

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

1 UNITED STATES OF AMERICA, :  
2 Plaintiff, :  
3 vs. : No. SA:15-CR-00271  
4 : San Antonio, Texas  
5 MARGARITA MONIR HOSSEINI, : September 20, 2017  
6 Defendant. :  
\*\*\*\*\*

7  
8 TRANSCRIPT OF JURY TRIAL  
9 BEFORE THE HONORABLE FRED BIERY  
10 UNITED STATES DISTRICT JUDGE

VOLUME 2

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JURY TRIAL

I N D E X

<b>WITNESS :</b>	<b>DR</b>	<b>CR</b>	<b>RDR</b>	<b>RCR</b>
MARIO DOMINGUEZ	3	13	20	21
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MARIO DOMINGUEZ - DIRECT

1 (Wednesday, September 20, 2017, in open court at 8:57 a.m.)

2 COURT SECURITY OFFICER: All rise.

3 \* \* \*

4 THE COURT: You can be seated. Mr. Barnes, there  
5 had been some discussions about cutting out the rest of  
6 this, but apparently that's not going to happen, is that  
7 correct?

8 MR. BARNES: That's correct, Your Honor.

9 THE COURT: Okay. Mr. Surovic, we're ready to  
10 proceed and you've got Mr. Dominguez -- Detective Dominguez  
11 and the Escobedo witness and Agent Robles?

12 MR. SUROVIC: That's correct, Your Honor, and the  
13 government will rest.

14 \* \* \*

15 (Jury enters courtroom. The time is 8:59 a.m.)

16 THE COURT: Good morning, ladies and gentlemen.  
17 We're now ready to proceed with the testimony of Detective  
18 Dominguez. Mr. Surovic, you may proceed.

19 MR. SUROVIC: Thank you, Your Honor.

20 EXAMINATION

21 BY MR. SUROVIC:

22 Q. Sir, are you the same Mario Dominguez that was  
23 testifying in this courtroom yesterday?

24 A. Yes.

25 Q. I need to remind you you're still under oath with

MARIO DOMINGUEZ - DIRECT

1 regard to all the questions I ask.

2 A. Yes, sir.

3 Q. We left off yesterday about to talk about your 2009  
4 income tax return. Did you go to Ms. Hosseini to get that  
5 prepared as well?

6 A. Yes, sir.

7 Q. If I could ask you to take a look at the folder up  
8 there marked 21-1, Government Exhibit 21-1. If you would go  
9 ahead and open it up and open to the second page there,  
10 that's beginning with the income tax return?

11 A. Yes, sir.

12 Q. Now, this starts off Form 1040 U.S. Individual Income  
13 Tax Return 2009, is that correct?

14 A. Yes, sir, that's correct.

15 Q. And it has your name and your ex-wife's name, Social  
16 Security numbers, your address, is this, in fact, your 2009  
17 income tax return?

18 A. Yes, sir, it is.

19 Q. If you could look down at line 12, it indicates that  
20 you had a business income or loss of \$31,429 and that was a  
21 loss, is that what it indicates there?

22 A. Yes, sir, it does.

23 Q. And again you were working as -- at this time 2009, you  
24 were working as a deputy for the Bexar County Sheriff's  
25 Office, is that right?

MARIO DOMINGUEZ - DIRECT

1 A. That's correct.

2 Q. And you had a side business where you provide security?

3 A. Correct.

4 Q. If you could turn to page eleven. Should be entitled  
5 Schedule C, Profit Or Loss From Business.

6 A. Yes, sir.

7 Q. And you'll see at the top of that page it has name of  
8 proprietor, Mario Dominguez, you work as a security officer  
9 and the business's name is Mario Dominguez, is that correct?

10 A. Yes, sir, correct.

11 Q. So that would be the security business that you were  
12 describing where you control traffic, work hotels I think is  
13 what you said?

14 A. Yes, sir, that's correct.

15 Q. Let's turn the page here again, page two, part five,  
16 mobile phone business use, \$2,305. I know you described  
17 your phone situation yesterday, but could you redescribe it  
18 for us today?

19 A. Yes, sir, at the time I had three phones, I had a phone  
20 with DEA, a phone with Deputy Sheriff's and I had a personal  
21 phone that me and my wife both had each phone.

22 Q. So you had two phones on your family plan?

23 A. Correct.

24 Q. One belonged to your wife one belonged to you?

25 A. Correct.

MARIO DOMINGUEZ - DIRECT

1 Q. Did you use your phone exclusively for the security  
2 business?

3 A. No, sir, no, sir, about half.

4 Q. About half?

5 A. Yes, sir.

6 Q. And did your wife use her phone at all for the security  
7 business?

8 A. No, sir, not that I know of.

9 Q. So less than 25 percent of your cell phone usage would  
10 have been attributed to your business, is that correct?

11 A. That's correct.

12 Q. And you indicated that your monthly bill was \$200 or  
13 so, 200, \$300?

14 A. Yes, sir, somewhere around there.

15 Q. So certainly 25 percent of your phone bill is not  
16 \$2,305?

17 A. No, sir.

18 Q. Do you know how Ms. Hosseini got that number, 2305?

19 A. No, sir.

20 Q. Did you ever tell her that you used your cell phone for  
21 your security business and that the amount that you used for  
22 the security business was \$2,305?

23 A. The exact amount, no, sir.

24 Q. Let's go back to the first page of that Schedule C, if  
25 you'll look at in part two down in the middle line nine, car

MARIO DOMINGUEZ - DIRECT

1 and truck expenses?

2 A. Yes, sir.

3 Q. \$11,364 in car and truck expenses. Did you spend that  
4 much on your vehicle for the security business?

5 A. No, sir, not that I remember.

6 Q. If we could remind the jury what was the situation as  
7 far as your use of vehicles for the security business?

8 A. I had a Harley Davidson I think at the time and I used  
9 that to check locations and then I also used it for traffic,  
10 that I had another vehicle car also.

11 Q. Did you use the Harley Davidson exclusively for the  
12 security business or was it sometimes --

13 A. No, sir, it was probably half the time.

14 Q. And did you indicate you had other vehicles?

15 A. Yes, sir.

16 Q. Did you use those other vehicles for security as well?

17 A. Just every once in a while.

18 Q. And as I recall, you talked about the fact that you  
19 didn't have to do a lot of driving in the security business?

20 A. That's correct.

21 Q. Getting there and back. If you'll turn the page to  
22 part four, you'll see on part four, line 44 it talks about,  
23 Of the total number of miles you drove your vehicle during  
24 2009, enter the number of miles you used your vehicle for,  
25 A, business, 17,247 miles?

MARIO DOMINGUEZ - DIRECT

1 A. Yes, sir, I see that here.

2 Q. Did you use either the Harley or any other vehicle you  
3 had or all combined to drive 17,247 miles in your business?

4 A. No, sir, I thought we were using gas receipts.

5 Q. That's what you provided her with?

6 A. Yes, sir.

7 Q. Did you provide her with any type of mileage, mileage  
8 log or anything like that?

9 A. No, sir.

10 Q. And says do you have evidence to support your  
11 deduction. You don't have evidence to support a mileage  
12 deduction, do you?

13 A. No, sir.

14 Q. Did you ever tell Ms. Hosseini what the gas mileage was  
15 on your Harley, for example?

16 A. No, sir.

17 Q. Did she even ask you that?

18 A. No, sir.

19 Q. All you provided -- you came in and provided her with  
20 gas receipts?

21 A. Correct.

22 Q. Did you ever tell her that you used multiple vehicles  
23 for your security work or just the Harley?

24 A. I believe multiple. I'm not sure on that, sir.

25 Q. Did you ever explain to her what percentage those



MARIO DOMINGUEZ - DIRECT

1 vehicles were used?

2 A. No, sir.

3 Q. Let's take a look at -- well, let me ask you this, as  
4 far as the mileage goes in the business, what exactly did  
5 you tell Ms. Hosseini?

6 A. Everything should have been receipts for gas is what I  
7 understood, you can either use one or the other.

8 Q. Did she ever explain to you it's better to go mileage  
9 than use gas receipts?

10 A. No, she didn't explain. She said one or the other,  
11 whichever is better.

12 Q. If you look at line 13, if you go back to the first  
13 page of that Schedule C, says depreciation \$16,047?

14 A. Yes, sir.

15 Q. Do you know what that's about?

16 A. No, sir.

17 Q. If we go to page 15 of the filing of Exhibit 21-1,  
18 you'll see a Form 4562 Depreciation and Amortization, find  
19 that? It's about five pages from the end.

20 A. Yes, sir.

21 Q. Okay. And on line six it says 2007 Harley Davidson?

22 A. Yes, sir, that's correct.

23 Q. And if you flip it over again on part five, line 26  
24 again it refers -- it says right here 2007 H-A-R-L, which I  
25 assume is the Harley Davidson?

MARIO DOMINGUEZ - DIRECT

1 A. That's correct.

2 Q. Column three, it says business investment use  
3 percentage and it says a hundred percent?

4 A. Yes, sir, it is.

5 Q. Did you ever tell Ms. Hosseini that you were using that  
6 vehicle one hundred percent for the security business?

7 A. No, sir.

8 Q. Did you explain to her that it was also -- you use it  
9 also for personal purposes?

10 A. Yes, sir.

11 Q. Now I'd like you to take a look at Exhibit 21-3. This  
12 is the preparer copy, again that was the copy of her  
13 materials that was seized from her office. And if you would  
14 go to page 14, it's about in the middle of the packet and  
15 it's listed as Depreciation Detail Listing?

16 A. Yes, sir.

17 Q. Okay. It lists -- this is for the 2009 tax return, is  
18 that correct?

19 A. Yes, sir, that's correct.

20 Q. Lists Remington 12-gauge shotgun, Kimber 45 automatic  
21 pistol, Vaio laptop and 2007 Harley Davidson, is that  
22 correct?

23 A. Yes, sir, that's correct.

24 Q. Those are all items that are being depreciated. The  
25 weapons, did you purchase those solely for the use of the

MARIO DOMINGUEZ - DIRECT

1 security business?

2 A. Yes, sir, I bought those for work.

3 Q. Okay. And the video laptop or Vaio laptop, excuse me,  
4 was that also for work?

5 A. Yes, sir.

6 Q. The Harley Davidson you've already indicated that you  
7 use that for personal stuff as well, is that correct?

8 A. Yes, sir.

9 Q. You'll notice in the fifth column, business percentage,  
10 it indicates a hundred percent as to each of those items  
11 including the Harley Davidson?

12 A. Yes, sir.

13 Q. Is that accurate?

14 A. No, sir.

15 Q. Did you ever tell again Ms. Hosseini that you used the  
16 Harley Davidson solely for your security work?

17 A. No, sir.

18 Q. Also I'd like to attract your attention to page 12.  
19 It's a little before the page we just looked at, two pages  
20 up, it's marked Bank Product Information?

21 A. Yes, sir.

22 Q. In the middle of that page again I'll attract your  
23 attention to there's a bold typing of Total Projected Bank  
24 Fee?

25 A. Yes, sir.

MARIO DOMINGUEZ - DIRECT

1 Q. On left-hand side. Underneath that is Tax Preparation.  
2 Can you tell me what the amount is that you paid to get your  
3 taxes prepared?

4 A. It says, Total preparer fees is \$881.05.

5 Q. And that includes a 70-dollar e-file fee and a  
6 30-dollar bank document fee?

7 A. That's correct.

8 Q. So just for tax preparation you paid \$781.05?

9 A. Yes, sir, that's correct.

10 Q. Now, you got a return this year, if you'll look at the  
11 bottom of that page, the projected checks block, refund  
12 deposit \$3,395. Does that sound about right?

13 A. Yes, sir.

14 Q. That is less than the amount you got the year before as  
15 a return?

16 A. Correct.

17 Q. And yet you were paying more for tax preparation that  
18 year?

19 A. Yes, sir.

20 Q. Do you know why you got charged more for that  
21 preparation that year?

22 A. No, sir, I never saw the amount that we paid for the  
23 tax preparation.

24 Q. Well, you signed off on this page, right?

25 A. Yes, sir, I did.

## MARIO DOMINGUEZ - CROSS

1 Q. Could you describe again for the jury what was involved  
2 in reviewing the documents when you came in to review and  
3 sign each and every one of the pages here?

4 A. Yes, sir, we just -- I just went in after everything  
5 was typed up already and I would go in there and sign,  
6 initial.

7 Q. Did anyone sit down and explain to you exactly what was  
8 going on, what each of the documents meant?

9 A. No, sir.

10 Q. Did they ask you to check the figures to make sure they  
11 were accurate?

12 A. No, sir.

13 Q. What did they tell you when you did the review?

14 A. The amount that I was going to get.

15 Q. And that you needed to sign all these papers?

16 A. Yes, sir.

17 Q. Did you trust Ms. Hosseini to do a good and accurate  
18 job for you in preparing your taxes?

19 A. Yes, sir.

20 MR. SUROVIC: We'll pass the witness, Your Honor.

21 THE COURT: All right. Cross.

22 MR. BARNES: Yes, Your Honor.

23 EXAMINATION

24 BY MR. BARNES:

25 Q. Good morning.

MARIO DOMINGUEZ - CROSS

1 A. Good morning, sir.

2 Q. Do you recall at some point being interviewed by  
3 another law enforcement agent, Juan Robles, in this matter?

4 A. Yes, sir.

5 Q. Do you recall telling him, and I quote, Dominguez  
6 stated that he drove approximately 20,000 miles to his  
7 part-time job.

