1 opinion. Instead, you should decide whether you
2 believe it and how important you think it is.

3 When you decide whether you believe an
4 expert's opinion, think carefully about the
5 reasons and facts each of these experts gave for
6 their opinion and whether those facts are true.
7 You should also think about each expert's
8 qualifications and whether each expert's opinion
9 makes sense when you think about the other
10 evidence in the case.

11 You have heard testimony from a witness
12 who is a police officer. Their testimony is to
13 be judged the same -- by the same standards you
14 use to evaluate the testimony of other
15 witnesses.

16 When you decide whether the Defendant
17 intended to defraud or cheat Ardis Liddle of some
18 property, you must consider whether he acted as
19 he did because of a mistake. If you find that
20 the Defendant converted the money to his own use
21 because of an honest mistake, a bookkeeping
22 error, or a misunderstanding about what he was
23 supposed to do, then he did not take the money
24 intentionally and did not commit the listed
25 offense of embezzlement by an agent.

1 If the Defendant did not commit the
2 listed offenses of embezzlement by an agent, then
3 he is not guilty of racketeering, conducted --
4 conducting an enterprise.

5 When you decide whether the Defendant
6 intended to use fraud, deceit, misrepresentation,
7 coercion, or unjust enrichment to obtain or use
8 Ardis Liddle's money, you must consider whether
9 he acted as he did because of a mistake. If you
10 find the Defendant obtained the money because of
11 an honest mistake or bookkeeping error, then he
12 did not take the money intentionally and is not
13 guilty of the crime of embezzlement from a
14 vulnerable adult.

15 When I say someone must act with the
16 intent to injure or defraud, I mean act to cheat
17 or deceive, usually to get money, property, or
18 something else valuable, or to make someone else
19 suffer such a loss.

20 Repaying the victim does not excuse the
21 listed offense of embezzlement by an agent or the
22 crime of embezzlement from a vulnerable adult.
23 If you are satisfied beyond a reasonable doubt
24 that the Defendant converted the property
25 intending to cheat or deceive, then the Defendant

1 is guilty even if he paid the victim back
2 later.

3 The Defendant is charged with the crime
4 of conducting a racketeering enterprise. To
5 prove this charge, the prosecutor must prove each
6 of the following elements beyond a reasonable
7 doubt:

8 First, that the Defendant was an
9 employee of or was associated with an
10 enterprise. An enterprise may be an individual
11 person, a sole proprietorship, a partnership, a
12 corporation, a limited liability company, a
13 trust, a union, an association, a governmental
14 unit, any other legal entity, or any other
15 association of persons.

16 Second, that the Defendant knowingly
17 conducted or participated in the affairs of the
18 enterprise, directly or indirectly, through a
19 pattern of racketeering.

20 An act of racketeering is committing,
21 attempting to commit, or conspiring to commit a
22 listed offense for financial gain, or aiding and
23 abetting, soliciting, coercing, or intimidating
24 another to commit a listed offense for financial
25 gain.

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The listed offenses that the Defendant is accused of committing are:

Embezzlement by an agent a hundred thousand dollars or more;

Embezzlement by an agent \$20,000 or more but less than 50,000;

And embezzlement by an agent 1,000 or more but less than 20,000.

The elements of the listed offenses are, Embezzlement by an agent 100,000 or more are:

First, that the money belonged to Ardis Liddle.

Second, that the Defendant had a relationship of trust with Ardis Liddle because the Defendant was an agent.

Third, that the Defendant obtained possession or control of the money because of this relationship.

Fourth, that the Defendant dishonestly disposed of the money or converted the money to his own use.

Fifth, that at the time the Defendant did this, he intended to defraud or cheat Ardis Liddle of some money or property.

Sixth, that the fair market value of the

1 property or amount of money embezzled was a
2 hundred thousand dollars or more.

3 The elements of embezzlement by an agent
4 20,000 or more but less than 50,000 are:

5 First, that the money belonged to Ardis
6 Liddle.

7 Second, that the Defendant had a
8 relationship of trust with Ardis Liddle because
9 the Defendant was an agent.

10 Third, that the Defendant obtained
11 possession or control of the money because of
12 this relationship.

13 Fourth, that the Defendant dishonestly
14 disposed of the money or converted the money to
15 his own use.

16 Fifth, that at the time the Defendant
17 did this, he intended to defraud or cheat Ardis
18 Liddle of some money or property.

19 Sixth, that the fair market value of the
20 property or amount of money embezzled was \$20,000
21 or more but less than 50,000.

22 The elements of embezzlement by an agent
23 1,000 or more but less than 20,000 are:

24 First, that the money belonged to Ardis
25 Liddle.

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Second, that the Defendant had a relationship of trust with Ardis Liddle because the Defendant was an agent.

Third, that the Defendant obtained possession or control of the money because of this relationship.

Fourth, that the Defendant dishonestly disposed of the money or converted the money to his own use.

Fifth, that at the time the Defendant did this, he intended to defraud or cheat Ardis Liddle of some money or property.

Sixth, that the fair market value of the property or amount of money embezzled was a thousand dollars or more but less than 20,000.

If you find that the Defendant committed acts of racketeering, you must also determine whether he engaged in a pattern of racketeering, which means committing at least two acts of racketeering to which all of the following characteristics apply:

The acts have the same or a substantially similar purpose, result, participants, victim, or method of commission, or are otherwise interrelated by distinguishing

1 characteristics and are not isolated acts;

2 The acts pose a threat of continued
3 criminal activity;

4 And at least one act occurred in
5 Michigan after April 1st, 1996, and the last act
6 occurred not more than ten years after the act
7 before it.

8 It is up to you to decide whether the
9 prosecutor has proven beyond a reasonable doubt
10 both that the Defendant committed acts of
11 racketeering, and that he engaged in a pattern of
12 racketeering to conduct or participate in the
13 affairs of an enterprise.

14 An agent is a person who has been given
15 authority to represent another person or to act
16 on another person's behalf.

17 Conversion means using or keeping
18 someone else's property without that person's
19 permission.

20 If you determine beyond a reasonable
21 doubt that the Defendant was an agent of Ardis
22 Liddle; that the Defendant had money entrusted
23 to his care because of this relationship; that
24 the Defendant was asked to pay, refund, or
25 deliver the money to Ardis Liddle and did not do

1 so; then these facts, if not explained, are
2 circumstances from which you may infer that the
3 Defendant intended to embezzle the money.
4 However, you do not have to make this
5 inference.

6 The Defendant is charged with the crime
7 of embezzlement from a vulnerable adult \$100,000
8 or more. To prove this charge, the prosecutor
9 must prove each of the following elements beyond
10 a reasonable doubt:

11 First, that the Defendant obtained or
12 used the money of Ardis Liddle.

13 Second, that the Defendant used fraud,
14 deceit, misrepresentation, coercion, or unjust
15 enrichment to obtain or use the money.

16 Third, that at the time, Ardis Liddle
17 was a vulnerable adult. This means that Ardis
18 Liddle was 18 years of age or older and was --
19 and was aged or physically disabled such that she
20 required supervision or personal care or she
21 lacked personal and social skills required to
22 live independent.

23 Fourth, that the Defendant knew or
24 should have known that Ardis Liddle was a
25 vulnerable adult.

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Fifth, that the amount of money taken was \$100,000 or more.

Sixth, that the property was taken for the direct benefit of the Defendant or to indirectly benefit him. An indirect benefit means that the Defendant gained some advantage or value other than possession or use of the money or property itself.

The Defendant is charged with the crime of embezzlement from a vulnerable adult \$1,000 or more but less than 20,000. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt;

First, that the Defendant obtained or used the money of Ardis Liddle.

Second, that the Defendant used fraud, deceit, misrepresentation, coercion, or unjust enrichment to obtain or use the money.

Third, that at the time, Ardis Liddle was a vulnerable adult. This means that Ardis Liddle was 18 years or older and was aged or physically disabled such that she required supervision or personal care or she lacked personal and social skills required to live independent.

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Fourth, that the Defendant knew or should have known that Ardis Liddle was a vulnerable adult.

Fifth, that the amount of money taken was \$1,000 or more but less than 20,000.

Sixth, that the property was taken for the direct benefit of the Defendant or indirectly benefitted him. An indirect benefit means that the Defendant gained some advantage or value other than possessing -- possession or use of the money or property itself.

The Defendant is charged with the crime of filing a false or fraudulent tax return or payment. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

First, that the Defendant either made or caused a tax return or tax payment to be made to the Michigan Department of Treasury.

Second, that the tax return or tax payment was false or fraudulent. A false or fraudulent return or payment is a return or payment that is incomplete, inaccurate, misleading, or forged.

Third, that at the time the return or

1 payment was made, the Defendant had the intent to
2 defraud or the intent to evade payment of a tax
3 or part of a tax.

4 The Defendant is required to report
5 income on tax returns. Income includes any gain
6 of money or property that the Defendant obtained
7 during the reported tax period. It does not
8 matter whether the money or property was gained
9 in an illegal or -- a legal or illegal manner.

10 When you go to the jury room, you will
11 be provided with written copies of the final jury
12 instructions.

13 You should first choose a foreperson.
14 The foreperson should see to it that your
15 discussions are carried out -- carried on in a
16 businesslike way and that everyone has a fair
17 chance to be heard.

18 During your deliberations, please turn
19 off your cell phones or other communication
20 equipment until we recess.

21 A verdict in a criminal case must be
22 unanimous. In order to return a verdict, it is
23 necessary that each of you agrees on that
24 verdict. In the jury room you will discuss the
25 case among yourselves, but ultimately each of you

1 will have to make up your own mind. Any verdict
2 must represent an individual, considered judgment
3 of each juror.

4 It is your duty as jurors to take -- to
5 talk to each other and make every reasonable
6 effort to reach agreement. Express your
7 opinions and the reasons for them, but keep an
8 open mind as you listen to your fellow jurors.
9 Rethink your opinions and do not hesitate to
10 change your mind if you decide you were wrong.
11 Try your best to work out your differences.

12 However, although you should try to
13 reach an agreement, none of you should give up
14 your honest opinion about the case just because
15 other jurors disagree with you or just for the
16 sake of reaching a verdict. In the end, your
17 vote must be your own, and you must vote -- and
18 you must vote honestly and in good conscience.

