

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CHRONOLOGICAL INDEX OF WITNESSES

Name	Page
Linda Litzenberg	123
Glenn Gottlieb	147
Erin McCool	159
Kim Balchios	187
Jean Bates	214
Norman Levy	242

1 WEDNESDAY, FEBRUARY 6, 2013; SAN JOSE, CALIFORNIA

2 P R O C E E D I N G S

3 -o0o-

4 MS. DONOHOE: Good morning. My name is Martha Donohoe.
5 Also, helping me today is Nahal Iravani-Sani. She's a
6 deputy DA from my office, and I think you will see her a few
7 times over the course of the month. Our first witness is
8 Linda Litzenberg, and I am going to go get her right now.

9 (Witness sworn.)

10 TESTIMONY OF LINDA LITZENBERG

11 EXAMINATION

12 BY MS. DONOHOE:

13 Q Good morning, Ms. Litzenberg. Could you please
14 state your name for the record and spell both your first and
15 last name?

16 A It's Linda, L-i-n-d-a, Carol, Litzenberg,
17 L-i-t-z-e-n-b-e-r-g.

18 Q Can the grand jurors hear the witness well enough?

19 Okay. Ms. Litzenberg, can you tell us, what is
20 your occupation?

21 A I'm a recruiter.

22 Q Could you say that again please?

23 A I'm a medical recruiter.

24 Q Would you move that microphone a little bit closer
25 to you?

26 A Or I can move closer to it, maybe.

27 Q Thank you. Can you tell us what city you live in
28 now?

1 A Woodbridge, Virginia.

2 Q Woodbridge?

3 A Yes.

4 Q Drawing your attention to June 2010, where were
5 you living?

6 A I was living in Beaverton, Oregon.

7 Q When you were living in Beaverton, Oregon, did you
8 make arrangements with a moving company to handle a move of
9 your belongings?

10 A Yes.

11 Q How did you find that moving company?

12 A Craig's List.

13 Q What was the name of the company that you found?

14 A Fast Move.

15 Q Fast Move?

16 A Yes.

17 Q And how did you go about contacting the company?

18 A I called them on the phone and got an estimate --
19 verbal estimate.

20 Q Where were you moving to at that time?

21 A Washington DC.

22 Q Who was the person that you spoke to on the
23 telephone?

24 A Her first name is Sally. I don't know her last
25 name.

26 Q Okay. How did Sally go about giving you a quote
27 for your move?

28 A She asked me to give her a verbal inventory of

1 everything that I had and to describe it. And she did a
2 weight guesstimate and sent me a list of the things that I
3 had listed and what they had guessed the weight was. I got
4 several estimates from several companies, and they all did
5 it essentially the same way.

6 Q Okay. You felt confident that what she was doing
7 was acceptable for handling a move?

8 A Yeah. It appeared to be in line with what the
9 other companies did, including United Van Lines, you know.

10 Q How did Fast Moves estimate compare to the other
11 companies that you had gotten estimates from?

12 A They were lower, but they weren't so ridiculously
13 lower that it would draw suspicion of any sort. They were
14 just better margined but not ridiculously cheaper.

15 Q Now, when you described the items that were going
16 to be moved, where were they?

17 A They were in my home at the time. But I was
18 packing them as I was doing this. I talked to them over a
19 period of a month or so. I've actually talked to her longer
20 than that. We hadn't decided what to keep and what to get
21 rid of beforehand. So I gave her a macro estimate of the
22 worst case scenario. And we ended up getting rid of stuff.
23 So it was less.

24 Q I'm going to stop you. You were discussing with
25 Sally that you had a group of items but you thought there
26 might be a lesser group by the time it was time to move?

27 A Right. Right.

28 Q And where was the move to take place from in terms

1 of the physical location for pick up?

2 A We put them into a storage space and went to DC.
3 About a month later, we were ready for them to come pick
4 them up from the storage space.

5 Q Were you present on moving day?

6 A No. But my friend was. I had a friend of mine go
7 there because it was necessary to unlock the space and to
8 pay that first half of the move. So he went there to do
9 that for me.