8 Does that help refresh your recollection?

9 A. Yeah, that's probably correct.

10 Q. And did you ever have to drive any place for to get  
11 supplies for your job?

12 A. Supplies, no, not really supplies.

13 Q. So did you have any supplies for your job?

14 A. No, sir, we just went and did security. Like we say, I  
15 did the lane closures where you park and basically have your  
16 lights on.

17 Q. So there was no need for supplies or anything else in  
18 that regard?

19 A. No, sir.

20 Q. And how did you go about getting that work, did you  
21 ever have to go anywhere to help to try to get that work to  
22 try to get people to know about your availability?

23 A. No, they would call us.

24 Q. So your estimate is about 20,000 miles is what you were  
25 doing each year for the back and forth to your part-time

## MARIO DOMINGUEZ - CROSS

1 job?

2 A. Yeah, total.

3 Q. So if the tax return says 17,650, that would definitely  
4 be correct?

5 A. That's 20,000 total. I'm talking about my mileage for  
6 the whole year.

7 Q. What I mean is if you were driving each year  
8 20,000 miles back and forth to your part-time job and the  
9 tax return says you drove 17,569(sic) business miles, then  
10 the 17,659(sic) would be correct on the tax return, yes?

11 A. Well, what I'm talking about is 20,000 miles total on  
12 my vehicle for all the vehicles.

13 Q. Let me help you --

14 A. So I'm talking about going to work, going to school,  
15 going to church.

16 Q. Let me reread what you told the agent.

17 MR. SUROVIC: I object. This is improper  
18 impeachment.

19 THE COURT: Sustained.

20 BY MR. BARNES:

21 Q. Do you recall stating to the agent that you drove  
22 approximately 20,000 miles to your part-time job?

23 A. No, sir, just the ones you're telling me. It was in  
24 2012.

25 Q. Is it possible that --

## MARIO DOMINGUEZ - CROSS

1 A. Anything is possible.

2 Q. In terms of proof of how much you drove each year, did  
3 you buy gas each time you needed gas for the vehicle to go  
4 back and forth?

5 A. Correct.

6 Q. And how did you pay for that gas?

7 A. I used one credit card and then at the end of the year  
8 I'll just print all the statements and then just mark off  
9 gas, you know, whatever I purchased or clothing and such.

10 Q. And do you recall Margaret advising you that you should  
11 have a separate card for your business expenses so that it  
12 all would be on that card?

13 A. Yes, sir, that's correct.

14 Q. And so those receipts would show how much you bought in  
15 gas to go back and forth to your part-time job?

16 A. Yes, sir.

17 Q. And those receipts would be a way of -- as a deputy law  
18 enforcement officer, that's a way to prove how much you  
19 actually drove each year?

20 A. Yes, sir.

21 Q. You had a rental property as well, is that correct?

22 A. That's correct.

23 Q. And do you recall -- if we can pull up 21-1, page 13.

24 And for you, officer, it's 21.1 is the exhibit and we'll say  
25 on the bottom page 13 and we'll be looking at line 20.



## MARIO DOMINGUEZ - CROSS

1 A. What should the top say? Was it the depreciation?

2 Q. Yes. Do you see that?

3 A. Yes, sir.

4 Q. This was your residential property at 731 Saddle Brook,  
5 is that correct?

6 A. Yes, sir, I have a property there.

7 Q. And can you go down to line 20, do you see that?

8 A. Yes, sir.

9 Q. And that says, depreciation expense or depletion,  
10 correct?

11 A. I must be on the wrong page because it's not showing  
12 that.

13 Q. Page 13, 21-1. Do you see where it says Schedule E at  
14 the top left-hand corner. The very bottom should have page  
15 number 13?

16 A. No, there are no page numbers on these.

17 Q. Got you. So look at the top left-hand corner for  
18 Schedule E, if that helps you or just look where under part  
19 one it has -- find where there's one that says part one  
20 residential --

21 A. Got it.

22 Q. Perfect. So this was your residential property that  
23 you were -- that was your rental property?

24 A. Yes, sir.

25 Q. And can you go down to line 20?

## MARIO DOMINGUEZ - CROSS

1 A. Yes, sir.

2 Q. Can you blow that up for us? Thank you very much.

3 See where it says depreciation expense or depletion?

4 A. Yes, sir.

5 Q. And is there nothing in there?

6 A. Correct, there's zero.

7 Q. Now, in fact, your rental property was, in fact,  
8 depreciated, correct?

9 A. I believe so.

10 Q. And Margaret explained to you that you couldn't take a  
11 deduction for that because your prior tax return preparers  
12 had failed to take that deduction?

13 A. I don't remember that.

14 Q. Did the IRS ever explain to you why there isn't an  
15 amount there when you're entitled to a depreciation  
16 deduction for rental property?

17 A. No, sir, I don't know anything about that.

18 Q. On your family plan, typically to add phones to a cell  
19 phone plan is about ten dollars a month, is that correct, do  
20 you recall that?

21 A. No, sir, I just remember the bills from there, 160 to  
22 200 for both.

23 Q. And did the IRS when they interviewed you in 2012, did  
24 they explain to you about whether the cell phone rule had  
25 changed to allow that to be a hundred percent deduction, did

MARIO DOMINGUEZ - REDIRECT

1 they ever discuss that?

2 A. No, sir, I don't recall.

3 Q. Now, if you had to go through your cell phone bill item  
4 by item and check which one was for business versus which  
5 one was personal, would that be a very time-consuming  
6 process for you?

7 A. Yes, sir, I make too many calls.

8 Q. Now, as a law enforcement officer, as part of your  
9 duties, are the things you have to sign pretty much every  
10 day sometimes under penalty of perjury and other people rely  
11 upon its accuracy?

12 A. Correct.

13 Q. And in this case you reviewed every single one of those  
14 pages and signed your initials every single page that had  
15 mobile phone business use, the motorcycle use, all of that,  
16 you recall that?

17 A. No, sir.

18 Q. So did you ever tell anybody that you weren't actually  
19 going to review the actual return that you were signing?

20 A. No, sir.

21 Q. And one last question, do you recall telling Agent  
22 Robles that you act -- that you kept one vehicle, the Harley  
23 specifically for your security job?

24 A. No, sir.

25 MR. BARNES: No further questions, Your Honor.

MARIO DOMINGUEZ - REDIRECT

1 THE COURT: Redirect.

2 EXAMINATION

3 BY MR. SUROVIC:

4 Q. Mr. Dominguez, there was some discussion about the --  
5 you indicating to Agent Robles that you had driven about  
6 20,000 miles on your part-time job to your part-time job.  
7 Is that commuting miles?

8 A. Yes, sir.

9 Q. Which is different from business miles, is that  
10 correct?

11 A. Yes, sir.

12 Q. Did you ever -- bottom line here, did you ever tell  
13 Ms. Hosseini that you had driven 20,000 miles for your  
14 business purposes for your security job?

15 A. No, sir, we didn't discuss that.

16 Q. You never gave her that number at all?

17 A. No, sir.

18 Q. And as far as using gasoline, you don't know what the  
19 IRS rule is as far as whether you can calculate mileage from  
20 gasoline or whether you can calculate mileage some other  
21 way, is that right?

22 A. That's correct, sir.

23 Q. From your own experience, are you aware that different  
24 vehicles use different amounts of gasoline?

25 A. Yes, sir.

## MARIO DOMINGUEZ - RECROSS

1 Q. And even within the same model or make year, vehicles  
2 will use different amounts of gasoline?

3 A. Correct.

4 Q. For example, not every Harley Davidson burns exactly  
5 the same number of miles of gasoline or goes the same number  
6 of miles on each gallon of gasoline, I should say?

7 A. Yes, sir, that's correct.

8 Q. As far as your gas receipts, I think you indicated at  
9 one point that you spent about \$2,500 a year on gasoline,  
10 sound about right?

11 A. Sounds about right.

12 Q. So your total amount of gasoline that you would have  
13 spent would have been \$2,500?

14 A. Correct.

15 MR. SUROVIC: No further questions, Your Honor.

16 THE COURT: Recross.

17 MR. BARNES: Yes, Your Honor.

18 EXAMINATION

19 BY MR. BARNES:

20 Q. 21-3, page three, so this will be 21-3, page three.

21 A. Yes, sir, I've got that.

22 Q. At the top of that is that your signature, top of the  
23 page?

24 A. Yes, sir, that is.

25 Q. And is it this page that says, Of the total number of

JOE ESCOBEDO - DIRECT

1 miles you drove your vehicle during 2009, enter the number  
2 of miles you used your vehicle for business. And it says  
3 17,247?

4 A. Yes, sir, that's correct.

5 Q. And does it also say mobile phone business use under  
6 other expenses, 2305?

7 A. Yes, sir, that's correct.

8 Q. And you signed this before this return was submitted,  
9 correct?

10 A. Yes, sir.

11 MR. BARNES: No further questions, Your Honor.

12 THE COURT: Redirect.

13 MR. SUROVIC: No redirect, Your Honor.

14 THE COURT: All right, thank you, sir. You may be  
15 excused. Next witness.

16 MR. SUROVIC: Your Honor, our next witness will be  
17 Mr. Joe Escobedo. Your Honor, if I could approach the  
18 witness stand to change out folders?

19 THE COURT: Yes.

20 (9:22 a.m.)

21 THE COURT: Mr. Escobedo, if you'll come up here  
22 please with me and raise your right hand please, sir. These  
23 ladies and gentlemen of the jury are seeking the truth about  
24 what happened in this case. As they do that, will you  
25 promise the jurors, subject to federal perjury laws, that

JOE ESCOBEDO - DIRECT

1 you will tell them the truth, the whole truth and nothing  
2 but the truth?

3 THE WITNESS: I do.

4 THE COURT: You may be seated. You may proceed.

5 MR. SUROVIC: Thank you, Your Honor.

6 EXAMINATION

7 BY MR. SUROVIC:

8 Q. Would you state your full name please, sir?

9 A. Joe J. Escobedo.

10 Q. And can I get you to spell your last name?

11 A. E-S-C-O-B-E-D-O.

12 Q. Thank you. What city do you live in?

13 A. Right now in San Antonio.

14 Q. How long have you lived in San Antonio?

15 A. Eight years, seven years.

16 Q. And where did you live prior to living in San Antonio?

17 A. It was in Converse.

18 Q. How are you normally employed?

19 A. By Lowe's.

20 Q. How long have you worked for Lowe's?

21 A. Fifteen years.

22 Q. What do you do for Lowe's?

23 A. Right now I'm in stocking. In the past I was an  
24 assistant manager for them.

25 Q. So you've done a variety of different jobs for Lowe's

JOE ESCOBEDO - DIRECT

1 over the 15 years?

2 A. Yes, sir.

3 Q. Is that your primary job?

4 A. Yes, sir.

5 Q. Primary source of income?

6 A. Yes, sir.

7 Q. Do you have any jobs that you do on the side?

8 A. No.

9 Q. Back in 2008 and the period between 2008 and 2011, did  
10 you have any things that you did on the side to make a  
11 little extra money?

12 A. I had a lawn business.

13 Q. Did you have a name for that lawn business?

14 A. The Lawn Man.

15 Q. And how long did you operate the lawn business?

16 A. It was about four, five years, I think, I'm not too  
17 sure, it's been a while.

18 Q. Back at that era, 2008 through 2011, did you know a  
19 business by the name of Rapid Return Tax Service?

20 A. Yes, it was down the street where we lived at.

21 Q. When you lived in Converse?

22 A. Yes.

23 Q. How did you first become aware of Rapid Return Tax  
24 Service?

25 A. We went -- my wife used to work at the Wal-Mart, so it



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1 was close to the Wal-Mart where she used to go to work and  
2 she saw it and so she goes, This is where we want to do our  
3 taxes.

4 Q. Do you remember when you first went to Rapid Return Tax  
5 Service, what year?

6 A. No, sir, I'm sorry.

7 Q. Did you use another tax service prior to going to them?

8 A. My wife used to use either -- the ones that go to  
9 Wal-Mart, I'm not too sure which ones they are. She's  
10 usually the one that takes care of that.

11 Q. Did you always go to a tax preparer or did you and your  
12 wife ever prepare taxes yourselves?

13 A. No, we always went to a tax preparer.

14 Q. Why was that?

15 A. Because we -- I felt that -- we both felt that they  
16 knew what they were doing. They were professionals and we  
17 knew that everything was going to be taken care of,  
18 everything was going to be done right.

19 Q. So you trusted the tax preparer to make sure your taxes  
20 were correct?

21 A. Yes, sir.

22 Q. Were you looking to try and trick the government or  
23 trick the IRS in order to give you more money?

24 A. No, sir.

25 Q. Did you go to Rapid Return Tax Service with the same

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1 thought in mind that they'd be able to do it correctly?