19 If you have any questions about the jury
20 instructions before you begin deliberations, or
21 questions about the instructions that arise
22 during deliberations, you may submit them in
23 writing in a sealed envelope to the bailiff.

24 If you want to communicate with me while
25 you are in the jury room, please have your

1 foreperson write a note and give it to the
2 bailiff. It is not proper for you to talk
3 directly with the Judge, lawyers, court officers,
4 or other people involved in the case.

5 As you discuss the case, you must not
6 let anyone, even me, know how your voting
7 stands. Therefore, until you return with a
8 unanimous verdict, do not reveal this to anyone
9 outside the jury room.

10 When you go to the jury room to
11 deliberate, you may take your notes and full
12 instructions.

13 If you want to look at any or all of the
14 reference documents or exhibits that have been
15 admitted, just ask for them.

16 You may return a verdict of guilty of
17 the alleged crimes, or not guilty.

18 I have prepared a Verdict Form listing
19 the possible verdicts.

20 Now at 5:00, which we are coming on
21 about, I will have the bailiff open the door at
22 that time so that you may leave, because we
23 usually end at 5:00. And you may leave to go
24 home. If you want to stay longer, you may.
25 Just let the bailiff know that you want to stay

1 longer.

2 I will have you come back tomorrow at
3 9 A.M.. But remember, if you leave, please do
4 not discuss this case among yourselves or with
5 any third persons during any of our recesses or
6 adjournments.

7 Please do not have any conversations of
8 any kind with either attorney or any party of
9 anybody who might be called as a witness.

10 Please do not read, watch, listen to any
11 news media reports regarding this case.

12 Now, at this time we still have our 13
13 jurors. So therefore, I will have Mr. Mahan pull
14 a number from the box. Now remember, this
15 juror, when you are excused for today, you still
16 are not excused from the case, and you can't
17 discuss this with anyone.

18 The only reason, because of that, is
19 life goes on outside this courtroom when people
20 leave. We don't know if something may happen to
21 one of the jurors that are in the deliberations;
22 and if something does, we will have to call back
23 the juror that has been excused. Then you will
24 have to start your deliberations over again from
25 the beginning, but at least we won't have to

1 start the case over again.

2 If I excuse that juror now and you talk
3 to somebody and something happens, then we would
4 have to start this whole case all the way over
5 from the beginning, from jury voir dire again,
6 and get a different panel. So that's why we
7 don't allow that juror that's excused to talk
8 about the case yet.

9 What I will have you do is give your
10 name and your contact information to Mr. Mahan
11 before you leave. Once you do that, if we need
12 you to come back, he will call you to come back.
13 And if we don't need you and a verdict is
14 reached, then he will call and let you know that
15 we reached that verdict, and that you are allowed
16 to speak to whoever you want to at that time.

17 Mr. Mahan, do we have a number?

18 THE CLERK-BAILIFF: Number 8.

19 THE COURT: Juror Number 8. I want to
20 thank you at this time, if I do not see you
21 again, for your service on the panel. Remember,
22 do not talk to anybody about this until you are
23 excused with that phone call from Mr. Mahan.

24 JUROR 8: Do I keep these (indicating)?

25 THE COURT: You give that to Mr.

1 Mahan.

2 THE CLERK-BAILIFF: Go ahead and get
3 your stuff.

4 (Whereupon, Juror #8 excused
5 from the courtroom.)

6 THE COURT: Now, as you go into the jury
7 room, I will have you go in there. And like I
8 had stated before, the first thing that you do is
9 pick a foreman. Once you pick a foreman, I will
10 have you ring the buzzer. And once that buzzer
11 is rang, Mr. Mahan will bring you in copies of
12 these jury instructions, along with the Verdict
13 Form that you are to use.

14 Anything before I excuse the jury?

15 MS. STINEDURF: None, Your Honor. Thank
16 you.

17 MR. JOHNSON: No, Your Honor. Thank
18 you.

19 THE COURT: Thank you. At this time I
20 will have you retreat into the jury room. Thank
21 you. Oh, I'm sorry.

22 Mr. Mahan, would you raise your right
23 hand, please.

24 Do you solemnly swear that you will, to
25 the utmost of your ability, keep the persons

1 sworn as jurors on this trial from separating
2 from each other;

3 That you will not suffer any
4 communications to be made to them, or any of
5 them, orally or otherwise;

6 That you will not communicate with them,
7 or any of them, orally or otherwise, except by
8 the order of this Court, or to ask them if they
9 have agreed upon their verdict, until they shall
10 be discharged;

11 And that you will not, before they
12 render their verdict, communicate to any person
13 the state of their deliberations or the verdict
14 they have agreed upon, so help you God?

15 THE CLERK-BAILIFF: I do.

16 THE COURT: Thank you.

17 (Whereupon, Jury excused to the
18 jury room for deliberations at
19 approximately 4:45 P.M.)

20 THE COURT: Prior to me reading the
21 final jury instructions, they were reviewed by
22 all parties.

23 Prosecution, have you reviewed those
24 final jury instructions and the Verdict Form?

25 MS. STINEDURF: Yes, Your Honor.

1 THE COURT: Any objection or anything
2 that you would like taken out or added?

3 MS. STINEDURF: No, Your Honor.

4 THE COURT: And defense?

5 MR. JOHNSON: Same answer, Your Honor.

6 I have reviewed them, and there's no objections
7 or any corrections I ask be made.

8 THE COURT: Thank you very much.

9 At this time I would ask-- It's close
10 to five, so the jurors may be leaving. I would
11 ask all the parties to stay close at this time so
12 that you're not excused until after I excuse the
13 jury for the night.

14 MR. JOHNSON: Yes, ma'am.

15 MS. STINEDURF: Yes, Your Honor.

16 THE COURT: Thank you.

17 (Whereupon, recess taken; with
18 the following transpiring out
19 of the presence of the Jury.)

20 THE COURT: Back on the record for just
21 a moment, and your client is not present, but I'm
22 just going to ask about the exhibits.

23 MR. JOHNSON: I don't need him present.
24 We don't need him for that part.

25 THE COURT: All right. I have People's

1 Exhibits 1 through 14 admitted, 16, 17 and 19
2 admitted.

3 MS. STINEDURF: I'm not sure that's
4 correct, Your Honor.

5 MR. JOHNSON: Voir dire--

6 THE COURT: Oh, I'm sorry. 8 has not
7 been admitted either.

8 MR. JOHNSON: That's correct.

9 MS. STINEDURF: And I think 16 was also
10 admitted. Did the Court get that?

11 THE COURT: 16? It's 1 through 7 was
12 admitted. 8 was not. 9 through 14 was
13 admitted. 16, 17, and 19 were admitted. I
14 didn't have--

15 MS. STINEDURF: Yes.

16 THE COURT: --a 15 or an 18.

17 MS. STINEDURF: Yes, that sounds right.
18 Yes, that's correct.

19 THE COURT: Okay. And Defense Exhibits
20 A, B, and C?

21 MR. JOHNSON: That's correct, Your
22 Honor.

23 THE COURT: Okay.

24 MR. JOHNSON: And Your Honor, I have no
25 objection, if the jury requests any of the

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exhibits, to release them all to them for their perusal.

MS. STINEDURF: I do want to remove the two CV's that were not admitted that were in one of those binders.

THE COURT: Mr. Johnson, something is to be removed.

MS. STINEDURF: I'm going to remove those two CV's that were not admitted. I've already removed the Darnell CV. I'm removing Mr. Miller's CV and then also Mr. Boyer's CV.

MR. JOHNSON: Yes.

MS. STINEDURF: Okay.

(Whereupon, Jury was excused at approximately 5:00 P.M.)

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STATE OF MICHIGAN)

) ss

COUNTY OF MUSKEGON)

I, Kathy E. Stevens, Certified Court Reporter/Registered Professional Reporter and Notary Public of the 14th Judicial Circuit, County of Muskegon, State of Michigan, do hereby certify that the foregoing Pages 1 through 270, inclusive, comprise a full, true, and accurate transcript of the proceedings and testimony taken in the matter of THE PEOPLE OF THE STATE OF MICHIGAN versus GARY EDWARD HAYNES, File No. 18-4131-FH, on December 19, 2018.



Kathy E. Stevens, CSR-4091
Certified Official Court Reporter
Hall of Justice, 14th Circuit Court
990 Terrace Street
Muskegon, MI 49442-3357

ENFORCEMENT EXHIBIT 4

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

File No. 18-004131-FH

vs.

JURY TRIAL/VERDICT

GARY EDWARD HAYNES,

Defendant.

VOLUME VI
STENOGRAPHIC RECORD

of the proceedings had in the above-entitled
cause on the 20th day of December, 2018, before
HONORABLE ANNETTE R. SMEDLEY, CIRCUIT JUDGE.

APPEARANCES:

KIRSTEN E. STINEDURF, J.D. (P72039)
Assistant Attorney General
on behalf of the People;

FREDERICK D. JOHNSON, JR., J.D. (P36283)
Attorney at Law
on behalf of the Defendant.

CERTIFIED
TRANSCRIPT

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WITNESS:

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None

EXHIBITS:

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None

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Thursday, December 20, 2018

At 10:17:16 A.M..

Muskegon, Michigan

R E C O R D

THE COURT: We're back on the record with File 18-4131-FH. I have been informed that the Jury has reached a verdict. All parties are present.

Are you prepared to bring the Jury in?

MS. STINEDURF: Yes, Your Honor.

MR. JOHNSON: Yes, ma'am.

THE COURT: All right. We'll bring the Jury in.

(Whereupon, Jury entered courtroom at 10:17:46 A.M..)

THE COURT: You may be seated. I have been informed that a verdict has been reached. Would the foreman please hand the verdict form to the Bailiff?

Thank you. Would the Jury foreman please rise and read the Jury verdict?

FOREMAN AMES: Your Honor, Count I, racketeering - conducting an enterprise, we the Jury find the verdict of guilty, guilty of racketeering - conducting an enterprise.

Count II, embezzlement from a vulnerable

1 adult \$100,000 or more, guilty of embezzlement from a
2 vulnerable adult \$100,000 or more.

3 Count III, embezzlement from a vulnerable
4 adult \$1,000 or more but less than \$20,000, guilty of
5 embezzlement from a vulnerable adult \$1,000 or more
6 but less than \$20,000.