10 Q What was the name of that friend?

11 A His name is Harry Novick.

12 Q Was he in touch with you on the day of the move?

13 A Yes, he was.

14 Q Was the date of the move -- do you recall the date
15 of your move?

16 A No, I don't. I know it was sometime in July.

17 Q July of 2010?

18 A Yes.

19 Q All right. And what happened based on what you
20 know on the date of the move?

21 A They came -- I had talked to Sally, the person
22 from Fast Move, on many occasions about what the proper way
23 to pack things was because I wanted to make sure it was
24 painless for them on the other side. And I was told a
25 couple things. Number one, I was told that, if they did
26 have to do any packing, they charge \$75 an hour for that.
27 The other thing I was told was that, you know, this is
28 acceptable, this is not acceptable for different things.

1 And, when I had questions, I would call her. I'm about to
2 pack a lawn mower. How do you go about doing that? She
3 told me the way they like it done. So I had believed that I
4 had packed everything to their specs. When the movers came,
5 they unpacked everything and repacked it.

6 Q Now, how did you know that they had done those
7 things?

8 A Because, about an hour and a half into it, he
9 called me and told me that they were doing these things.

10 Q Okay. Now I am going to stop you. Was it Harry
11 Novick?

12 A Yes. Harry called me. I attempted to speak to
13 the movers.

14 Q I'm going to stop you again.

15 A Sorry.

16 Q Okay. Harry placed a call to you and you spoke to
17 him about what's happening at the storage site?

18 A Yes.

19 Q And, based on what he told you, did you, then,
20 follow up with the company?

21 A No. They weren't open. It was on a Saturday.

22 Q Okay.

23 A They weren't open.

24 Q All right. Did you talk to the movers based upon
25 what Harry said?

26 A I attempted to. He gave one of them his
27 cellphone. But his English wasn't such that we could make
28 ourselves understand each other. I speak a little Spanish

1 but not very much, and he spoke about the equal amount of
2 English. So I couldn't get him to understand what I was
3 saying.

4 Q Do you recall what you said to that mover?

5 A It was, essentially, why are you repacking
6 perfectly packed things? And, you know, no English. So I
7 didn't get anywhere with it.

8 Q Okay. Now, the things that Mr. Novick told you,
9 did you follow up on those things later on at a later date
10 with the company?

11 A Yes. I called them.

12 Q Okay. I want you to stop a second. All right.

13 Now, grand jurors, I'm going to ask this witness
14 about what Mr. Novick said. It's not for the truth of the
15 matter. It's to explain the subsequent conduct of
16 Ms. Litzenberg in following up with the company. So the
17 things that Mr. Novick told her he's not here to tell us.
18 But the things that he told her she, then, used to talk to
19 the company. And it's limited for that purpose to explain
20 her subsequent conduct, not for the truth of what Mr. Novick
21 said.

22 Go ahead and tell us, what did Mr. Novick tell you
23 that you, then, followed up with the company?

24 A One thing he told me was they charged me extra for
25 an extended move. In other words, because they couldn't
26 park the truck right next to the door to the storage
27 space -- they had to park it three spaces down because there
28 were cars -- they charged me extra for an extended move.

1 I attempted to appeal that with the company on
2 Monday, arguing that the three parking spaces distance
3 didn't justify an extra \$125 or \$175, whatever it was. And
4 they said, It is what it is. Pay it.

5 Q I want to stop you right there. Do you know who
6 you talked to when you called the company on Monday?

7 A I do not remember the name of the person. But,
8 after they got my things, I don't believe Sally was working
9 there anymore. And I talked to a woman who said that she
10 was the head dispatcher, and I do not remember her name.
11 But it was a person whom I had never spoken to before. And
12 it was like I had been dealing with Sally who was a good
13 cop, my dealings from that point on with a bad cop. I never
14 got to talk to anybody again who was helpful in any way.

15 Q Now, you said that the person that you spoke to
16 was some sort of a manager?

17 A No. She said she was the head dispatcher.

18 Q Head dispatcher?

19 A Yes.

20 Q Okay.

21 A I tried to talk to the warehouse manager, and she
22 said I'll have him call you, and it never happened. And so
23 I tried repeatedly to speak to the warehouse manager. And I
24 could never talk to the warehouse manager. I even sent
25 e-mails.