2 A. Yes, sir.

3 Q. Did you ever meet an individual by the name of Margaret  
4 Hosseini?

5 A. Yes, sir.

6 Q. How did you meet her?

7 A. In fact, she was the one from the first year she did  
8 our taxes.

9 Q. Now, would you be able to recognize Margaret Hosseini  
10 if you saw her again?

11 A. Yes, sir.

12 Q. Is she here in the courtroom today?

13 A. Yes, sir.

14 Q. Would you point her out and describe something she's  
15 wearing?

16 A. Right there, she's wearing black.

17 THE COURT: All right, noted.

18 MR. SUROVIC: Thank you, Your Honor.

19 BY MR. SUROVIC:

20 Q. What was Ms. Hosseini's role at Rapid Return Tax  
21 Service?

22 A. She would actually do our taxes.

23 Q. Did she always do your taxes every year?

24 A. Toward the end other people would do it, but she would  
25 review it.

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1 Q. Okay, can you describe what would happen when you went  
2 in to Rapid Return Tax Service as far as how things were  
3 processed?

4 A. We would take a manila folder, have all our paperwork,  
5 all our receipts, take it in there.

6 Q. What type of receipts did you normally collect?

7 A. Expenses.

8 Q. Expenses for what?

9 A. For the lawn business, either whether it was for gas or  
10 some food that we stopped that I would buy to get in between  
11 while I was at work.

12 Q. Did you put any other bills or anything like that?

13 A. No, sir.

14 Q. Just the stuff related to the lawn business?

15 A. To the lawn business, yes, sir.

16 Q. Did you have everything that was related to the lawn  
17 business in that file?

18 A. Yes, sir.

19 Q. And what would happen when you took that file into  
20 Rapid Return Tax Service, who did you meet first?

21 A. In the beginning it was her and from there they would  
22 start making copies of the receipts and then start putting  
23 information into the computer.

24 Q. Did you sit down with them while they're making copies  
25 of the receipts and putting things into the computer?

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1 A. Yes, sir. Well, in the beginning, yes, and then after  
2 a while, like I said, it was so much trust, we would just  
3 leave everything there and come back at another time.

4 Q. So you didn't have a lot of conversations with anybody  
5 when you dropped off your paperwork?

6 A. No, sir.

7 Q. When you first started coming, did you have  
8 conversations with Ms. Hosseini?

9 A. I didn't, my wife did and it was just questions she had  
10 about the returns and about the business.

11 Q. Could you tell us a little bit about your lawn  
12 business, how you worked, what types of things you did?

13 A. I would just -- in the beginning, I would pass out  
14 flyers and that's how I got started, pass out flyers, door  
15 to door and then I would get phone calls and I was starting  
16 making a calendar of what needed to be done and represent  
17 records of who I did.

18 Q. What type of services would you provide?

19 A. Just the lawn service, to cut the yard.

20 Q. Just trim the yard?

21 A. Cut the yard, trim up, blow it and edge it.

22 Q. Did you work by yourself?

23 A. Yes, sir.

24 Q. Did you have lots of equipment and things like that  
25 that you had to take care of as part of your business?

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1 A. At one time I did, but then it came out to it wasn't  
2 used that much on what I thought I was going to go into  
3 because I was thinking about going into trimming trees and  
4 so I bought a trailer for it and didn't get anything on it,  
5 so I sold it.

6 Q. How did you get your lawn mowers and things like that  
7 to these places?

8 A. On the back of my truck. First it was on the trailer,  
9 but I was using a lot of gas doing that, so I just decided  
10 once I sold it just put it in the back of my truck.

11 Q. And did you use the same truck all the time for the  
12 business?

13 A. Yes, sir.

14 Q. Did you use that truck solely for the business or did  
15 you use it for other things?

16 A. No, I would go to work to Lowe's with that too.

17 Q. So that was your basic vehicle, that's what you used to  
18 get wherever you needed to go?

19 A. Yes, sir.

20 Q. Did your wife have another vehicle that she used?

21 A. Yes, sir, she had her own vehicle.

22 Q. Did she do a lot of driving for the lawn business?

23 A. No, sir.

24 Q. I'm going to ask you to take a look at Government  
25 Exhibit 22-1. If you look at those folders, there's a pile

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1 of folders, first one 22-1, if I could get you to open that  
2 up and go ahead and flip through the first page, the blue  
3 page and go to the first page that's white that says Tax  
4 Return?

5 A. Yes, sir.

6 Q. Sir, at the top of that says form 1040 U.S. Individual  
7 Income Tax Return 2008, is that correct?

8 A. Correct.

9 Q. And then it's got Joe J. Escobedo -- by the way, what  
10 is your wife's name?

11 A. Lisa Escobedo.

12 Q. Were you married to her back in 2008?

13 A. Yes, sir.

14 Q. So it says Lisa Escobedo, it's got some Social Security  
15 numbers and an address here in San Antonio, is this your tax  
16 return for 2008?

17 A. Yes, sir.

18 Q. And then if we go down to line 12, business income or  
19 loss, you have a line 12 a business loss of \$9,613, is that  
20 correct?

21 A. Yes, sir.

22 Q. Let's go to page five and it should be entitled  
23 Schedule C Profit Or Loss From Business, see that?

24 A. I'm sorry, I don't have my glasses. I forgot them in  
25 my truck.

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1 THE COURT: Just a second. I don't need these  
2 anymore.

3 THE WITNESS: Oh, yes.

4 A. What part again, sir?

5 Q. Page five, says Schedule C Profit Or Loss From  
6 Business, do you see that? Should be the fifth page in,  
7 sixth page --

8 A. Yes, sir, I'm on top. Sorry, looking for it down here.

9 Q. At the top of that page, it says name of proprietor,  
10 Lisa Escobedo?

11 A. Yes.

12 Q. Is that your wife?

13 A. Yes, sir.

14 Q. Is she the one that I guess technically owned the lawn  
15 business?

16 A. Well, she's the one that went downtown and got the tax  
17 number.

18 Q. Okay. And it indicates that the type of business is a  
19 lawn service and the business name is The Lawn Man, that's  
20 what you were just describing now, is that correct?

21 A. Correct, yes, sir.

22 Q. How many lawns did you generally take care of?

23 A. Monday through Friday it would be about two to three  
24 and on the weekend I'd do a little bit more.

25 Q. It notes if we look at part one income and then the

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1 first line is gross receipts, it indicates you made about  
2 \$600 off of this business?

3 A. Yes, sir.

4 Q. And you also sold some things. So what type of things  
5 did you sell in relation to this business?

6 A. I bought an extra lawn mower as a backup and so I sold  
7 it because I wasn't going to use it. Same thing with the  
8 weed-eater as a backup.

9 Q. So this would have been -- as far as the actual mowing  
10 of lawns, the money you made off mowing lawns you didn't  
11 make a lot of money, this was a small side business?

12 A. Yes, sir.

13 Q. If we look over on -- flip the page and look in part  
14 five?

15 A. Yes, sir.

16 Q. If you look down the bottom there, it says mobile phone  
17 business use?

18 A. Yes, sir.

19 Q. \$1,374. Did you have a mobile phone that you used  
20 exclusively for the lawn business?

21 A. No, sir. In fact, it was a family plan.

22 Q. Could you describe your family plan?

23 A. Had two phones, it was for my wife and myself.

24 Q. And I notice that you have two children, did they have  
25 phones?



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1 A. No, sir, not at the time, but later on they did.

2 Q. Did you use your phone exclusively for The Lawn Man  
3 business?

4 A. No, sir.

5 Q. How much do you think percentage-wise you went to the  
6 lawn business versus personal stuff or stuff you did for  
7 Lowe's or anything like that?

8 A. Maybe 20/25 percent.

9 Q. What about your wife, how much did she use her phone  
10 for The Lawn Man business?

11 A. None.

12 Q. So about 25 percent of your annual phone bill would  
13 have been attributed to the yard business?

14 A. Yes, sir.

15 Q. Do you remember what your annual phone bill was?

16 A. I don't remember, sir.

17 Q. Was it about \$1,374?

18 A. That sounds about right because -- I didn't have very  
19 good credit, so it was high, yes, sir.

20 Q. And it was a basic phone plan?

21 A. But it was a basic.

22 Q. No fringes?

23 A. No, sir.

24 Q. Did Ms. Hosseini ever ask you how much did you use your  
25 cell phone for for business or how many phone bills -- cell

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1 phones you even had?

2 A. No, sir.

3 Q. Did she explain to you anything about how you could  
4 deduct the cell phone?

5 A. Yes, it could be used as a business phone.

6 Q. Did she explain to you that you had to use it -- only  
7 the amount that was business was what was deductible?

8 A. Yeah, no, sir.

9 Q. If we go back to the first page of that Schedule C, on  
10 line nine it says car and truck expenses \$5,392. Do you  
11 recall spending that much money on the truck that you used  
12 for your lawn work?

13 A. No, sir.

14 Q. If you flip back to the second page at part four, in  
15 line 44 it talks about, Of the total number of miles you  
16 drove your vehicle during 2008, enter the number of miles  
17 you used your vehicle for. And then it says, A, business,  
18 9660 miles and then B, commuting, there's nothing there and  
19 other, there's nothing there. So for business 9660 miles,  
20 did you drive that much?

21 A. No, sir.

22 Q. Did you keep track of your mileage in your truck that  
23 you used for your mowing?

24 A. No, sir. What I was told is just to get my mileage  
25 from the truck that I had at the time when we did our --

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1 when we did our taxes.

2 Q. Now, this truck in 2008, what type of truck was it?

3 A. It was a Ford F-150.

4 Q. How long had you had that truck?

5 A. I had it for about three, four years.

6 Q. How did you come up with the mileage 9660?

7 A. I don't know.

8 Q. What did she ask you as far as obtaining mileage?

9 A. I need your mileage from the truck.

10 Q. And what did you do when she told you that?

11 A. I went to the truck and got my mileage what it was on.

12 Q. You went out in the parking lot and looked at your  
13 odometer?

14 A. Yes, sir.

15 Q. Was all of that mileage related to your  
16 business?

17 A. No, sir.

18 Q. That was a total mileage on the truck at that point?

19 A. Yes, sir.

20 Q. Did you have -- other than the odometer itself, you  
21 didn't have any written information that would indicate how  
22 much mileage you had actually done as far as the business?

23 A. No, sir.

24 Q. If we look at -- if you go to the next exhibit which is  
25 22-3, the next folder, this is a copy of everything that was

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1 in your customer file that was seized from Ms. Hosseini  
2 during the search of Ms. Hosseini's office, I'd ask you to  
3 look through it real quick just so you can see what's there.  
4 It's a fairly fat collection of papers?

5 A. Yes, sir, it's our taxes.

6 Q. Now, throughout this, especially toward the end, there  
7 are a number of Lowe's receipts, there is some handwritten  
8 notes, is that correct?

9 A. I skipped a folder. I got 22-3.

10 Q. 22-3, that's correct.

11 (Pause.)

12 See the Lowe's receipts in there?

13 A. Yes, sir.

14 Q. Okay. Those are the receipts that you brought in?

15 A. Yes, sir, some of the equipment that I was buying and I  
16 see it now, yes, sir.

17 Q. Various other things. And there's also a little  
18 handwritten note in there, it says EITC getting it right is  
19 printed on there and it's got a variety of other stuff  
20 written there?

21 A. Oh, yes, I see the notes, yes, sir.

22 Q. Is that pretty much everything you brought into  
23 Ms. Hosseini to help prepare your taxes? These are the  
24 copies you were talking about her making?

25 A. Oh, yes, sir.

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1 Q. So that would be everything you brought to her?

2 A. Yes, sir.

3 Q. If you could turn to page four from the front, should  
4 be labeled Bank Product Information?

5 A. Yes, sir.

6 Q. If we look in the middle of page, there's a box in the  
7 middle of the page and then in the middle of it there's in  
8 bold type Total Projected Bank Fee, you see that?

9 A. Yes, sir.

10 Q. And if you look underneath it, it says tax preparation  
11 and there's a figure on line there, \$331.05?

12 A. Yes, sir.

13 Q. Is that what you paid Ms. Hosseini to prepare your  
14 taxes for 2008?

15 A. Yes, sir.

16 Q. And you ended up getting a return. If you go down to  
17 the bottom block there, projected checks, you ended up  
18 getting a return of \$2,759.35?

19 A. Yes, sir.

20 Q. Is that more than you had gotten in the past when you  
21 went to Wal-Mart, for example?

22 A. Yes, sir.

23 Q. Was that more than you paid when you went to Wal-Mart?

24 A. Yes, sir, oh, yes.

25 Q. Did you actually have to write her a check for \$331.05

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1 or actually when you total up all the e-file fees, gets to  
2 \$401.05, did you have to write her a check for that amount?

3 A. I believe it was taken off, off the return.

4 Q. Okay. So you just got your refund check and they took  
5 care of the rest?

6 A. Yes, sir.

7 Q. If we could go back to the 22-1, the first document you  
8 were looking at?

9 A. Yes, sir.

10 Q. It has a blue sheet on the front of it?

11 A. Yes, sir.

12 Q. And if you look, if we can go to page three, the second  
13 white page. At the bottom of this it indicates that the  
14 third party designee, the person that's allowed to discuss  
15 your tax with the IRS is Margaret Hosseini, but at the very  
16 bottom where it says preparer signature, it says Angela  
17 Urrabazo? Should be at the bottom?