7 Count IV, embezzlement from a vulnerable
8 adult \$1,000 or more but less than \$20,000, find the
9 Defendant guilty of embezzlement from a vulnerable
10 adult \$1,000 or more but less than \$20,000.

11 Count V, embezzlement from a vulnerable
12 adult \$1,000 or more but less than \$20,000, guilty of
13 embezzlement from a vulnerable adult \$1,000 or more
14 but less than \$20,000.

15 Count VI, embezzlement from a vulnerable
16 adult \$1,000 or more but less than \$20,000, guilty of
17 embezzlement from a vulnerable adult \$1,000 or more
18 but less than \$20,000.

19 Count VII, embezzlement from a vulnerable
20 adult \$1,000 or more but less than \$20,000, guilty of
21 embezzlement from a vulnerable adult \$1,000 or more
22 but less than \$20,000.

23 Count VIII, embezzlement from a vulnerable
24 adult \$1,000 or more but less than \$20,000, guilty of
25 embezzlement from a vulnerable adult \$1,000 or more

1 but less than \$20,000.

2 Count IX, embezzlement from a vulnerable
3 adult \$1,000 or more but less than \$20,000, guilty of
4 embezzlement from a vulnerable adult \$1,000 or more
5 but less than \$20,000.

6 Count X, embezzlement from a vulnerable
7 adult \$1,000 or more but less than \$20,000, guilty of
8 embezzlement from a vulnerable adult \$1,000 or more
9 but less than \$20,000.

10 Count XI, taxes, failure to file/false
11 return payment, guilty of taxes failure to file/false
12 return payment.

13 Count XII, taxes, failure to file/false
14 return payment, guilty of taxes failure to file/false
15 return payment.

16 Count XIII, taxes, failure to file/false
17 return payment, guilty of taxes failure to file/false
18 return payment.

19 Count XIV, taxes, failure to file/false
20 return payment, guilty of taxes failure to file/false
21 return payment.

22 THE COURT: Thank you very much. If you
23 would hand that to the Bailiff.

24 Prosecution, are you asking to poll the
25 Jury?

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MS. STINEDURF: No, Your Honor.

THE COURT: Defense?

MR. JOHNSON: Please, Your Honor.

THE COURT: Thank you. When we ask if we're going to poll the jury, we have to make sure that each of your decision is your own. So what I will do is I will go through and ask each juror if this -- if the verdict read is your verdict.

So we will start with Juror Number 1, is that your verdict?

JUROR FISHER: Yes, ma'am.

THE COURT: Juror Number 2?

JUROR BETZ: Yes.

THE COURT: Juror Number 3?

JUROR GOLDEN: Yes, Your Honor.

THE COURT: Juror Number 4?

JUROR GRIFFITH: Yes.

THE COURT: Juror Number 5?

JUROR BOULET: Yes, ma'am.

THE COURT: Juror Number 6?

JUROR PEABODY: Yes, Your Honor.

THE COURT: And Juror Number 7?

JUROR MANN: Yes.

THE COURT: Juror Number 8 was the excused juror.

1 Juror Number 9?
2 JUROR VITEK: Yes.
3 THE COURT: Juror Number 10?
4 JUROR UPMAN: Yes, Your Honor.
5 THE COURT: Juror Number 11?
6 JUROR MISCIASCI: Yes, ma'am.
7 THE COURT: Juror Number 12 is the
8 foreman. Juror Number 13?
9 JUROR YONKERS: Yes.
10 MR. JOHNSON: Thank you, Your Honor.
11 THE COURT: Thank you. And sentencing
12 will be --
13 THE CLERK-BAILIFF: February 1st at 9:00
14 A.M..
15 THE COURT: -- February 1st at 9:00 A.M..
16 I would like to thank the Jury at this time. You may
17 retreat back to the jury room. Thank you.
18 (Whereupon, Jury left the court-
19 room at 10:23:54 A.M..)
20 THE COURT: You may be seated. Mr. Hayes,
21 you have been found guilty. You are not
22 incarcerated, so that means that you must go over to
23 the probation department to be able to have a
24 presentence report done. I'm going to order a
25 presentence report. You have to go over there right

1 after you're done here today.

2 Mr. Johnson, it's going to take us a
3 little bit to get that paperwork together for
4 Mr. Haynes. Mr. Mahan?

5 THE CLERK-BAILIFF: Yes, ma'am.

6 THE COURT: Will you have that paperwork
7 for him to go to the probation department this
8 morning?

9 THE CLERK-BAILIFF: I can get it to him.

10 THE COURT: All right. So just go ahead
11 and have a seat out in the hallway, but do not leave
12 until you talk to and get the paperwork from
13 Mr. Mahan.

14 Anything further at this time?

15 MS. STINEDURF: Your Honor, I ask that the
16 Court would consider revoking Mr. Haynes' bond in
17 light of the guilty verdict today. Mr. Haynes'
18 guidelines currently score in the prison range of 45
19 to 75 months on the minimum. I think at this point,
20 he certainly has a decreased incentive to comply with
21 bond and to appear for all court days.

22 MR. JOHNSON: May I be heard, Your Honor?

23 THE COURT: You may.

24 MR. JOHNSON: Thank you. While I concur
25 with Counsel's position that my client's guidelines

1 are approximately assessed them to be in the 75-month
2 guideline range, my client has known about those
3 guideline ranges from the very outset of this matter,
4 way back in preliminary examination. He's appeared
5 timely. He is here before I am for every hearing,
6 every pre-trial. Every occasion we've asked him to
7 be here, he's been here and he's been here early.

8 I would also point out that my client, by
9 his own testimony, has been living in this area for
10 20 some years. All of his family is here. All of
11 his friends are here. All of his -- Everything he
12 owns is in this community, so he has a very strong
13 contact with this community.

14 This is not an assaultive offense, nor
15 does my client have any prior record.

16 And I think the biggest -- the biggest
17 reason why I would ask the Court to consider is,
18 quite frankly, with the guidelines being what they
19 are, the only real opportunity to make any
20 restitution involved in this matter is going to occur
21 now. But if -- if -- Given the victim's age, if my
22 client is sent to prison, there is a high likelihood
23 that he will not survive long enough for him to be
24 released and then make restitution.

25 If the Court allows him to remain at

1 liberty at this juncture, I will be directing him to
2 go out and liquidate everything he's got to bring as
3 much restitution to this Court as possible at the
4 time that he's sentenced. By that method at least we
5 might be able to get something to this victim during
6 her lifetime. And I think that's a very strong -- I
7 think it differentiates himself from most folks who
8 come before this Court, that is probably the only
9 opportunity that's going to be -- that's going to be
10 to make things right with this victim. Therefore,
11 we'd ask the Court to give him at least the
12 opportunity to go out there and seek the type of
13 restitution he can provide, bring it to the Court.
14 And I will instruct him to do so and the Court will
15 consider what his efforts have produced.

16 And so I'd ask that he be allowed to
17 remain at liberty at this juncture as the Court
18 suggested.

19 THE COURT: Thank you. In this situation,
20 the Defendant has shown up for everything. He has
21 known that if he was found guilty that he is going to
22 face a possible prison sentence and he has shown up.
23 This is not an assaultive crime. He does not have
24 criminal record. I don't see a reason to revoke his
25 bond at this time.

1 MS. STINEDURF: I would ask the Court then
2 to impose additional conditions prohibiting
3 Mr. Haynes from accepting money from clients or in
4 any way processing the money of others through estate
5 planning, loans, any other type of financial
6 transaction involving anyone else's money.

7 THE COURT: I believe that he has lost his
8 license to be able to do that, according to what they
9 said in testimony.

10 MS. STINEDURF: He's lost his securities
11 license, but certainly that doesn't prohibit him from
12 -- He testified that he does not need to be licensed
13 to be an estate planner. I certainly do not think
14 it's appropriate for him to be taking other people's
15 money in at this point.

16 THE COURT: And I agree. I understand
17 that that's your business. But at this time, because
18 of the charges and the conviction in this case, part
19 of your probation is that you are not to deal in any
20 of that type of work with any elderly people.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And sentencing again is --

23 THE CLERK-BAILIFF: February 1st at 9:00
24 A.M..

25 THE COURT: -- February 1st at 9:00 A.M..

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Anything further?

MS. STINEDURF: None, Your Honor. Thank
you.

MR. JOHNSON: No, ma'am.

THE COURT: All right. Thank you.

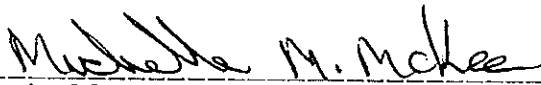
(Whereupon, proceedings concluded
at 10:28:40 A.M..)

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STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

I, Michelle M. McKee, Certified Shorthand Reporter, acting as the official reporter for the 14th Judicial Circuit Court and Notary Public for the County of Muskegon, State of Michigan, do hereby certify that the foregoing Pages 1 through 13, inclusive, comprise a full, true and accurate transcript of the proceedings and testimony taken in the matter of THE PEOPLE OF THE STATE OF MICHIGAN versus GARY EDWARD HAYNES, File No. 18-004131-FH on December 20, 2018.



Michelle M. McKee, CSR-3841
Certified Shorthand Reporter

ENFORCEMENT EXHIBIT 5

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

vs

File No.: 18-4131-FH

GARY EDWARD HAYNES,

PRETRIAL SETTLEMENT
CONFERENCE

Defendant.

STENOGRAPHIC RECORD

of the proceedings had in the above-entitled
cause on the 13th day of December 2018 before
the HONORABLE ANNETTE R. SMEDLEY, 14th Judicial
Circuit Judge.

APPEARANCES:

MS. KRISTEN STINEDURF, J.D.
Attorney General's Office
on behalf of the Plaintiff;

MR. FREDERICK JOHNSON, JR., J.D.
Attorney at Law
on behalf of the Defendant.

CERTIFIED
TRANSCRIPT

KATHY E. STEVENS CSR-4091
Official Court Reporter

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TABLE OF CONTENTS

WITNESSES:

PAGE

NONE

* ** *

EXHIBITS:

RECEIVED

NONE

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1 Muskegon, Michigan

2 Thursday, December 13, 2018

3 At approximately 2:11 P.M.

4 R E C O R D

5 THE COURT: We are on the record with
6 File 18-4131-FH in the matter of Gary Haynes.

7 Are you Gary Haynes?

8 MR. HAYNES: Yes, I am.

9 THE COURT: Would you please rise and
10 raise your right hand.

11 THE CLERK-BAILIFF: In this cause now
12 pending do you solemnly swear or affirm to tell
13 the truth, the whole truth, and nothing but the
14 truth, so help you?

15 G A R Y H A Y N E S ,
16 after having been duly administered an oath, was
17 examined and testified as follows:

18 THE DEFENDANT: I do.

19 THE COURT: Thank you. This is the date
20 and time set for a Pretrial Settlement
21 Conference. There is a jury trial that is
22 scheduled for Monday morning.

23 And could you please place your
24 appearance on the record.

25 MS. STINEDURF: Yes. Good afternoon,

1 Your Honor. Kristen Stinedurf for the People.

2 THE COURT: Thank you.

3 MR. JOHNSON: Your Honor, Fred Johnson

4 for Mr. Haynes.

5 THE COURT: Thank you. And was there an

6 offer in this case?

7 MS. STINEDURF: No, Your Honor. There

8 have been no offers extended following a

9 Preliminary Examination.

10 THE COURT: All right. Thank you.

11 I believe there was a Cobbs hearing

12 held, and there was a Cobbs in this case that the

13 Court would stay within the guidelines.

14 Is that correct?

15 MS. STINEDURF: Yes, that's correct.

16 THE COURT: Mr. Johnson, is that

17 correct?

18 MR. JOHNSON: It is, Your Honor.

19 THE COURT: And so, Mr. Haynes, you

20 understand that-- You can have-- You can stay

21 seated.

22 You understand that there is a Cobbs

23 agreement in this case that any sentence, if you

24 are found guilty at trial, or if you decided to

25 take a plea, any sentence would be within the

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guidelines itself.

THE DEFENDANT: Yes.

THE COURT: Do you understand that?

THE DEFENDANT: I understand that, yes.

THE COURT: All right. Guidelines now are advisory. So I could go below the guidelines; or, if I found information other than that, if you decide to have a trial and I found-- I get kind of like a small picture of what's going on when we talk about the Cobbs. I don't get details, and you don't go into it in depth.

So if we go to trial, I get a little more information at a trial than I do--

THE DEFENDANT: Sure.

THE COURT: --just the snapshot.

You understand?

THE DEFENDANT: That makes sense, yes.

THE COURT: So I could go above the guidelines, I could go below the guidelines, depending on what I hear at trial if you are found guilty.

Do you understand?

THE DEFENDANT: Yes.

THE COURT: All right. And in this

1 situation have you had an opportunity to discuss
2 this case with your attorney and all of your
3 options?

4 THE DEFENDANT: Yes, ma'am, I have.

5 THE COURT: And after discussing that
6 with your attorney and listening to whatever
7 advice he had, is it your choice to go further
8 and have a jury trial at this time?

9 THE DEFENDANT: Yes, it is, Your Honor.

10 THE COURT: So any-- There was no
11 offer, but the agreement that I would stay within
12 the guidelines, you understand that that would be
13 off the table today?

14 THE DEFENDANT: Yes, Your Honor. I
15 understand that.

16 THE COURT: All right. And has anybody
17 forced you to go to trial?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Has anybody threatened you
20 to go to trial?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Are you going to trial of
23 your own free choice after you have carefully
24 considered this with your attorney?

25 THE DEFENDANT: Yes.

1 THE COURT: And you understand that
2 let's say Monday comes and you say, well, wait a
3 minute, I want to plead-- . You're probably not
4 going to do that, but if that happens, you
5 understand that my Cobbs agreement to stay within
6 that guideline is off the table, and I could do
7 whatever at that time?

8 THE DEFENDANT: Yes, I understand that.

9 THE COURT: All right. So at this time
10 is it your choice to plead, or is it your choice
11 to continue with the jury trial?

12 THE DEFENDANT: I would like to continue
13 with the jury trial.

14 THE COURT: All right. And anything
15 further at this time?

16 MS. STINEDURF: No, Your Honor. Thank
17 you.

18 THE COURT: Anything further?

19 MR. JOHNSON: No, ma'am.

20 THE COURT: I do understand that there
21 is going to be what's called a 404(b) evidence
22 hearing on Monday before the trial.

23 Is that correct?

24 MS. STINEDURF: Yes, Your Honor.

25 THE COURT: Is that correct?

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MR. JOHNSON: It is. You are correct.

THE COURT: And Mr. Haynes, do you understand what that is all about?

MR. JOHNSON: I don't believe we discussed the 404(b) hearing, Your Honor, specifically and I -- but we will be discussing it before tomorrow.

THE COURT: All right. Let me give you a few minutes to explain. We will go off the record. I will give you a few minutes to talk to Mr. Haynes, because I want him to be able to understand what that means for actually going forward to trial.

If I allow that evidence-- I may not allow it, I don't know, because I haven't heard it yet. --but if I allow that evidence, it may change his mind, it may not. But he has that right to understand what possibly could come down the pike.

So if you would take him across the hall for a moment and kind of talk through that with him, and then we will come back on the record.

MR. JOHNSON: Certainly, Your Honor.

THE COURT: Thank you.

(Whereupon, recess taken at

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approximately 2:16 P.M.; with
proceedings resuming at
approximately 2:17 P.M.)

THE COURT: Are you ready?

MR. JOHNSON: Yes, Your Honor.

THE COURT: All right. Come on back
up. We are back on the record.

Mr. Haynes, have you had an opportunity
to discuss with your attorney the 404(b) motion?

THE DEFENDANT: Yes, I have.

THE COURT: And do you understand it, or
do you need more time with your attorney?

THE DEFENDANT: I understand it.

THE COURT: After discussing that with
your attorney and -- attorney and knowing what is
going to happen on Monday, do you still want to
go forward with the jury trial?

THE DEFENDANT: Yes, ma'am, I do.

THE COURT: All right. Anything
further?

MS. STINEDURF: No, Your Honor. Thank
you.

THE COURT: Anything further?

MR. JOHNSON: No, ma'am.

THE COURT: All right. Parties will be

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here at 8:45 on Monday.

MR. JOHNSON: Thank you, Your Honor.

MS. STINEDURF: Thank you.

THE COURT: Thank you very much.

(Whereupon, proceedings concluded
at approximately 2:18 P.M.)

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STATE OF MICHIGAN)

) ss

COUNTY OF MUSKEGON)

I, Kathy E. Stevens, Certified Court Reporter/Registered Professional Reporter and Notary Public of the 14th Judicial Circuit, County of Muskegon, State of Michigan, do hereby certify that the foregoing Pages 1 through 11, inclusive, comprise a full, true, and accurate transcript of the proceedings and testimony taken in the matter of THE PEOPLE OF THE STATE OF MICHIGAN versus GARY EDWARD HAYNES, File No. 18-4131-FH, on December 13, 2018.



Kathy E. Stevens, ESR-4091
Certified Official Court Reporter
Hall of Justice, 14th Circuit Court
990 Terrace Street
Muskegon, MI 49442-3357

ENFORCEMENT EXHIBIT 6

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

File No. 18-004131-FH

vs.

JURY TRIAL/VERDICT

GARY EDWARD HAYNES,

Defendant.

VOLUME VI
STENOGRAPHIC RECORD

of the proceedings had in the above-entitled
cause on the 20th day of December, 2018, before
HONORABLE ANNETTE R. SMEDLEY, CIRCUIT JUDGE.

APPEARANCES:

KIRSTEN E. STINEDURF, J.D. (P72039)
Assistant Attorney General
on behalf of the People;

FREDERICK D. JOHNSON, JR., J.D. (P36283)
Attorney at Law
on behalf of the Defendant.

CERTIFIED
TRANSCRIPT

TABLE OF CONTENTS

WITNESS:

PAGE

None

EXHIBITS:

PAGE

None

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Thursday, December 20, 2018
At 10:17:16 A.M..
Muskegon, Michigan

R E C O R D

THE COURT: We're back on the record with File 18-4131-FH. I have been informed that the Jury has reached a verdict. All parties are present.

Are you prepared to bring the Jury in?

MS. STINEDURF: Yes, Your Honor.

MR. JOHNSON: Yes, ma'am.

THE COURT: All right. We'll bring the Jury in.

(Whereupon, Jury entered courtroom at 10:17:46 A.M..)

THE COURT: You may be seated. I have been informed that a verdict has been reached. Would the foreman please hand the verdict form to the Bailiff?

Thank you. Would the Jury foreman please rise and read the Jury verdict?

FOREMAN AMES: Your Honor, Count I, racketeering - conducting an enterprise, we the Jury find the verdict of guilty, guilty of racketeering - conducting an enterprise.

Count II, embezzlement from a vulnerable

1 adult \$100,000 or more, guilty of embezzlement from a
2 vulnerable adult \$100,000 or more.

3 Count III, embezzlement from a vulnerable
4 adult \$1,000 or more but less than \$20,000, guilty of
5 embezzlement from a vulnerable adult \$1,000 or more
6 but less than \$20,000.

7 Count IV, embezzlement from a vulnerable
8 adult \$1,000 or more but less than \$20,000, find the
9 Defendant guilty of embezzlement from a vulnerable
10 adult \$1,000 or more but less than \$20,000.

11 Count V, embezzlement from a vulnerable
12 adult \$1,000 or more but less than \$20,000, guilty of
13 embezzlement from a vulnerable adult \$1,000 or more
14 but less than \$20,000.

15 Count VI, embezzlement from a vulnerable
16 adult \$1,000 or more but less than \$20,000, guilty of
17 embezzlement from a vulnerable adult \$1,000 or more
18 but less than \$20,000.

19 Count VII, embezzlement from a vulnerable
20 adult \$1,000 or more but less than \$20,000, guilty of
21 embezzlement from a vulnerable adult \$1,000 or more
22 but less than \$20,000.

23 Count VIII, embezzlement from a vulnerable
24 adult \$1,000 or more but less than \$20,000, guilty of
25 embezzlement from a vulnerable adult \$1,000 or more

1 but less than \$20,000.