18 A. Oh, there it is.

19 Q. Do you know who Angela Urrabazo is?

20 A. Probably one of the persons that maybe there was times  
21 where she wasn't there, she was out of the office, so  
22 somebody would take the folder and get it started.

23 Q. And that person would get it started, but you always  
24 saw Ms. Hosseini in order to complete your tax return?

25 A. Yes, sir. She would be the one that explained

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1 everything, that put what was what, the steps that were done  
2 to get it prepared because she had reviewed it.

3 Q. Was she the one that talked to you about getting the  
4 mileage from your truck?

5 A. Yes, sir.

6 Q. So she was the one that went over the Schedule C with  
7 you in order to make sure that you had gotten all your  
8 deductions?

9 A. Yes.

10 Q. She prepared, in fact, the Schedule C?

11 A. Yes.

12 Q. Now, as far as the review process, you looked at --  
13 you've got 22-3, we just looked at that had your receipts  
14 and all that stuff on it?

15 A. Yes.

16 Q. When you were looking through it you probably noticed  
17 that every page was signed by both you and your wife or at  
18 least initialed by both you and your wife?

19 A. Correct.

20 Q. Could you explain how the review process went?

21 A. The receipts, we just took them to her, they make  
22 copies and when we were going through the review, they says  
23 here's all your receipts, we made copies of them.

24 Q. And then would they sit down with you with the final  
25 finished tax return and have you go through the tax return?

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1 A. Yes.

2 Q. Who normally did that with you?

3 A. That was -- that would be her.

4 Q. Ms. Hosseini?

5 A. Yes, sir.

6 Q. And did she ask you to read over everything?

7 A. She would just be explaining everything and then we  
8 would be initialing the pages.

9 Q. When you say she would be explaining everything, how  
10 much did she explain?

11 A. Let's say this is how much you're getting, this is how  
12 much was deducted, this is how much your fees are.

13 Q. Did she go through your actual tax return and explain  
14 to you this is what I've listed as income, this is what  
15 we're claiming as business loss or anything like that?

16 A. No.

17 Q. If you go to page three of the exhibit, 22-3, this is  
18 like the second page of the Schedule C. See that, where it  
19 has the 9660 miles, checks the boxes as far as the evidence  
20 for the -- written evidence to support the deduction, has  
21 your phone bill on it, you see that's your signature down  
22 there, Joe Escobedo and your wife, Lisa Escobedo, is that  
23 correct?

24 A. Correct.

25 Q. When she was having you sign this page, did she explain



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1 to you that she was giving you 9660 miles for business  
2 mileage or that she was deducting \$1,374 for business use on  
3 your mobile phone?

4 A. No, sir.

5 Q. Why did you sign that?

6 A. I mean I trusted her, I trusted her that everything was  
7 going to be correct.

8 Q. Let's go on to tax year 2009, did you go back to  
9 Ms. Hosseini in 2009?

10 A. Yes, sir.

11 Q. I'd like to have you look at Government Exhibit Number  
12 23-1. You can put those two aside. And if you'll turn the  
13 blue page, go to the first white page there, does that start  
14 off saying form 1040 U.S. Individual Income Tax Return 2009?

15 A. Yes, sir.

16 Q. And again it's got your name, your wife's name, Social  
17 Security numbers and an address here in San Antonio, is that  
18 correct?

19 A. Correct.

20 Q. So is this your 2009 income tax return?

21 A. Yes, sir.

22 Q. If we go down to line 12 again, business income or  
23 loss, line 12 it says \$25,835 in business loss, is that  
24 correct?

25 A. Correct.

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1 Q. Now, let's skip to page seven -- page six, excuse me,  
2 of this return. By the way -- well, before we do that,  
3 let's go ahead and look at the bottom of the page three of  
4 that, the second page of the income tax return. At the  
5 bottom of that page, it indicates third party designee,  
6 Margaret Hosseini, she's the person authorized to talk to  
7 the IRS about your form, is that correct?

8 A. Correct.

9 Q. At the very bottom, paid preparer's use, Margaret  
10 Hosseini?

11 A. Yes, sir.

12 Q. She actually prepared this whole form for you, is that  
13 correct?

14 A. Correct.

15 Q. Now, if we could go to page six which is the Schedule C  
16 profit or loss from business?

17 A. Okay.

18 Q. Once again if we look at the top of that page, it's got  
19 your wife's name, lawn service, business name is The Lawn  
20 Man, is that correct?

21 A. Correct.

22 Q. We're talking about the same lawn business we were  
23 talking about before, is that right?

24 A. Correct, yes, sir.

25 Q. Looks like when we look at the income portion looks

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1 like you might have been a little busier that year because  
2 your income it indicates is \$3,635 from this business?

3 A. Yes, sir.

4 Q. Do you recall approximately how many lawns you were  
5 mowing in 2009?

6 A. Fifteen to 20.

7 Q. Now, if we go to the next page and look at part five  
8 again, part five other expenses, you've got mobile phone  
9 business use again, \$2,207, is that correct?

10 A. Correct.

11 Q. Now, had anything changed as far as your use of your  
12 phone between 2008 and 2009?

13 A. I think the thing now we added on our daughters.

14 Q. So you had included more phones on your plan?

15 A. Yes.

16 Q. Had you used your phone any more for the lawn business  
17 as opposed to the year before?

18 A. Say maybe another -- I'd say about 30 percent.

19 Q. What about your wife, did she use her phone at all for  
20 the lawn business?

21 A. No, sir.

22 Q. And what about your daughters when they got their  
23 phones, did they use it for the lawn business?

24 A. No, sir.

25 Q. Did you tell Ms. Hosseini that you use your entire

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1 phone bill, entire phone amount just for the lawn business?

2 A. No, sir.

3 Q. Did she ever ask you what percentage you used --

4 A. No, sir.

5 Q. -- for the lawn business? So you just gave her your  
6 phone bill?

7 A. Yes, sir.

8 Q. Also I note down the third item in part five, equipment  
9 fuel, \$2,931, is that correct?

10 A. Correct.

11 Q. Now, that would be obviously you run a lawn mower, you  
12 got to have gasoline?

13 A. Yes, sir.

14 Q. Is that what you're talking about there, that's the  
15 calculation for the cost of the gas that you used for your  
16 equipment?

17 A. No, that's too much.

18 Q. You think that's too much. How much do you think you  
19 normally paid for gasoline for your equipment?

20 A. I'd say by week I was using maybe say 40, \$45 a week.

21 Q. And you did this every week of the year, so we're  
22 talking about 55 weeks, that's about 400. Well, it would be  
23 more than that. I'm horrible at math, sorry.

24 THE COURT: Forty dollars a week times 50 weeks,  
25 that would be about 2000.

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1 BY MR. SUROVIC:

2 Q. So this isn't very far off on that?

3 A. It's not that off, but yes, but to me I see it, it's  
4 almost \$3,000 and I know I didn't do almost 3,000.

5 Q. But you probably did 2000-some odd --

6 A. Yes.

7 Q. Let's go back to the first page. The reason I point  
8 that out is that that is the fuel for your equipment, we're  
9 not talking about fuel for your car or truck or anything  
10 like that, okay?

11 A. Okay.

12 Q. If we go back over here to the first page of the  
13 Schedule C, part two, line nine, you have car and truck  
14 expenses, \$15,279. Did you have that much in the way of  
15 expenses on that truck that you were using for the lawn  
16 business?

17 A. No, sir.

18 Q. We flip back to the second page, again part four, line  
19 44, it talks about, Of the total number of miles you drove  
20 your vehicle during 2009, enter the number of miles you used  
21 your vehicle for and it says, A, business, 27,780 miles.  
22 Did you drive your truck 27,780 miles in 2009 as part of a  
23 lawn business?

24 A. No, sir. Now what I was doing, I was doing a lot  
25 closer lawns, so I didn't use that large amount of mileage

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1 on it.

2 Q. How did you come up with this mileage?

3 A. Well, because she told me to take my truck my mileage  
4 from my truck. That's what I had on it when I took our  
5 taxes.

6 Q. So just like the year before in 2008, she asked you  
7 what the mileage was on your truck, you went out, you looked  
8 at the mileage?

9 A. Yes, sir.

10 Q. And you came back in and reported to her?

11 A. Yes, sir.

12 Q. Did you do the same thing in 2009?

13 A. Yes, sir.

14 Q. So that represents the total mileage on your truck,  
15 27,780 miles?

16 A. Right, yes, sir.

17 Q. And that's because you went out in the parking lot and  
18 you read the odometer?

19 A. Yes, sir.

20 Q. You didn't tell her that all of that mileage was for  
21 the lawn business, did you?

22 A. No, no, she just told me to go get my mileage from the  
23 truck and we're going to use that. I said okay.

24 Q. Did you tell her that you only used the truck for the  
25 lawn business?

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1 A. No, I also use it to go to Lowe's.

2 Q. And I mean 27,780 miles, this is the same truck you  
3 drove in 2008, right?

4 A. Correct.

5 Q. And even back in 2007?

6 A. Correct.

7 Q. So that 9,000 miles that was on -- that you read on the  
8 first number, that's included here in the 27,000 miles?

9 A. Probably, yes, sir.

10 Q. Other than the fact that your odometer said that, did  
11 you have any evidence indicating what exact mileage you had  
12 for the lawn business?

13 A. No, sir.

14 Q. Did you keep a written log of the mileage you do in  
15 order to go do the lawn service or distribute flyers or  
16 anything like that?

17 A. No, sir.

18 Q. And so there wouldn't be any written record of that.  
19 Did you ever tell Ms. Hosseini that you had a written record  
20 of that?

21 A. No.

22 Q. If you go back to the first page of the Schedule C,  
23 line 13 talks about depreciation \$1,200. Do you know what  
24 that depreciation was about, what you were depreciating?

25 A. No, sir.

JOE ESCOBEDO - DIRECT

1 Q. If we go to page 11, which will be it's entitled at the  
2 top Form 4562, Depreciation and Amortization, should be page  
3 eleven, so it will be five pages beyond where we were?

4 A. Expense and business use of home?

5 Q. No, Depreciation and Amortization, it's the one right  
6 before that page.

7 A. There it is, I'm sorry.

8 Q. You'll notice in box six it indicates that you're  
9 depreciating a desktop computer, HP cost a thousand dollars  
10 and an HP all-in-one printer, cost \$200. See that?

11 A. Yes.

12 Q. Did you buy a desktop computer or printer that year?

13 A. No, I know we did one year. I don't know which we did.  
14 In fact, we didn't even use it for the business.

15 Q. Okay. So if this was the correct year, let's assume  
16 this was the correct year that you bought it, did you use it  
17 for the business?

18 A. No, sir.

19 Q. Did you ever tell Ms. Hosseini that you used it for the  
20 business?

21 A. Yes.

22 Q. You did tell her?

23 A. No, we didn't use it for the business.

24 Q. So you told her you did not use it for the business?

25 A. Uh-huh.



JOE ESCOBEDO - DIRECT

1 Q. Let's take a look at the Government Exhibit 23-3. Now,  
2 if you could look through 23-3, just generally speaking, it  
3 doesn't seem to have as many receipts as the previous year,  
4 is that correct?

5 (Pause.)

6 A. I'm sorry, I don't find it.

7 Q. You don't see any receipts, do you?

8 A. No.

9 Q. There is, though, if you go to page ten, some  
10 handwritten notes, see those, right after the driver's  
11 license, about five pages from the very back? This is the  
12 23-3, this won't be the one with the blue cover on it, this  
13 will be the next file.

14 A. Yes, sir, I see that.

15 Q. Do you know whose handwriting this is?

16 A. It's not ours. I know that's not my wife and it's not  
17 mine.

18 Q. You don't know who wrote this?

19 A. No.

20 Q. Where the information came from?

21 A. No, sir.

22 Q. There's no mileage on this, is that correct?

23 A. Correct.

24 Q. Although it does have your -- apparently you had your  
25 phone plan from T-Mobile?

JOE ESCOBEDO - DIRECT

1 A. Yes, I see it.

2 Q. And it indicates you had a computer and a printer at  
3 the bottom?

4 A. Yes.

5 Q. But it doesn't indicate whether that was used for  
6 business or not, does it?

7 A. No, sir.

8 Q. Also it has your water and your electric bill, your  
9 rent, renter's insurance, things like that, is that correct?

10 A. Correct.

11 Q. Do you recall providing this information to  
12 Ms. Hosseini?

13 A. No, sir.

14 Q. If we go to page two of that document, again it will be  
15 the one that's marked Bank Product Information?

16 A. Okay.

17 Q. And again if you look in the middle of that box in bold  
18 letters there's Total Projected Bank Fee and then underneath  
19 it, Tax Preparation, \$529.05, do you see that?

20 A. Yes, sir.

21 Q. Is that what you paid Ms. Hosseini to prepare your  
22 taxes that year?

23 A. Yes, sir.

24 Q. And that year if you look at the bottom, you got a  
25 refund of \$3,402?

JOE ESCOBEDO - DIRECT

1 A. Yes.

2 Q. Did this work the same way where that check to her got  
3 cut out of the check that you would otherwise be receiving  
4 from the IRS?

5 A. Yes, sir.

6 Q. So you never had to actually write a check to her?

7 A. Yeah, no, sir.

8 Q. Did you realize you were paying that much at the time?

9 A. I thought being a business, that's what it was because  
10 we trusted them how much, you know, with our taxes, so I  
11 figured that's what -- we figured that's what the fee was.