2 Count IX, embezzlement from a vulnerable
3 adult \$1,000 or more but less than \$20,000, guilty of
4 embezzlement from a vulnerable adult \$1,000 or more
5 but less than \$20,000.

6 Count X, embezzlement from a vulnerable
7 adult \$1,000 or more but less than \$20,000, guilty of
8 embezzlement from a vulnerable adult \$1,000 or more
9 but less than \$20,000.

10 Count XI, taxes, failure to file/false
11 return payment, guilty of taxes failure to file/false
12 return payment.

13 Count XII, taxes, failure to file/false
14 return payment, guilty of taxes failure to file/false
15 return payment.

16 Count XIII, taxes, failure to file/false
17 return payment, guilty of taxes failure to file/false
18 return payment.

19 Count XIV, taxes, failure to file/false
20 return payment, guilty of taxes failure to file/false
21 return payment.

22 THE COURT: Thank you very much. If you
23 would hand that to the Bailiff.

24 Prosecution, are you asking to poll the
25 Jury?

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MS. STINEDURF: No, Your Honor.

THE COURT: Defense?

MR. JOHNSON: Please, Your Honor.

THE COURT: Thank you. When we ask if we're going to poll the jury, we have to make sure that each of your decision is your own. So what I will do is I will go through and ask each juror if this -- if the verdict read is your verdict.

So we will start with Juror Number 1, is that your verdict?

JUROR FISHER: Yes, ma'am.

THE COURT: Juror Number 2?

JUROR BETZ: Yes.

THE COURT: Juror Number 3?

JUROR GOLDEN: Yes, Your Honor.

THE COURT: Juror Number 4?

JUROR GRIFFITH: Yes.

THE COURT: Juror Number 5?

JUROR BOULET: Yes, ma'am.

THE COURT: Juror Number 6?

JUROR PEABODY: Yes, Your Honor.

THE COURT: And Juror Number 7?

JUROR MANN: Yes.

THE COURT: Juror Number 8 was the excused juror.

1 Juror Number 9?
2 JUROR VITEK: Yes.
3 THE COURT: Juror Number 10?
4 JUROR UPMAN: Yes, Your Honor.
5 THE COURT: Juror Number 11?
6 JUROR MISCIASCI: Yes, ma'am.
7 THE COURT: Juror Number 12 is the
8 foreman. Juror Number 13?
9 JUROR YONKERS: Yes.
10 MR. JOHNSON: Thank you, Your Honor.
11 THE COURT: Thank you. And sentencing
12 will be --
13 THE CLERK-BAILIFF: February 1st at 9:00
14 A.M..
15 THE COURT: -- February 1st at 9:00 A.M..
16 I would like to thank the Jury at this time. You may
17 retreat back to the jury room. Thank you.
18 (Whereupon, Jury left the court-
19 room at 10:23:54 A.M..)
20 THE COURT: You may be seated. Mr. Hayes,
21 you have been found guilty. You are not
22 incarcerated, so that means that you must go over to
23 the probation department to be able to have a
24 presentence report done. I'm going to order a
25 presentence report. You have to go over there right

1 after you're done here today.

2 Mr. Johnson, it's going to take us a
3 little bit to get that paperwork together for
4 Mr. Haynes. Mr. Mahan?

5 THE CLERK-BAILIFF: Yes, ma'am.

6 THE COURT: Will you have that paperwork
7 for him to go to the probation department this
8 morning?

9 THE CLERK-BAILIFF: I can get it to him.

10 THE COURT: All right. So just go ahead
11 and have a seat out in the hallway, but do not leave
12 until you talk to and get the paperwork from
13 Mr. Mahan.

14 Anything further at this time?

15 MS. STINEDURF: Your Honor, I ask that the
16 Court would consider revoking Mr. Haynes' bond in
17 light of the guilty verdict today. Mr. Haynes'
18 guidelines currently score in the prison range of 45
19 to 75 months on the minimum. I think at this point,
20 he certainly has a decreased incentive to comply with
21 bond and to appear for all court days.

22 MR. JOHNSON: May I be heard, Your Honor?

23 THE COURT: You may.

24 MR. JOHNSON: Thank you. While I concur
25 with Counsel's position that my client's guidelines

1 are approximately assessed them to be in the 75-month
2 guideline range, my client has known about those
3 guideline ranges from the very outset of this matter,
4 way back in preliminary examination. He's appeared
5 timely. He is here before I am for every hearing,
6 every pre-trial. Every occasion we've asked him to
7 be here, he's been here and he's been here early.

8 I would also point out that my client, by
9 his own testimony, has been living in this area for
10 20 some years. All of his family is here. All of
11 his friends are here. All of his -- Everything he
12 owns is in this community, so he has a very strong
13 contact with this community.

14 This is not an assaultive offense, nor
15 does my client have any prior record.

16 And I think the biggest -- the biggest
17 reason why I would ask the Court to consider is,
18 quite frankly, with the guidelines being what they
19 are, the only real opportunity to make any
20 restitution involved in this matter is going to occur
21 now. But if -- if -- Given the victim's age, if my
22 client is sent to prison, there is a high likelihood
23 that he will not survive long enough for him to be
24 released and then make restitution.

25 If the Court allows him to remain at

1 liberty at this juncture, I will be directing him to
2 go out and liquidate everything he's got to bring as
3 much restitution to this Court as possible at the
4 time that he's sentenced. By that method at least we
5 might be able to get something to this victim during
6 her lifetime. And I think that's a very strong -- I
7 think it differentiates himself from most folks who
8 come before this Court, that is probably the only
9 opportunity that's going to be -- that's going to be
10 to make things right with this victim. Therefore,
11 we'd ask the Court to give him at least the
12 opportunity to go out there and seek the type of
13 restitution he can provide, bring it to the Court.
14 And I will instruct him to do so and the Court will
15 consider what his efforts have produced.

16 And so I'd ask that he be allowed to
17 remain at liberty at this juncture as the Court
18 suggested.

19 THE COURT: Thank you. In this situation,
20 the Defendant has shown up for everything. He has
21 known that if he was found guilty that he is going to
22 face a possible prison sentence and he has shown up.
23 This is not an assaultive crime. He does not have
24 criminal record. I don't see a reason to revoke his
25 bond at this time.

1 MS. STINEDURF: I would ask the Court then
2 to impose additional conditions prohibiting
3 Mr. Haynes from accepting money from clients or in
4 any way processing the money of others through estate
5 planning, loans, any other type of financial
6 transaction involving anyone else's money.

7 THE COURT: I believe that he has lost his
8 license to be able to do that, according to what they
9 said in testimony.

10 MS. STINEDURF: He's lost his securities
11 license, but certainly that doesn't prohibit him from
12 -- He testified that he does not need to be licensed
13 to be an estate planner. I certainly do not think
14 it's appropriate for him to be taking other people's
15 money in at this point.

16 THE COURT: And I agree. I understand
17 that that's your business. But at this time, because
18 of the charges and the conviction in this case, part
19 of your probation is that you are not to deal in any
20 of that type of work with any elderly people.

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And sentencing again is --

23 THE CLERK-BAILIFF: February 1st at 9:00
24 A.M..

25 THE COURT: -- February 1st at 9:00 A.M..

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Anything further?

MS. STINEDURF: None, Your Honor. Thank
you.

MR. JOHNSON: No, ma'am.

THE COURT: All right. Thank you.

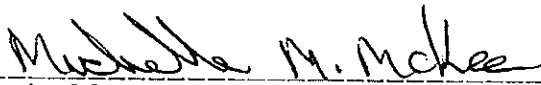
(Whereupon, proceedings concluded
at 10:28:40 A.M..)

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STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

I, Michelle M. McKee, Certified Shorthand Reporter, acting as the official reporter for the 14th Judicial Circuit Court and Notary Public for the County of Muskegon, State of Michigan, do hereby certify that the foregoing Pages 1 through 13, inclusive, comprise a full, true and accurate transcript of the proceedings and testimony taken in the matter of THE PEOPLE OF THE STATE OF MICHIGAN versus GARY EDWARD HAYNES, File No. 18-004131-FH on December 20, 2018.



Michelle M. McKee, CSR-3841
Certified Shorthand Reporter

ENFORCEMENT EXHIBIT 7

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,
vs File No.: 18-4131-FH
GARY EDWARD HAYNES, SENTENCE
Defendant.

STENOGRAPHIC RECORD
of the proceedings had in the above-entitled
cause on the 8th day of February 2019 before
the HONORABLE ANNETTE R. SMEDLEY, 14th Judicial
Circuit Judge.

CERTIFIED
TRANSCRIPT

APPEARANCES:
MS. KRISTEN STINEDURF, J.D.
Attorney General's Office
on behalf of the Plaintiff;
MR. CHAD CATALINO, J.D.
Attorney at Law
on behalf of the Defendant.

KATHY E. STEVENS CSR-4091
Official Court Reporter

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WITNESSES:

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NONE

* ** *

EXHIBITS:

RECEIVED

NONE

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1 Muskegon, Michigan

2 Friday, February 8, 2019

3 At approximately 11:52 A.M.

4 R E C O R D

5 THE COURT: We are on the record with
6 File 18-4131-FH. Could you state your name for
7 the record.

8 THE DEFENDANT: Gary Haynes.

9 THE COURT: This is the date and time
10 set for sentencing.

11 Could you again state your name for the
12 record, please.

13 MS. STINEDURF: Kristen Stinedurf for
14 the People, Your Honor.

15 THE COURT: Thank you. Have you
16 reviewed the presentence report and the attached
17 sentence guidelines sheet and the attached
18 letters?

19 MS. STINEDURF: Yes, Your Honor.

20 THE COURT: Any additions or
21 corrections?

22 MS. STINEDURF: I have no additions or
23 corrections. I would reserve the right to
24 allocute after the Court has considered the PSI.

25 THE COURT: Thank you. Mr. Catalino?

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MR. CATALINO: Thank you, Judge. I do have a couple additions or corrections.

As the Court is aware, there was a trial in this case. If the Court turns to Page 2 in the Presentence Investigation Report under Agent's Description of the Offense, within that description I have a couple factual challenges, but I will tie it in real quick.

People v. Lockridge, which was 498 Mich 358, decided in July of 2015, indicates-- And I'm quoting:

"When a Defendant's sentence is calculated using guidelines minimum sentence range in which the OVs have been scored on the basis of facts not admitted by the Defendant or found beyond a reasonable doubt by the jury, the sentencing Court may exercise its discretion to depart from the guideline range without -- without articulating substantial and compelling reasons for doing so. A sentence that departs from the applicable guidelines range, however,

1 will be reviewed by an appellate
2 court for reasonableness, citing
3 Booker, which is 543 US at 261.

4 In this case, Judge, there was -- there
5 was a trial, and there were several factual
6 discrepancies, according to the trial attorney,
7 in this case related to this.

8 So the second-to-last paragraph on Page
9 2 under Agent's Description of the Offense
10 beginning with:

11 Mrs. Liddle said she questioned Mr.
12 Haynes. That statement is being challenged as
13 inappropriate in the PSI. Trial counsel's
14 recollection was that the -- Mrs. Liddle
15 testified that she didn't even know she had
16 signed the money over to the Defendant, and there
17 is no factual basis for that statement at this
18 point in time. There is no attached transcript
19 to the Presentence Investigation Report; and
20 therefore, it is being challenged pursuant to
21 Lockridge.

22 The other issue is Page 3, which would
23 be the next page. The first full paragraph and
24 the first two sentences in that paragraph
25 beginning with:

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According to Mrs. Liddle, Mr. Haynes kept. That paragraph is being challenged for the same exact reasons indicating that trial counsel did not recollect that those statements were made during the course of the trial, and there is no transcript evidencing the factual basis for those.

And then finally, Judge, in the paragraph two -- the fifth paragraph down beginning:

On August 25th, the last statement in that paragraph beginning with: She said occasionally he would, in response to a question made by an investigator at the time, is being challenged pursuant to that same indication that trial counsel did not recollect that being -- those statements being made or testified to during the trial, the course of the trial; and that Lockridge applies, that there was no admission by my client as it relates to those factual statements. And thus, pursuant to the case law that I indicated, are inappropriate for purposes of admission into the Presentence Investigation Report and ask the Court to strike those.

1 They are specifically relevant-- And I
2 guess I will go to it this way. --as it relates
3 to the scoring of OV-10 at 15 points.

4 Well, I will leave -- I guess I will
5 leave it at this: I still have two other scoring
6 challenges, but I would ask the Court to take
7 into account those circumstances as it relates to
8 the request for the change of the factual
9 information first.

10 THE COURT: Thank you. In this
11 situation there was a jury trial and testimony
12 was taken from Ms. Liddle. These statements may
13 not be word for word, but these statements were
14 the factual basis in this statement from the
15 Agent's Description is what was testified by
16 Ms. Liddle.

17 Therefore, I am going to deny taking --
18 the request to take those out.

19 MR. CATALINO: Thank you, Your Honor.

20 As it relates to a continuing objection,
21 there is an objection to the scoring of Offense
22 Variable 4 at ten points. That offense variable
23 relates to psychological injury to the victim.
24 It was scored at ten points for psychological
25 injury requiring professional treatment occurred

1 to the victim.

2 In reviewing the Presentence
3 Investigation Report, there is no indication
4 under the Agent's Description of the Offense as a
5 factual basis for the scoring of Offense Variable
6 10 (sic).

7 Again, People v. Lockridge relates to if
8 the scoring guidelines are affected as a result
9 of a factual issue, then the Court can make those
10 decisions. However, because there is no factual
11 determination within the Presentence
12 Investigation Report and my client didn't testify
13 to that, I'm asking the Court to score OV --
14 Offense Variable 4 at zero points.

15 THE COURT: Offense Variable 4 is the
16 psychological injury to the victim. In this
17 case, although she did not state in the trial
18 that she sought psychiatric help, it's not
19 required by that OV that she seeks that
20 requirement.

21 There was testimony throughout the trial
22 that when Ms. Liddle testified, that she now has
23 trouble sleeping; she now cannot do things;
24 that she is stressed about is she going to get
25 her bills paid.

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So therefore, whether it's in the Agent's Description or not, testimony at trial does support the scoring of OV-4 at ten points, and I am going to leave that scored at the ten points.

MR. CATALINO: Thank you, Your Honor.

As it pertains to the scoring of Offense Variable 10, it is currently scored at 15 points. Pursuant to Lockridge as cited, I believe that the Court can make the determination. The MCL 777.22 indicates:

The mere existence of one or more of the factors described in MCL 777.40(1) does not automatically equate with victim vulnerability.

In this case, Judge, there is-- Well, in addition, Judge, People v. Cannon 481 Mich 152, a 2008 case, indicates the elements of determining Offense Variable 10, indicating that:

Offense Variable 10 may only be scored if:

One, the defendant engaged in pre-offense conduct. I'm assuming that there was testimony as it related to that, and there was a description in the report indicating that there

1 was a seminar set up in order to, for lack of a
2 better term, gather people to -- to determine
3 their eligibility to participate in the business
4 opportunity that was available.

5 Number Two under People v. Cannon:

6 Directed at one or more specific victims
7 who suffered from a readily apparent
8 vulnerability. And I think those -- those words
9 are important, readily apparent vulnerability.

10 And then Number Three: If victimization
11 was the defendant's primary purpose for engaging
12 in that conduct.

13 Quite frankly, this is an inartful
14 scoring of Offense Variable 15 as it relates to
15 predatory conduct. Basically it relies on the
16 fact that you have an elderly or older person and
17 the argument is basically every elderly or older
18 person is a readily apparent vulnerable person.

19 So the Court would have to have found or
20 the jury, quite frankly, or -- or the Defendant
21 would have to admit pursuant to Lockridge, that
22 there was a pre-offense conduct directed at this
23 specific victim for -- who was readily
24 apparent. Age, again MCL 777.22, does not
25 automatically equate with victim vulnerability

1 just because of the mere existence of the
2 factor.

3 So there has been no admission by my
4 client that -- that this pre-offense conduct of
5 having this seminar was designed for purposes of
6 recruiting readily apparent vulnerable people.
7 There was no testimony as it relates to that from
8 my understanding; and therefore, Offense
9 Variable 10 should be scored at zero points.

10 Thank you.

11 THE COURT: Response?

12 MS. STINEDURF: Yes, Your Honor. I
13 think the record was replete with testimony
14 regarding Ms. Liddle's vulnerability in that she
15 had been vulnerable for some time.

16 As the Court will recall, Doctor Miller
17 testified that Ms. Liddle had suffered from
18 physical difficulties for years; that she
19 required aid in walking; that she used a cane
20 and a walker alternatively; that there were many
21 things that she would need assistance with in her
22 daily life; that she also had several medical
23 conditions that needed ongoing monitoring.

24 Ms. Liddle met the Defendant in
25 approximately 2006/2007, and the Defendant

1 continued to work with her until approximately
2 2016 when the investigation began. During this
3 time period she suffered a head injury; she went
4 to a nursing home and was then transferred to
5 another assisted living facility. She had
6 numerous medical issues. She was in her 90s.
7 She lived alone.

8 She needed help when she met the
9 Defendant. She testified she met him because she
10 needed help using -- doing her bills because she
11 was not familiar with computers. From minute one
12 when Ms. Liddle met Mr. Haynes, her vulnerability
13 would have been clear.

14 The Court can certainly infer the
15 Defendant's intent from his behaviors. In this
16 case the Defendant worked with Ms. Liddle for
17 years. He did chores around her house, changed
18 her light bulbs, put up physical barriers in her
19 home, things that no financial advisor would
20 normally be doing. He essentially gained her
21 trust and exploiting that vulnerability, the fact
22 that she needed help, she needed friends, she was
23 alone. And then from there, he started stealing
24 her money.

25 I think in the context of all of these

1 things, the Court can certainly find predatory
2 conduct was exhibited under OV-10.

3 MR. CATALINO: Just so the record is
4 clear, I -- I suspect the Court has partly relied
5 on its determination in OV-4 as it relates to the
6 Victim Impact Statement and her indication that
7 she was psychologically problematic. But I
8 would also-- It says it's attached to the PSI,
9 and there was no objection to its admission
10 because I think she has a right to do that.

11 I would also inform the Court, in the
12 third paragraph down: I have lived alone since
13 my husband passed away in 2001. I considered
14 myself a strong, independent woman not afraid of
15 anything. If that's a vulnerable person, Judge,
16 then she, by her own statement, has overcome that
17 vulnerability.

18 So I would ask the Court-- And it's not
19 just vulnerability. Reasonably apparent
20 vulnerability. So I'm asking the Court to --
21 pursuant to her own statement in the Victim
22 Impact Statement, which the government has
23 presented as evidence against that.

24 THE COURT: We have OV-10 is
25 exploitation of a vulnerable victim. It has been

1 scored at 15 points. 15 points is predatory
2 conduct was involved. It does specify what
3 predatory conduct is: Pre-offense conduct
4 directed at a victim or a law enforcement officer
5 posing as a potential victim for the primary
6 purpose of victimization.

7 In this situation at trial we had
8 testimony from two others on the 404(b)
9 evidence. We had testimony from two other
10 persons who had met through the same type of
11 situation. We've got a conference that was set
12 up, a program set up. These victims -- these
13 witnesses were met at that place. They were
14 picked because of the situation in that the
15 Defendant put them in, invited them to this
16 program, and specifically sending out notices
17 that this was for older people, retirement type
18 of situations so that you could get your money
19 put together. And this was all set up on how to
20 meet these people was through these programs that
21 he had to get them.

22 So it wasn't-- Ms. Liddle wasn't the
23 first person that he met through this. And
24 therefore, I believe that the predatory conduct
25 is pre-offense. It includes others, along with

1 Ms. Liddle, on how he got his victims in this
2 case.

3 So therefore, OV-10 is scored at 15, and
4 I will continue that at 15.

5 MR. CATALINO: I have no other additions
6 or corrections. Thank you, Your Honor.

7 THE COURT: Thank you.

8 Have you reviewed the presentence report
9 and the attached sentence guidelines sheet and
10 the attached letters?

11 THE DEFENDANT: I have, Your Honor.

12 THE COURT: Have you had an opportunity
13 to discuss that with your attorney?

14 THE DEFENDANT: I have, Your Honor.

15 THE COURT: And I know that your
16 attorney today is not the attorney that was there
17 at trial time, but did you have an opportunity to
18 be able to thoroughly go through everything with
19 him in this presentence report to be able to
20 discuss it?