12 Q. Now, I notice that the first year you paid the fee was  
13 \$331. Do you know why the fee went up to \$529?

14 A. No, sir.

15 Q. Did she ever tell you she was raising the fee?

16 A. No, sir.

17 Q. She just had this written on a piece of paper and  
18 that's what happened?

19 A. Yes, sir.

20 Q. Now, again, you signed all of this, right?

21 A. Yes, sir.

22 Q. You signed all the individual pages here, you and your  
23 wife, you put your initials on them and that includes this  
24 page, right?

25 A. Yes, sir.

JOE ESCOBEDO - DIRECT

1 Q. How was this review done again? Was it done the same  
2 way you just described the previous one?

3 A. Yes.

4 Q. Did they even explain to you exactly what her specific  
5 fee was or did they just tell you that this is what you're  
6 going to get as a return?

7 A. We were just told this is your fee, this is how much  
8 you're getting back and we didn't know how much to expect on  
9 the fee, so we figured that's what it was.

10 Q. And then they told you to sign all the other pages?

11 A. Yes, sir.

12 Q. Did they ever explain to you, you know, for example,  
13 again that they had included 27,780 miles as business miles  
14 or that they had included your entire phone bill as a  
15 business use of the phone?

16 A. Yeah, no, sir.

17 Q. Let's move on to tax year 2010, did you go back to  
18 Ms. Hosseini for 2010?

19 A. Yes, sir.

20 Q. I'd ask you to look at Government Exhibit 24-1. And if  
21 you turn to the second page, turn the blue page and go to  
22 the first page of the tax return?

23 A. Yes, sir.

24 Q. It starts off Form 1040 U.S. Individual Income Tax  
25 Return 2010?

JOE ESCOBEDO - DIRECT

1 A. Yes, sir.

2 Q. On the top?

3 A. Uh-huh.

4 Q. It has your name, your wife's name, Social Security  
5 information, your address, so is this your 2010 tax return?

6 A. Yes, sir.

7 Q. If we go down to block 12, again business income or  
8 loss, it indicates that you had a business loss of \$22,585,  
9 is that correct?

10 A. Correct.

11 Q. Now, in 2008 you made about \$600 on the business, 2009  
12 you made about \$3,500 on the business, each of the losses in  
13 those cases is larger than the amount of income that you  
14 earned on the business, is that correct?

15 A. Correct.

16 Q. If we look at page two of the return, it says in the  
17 bottom, third party designee, Margaret Hosseini. She's the  
18 one that's authorized to talk to the IRS about your taxes  
19 and in the bottom, paid preparer, Chiara Luera. Do you know  
20 who Chiara Luera is?

21 A. Another time that we went to where Margaret wasn't in,  
22 she was out of the office, so we gave her the paperwork and  
23 she was instructed to input into the computer.

24 Q. And then when you came back, you actually discussed it  
25 with Ms. Hosseini?

JOE ESCOBEDO - DIRECT

1 A. Yes.

2 Q. If we could go to page seven of that, again that will  
3 be the Schedule C, Profit Or Loss From Business.

4 A. Yes, sir.

5 Q. Again we look at the top of that form, it's the  
6 business proprietor's name is Lisa Escobedo, your wife,  
7 business name is The Lawn Man. This is the yard service  
8 we're talking about, is that right?

9 A. Correct, yes, sir.

10 Q. This year you made \$4,620 off of mowing lawns in the  
11 lawn business, is that right?

12 A. Yes, sir.

13 Q. If we could flip over to the next page and look down at  
14 part five, again it says mobile phone business use, \$2,054.  
15 Now, we're talking 2010 at this point, was there any  
16 difference really between the way your phones were set up  
17 and used in 2010 versus the way you described it being done  
18 in 2009?

19 A. No, sir.

20 Q. Your wife and daughters still had phones?

21 A. Uh-huh.

22 Q. You used your phone maybe 30 percent for the lawn  
23 business?

24 A. Yes, sir.

25 Q. The rest of it was personal?

JOE ESCOBEDO - DIRECT

1 A. Uh-huh.

2 Q. Did you ever tell Ms. Hosseini that your entire phone  
3 bill was business related?

4 A. No, sir -- I mean yes, we told her.

5 Q. You told her about the phone bill?

6 A. About the phone bill.

7 Q. Did you ever tell her, oh, by the way, this entire  
8 phone bill is for business use, we only use our phones for  
9 business?

10 A. Oh, no, no. It was personal too.

11 Q. Okay. So again we have equipment fuel down there  
12 \$4,241. And I just point this out to show that you were  
13 keeping track separately of fuel and that was included  
14 somewhere else, is that right?

15 A. Yes, sir.

16 Q. That's fuel for your equipment?

17 A. Yes, sir.

18 Q. Now, if we go back to the first page of the Schedule C,  
19 you have a car and truck expense there on line nine of  
20 \$15,118, is that correct?

21 A. Which page again? Sorry, sir.

22 Q. Go back to the first page of the Schedule C, it would  
23 have been page seven, but it's the first page of the  
24 Schedule C, just turn one page back from where we were with  
25 the cell phone?

JOE ESCOBEDO - DIRECT

1 A. There it is, sorry.

2 Q. Car and truck expenses \$15,118, is that correct?

3 A. Yes, sir.

4 Q. Did you actually spend that much on your truck that you  
5 were using for the lawn business?

6 A. No, sir.

7 Q. Did you use the same truck this year in 2010 that you  
8 used in 2009 and 2008?

9 A. Yes, sir.

10 Q. Had anything changed significantly as far as your truck  
11 usage?

12 A. No, sir.

13 Q. If we turn the page back again to the next page, the  
14 second page of the Schedule C, this time it indicates that  
15 your mileage on line 44, total number of miles driven by  
16 your vehicle during 2010 for business purposes was  
17 30,235 miles, is that correct?

18 A. Yes, sir, I see it.

19 Q. Did you drive 30,235 miles for this business for the  
20 lawn business?

21 A. No, sir.

22 Q. How did you come up with that number, was it the same  
23 way you did the previous two years?

24 A. Yes, sir, I was told to go back to my truck and get the  
25 mileage from there.



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1 Q. So you read the odometer off your truck in the parking  
2 lot, came back in and told her what the mileage was?

3 A. Yes.

4 Q. Who did you tell that was the mileage, was it  
5 Ms. Hosseini?

6 A. Yes, sir.

7 Q. She was the one that asked you to go check your  
8 mileage?

9 A. Yes, sir.

10 Q. So this mileage would have included, of course, the  
11 20-some odd thousand miles that you had reported on your  
12 previous return as well, right?

13 A. Yes, sir.

14 Q. 27,780 miles that you had reported in 2009. You  
15 increased by about 3,000 miles that year?

16 A. Yes, sir.

17 Q. Again did you have any written evidence to support that  
18 you had driven over 30,000 miles in the lawn business?

19 A. No, sir.

20 Q. And of course, you didn't show her any written  
21 evidence?

22 A. No, sir.

23 Q. If we go to the next exhibit which is 24-3, that will  
24 be again the prepare's copy of your return, the one that  
25 doesn't have the blue sheet on the front.

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1 A. This one.

2 Q. And let's go to page six, I believe. It should say  
3 Bank Product Information again at the top?

4 A. Yes, sir, I see it.

5 Q. This one says, if we look under Total Projected Bank  
6 Fee, underneath that, Tax Preparation, Tax Preparation \$667.  
7 Is that what you paid Ms. Hosseini?

8 A. Yes, sir.

9 Q. And then you got a refund of, if you look at the  
10 bottom, \$3,396.10, is that correct?

11 A. That's correct, yes, sir.

12 Q. Did you know that you were actually paying \$667 at the  
13 time?

14 A. At the time, yes, sir.

15 Q. Because you signed this paper?

16 A. Yes, sir.

17 Q. Did it bother you that your fees seemed to be going up,  
18 you know a hundred dollars or more every time you went in to  
19 deal with her?

20 A. Yes, sir, it did.

21 Q. Did you say anything about that?

22 A. My wife and I talked about it and we just said, well, I  
23 guess it's a fee that just keeps going higher up, it's  
24 nothing we can control.

25 Q. And it didn't bother you really because you were

JOE ESCOBEDO - DIRECT

1 getting \$3,396 back personally, so you didn't feel the loss?

2 A. Correct.

3 Q. If you'll look through, just real quickly look through  
4 this packet. This packet does contain receipts again,  
5 doesn't it? In fact, if you look towards the end of the  
6 packet you've got a number of receipts for food, this will  
7 be seven pages from the end.

8 A. Yes, sir, I see that.

9 Q. So you got receipts for food, you got receipts for gas.  
10 Does that look like all the receipts that you brought in for  
11 Ms. Hosseini to review?

12 A. Yes, sir.

13 Q. Once again she made copies of them and included them in  
14 the file?

15 A. Yes, sir.

16 Q. Everything that you brought in she made copies of it  
17 and put it in the file?

18 A. Yes, sir.

19 Q. Okay. Let's go on to tax year 2011. Oh, by the way,  
20 before we move on, once again you signed every page in her  
21 preparer's copy, is that correct?

22 A. Correct, yes, sir.

23 Q. Was the review pretty much the way you've described it  
24 before where they just told you this is how much you're  
25 going to get, sign all the pages?

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1 A. Just as before.

2 Q. Nothing unusual?

3 A. No, sir.

4 Q. She didn't point out to you specifically, look, this is  
5 the amount of mileage I've got put down for you for business  
6 miles for your lawn business or anything like that?

7 A. Yeah, no, sir.

8 Q. Didn't explain to you we're deducting the entire cell  
9 phone bill?

10 A. She just said this is the amount of your phone bill  
11 deduction.

12 Q. She didn't explain to you whether it was business use  
13 or not?

14 A. No, sir.

15 Q. Or what the rules were as far as how you could do that?

16 A. Correct.

17 Q. Let's go to 2011. That's going to be folder number  
18 25-1. It will be one of those that has a blue copy again.  
19 And again that starts off Form 1040 U.S. Individual Income  
20 Tax Return 2011, see that?

21 A. Yes, sir.

22 Q. And then again it's got you and your wife's name, your  
23 Social Security numbers, address in San Antonio, is this  
24 your tax return for 2011?

25 A. Yes, sir.

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1 Q. Now, if we go -- this form is a little different, they  
2 change every year. If we go to page four of this document,  
3 at the top of that page it says, Paid preparer use only,  
4 print/type preparer's name. And it says Debra Landrum. Do  
5 you know who Debra Landrum is?

6 A. Oh, there it is right here. Just another associate  
7 that worked there at the tax return.

8 Q. Would that indicate to you that this was another  
9 situation where you came in, dropped it off and came back  
10 later?

11 A. Yes, sir.

12 Q. And then if you'll turn to the page right before that,  
13 page three, it says the third party designee who is allowed  
14 to discuss with the IRS is Margaret Hosseini?

15 A. Correct.

16 Q. In fact, go back to that first page again that has you  
17 and your wife's name on it?

18 A. Yes, sir.

19 Q. Line 12, again business income or loss, you have an  
20 indicated business loss of \$25,625, is that correct?

21 A. Correct.

22 Q. Now, we go back to page 14 I believe this time, again  
23 that's going to be the Schedule C Profit Or Loss From  
24 Business. Did you find it?

25 A. No, sir, not yet.

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1 Q. It's going to be, like I said, about page 14.

2 A. Yes, I see it.

3 Q. Got it?

4 A. Yes, sir.

5 Q. And again the name of the proprietor is Lisa Escobedo,  
6 your wife, and the business name is The Lawn Man. So we're  
7 still talking about your lawn service, correct?

8 A. Correct.

9 Q. This is for 2011. For 2011 you made gross receipts of  
10 \$3,860, is that right?

11 A. I see it, it's correct, yes, sir.

12 Q. Does that sound about right as far as what you made off  
13 the lawn business?

14 A. Yes, sir.

15 Q. Not quite as good as 2010, but still a pretty good year  
16 for you?

17 A. Yes, sir.

18 Q. If we go down to line nine in part two, car and truck  
19 expenses, it says you had car and truck expenses of \$18,810,  
20 do you see that?

21 A. Yes, sir.

22 Q. Did you have car and truck expenses of \$18,810 related  
23 to the lawn service, The Lawn Man?

24 A. No, sir, no, sir.

25 Q. You still were using that one truck that you had always

JOE ESCOBEDO - DIRECT

1 been using?

2 A. Same truck, yes, sir.

3 Q. Let's go -- this form is two pages back, so it will be  
4 page 16, you see where we got a box marked part four?

5 A. Part four, other expenses.

6 Q. Correct. Well, that's part five, other expenses.

7 Right above that is part four, information on your vehicle?

8 A. Uh-huh.

9 Q. Part four we get to line 44, Of the total number of  
10 miles you drove your vehicle during 2011, enter the number  
11 of miles you used for your vehicle for, A, business. This  
12 time you have 35,325 miles. How did you come up with this  
13 number? Same way you did the last?