21 THE DEFENDANT: I -- I have, Your Honor.

22 THE COURT: All right. And do you have
23 any additions or corrections?

24 THE DEFENDANT: No, I don't, Your Honor.

25 THE COURT: Anything before sentencing?

1 MS. STINEDURF: Yes, Your Honor.

2 Your Honor, the Defendant preyed on
3 Ardis Liddle and exploited her vulnerability for
4 his own purposes. When the Defendant found Ms.
5 Liddle, he was conducting a financial seminar
6 aimed at senior citizens. All she wanted was
7 help managing her computerized bills.

8 The Defendant gave her a lot more than /
9 that. He changed light bulbs, hung pictures, put
10 up safety barriers, did other chores around her
11 house, even invited her to his children's school
12 plays.

13 Ms. Liddle lived alone, didn't have many
14 close friends or family once she moved to
15 Michigan. She thought she could trust Mr.
16 Haynes. She thought he wasn't just her financial
17 advisor, but her friend. She thought he was
18 helping her with bills because he was -- she was
19 uncomfortable using computers.

20 She also thought he was helping her keep
21 her money safe by putting it into annuities in
22 her name. Ms. Liddle did not know that the
23 Defendant's kindness was really a method of
24 grooming her to gain her trust. She didn't know
25 he had taken advantage of her discomfort with

1 computers to change the passwords to her accounts
2 to ones she did not know.

3 She didn't know he was taking advantage
4 of her vulnerability by siphoning over \$300,000
5 of her money into his own bank accounts without
6 her knowledge.

7 She didn't know he was taking advantage
8 of her age and isolation by taking money from her
9 when no one else was paying attention.

10 And as this Court knows, there was
11 testimony during trial that Ms. Liddle is not the
12 only person that Mr. Haynes took money from in
13 this way. Ms. Budek testified at trial she
14 believed that as of the time of the trial, the
15 Defendant still had approximately \$90,000 of her
16 money.

17 Ron Morris testified during trial that
18 he believed the Defendant still had \$190,000 of
19 his money.

20 Bank records admitted during the trial
21 show that there is no evidence that any of that
22 money ever went to investments or any other
23 sources other than into the Defendant's own bank
24 accounts used for his own purposes.

25 Because of the way Mr. Haynes has shown

1 he is capable of manipulating others, I am asking
2 this Court to enter a no-contact order
3 prohibiting Mr. Haynes from having direct or
4 indirect contact with clients of Future By
5 Design, Senior Planning Resources, from handling
6 money belonging to others, or from conducting any
7 businesses related to investments for the
8 duration of this sentence. The purpose of the
9 order would be to prevent the Defendant from
10 defrauding any other victims.

11 As this Court will also recall, an order
12 had to be entered during the trial prohibiting
13 the Defendant from contacting witnesses because
14 of the Defendant's behavior.

15 Ron Morris, one of the prosecution's
16 listed witnesses, said he had been contacted by
17 the Defendant on the day of trial. Even though
18 prior to that time, the Defendant had essentially
19 ceased contact with him after Mr. Morris asked
20 for some of his money back.

21 Furthermore, if the Court has reviewed
22 the records, the letters that were submitted to
23 the Court on behalf of the Defendant, the Court
24 will note that one of the letters was submitted
25 by a woman who appears to be the Defendant's

1 girlfriend, according to the information noted in
2 the PSI.

3 The Defendant's girlfriend in the letter
4 indicated she was attaching a letter written by
5 one of the Defendant's clients. That letter
6 appears to be signed by Dorothy Belosic (sp?).
7 This begs the question of how Ms. Jones would
8 have known to contact Ms. Belosic unless the
9 Defendant instructed her to do so.

10 It's important to note that Ms. Belosic
11 is currently 87 years old, and in 2013 Ms.
12 Belosic received a check for over \$78,000 from
13 AVIVA Life, which Defendant then deposited into
14 his account at Huntington Bank.

15 Defendant's sentencing guidelines are
16 currently 72-to-120 months on the minimum. I'm
17 asking this Court to impose an upward departure
18 from the sentencing guidelines. The guidelines
19 do not adequately amount -- account for the
20 amount of property the Defendant took from
21 Ms. Liddle. OV-16 in the guidelines only
22 accounts for a property loss of 20,000 or more.
23 The Defendant took over 15 times that amount from
24 Ms. Liddle. Ms. Liddle currently is 97 years
25 old. The reality is she probably never will see

1 that money again.

2 I also ask that the Court consider
3 imposing consecutive sentences for Counts 3
4 through 10 -- embezzlement committed against a
5 vulnerable adult as authorized by statute.

6 Ms. Liddle has written a Victim Impact
7 letter that she has asked me to read to the
8 Court. I will read that now.

9 To Whom it May Concern, my name is Ardis
10 Liddle. I am 97 years old. I am a widow. My
11 husband Frederick Liddle of 27 years passed away
12 in 2001. We did not have any children.

13 I have lived a full life. I have
14 traveled, met new people, owned and operated a
15 successful business. One thing I never
16 experienced -- that is, until I met Gary Duke
17 Haynes, was being a victim. Before being
18 victimized by Duke, I was very confident in my
19 decision making and trusted my own judgment.

20 Now I'm afraid that my friends and
21 family don't trust my judgment or have confidence
22 in me to make my own decisions. I don't trust
23 my own judgment at times. I trusted Duke and he
24 took advantage of me. I feel as though now I
25 don't trust people the way I did before Duke.

1 If I don't keep my guard up, I will be taken
2 advantage of again. I trusted Duke too much,
3 and now I can't trust anyone.

4 I have lived alone since my husband
5 passed away in 2001. I considered myself a
6 strong, independent woman not afraid of
7 anything. Now I hear things in the night that
8 wake me. I'm afraid of cars slowing, rolling by
9 my house, car doors slamming. I don't know if
10 Duke or someone Duke would send will hurt me.

11 I don't know where Duke is. I used to
12 leave my windows open for the breeze, doors
13 unlocked at times. Now I close and lock my
14 windows and lock my doors all the time. At
15 times I feel trapped in my own house.

16 I don't sleep well. I have nightmares
17 about the day in the courtroom that I couldn't
18 identify Duke. I know he has not changed that
19 much, but why couldn't I identify him sitting in
20 the courtroom. I wonder if I have subconsciously
21 blocked his face out of my memory because of the
22 fear I now have of him.

23 I was a business woman who owned and
24 operated my own Indian artifacts souvenir
25 business. I blame myself for trusting Duke so

1 much and not catching his deceitful ways
2 sooner. I know what he should have been doing
3 -- paying my bills, investing my money. But he
4 wasn't. I thought because he introduced me to
5 his family, took me out for my birthday, that he
6 was my friend; and therefore, I didn't say
7 anything to him. I was smart in business, and
8 now I feel foolish. Now I feel stupid. I was
9 never considered to be a stupid woman before
10 Duke.

11 My husband wanted to take care of me.
12 He knew that he would in all likelihood pass away
13 before I did. He and I began saving money and
14 investing in an annuity. After my husband
15 passed away, I moved from Arizona to Michigan to
16 be near my family. I had the annuity when I
17 came to Michigan. I think the annuity was worth
18 around \$140,000. I wanted to use that annuity
19 to live a better life as I grew older. I knew I
20 would be alone.

21 I now live on Social Security alone with
22 no other income coming in. I struggle to pay
23 monthly bills. My monthly bills are always going
24 up and up. I have to decide which bills are
25 more important than others -- food, heat,

1 utilities, taxes. I run short almost every
2 month. Without the annuity money, I cannot live
3 the life my husband and I envisioned for myself,
4 all because I trusted Duke.

5 With the shortness in money, I cannot
6 pay for the care that I need to survive. I rely
7 on other people for travel because I can't afford
8 a car. I have to have someone shop for
9 groceries, take me to my appointments, fix things
10 and clean my house, pick up and sort my
11 medication, et cetera.

12 I can't pay for reliable care because I
13 have no money to hire a professional. I must
14 rely on people I generally do not know who are
15 looking for a little extra money. They are not
16 reliable, and I don't trust them now.

17 I have not suffered any per se physical
18 injuries because of Duke, but I will tell you I
19 have suffered from a lot of stress because of
20 Duke which has caused me to lose sleep. I worry
21 all the time. I eat less. I'm more nervous and
22 jumpy now. I have to be more aware of my
23 surroundings, because of Duke.

24 I used to like travel, explore museums,
25 go to church, et cetera. I can't do any of

1 those things because I have no money, no car, no
2 one will pick me up and spend time with me unless
3 I pay them, and now I don't have the money to
4 enjoy myself. I do not want to die, but at times
5 I would welcome death to ease the suffering Duke
6 has created in my life.

7 Respectfully, Ardis Liddle.

8 Well, Mr. Haynes did have a tremendous
9 effect on Ardis Liddle's life. I would ask that
10 the Court sentence him accordingly and also order
11 the upward departure at the time of sentencing.

12 Thank you.

13 THE COURT: Thank you.

14 Mr. Catalino, anything to say before
15 sentencing?

16 MR. CATALINO: Well, that is brilliant
17 lawyering to end with I want to die, to continue
18 to inflame the Court's emotions. That's all it
19 was designed for. We're going to end on: I want
20 to die, in order to continue inflaming this
21 emotional impact. Oh, old people. Oh, we -- we
22 got to -- the guidelines don't effect or aren't
23 taking into account all of the circumstances, so
24 we have to upwardly depart.

25 Judge, presumably the Attorney General's

1 Office is full of very smart people. People v.
2 McGraw, 484 Mich 120, 2009 case, indicates that
3 you have to take into account the conduct related
4 to the sentencing.

5 So to parade-- It was a brilliant move
6 by trial counsel to parade a bunch of 404(b), old
7 women through here, old people through here, and
8 then try to use those things to in -- to continue
9 to inflame the Court and to convince the Court
10 that it should take those things into account for
11 purposes of sentencing.