14 A. Yes, I was told to go get the mileage from the truck.

15 Q. Who told you to go get the mileage from the truck?

16 A. Margaret.

17 Q. Did she know you were driving the same truck?

18 A. Yes, sir.

19 Q. This 35,000 miles includes the mileage you had already  
20 reported in the previous year, is that correct?

21 A. Correct.

22 Q. So did you not drive 35,325 miles in 2011?

23 A. No, sir.

24 Q. Did you have any written support to indicate that you  
25 had driven 35,325 miles?

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1 A. No, sir.

2 Q. Did you ever tell Ms. Hosseini that you had written  
3 support for that type of deduction?

4 A. Yes, sir -- I told her I didn't have the support,  
5 that's why she sent me to the truck to get the mileage from  
6 that.

7 Q. To look at the odometer?

8 A. Yes.

9 Q. And she knew it was the same truck you looked at every  
10 year sitting out in the parking lot?

11 A. Yes.

12 Q. The way she filled this one out is a little different.  
13 The other expenses there's nothing there in part five?

14 A. Right, there's nothing there.

15 Q. If we could go to -- go back to the first page of the  
16 Schedule C, you look at line 25, it says the utilities  
17 \$4,032, is that correct?

18 A. Sorry.

19 Q. First page of the Schedule C, two pages in front of  
20 where we were before and we're talking about line 25 in part  
21 two.

22 A. Oh, there it is right there, yes, sir.

23 Q. Utilities, \$4,032, is that correct?

24 A. Correct.

25 Q. Did you spend \$4,032 on utilities for The Lawn Man



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1 business?

2 A. No, sir.

3 Q. Let's take a look at something here. Let's go to  
4 Government Exhibit Number 25-3 and again that will be the  
5 one without the blue sheet. These are the documents that  
6 were seized from Ms. Hosseini's office concerning your tax  
7 year 2011?

8 A. Yes, sir.

9 Q. And if we could go to page eight of this document, it's  
10 going to be -- she's got it on the screen. I don't know if  
11 you can see that from where you are especially, but it  
12 starts out 1040 Overflow Statement 2011 Page Two?

13 A. Yes, sir, I see it.

14 Q. And if we go down to the second group of entries, it  
15 says Schedule C line 25 utilities, see that?

16 A. Yes, sir.

17 Q. And the first one, mobile phone business use, and it  
18 indicates \$3,313, is that correct?

19 A. Correct.

20 Q. Had anything changed about your phone service between  
21 2011 and 2010?

22 A. No, sir.

23 Q. That's your total phone bill, is it not?

24 A. Correct.

25 Q. Were you still using your personal cell phone about

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1 30 percent of the time for the business?

2 A. Yes, sir.

3 Q. And your wife wasn't using hers at all?

4 A. At all for the business, no.

5 Q. And your daughters weren't using theirs for the  
6 business?

7 A. No, sir.

8 Q. But this reflects your entire cell phone bill?

9 A. Correct.

10 Q. Did you ever tell her that all the entire -- all of the  
11 cell phones were used for the business?

12 A. No, sir. She just said I need your cell phone bills to  
13 get a claim.

14 Q. So you gave her the bills and you didn't know what she  
15 needed them for or anything like that, you just gave her the  
16 bills?

17 A. Right.

18 Q. Now, this has a variety of different receipts and stuff  
19 in it, those are the receipts that you provided, right?

20 A. Yes, sir.

21 Q. If we go to page nine which is the next page beyond  
22 where we were, again you see the Total Projected Bank Fee.  
23 This is the bank product information sheet again?

24 A. Yes, sir.

25 Q. Total Projected Bank Fee and underneath that, Tax

JOE ESCOBEDO - CROSS

1 Preparation, the fee is \$686.05, is that correct?

2 A. Correct.

3 Q. And then if you look at the bottom, you got a refund  
4 deposit of \$5058. That's how much you actually would  
5 collect out of this for filing this return, is that correct?

6 A. Correct.

7 Q. Do you remember paying Ms. Hosseini \$686.05?

8 A. It's like every year, it was deducted from the tax.

9 Q. And again all of these pages in this exhibit, your and  
10 your wife's signature are on every one of these pages, is  
11 that right?

12 A. Yes, sir.

13 Q. Again did they sit down with you and go through every  
14 page in detail as far as what was going on?

15 A. They just told us what -- everything that was -- the  
16 number figures that were there, this was this, this was  
17 that, this is how much, this is how much you paid, how much  
18 you getting deducted, but that was it.

19 Q. And that was Ms. Hosseini that would go through this  
20 with you?

21 A. Yes, sir.

22 Q. And did they ever explain to you we're deducting  
23 \$35,000 -- excuse me, 35,000 miles, we're taking  
24 35,000 miles on your truck?

25 A. No, just said get my mileage on the truck.

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1 Q. And she was the one that told you that?

2 A. Yes, sir.

3 MR. SUROVIC: No further questions for this  
4 witness.

5 THE COURT: All right. Cross.

6 MR. BARNES: Yes, Your Honor.

7 EXAMINATION

8 BY MR. BARNES:

9 Q. Good morning.

10 A. Morning, sir.

11 Q. So let's see if I understand the sort of process as the  
12 office process worked. You would gather all of your  
13 business receipts?

14 A. Yes, sir.

15 Q. You would take them into the office?

16 A. Uh-huh.

17 Q. And the people we went through, at least three of the  
18 four times somebody else was there other than Margaret that  
19 you gave those to?

20 A. Yes.

21 Q. And they would take that information and enter it into  
22 the computer system?

23 A. Yes. What we were told was Margaret wasn't here, so we  
24 were told to put in the information and she would be going  
25 through the final say so with us at the end.

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1 Q. Okay. So all the data gets entered, you come back and  
2 then you review the return?

3 A. With Margaret, yes.

4 Q. One clarification I wanted on the mileage. So in 2009  
5 I think it was 27,000, 2010 30,000, 2011 35,000. Now, that  
6 was the increase in the mileage from the prior year, right?

7 A. Correct.

8 Q. So you're not saying you only drove 3,000 miles total  
9 on your truck in 2010, right?

10 A. What I was told to do was go to my truck and get the  
11 mileage that you have there in the truck.

12 Q. And by that it was, okay, I had X -- I have  
13 27,000 miles last year, how much higher is it this year than  
14 it was the year before?

15 A. I was instructed on what's the actual mileage that you  
16 have now.

17 Q. So it's your testimony that you only drove 3,000 miles  
18 in all of 2010 on that truck?

19 A. Uh-huh.

20 Q. You're going back and forth to Lowe's in that truck?

21 A. I had moved closer to a Lowe's there in San Antonio --  
22 close to Converse.

23 Q. And you said that you were doing two to three lawns a  
24 week and more on the weekends, correct?

25 A. Correct.

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1 Q. So think that through. You're saying you only drove  
2 3,000 miles the whole year?

3 A. The Lowe's was very close and at the same time I would  
4 drive my wife's car sometimes.

5 Q. So at times you were using your wife's car to do --

6 A. To go to work.

7 Q. And you're saying you only drove 5,000 miles all of  
8 2010 on that truck for everything you did on that truck?

9 You sure that's right or are you actually trying to get the  
10 increase in miles you did that year?

11 A. I was told to go get your mileage from the truck and  
12 that's what I gave her. What's my mileage on the truck. I  
13 didn't tell her from last year to this year this is how much  
14 the difference, no. She didn't ask me that. She asked me  
15 what's your mileage that you have now, so I went to turn on  
16 the truck because it was digital, this is the mileage on the  
17 truck.

18 Q. So you didn't understand the questions was how much  
19 more you had driven that year, you thought it was how much  
20 you had ever driven the truck?

21 A. She told me what's my mileage on the truck right now.  
22 So I would leave the office, go and get my mileage on the  
23 truck.

24 Q. In 2009 you drove 18,000 miles, in 2010 your testimony  
25 is you only drove that truck 3,000 and in 2011, you only

JOE ESCOBEDO - CROSS

1 drove it 5,000. Just so I'm clear, you're sure of that?

2 A. Yes.

3 Q. Thank you. Did you keep gas receipts?

4 A. Yes.

5 Q. And you brought in those gas receipts to be processed?

6 A. Yes.

7 Q. Do you realize that in just one year you brought in  
8 \$3,300 worth of gas receipts for your truck?

9 A. Uh-huh.

10 Q. You realize \$3,300 of gas that you buy -- do you  
11 remember the price, was the price a little less than three  
12 dollars a gallon back then?

13 A. I was told to bring in all my gas receipts, so that's  
14 what I gave her, all my gas receipts, including from the  
15 lawn equipment and my truck, whatever I put in my truck.

16 Q. So you brought in the gas receipts, you wrote gas on  
17 the receipts, you're saying some of them was for your truck  
18 and some of them was for other things?

19 A. Yeah, because that's what she wanted. She wanted the  
20 receipts for my gas.

21 Q. Did you ever bring in like a spreadsheet cover of what  
22 was for the truck versus what was for other things or did  
23 you just write gas?

24 A. Just put on there gas.

25 Q. Is it possible -- well, I won't ask about -- you did

JOE ESCOBEDO - CROSS

1 keep those receipts?

2 A. Uh-huh.

3 Q. Were receipts proof of how much gas you used in the  
4 vehicle for the truck?

5 A. Well, yes. I mean they weren't proof, she just told me  
6 bring your gas receipts for the truck or for equipment, so  
7 bring in gas receipts, that's what I was told.

8 Q. Would a gas receipt be proof of how much gas you used  
9 for the truck?

10 A. Probably, yes, sir.

11 Q. When was the first time the IRS told you they had any  
12 issues with your return? Did they send you a letter, a  
13 notice or show up at your door?

14 A. Showed up at my work.

15 Q. And did they ask you to come back later or they wanted  
16 to do a meeting, they wanted you to gather your receipts,  
17 anything like that?

18 A. They said we need to have a meeting, so I gave them my  
19 address because we had moved. And later they met with my  
20 wife and myself.

21 Q. And they said they wanted to do the meeting at your  
22 house?

23 A. Yes.

24 Q. And were your kids there at the time?

25 A. No.



## JOE ESCOBEDO - REDIRECT

1 Q. And when they showed up, did they bring your receipts  
2 that you had given them? Did they bring your receipts with  
3 them to show you?

4 A. I know they had folders. Like they were reviewing some  
5 stuff, this is what you had, this is what you claim to have  
6 done.

7 Q. Did they show you your receipts so that you could  
8 review it to see how much you had spent in the prior years?

9 A. No, they didn't show them to me.

10 Q. And did they give you an opportunity to match up with  
11 the receipts with the expense items listed on the return?

12 A. No, sir.

13 MR. BARNES: No further questions, Your Honor.

14 THE COURT: Redirect.

15 MR. SUROVIC: Yes, Your Honor, very briefly.

16 EXAMINATION

17 BY MR. SUROVIC:

18 Q. Mr. Escobedo, you indicated that Ms. Hosseini told you  
19 to bring in all your gas receipts, is that correct?

20 A. Correct.

21 Q. Now, that would include gas receipts for your lawn  
22 mower and things like that and the equipment you used for  
23 edge, that would include gas receipts for your truck, did  
24 you also bring in gas receipts for your wife's vehicle?

25 A. No.

JOE ESCOBEDO - RECROSS

1 Q. Just for your vehicle?

2 A. Just the truck.

3 Q. Now, you also used your truck not only for the business  
4 purposes, that was your truck to get around when you did  
5 need to?

6 A. Correct.

7 Q. Was there any differentiation on those bills between  
8 the gas that was used for the business versus gas that was  
9 used generally?

10 A. No.

11 MR. SUROVIC: No further questions, Your Honor.

12 THE COURT: Recross.

13 MR. BARNES: Yes, Your Honor.

14 EXAMINATION

15 BY MR. BARNES:

16 Q. How far was it back and forth between your home and  
17 Lowe's?

18 A. About five, 6 miles.

19 Q. So about ten miles there back and forth, ten to 12.  
20 And how often did you go each week to Lowe's?

21 A. I work five days a week.

22 Q. And the lawns you mowed, how far were they away from  
23 you?

24 A. Two to 3 miles.

25 Q. And how often did you go to those each week?

## JOE ESCOBEDO - RECROSS

1 A. Well, I would do one lawn every two weeks, sometimes  
2 three.

3 Q. Do you realize just the mileage back and forth to  
4 Lowe's is 60 miles a week? That would be more than  
5 3,000 miles a year just for Lowe's by itself?

6 THE COURT: I thought he said 50, ten miles.

7 THE WITNESS: Ten miles.

8 THE COURT: Five days a week times 50 weeks. You  
9 take vacation sometimes?

10 THE WITNESS: Yes.

11 THE COURT: Times 50 weeks is 2500.

12 MR. BARNES: That's fine, yes, Your Honor.

13 THE COURT: Two or 3 miles to the lawn mowing.

14 BY MR. BARNES:

15 Q. You're only doing those lawns once every couple weeks?

16 A. Yes.

17 Q. Earlier you testified you did two to three a week?

18 A. Right, yes, but the same lawn I wouldn't do it every  
19 other week or every week. Sometimes it was every two weeks,  
20 sometimes it was every three weeks, depended how the  
21 customer would call me when they were ready for it.

22 Q. So how often each week do you think you went to do a  
23 lawn? That's what I was confused on?

24 A. Once a week.

25 Q. Okay, so whenever you're saying two to three a week --

JURY TRIAL

1 A. Yeah, it was two weeks. Two weeks, once every two  
2 weeks.

3 Q. When the IRS was reviewing this with you, did they go  
4 through how often you were driving your vehicle or anything  
5 like that? Did they review that with you?

6 A. No, sir.

7 Q. And they didn't give you a chance to review your  
8 receipts to match up?

9 A. No, sir.

10 Q. Thank you.

11 MR. BARNES: No further questions.

12 THE COURT: Well, that's about 3,000 miles. Any  
13 redirect?

14 MR. SUROVIC: No redirect, Your Honor.

15 THE COURT: Thank you, sir. You may be excused.

16 MR. SUROVIC: Your Honor, we request that he be  
17 permanently excused. He's working as part of a group that's  
18 trying to help out in Corpus Christi.

19 MR. BARNES: No objection.

20 THE COURT: Thank you, sir. Thank you for helping  
21 those people.

22 THE WITNESS: Thank you, sir. Thank you for the  
23 glasses.

24 THE COURT: All right. So Mr. Surovic, your next  
25 and last witness, unless something comes up on rebuttal is

## GUILTY PLEA

1 Agent Robles?

2 MR. SUROVIC: That's correct, Your Honor.

3 THE COURT: And that will take some period of  
4 time.

5 MR. SUROVIC: Yes, sir.

6 THE COURT: As I told you yesterday, we'll take a  
7 longer break now and then we'll go straight through until a  
8 little bit before 2:00, so the jury is excused for 45  
9 minutes. Thank you.

10 COURT SECURITY OFFICER: All rise.

11 (10:34 a.m.)

12 THE COURT: You may be seated. Mr. Surovic,  
13 anything outside the presence before we recess?

14 MR. SUROVIC: Not from the government.

15 THE COURT: Mr. Barnes?

16 MR. BARNES: Not from the defendant.

17 THE COURT: We'll start at 11:15.

18 (10:35 a.m.)

19 \* \* \*

20 (11:21 a.m.)

21 MR. SUROVIC: Your Honor, here is a complete copy  
22 of the plea.

23 THE COURT: Mr. Surovic, did you all keep a copy  
24 for you?

25 MR. SUROVIC: There are two other copies, Your

GUILTY PLEA

1 Honor, I believe that's what Mr. Barnes went down to get.  
2 The copy he gave me was missing the last page, but they just  
3 brought in the last page. Do you have a copy of the plea  
4 over there?

5 THE COURT: When we go through it I'm going to  
6 refer to some things. We can scan it. Have a seat.

7 \* \* \*

8 MR. SUROVIC: Just to advise the Court, Your  
9 Honor, it is the standard plea agreement that we use here in  
10 the Western District. It's a plea to one count, count 14,  
11 that's the count involving Mr. Mike Trevino. And there's a  
12 factual basis for that particular count.

13 THE COURT: All right. Mr. Barnes, we're printing  
14 off another signed copy for you to go over as we go through  
15 it.

16 MR. BARNES: Yes, Your Honor.

17 \* \* \*

18 THE COURT: Ms. Hosseini, if you'll come up to the  
19 lecturn please with Mr. Barnes. And Mr. Barnes, if you'll  
20 pull that mike down for her so she doesn't have to -- there  
21 you go.

22 All right, Ms. Hosseini, raise your right  
23 hand please. Subject to federal perjury laws, do you  
24 promise to tell this court the truth, the whole truth and  
25 nothing but the truth?

## GUILTY PLEA

1 THE DEFENDANT: Yes.

2 THE COURT: All right. You're going to have to  
3 speak up so Ms. Hailey can hear you.

4 THE DEFENDANT: Yes.

5 THE COURT: Are you the same Margarita Monir  
6 Hosseini represented by Mr. Barnes and the defense team who  
7 is charged here in count 14 charging you with the  
8 preparation of false tax returns, are you that same person?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand the charge against  
11 you?

12 THE DEFENDANT: I do.

13 THE COURT: And have you been here this week  
14 during the presentation of most all of the evidence from the  
15 other witnesses in the other counts?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, here we're about to finish the  
18 government's case with one more witness, then you would have  
19 your opportunity to put on testimony if you chose to, but  
20 you would have no obligation to because of the burden of  
21 proof always remaining on the government. You also would  
22 have the right to remain silent as you always do even as we  
23 speak here at this moment. Do you understand those rights  
24 that you have in terms of resting on the burden of proof of  
25 the government and your right to remain silent?

## GUILTY PLEA

1 THE DEFENDANT: Yes.

2 THE COURT: Has anyone forced you, threatened you  
3 or paid you money to make you give up any of those rights  
4 especially right now the right to remain silent?

5 THE DEFENDANT: No.

6 THE COURT: Now, this particular charge carries  
7 with it a penalty of up to three years in the federal  
8 penitentiary along with some collateral punishments that  
9 we'll talk about, but the actual punishment is based on a  
10 whole number of factors which will be decided several months  
11 from now. For one, the fact that you are albeit at a  
12 relatively late date in the process accepting responsibility  
13 if, in fact, you do accept responsibility, would be a  
14 factor, your lack of any significant prior record would be a  
15 factor, although there are some matters when you were much  
16 younger that I don't think technically would count under the  
17 sentencing guidelines, but they are matters that the court  
18 would be aware of at the time of sentencing. The fact that  
19 you've accepted responsibility much later in the normal  
20 process would be a factor. And then importantly -- well,  
21 all these factors are important, but relevant conduct. Even  
22 though you are only pleading guilty to one count, the court  
23 has heard evidence on all of these other counts which could  
24 be taken into consideration in terms of relevant conduct,  
25 but the maximum would be three years in prison as opposed to



## GUILTY PLEA

1 if you were to go to trial and be convicted on all 27  
2 counts, then it could technically be three years times 27 to  
3 run consecutively. Barring some unusual circumstance, that  
4 would not happen, however, what could very well happen is  
5 that if the normal guideline range for each count is around  
6 four, five or six months, which is what the court has seen  
7 in the past on these kind of cases for people similarly  
8 situated, then those five months custody could be run  
9 consecutively on all 27 counts which would still be around  
10 nine or ten years as opposed to the three-year maximum that  
11 you are limiting your punishment to by entering into this  
12 plea if, in fact, you go forward. Do you understand the  
13 pros and cons of that benefit or detriment of either choice?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that if you go  
16 forward with the jury trial, that the jury could find you  
17 not guilty on all 27 counts and then of course you would not  
18 be looking at any prison time, but those are choices that  
19 only you can make an informed choice about and have to make  
20 the final decision. Do you understand that power and that  
21 you're the only person who can make that decision?

22 THE DEFENDANT: Yes.

23 THE COURT: Mr. Barnes, as her counsel, are you  
24 satisfied that she is competent to go forward with this plea  
25 agreement if she chooses to do so?

## GUILTY PLEA

1 MR. BARNES: Yes, Your Honor.

2 THE COURT: Have you explained to her all of those  
3 and other details of the pros and cons of going forward with  
4 the trial or entering into this plea?

5 MR. BARNES: Yes, Your Honor.

6 THE COURT: Are you satisfied that she understands  
7 it?

8 MR. BARNES: Yes, Your Honor.

9 THE COURT: And are you satisfied that she's made  
10 a free choice of her own free will?

11 MR. BARNES: Yes, Your Honor.

12 THE COURT: And of course, the Court is aware of  
13 prior discussions during the trial that apparently I'm not  
14 privy to all of them, but inferentially have kind of gone  
15 back and forth and occasionally of course we see people who  
16 do something and then they have buyer's remorse and then  
17 they -- well, I wish I hadn't done that. Are you satisfied  
18 that this is a matter that she's firmly and capable of  
19 making any final decision?

20 MR. BARNES: Yes, Your Honor.

21 THE COURT: All right. And Ms. Hosseini, do you  
22 understand that if we go forward and we do this properly  
23 which is the Court's intent to do it properly, that it would  
24 be very difficult to overturn your plea if, in fact, you  
25 should change your mind?

## GUILTY PLEA

1 THE DEFENDANT: Yes.

2 THE COURT: Now, in addition to the three-year  
3 maximum punishment, you could be assessed a monetary fine of  
4 \$250,000, you could be -- you would be sentenced up to one  
5 year of supervision after you get out of prison, during  
6 which time if you violate the rules of supervision, you  
7 would go back to prison, you would have a one-hundred-dollar  
8 assessment for the Victim of Crime Fund. You also could  
9 have up to a cap of \$111,113.

10 Mr. Surovic, was that amount generally  
11 arrived at per taxpayer and penalties and late charges and  
12 so forth?

13 MR. SUROVIC: That's correct, Your Honor. That's  
14 a calculation based on the collective counts charged in the  
15 indictment and the amount of tax loss as to each.

16 THE COURT: All right. And Ms. Hosseini, the  
17 amount, as I understand the tax law, the taxpayer is  
18 responsible for the tax as if they had gone to another  
19 preparer and had not had the extra deductions and so forth,  
20 they would have had to pay that tax under those  
21 circumstances, so if Internal Revenue comes back and now  
22 says you have to pay what you should have paid anyway,  
23 that's not your fault. However, they might also have to pay  
24 for additional accounting fees, the penalties and interest  
25 for those -- well, all of them came and testified, the

## GUILTY PLEA

1 hassle factor of having to go through the process with  
2 Internal Revenue, take time off from work, come down and  
3 testify and so forth. So all of those factors would be  
4 taken into account by the Court in assessing the  
5 restitution.

6 Also in terms of the Court's punishment  
7 decision in these kinds of cases, it's very important as to  
8 whether or not all or a significant part of the restitution  
9 is made before the sentencing decision. If it is, that  
10 would inure to your benefit and so one of the benefits of  
11 accepting responsibility in this court is that if you  
12 continue to abide by the rules of pretrial service as you  
13 have, then you would have several months after the  
14 sentencing to self-surrender. And of course, you would go  
15 home tonight out of that door. Generally speaking, if  
16 someone is convicted by a jury, they go out that door. So  
17 that's another benefit that you would receive if, in fact,  
18 you accept responsibility. If the full restitution or close  
19 to it is paid from liquidated assets or otherwise, then that  
20 certainly would be a factor that would inure to your benefit  
21 in terms of the Court assessing what any prison sentence  
22 would be.

23 In terms of collateral punishment,  
24 Mr. Surovic, I'm not familiar with the process, but in order  
25 for like Mr. Escobedo wanted to start a lawn service, he had

## GUILTY PLEA

1 to go to City Hall and get a permit or a business number.  
2 Somebody doing a tax preparation business, do they have to  
3 go through a process with Internal Revenue?

4 MR. SUROVIC: I believe they have to register as  
5 preparer, Your Honor. Is that correct?

6 SPEAKER: Preparer, yes.

7 MR. SUROVIC: For preparers, yes, she does.

8 THE COURT: Would someone who is a convicted felon  
9 for this type of offense likely be able to continue or not?

10 MR. SUROVIC: I would think not, Your Honor,  
11 particularly when it's a conviction in this type of case.

12 THE COURT: All right, so Ms. Hosseini, you have  
13 over the years obviously have had a very good income from  
14 this business and do you understand that a collateral  
15 consequence of your conviction may very well be and would  
16 probably be that you would not be able to do that kind of  
17 business anymore?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. And Mr. Barnes, have you  
20 all discussed that aspect?

21 MR. BARNES: Yes, Your Honor. My understanding is  
22 from the IRS in prior cases is that they don't have a filing  
23 number right anymore, they can still be part of the tax  
24 return business, they just can't be the ones filing the  
25 returns, so if they're involved in, say, promotions or

GUILTY PLEA

1 referrals or marketing or they handle the front, that kind  
2 of thing is fine, they just can't be the ones that do the  
3 tax computations and have the e-file number, so I have  
4 explained all that and I've been through this precise  
5 scenario before.

6 THE COURT: Ms. Hosseini, on page three and  
7 thereafter a little bit on page four, there is a single  
8 space summary of what the government says it could prove and  
9 indeed the Court has seen the proof of what happened in  
10 terms of your relationship with Mr. Trevino for the  
11 April 2010 preparation of his tax form 1040 as part of his  
12 2009 tax returns. And then it goes on to talk about the  
13 Schedule C claiming of profit or loss from business of  
14 \$21,450 in car and truck expenses and depreciation of  
15 \$17,325 with a net business loss of \$19,813 reported on the  
16 form 1040 and at no time did Mr. Trevino have such expenses  
17 or depreciation related to any business, that he did not  
18 provide those figures to you, that you knew at the time that  
19 you prepared the tax documents that Mr. Trevino was not  
20 entitled to those deductions, furthermore, that you knew  
21 that said representations in the tax documents would be  
22 material in that they would result in Mr. Trevino receiving  
23 a significantly larger federal income tax refund check. At  
24 all times during the course of Mr. Trevino's 1040 tax year  
25 2009, you were aware that you were doing wrong and you knew

## GUILTY PLEA

1 that the information contained in Schedule C for Mr. Trevino  
2 was false as to a material manner and yet you concluded the  
3 false material information -- you included the false  
4 material information in the IRS documents knowingly and  
5 willfully and with full acknowledge that the information was  
6 wrong and would result in a larger tax refund than  
7 Mr. Trevino was entitled to receive. Now, are those  
8 particular facts specifically as to the numbers correct?