12 Those were not substantive issues.
13 Those were not allowed for a substantive portion
14 of that. It was simply used as 404(b) evidence,
15 and the Court cannot take those things into
16 account at sentencing. And I would appreciate it
17 if the Court at its sentencing would instruct or
18 -- or indicate on the record if it's not going
19 to use those;

20 Or if it was going to use those for
21 purposes of gauging sentencing in conjunction
22 with its -- the -- or in contravention to McGraw
23 as I cited the law.

24 As it relates to the upward departure
25 and to the decision or the request for

1 consecutive sentencing, I think this is
2 two-fold.

3 Number one, it has to be a reasonable --
4 it's based on the reasonableness standard. And
5 again, I can cite Lockridge again and its progeny
6 if the Court is willing. I've done the research,
7 and I have anticipated these arguments. I
8 didn't hear the -- the government cite any case
9 law as it relates to those things. And it only
10 cites OV-16 which is, quite frankly, a tad
11 ironic.

12 OV-16-- And I guess I can pull it up
13 here. --property obtained, damaged or lost,
14 which is exactly what the guidelines take into
15 account -- property damaged, obtained, or lost.

16 And then we cite -- the government cites
17 OV-16 as it doesn't properly -- the guidelines
18 don't properly take into account the property
19 damaged, obtained, or lost. It's the direct
20 title of the OV-16 as cited under MCL 777.46.

21 So this argument of we need to exceed
22 the sentencing guidelines because they are not
23 reasonable pursuant to Lockridge when they
24 specifically cite the statute that says these are
25 reasonable because it takes it into account is

1 worrisome, quite frankly.

2 Number two, it's an emotional argument,
3 and I -- quite frankly, I -- I think it's -- it's
4 interesting that the-- Well, I guess I'll leave
5 it at that.

6 As it relates to the-- Oh, I do have
7 one other point. I have practiced in this
8 courtroom on a daily basis for over the last
9 three years. The Court has never imposed a
10 consecutive sentence as it relates to when it is
11 permissible and not mandatory.

12 So for the Court to take a look at this
13 case and say now is the time to do that, based on
14 the lack of case law from the government and the
15 citations that I have made, would -- would --
16 would beg the question as to the emotional state
17 of this sentencing, and I would ask the Court to
18 -- to really reflect on that issue as it relates
19 to its sentencing decision.

20 The other interesting part about this
21 is-- And I -- I understand the government isn't
22 here very often. They have cases all over the
23 State of Michigan. But I would refer the Court
24 to Page 5 under Adult History.

25 Well, first let's start at Juvenile

1 History: This investigation revealed no juvenile
2 criminal history for this offender.

3 And then under Adult History there was a
4 1997 OWI; a 2010 OWI.

5 That is the extent of my client's
6 criminal history.

7 This Court has routinely indicated,
8 especially when you have old convictions-- 1997
9 was what, '97, '07, over 20 years ago. And 2010
10 was over or about nine years ago. --this Court
11 has routinely indicated that that criminal
12 history mitigates against a more severe
13 sentence. So I would ask the Court to take those
14 things into account as it usually does in its
15 sentencing sentence.

16 Under Education, Judge, I would flip to
17 Page 8, this Court routinely-- And again, the
18 government isn't here very often and is not aware
19 of these sorts of things. --but the Court
20 routinely looks at education.

21 High school: Belleville High School.
22 12th grade, general studies. Received a high
23 school diploma, which here in Muskegon County we
24 don't get very often.

25 Then you look under College and Advance

1 Degrees: University of Michigan. College
2 graduate 1983 with a Bachelor's Degree in general
3 studies.

4 These two things the Court often uses as
5 mitigation evidence when passing sentence, and I
6 would ask the Court to consider that in this case
7 too. This -- this client, this Defendant, is not
8 to be afforded anything different than this Court
9 ultimately does on a daily basis here just
10 because of the inflammation of the emotion of the
11 government in this case.

12 Additionally, I have heard the
13 government indicate that punishment is the main
14 objective here based on their arguments.
15 However, I have not heard anything about, well
16 Judge, maybe it would be important to allow this
17 person-- In fact, we're going -- we want him to
18 stop his business so that he doesn't do these
19 things to anybody else. --but it would be
20 important for him to serve a punishment because
21 of course the jury made a decision, and that's
22 the way it is, and we have a factual or a -- a
23 legal decision as a result of that.

24 But the government is not interested, at
25 least according to the argument they made today,

1 based on re -- getting this person whole. The
2 only way you're going to get this person whole is
3 in the next 20 years or whatever is left of this
4 gentleman's life, from his 57th birthday on, is
5 to work. And he has the ability to work. He
6 has been working recently as a contractor in
7 order to frame houses, complete work in the
8 trades, in order to try to help pay back some of
9 these things.

10 In addition, the houses that were being
11 refurbished and -- and those sorts of things are
12 intended to be used as restitution, sold off, and
13 any profits used for restitution to make the
14 victim whole.

15 So the -- the only person discussing
16 restitution in this issue as to relates to trying
17 to get this money back to the people that were
18 harmed is my client here at sentencing.

19 So the reality is, Judge, is that what
20 we continue to see from an evidentiary
21 standpoint, not from anything else, is simply
22 punish him and use the emotion to do it.

23 I'm asking the Court to do what it
24 normally does -- and that is, take into account
25 these mitigating factors that the Court always

1 has; take into account the legally relevant
2 evidence as it relates to the sentencing portion
3 of this and not take into account the emotion.
4 And quite frankly, the emotion of the letters
5 from my client, his family either. This is an
6 emotional experience for them also, and sometimes
7 when you do -- are emotional, you say things that
8 you don't necessarily think about as heavily.

9 So I'm asking the Court to remove the
10 emotion of that and sentence him accordingly.

11 I would ask the Court to consider a
12 sentence that would, in punishment, give him the
13 punishment he deserves. Six years of his life
14 is going to be gone and which will put him fairly
15 old in working in the trades and is going to be
16 difficult to make up this type of money in that
17 realm when he gets out.

18 But it would also give him six years of
19 his life in MDOC to deal with those circumstances
20 as punishment. I would ask the Court to consider
21 those things in sentencing.

22 Thank you very much.

23 THE COURT: Thank you. Anything to say
24 before sentencing?

25 THE DEFENDANT: I don't, Your Honor.

1 Thank you.

2 THE COURT: Thank you. I have reviewed
3 the presentence report, and I have reviewed all
4 of the letters that I have received -- the
5 letters on behalf of the victim, the letters on
6 behalf of the Defendant.

7 In this situation there is a reason why
8 jurors are not allowed to do the sentencing
9 because jurors do let emotions get into their
10 decision on what they do decide on punishment.

11 As a judge, I'm placed up here. I have
12 to listen to the evidence. The emotions do not
13 become involved in my sentencing. It's the law
14 that I have to follow, and that's what I do as a
15 judge.

16 I understand that we have a victim in
17 this case, that she's a -- she's a very -- she's
18 an older woman; and that she was, according to
19 the jury, she was taken advantage of because of
20 her vulnerability. They have made that
21 decision. The jury has spoken. You are guilty
22 of all of these crimes.

23 It is my duty to look at what the
24 punishment is, and I have to follow the
25 guidelines. The guidelines are advisory, but I

1 would have to find that the -- the sentence in
2 this case, to be able to depart from the
3 guidelines either above or below, that it wasn't
4 proportionate to the crime itself in this case.

5 I do not-- I know the law that says I
6 am not to take anything into consideration on
7 these 404(b) evidence. That was there for them
8 to decide on, but it's not mine to decide on if
9 I'm going to give you more time because there's
10 more victims out there that you didn't have.
11 That doesn't concern me.

12 OV-16 is on the property; and as
13 stated, I -- as you look at OV-16 it specifically
14 states that-- And I lost it. --Property
15 obtained, damaged, lost, or destroyed. And what
16 this does is take into account the property.
17 That's one of the guidelines. It takes into
18 account that property, any amount over this. So
19 it's taken into consideration.

20 Now, the defense attorney is correct, as
21 looking at this, I do look through the
22 presentence report and look to see do we have
23 history here; what is the criminal history;
24 what is the education, drug use. All of that is
25 taken into consideration when I look at that.

1 But it's also all taken -- most of it is
2 taken into consideration when the guidelines are
3 done. I'm focused on this one. I'm focused on
4 what happened in this specific case.

5 There are several charges. So I'm
6 going to go through each one of these charges on
7 the sentence. There is going to be one \$130
8 Crime Victim Fund amount because this is one
9 case, and there is only one victim. \$130 allowed
10 on each case.

11 Each charge will have a \$68 state
12 charge. So it's going to be \$68 times 14
13 because there's 14 charges.

14 There is going to be one \$450 Public
15 Defender fee.

16 The amount of restitution in this case
17 is being disputed by defense. So the amount--
18 We will have to have a restitution hearing to --
19 in regards to any restitution owed in this case.

20 So I am going to reserve the restitution
21 at this time, and that restitution will be
22 reserved for 90 days.

23 On Charge 1 and Charge 2 it is the
24 sentence of the Court that you be sentenced to
25 the Michigan Department of Corrections for no

1 less than 90 months to 20 years.

2 Charge 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
3 13, and 14 will be no more -- 30 months to 5
4 years at the Michigan Department of Corrections.

5 All of those charges will get two days
6 credit.

7 You have the right to file an
8 Application-- Oh, and they are all going to be
9 served concurrent with each other.

10 You have the right to file an
11 Application for Leave to Appeal your conviction
12 and sentence. If you are financially unable to
13 afford an attorney, one would be appointed for
14 you at public expense. You have 42 days from
15 today's date to appeal.

16 If you will sign that pad in front of
17 you, it acknowledges that you got your appeal
18 rights.

19 (Whereupon, discussion between
20 the Court and the Clerk-Bailiff,
21 out of the hearing of the Court
22 Reporter.)

23 THE COURT: Oh, that's right. You
24 don't have a leave to appeal. You have an
25 automatic right of appeal. Because you were

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convicted by a jury, you have that automatic
right of appeal. I -- I misspoke and said that
you had -- you didn't have that actual right.

THE DEFENDANT: Okay.

THE COURT: So, that's a correction.
Anything further at this time?

MS. STINEDURF: No, Your Honor. Thank
you.

MR. CATALINO: No, Your Honor. Thank
you.

THE COURT: Thank you.

(Whereupon, proceedings concluded
at approximately 2:01 P.M.)

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