9 THE DEFENDANT: Which numbers?

10 THE COURT: Well, the amounts of the losses --

11 THE DEFENDANT: Yes, I see it, yes.

12 THE COURT: The particular tax return years.

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. That's part of it, but as Mr.  
15 Barnes has pointed out, one cannot be convicted if it's  
16 negligence or mistake or that sort of thing. So is it also  
17 specifically true at the bottom of page three and the top of  
18 page four that you had what we lawyers call the mens rea or  
19 the guilty mind that you knew and you were doing this on  
20 purpose, not by accident and you knew that you shouldn't be  
21 doing this, is that true?

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. All right. Even though you've  
24 told the Court that those facts are true, that does not make  
25 you legally guilty unless we go forward with the trial and

GUILTY PLEA

1 the jury finds you guilty of one or more counts or unless  
2 right now today you waive all of those constitutional rights  
3 that we've talked about and that are written about -- and  
4 Mr. Surovic, I assume that includes the right to appeal?

5 MR. SUROVIC: That is correct, Your Honor, right  
6 to appeal and to contest her sentence.

7 THE COURT: But in order to do that, the Court has  
8 to be absolutely satisfied that you understand all of those  
9 rights including the right to jury trial which you've  
10 exercised up to this point, you've exercised the right to  
11 counsel and will continue to exercise the right to counsel  
12 through the punishment phase. You've also exercised the  
13 right under the Sixth Amendment to cross-examine those  
14 witnesses against you thus far and you've waived your right  
15 on the Fifth Amendment as to this proceeding before the  
16 Court, but you have not waived it before the jury if, in  
17 fact, the jury trial were to go forward, but in order to go  
18 forward, then you have to waive all of those rights under  
19 the right to continue to have counsel by Mr. Barnes and  
20 others. Do you understand those rights?

21 THE DEFENDANT: Yes.

22 THE COURT: Has anyone forced you, threatened you  
23 or paid you money to make you give them up?

24 THE DEFENDANT: No.

25 THE COURT: Now, you also have the, generally



## GUILTY PLEA

1 speaking, the right to a direct appeal and then what's  
2 called a habeas corpus appeal. If you go forward with this,  
3 you are giving up virtually all of those rights.  
4 Technically you would still retain some limited appellate  
5 rights if it were found that Mr. Barnes and Mr. Surovic did  
6 something unprofessionally or the Court did something  
7 improper in the process and so forth, but I think we did  
8 have a Lafler versus Cooper hearing back sometime back in  
9 your case and that was a case where the Court found that the  
10 lawyer hadn't done things correctly and so send it back, but  
11 unless that rare circumstance should occur as a practical  
12 matter, you're giving up all of your appellate rights as  
13 well. Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Has anyone forced you, threatened you  
16 or paid you money to give up any of those appellate rights?

17 THE DEFENDANT: No.

18 THE COURT: At this time, the Court finds  
19 Ms. Hosseini legally competent to go forward. She has  
20 received effective advice and counsel from Mr. Barnes, she  
21 knows and understands the nature of the charge and the  
22 punishment options. There's an arm's length negotiated plea  
23 agreement which contains a factual basis and a written and  
24 now orally confirmed waiver of constitutional rights in open  
25 court. Mr. Surovic, having made those findings, do you wish

GUILTY PLEA

1 the Court to admonish further?

2 MR. SUROVIC: No, Your Honor.

3 THE COURT: Mr. Barnes.

4 MR. BARNES: No, Your Honor.

5 THE COURT: Ms. Hosseini, so the charge against  
6 you, ma'am, in count three of an indictment which  
7 alleges that you --

8 MR. SUROVIC: Count 14.

9 THE COURT: Sorry, count 14. Count 14 in the  
10 indictment involving the charges and facts regarding  
11 Mr. Mike Trevino which alleges that you, Margarita Monir  
12 Hosseini, within the Western District of Texas, committed  
13 the federal felony of preparing false tax returns. To that  
14 charge do you answer guilty or not guilty?

15 THE DEFENDANT: I accept responsibility.

16 THE COURT: I'm sorry?

17 THE DEFENDANT: I accept responsibility for the  
18 charge.

19 THE COURT: Well, you have to say guilty or not  
20 guilty.

21 THE DEFENDANT: Guilty.

22 THE COURT: All right. The Court, for the record,  
23 notes that you hesitate, but do you understand that either  
24 you're guilty or that you're not guilty, but you have to  
25 plead one way or the other. So I'm going to ask you again

## GUILTY PLEA

1 without hesitation, do you answer to that felony charge  
2 guilty or not guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: All right. I accept Ms. Hosseini's  
5 plea of guilty, find her guilty of count 14 in the  
6 indictment and we'll set the punishment date for Friday,  
7 January -- well, let's see, that may be a holiday, Friday,  
8 January 12th, at 9:00, so that gives you several months to  
9 liquidate assets if you need to, to get the probation report  
10 prepared, to get your affairs in order. Mr. Barnes, is the  
11 business still active?

12 MR. BARNES: Your Honor, yes, she is still  
13 involved with other people in the business. It will take a  
14 little time to put together the cash aspects and the other  
15 aspects.

16 THE COURT: All right, but in the meantime, if  
17 we're making progress towards those goals, the Court could  
18 extend this sentencing date a little bit longer. But that  
19 should be enough time to do what you need to do. In the  
20 meantime, you'll need to wait here today to meet with  
21 Pretrial, you'll continue to report as required with  
22 Pretrial and you will now report and begin the process today  
23 of meeting with the Probation Department to prepare a full  
24 federal presentence report. You and Mr. Barnes will go over  
25 that together for any changes or corrections and then we'll

## PROCEEDINGS

1 meet back here on January 12th.

2 Mr. Surovic, before we bring the jury in,  
3 anything further?

4 MR. SUROVIC: No, Your Honor.

5 THE COURT: Mr. Barnes.

6 MR. BARNES: No, Your Honor.

7 THE COURT: Ms. Hosseini, do you have any  
8 questions?

9 THE DEFENDANT: No.

10 THE COURT: If you all will have a seat there.  
11 Bring the jury in please.

12 \* \* (11:45 a.m.) \* \*

13 THE COURT: Ladies and gentlemen, I am here to  
14 inform you that while I know you all planned to be here  
15 probably into next week, you will not have to do so. We  
16 just got our report for the last eleven months of this  
17 courthouse and through the month of August we had 818 people  
18 like Ms. Hosseini come through this courthouse and five of  
19 them chose to have people like you decide their case. Three  
20 of them decided to have people like myself and my colleagues  
21 decide their case, so eight out of 818 decided to go to  
22 trial. All of the rest entered pleas of guilty. Usually  
23 that happens early on, earlier in the process, but  
24 occasionally we have a situation where a defendant changes  
25 their mind during the course of trial and decides the better

## PROCEEDINGS

1 solution for them is to accept responsibility on one count  
2 in this case as opposed to the risk that they might be found  
3 guilty on all 27 counts as in this case. We don't know what  
4 you all would have done. You could have found Ms. Hosseini  
5 not guilty on all counts, but again that's choices that a  
6 defendant makes. Therefore, while you all were waiting and  
7 perhaps curious about what we were doing, Ms. Hosseini has  
8 entered a plea of guilty to one count in the indictment.  
9 The Court will assess punishment in January after there's a  
10 presentence report. That punishment, so that if you're  
11 curious, will be a maximum of three years on one count, so  
12 if she had gone to trial and been convicted on all 27  
13 counts, she could have been sentenced up to three years on  
14 each count to run consecutively. That normally wouldn't  
15 happen, but under the sentencing guidelines, her punishment  
16 on each count based on prior experience would have been  
17 somewhere around five or six months on each count times 27  
18 would still be ten or 12 years, whereas under the plea  
19 agreement, she gets the benefit of capping it at the most of  
20 three years. She also will have to pay up to \$111,000 in  
21 restitution to these various witnesses for their penalties  
22 and interest and additional accounting fees if they have any  
23 and so forth. And in terms of a collateral consequence  
24 which is not up to the Court, but is up to Internal Revenue  
25 Service and their regulations as to whether and to what

## PROCEEDINGS

1 extent she can be involved in the future as a tax preparer  
2 given her conviction in this case. So that's what has  
3 happened. You all are going to be free to go back to your  
4 normal routine here shortly. Ms. Fernandez, will they have  
5 to go back downstairs?

6 COURTROOM DEPUTY: No.

7 THE COURT: All right, now because we are almost  
8 finished, have a couple of other things to say. Number one,  
9 we certainly appreciate your being here, all of us have  
10 noticed how attentive you have been, you have been taking  
11 copious notes. Had we gone completely through the trial,  
12 you would have a copy of the Court's final instructions as a  
13 souvenir to take home with you, but we don't have to do that  
14 now, so you can take home your note pads if you would like  
15 to and now that the trial is over, from your standpoint  
16 you're free to talk to your family and neighbors about what  
17 you did, what you thought about the process, what the case  
18 was about, what you think you would have done had the case  
19 gone to a deliberation stage. In fact, I'm going to come  
20 back here and I'm sure the lawyers are curious, I'm going to  
21 ask you that myself here in a few minutes, if you choose to  
22 tell me, you don't have to tell me. The classic answer  
23 would be, well, I haven't heard all the evidence yet, but  
24 that's up to you all. In the meantime, for those of you who  
25 haven't seen this before, I hope you will agree with me that

## PROCEEDINGS

1 this is -- it's more tedious, but it's far more professional  
2 and far more interesting at certain levels of watching very  
3 good lawyers do this in real life as opposed to TV lawyers  
4 who do their bombastic stuff and all that. Mr. Surovic, and  
5 Mr. Barnes have been at this for many years and know what  
6 they're doing. They are like -- well, they are the legal  
7 doctors. When you go to the medical doctor, you're there  
8 for some kind of injury or bacteria or illness and your  
9 medical doctor wishes that you would come to them with no  
10 bad habits, proper diet, proper weight, proper exercise, so  
11 forth, but your medical doctor has to deal with what you  
12 bring to them. Similarly, Mr. Barnes and Mr. Surovic are  
13 the legal doctors and this is the legal hospital and when  
14 their clients come to them, it's usually because of -- on  
15 the defense side -- because of one of three reasons, either  
16 greed, addiction or sex. The acronym for that is GAS. And  
17 in this case the allegations were it was based on greed.  
18 The child pornography cases we see, tragically more often  
19 than we would like, are based on sex. And then a lot of  
20 our -- or all of our drug cases are based on addiction.  
21 Either the buyers are addicted or the sellers are addicted  
22 and they sell in order to feed their addiction. So this is  
23 the three things that get you here, so avoid that, I assure  
24 you. But just as the medical doctors wish they had perfect  
25 patients, the legal doctors wish that they had perfect cases

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1 and perfect facts and perfect human beings to present to you  
2 or perfect clients to defend or -- I think all of you are  
3 probably old enough to remember Perry Mason. Mr. Barnes  
4 wishes there could be a Perry Mason moment when someone  
5 would burst in and say, "I did it, it wasn't Ms. Hosseini."  
6 In fact, you don't know this until now, Mr. Barnes is from  
7 Los Angeles where the Perry Mason TV series was filmed.  
8 What you also don't know and probably Mr. Barnes doesn't  
9 know is that Earl Stanley Gardner was the author, a lawyer  
10 who wrote the Perry Mason stories and he based that in part  
11 on a flamboyant defense lawyer from San Antonio, Texas named  
12 Park Street who lived in a big mansion out on Salado Creek  
13 called The Black Swan. It's a place for weddings and all  
14 that. And if you recall the Perry Mason series, Park Street  
15 was not mentioned, but Perry Mason's secretary was named  
16 Della Street. So all of that is all some local history. At  
17 any rate, the lawyers don't get to make up the facts or the  
18 nature of their clients. Mr. Surovic wishes that some of  
19 his taxpayer witnesses could have been a little bit stronger  
20 or maybe a little bit more organized or had better memories  
21 or like Deputy Price, for example, I mean she had everything  
22 right there. The first witness, Ms. Walach, wasn't  
23 particularly a strong witness, but Mr. Surovic doesn't get  
24 to make those choices, he has to work with what the law  
25 enforcement people bring to him. So they did an excellent



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1 job.

2 Mr. Surovic, before we excuse the jury,  
3 anything further?

4 MR. SUROVIC: Not from the government, Your Honor.

5 THE COURT: Mr. Barnes.

6 MR. BARNES: Not from the defense, Your Honor.

7 THE COURT: All right, the jury is excused and,  
8 counsel, you all just remain seated for just a moment.

9 COURT SECURITY OFFICER: All rise.

10 \* \* \*

11 (11:56 a.m.)

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PROCEEDINGS

\* \* \* \* \*

1  
2 UNITED STATES DISTRICT COURT  
3 WESTERN DISTRICT OF TEXAS  
4

5 I certify that the foregoing is a correct transcript  
6 from the record of proceedings in the above-entitled matter.  
7 I further certify that the transcript fees and format comply  
8 with those prescribed by the Court and the Judicial  
9 Conference of the United States.  
10

11 Date signed: September 28, 2017  
12

13 /s/ Angela M. Hailey

14 -----  
15 Angela M. Hailey, CSR, CRR, RPR  
16 Official Court Reporter  
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18 Third Floor  
19 San Antonio, Texas 78206  
20 (210) 244-5048  
21  
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25

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