26 Q Were you given any name for the warehouse manager?

27 A I don't remember that. And I tried to look back
28 through my e-mails and I couldn't find that. I might

1 recognize a name if I heard it, but I do not know the name.

2 Q Did you have any other discussion about extra fees
3 with the dispatch manager?

4 A Yes. Yes. I talked to her. Because, when he
5 told me that it was \$1,700 -- my original quote was
6 \$1,300 -- so my impression was that there was a \$400
7 difference. But what I found out when I got the actual bill
8 from them was that they charged me \$700 dollars just for the
9 part that happened at the storage space. The thing that
10 was --

11 Q Okay. I'm going to stop you for a second. I have
12 to ask you questions as we go along.

13 A Okay.

14 Q When you said he told me --

15 A Harry Novick told me that they had quoted him
16 \$1,700. And, because of the language barrier, I was left
17 with the impression that meant, instead of thirteen and some
18 change for the move, it would, then, be seventeen. I knew a
19 hundred something of that was specious because you shouldn't
20 charge somebody because you have to park three spaces over.

21 In my mind, I was thinking, okay, maybe fifteen
22 and some change. But, no, it was actually \$1,700 for just
23 that piece of the transaction that happened.

24 Q Had you paid any money up front?

25 A I gave Harry \$700 and he gave it to them in cash,
26 I believe. Or maybe I went and got money orders. I'm not
27 sure about that. I transferred \$700 to Harry who, then,
28 gave it to the mover at that point.

1 Q All right. And so, on the day of the move, when
2 Harry called you and told you it was going to cost \$1,700,
3 did you believe you owed an additional thousand dollars?

4 A Yes. That's what I thought. Yes.

5 Q And you believed that was \$400 over the initial
6 quote --

7 A Correct.

8 Q -- that Sally had given you?

9 A That's correct. If I had realized that that
10 transaction was \$1,700, I would have made them put it all
11 back. I would never have agreed to pay \$1,700 for three
12 hours of unnecessary labor.

13 Q All right. I am going to stop you. Where did you
14 believe your goods were going -- let me finish my question
15 please -- where did you believe your goods were going once
16 they were loaded onto the truck?

17 A I believed that they were going to Fremont to wait
18 for a shipment that was going to a similar location so that
19 they could get a full trailer. So I was led to believe that
20 they would be there anywhere from three days to ten days,
21 depending on when they would coordinate the rest of the full
22 load.

23 Q Why did you believe they were going to Fremont?

24 A Because that's where they were located. Newark.
25 They were located in Newark. And I believed that the reason
26 that their rate was less was because they were taking
27 advantage of the fact that they could put two small loads
28 together into one load. And so it made logical sense to me

1 that that was a business reason for my things to go to
2 Newark for a while.

3 Q Okay. You believed your goods were temporarily
4 going to Newark, California, to be held for a larger
5 shipment to go out?

6 A Yes.

7 Q How long did you believe that was going to take?

8 A No more than ten days.

9 Q All right. And, once the moving day was over and
10 you had learned of this \$1,700 fee, did you follow up with
11 the dispatch manager about the total that you needed to pay
12 before the move would take place?

13 A Repeatedly.

14 Q All right. Other than the long distance fee for
15 the three parking spaces at the storage building, were there
16 any additional fees that the dispatch manager quoted to you?

17 A Yes. She told me, on top of that, my grossly
18 overestimated parcel of things was actually larger than I
19 had estimated, which is absolutely not possible.

20 I had estimated furniture that I knew I weighed.
21 I had estimated furniture that I personally weighed at like
22 25 pounds at 40 pounds. I estimated a bed that I got the
23 specs on the Internet and found out what it weighed at an
24 additional hundred pounds. I padded my estimate like crazy
25 just in case the boxes ended up weighing more.

26 When I got the estimate, she told me my things
27 weighed twice as much as I had estimated, that they weighed.
28 She said that was very common and it happened all the time.

1 But --

2 Q Okay. I'm going to stop you. So she told you
3 your initial quote was wrong because your things weighed
4 more?

5 A Right. That the \$1,700 for the move -- the
6 packing and the moving -- was etched in stone. There was
7 nothing I could do about it. On top of it, my things were
8 half again as heavy as I estimated, that they weighed.

9 Q Did she tell you that you owed additional money?

10 A Yes.

11 Q How much did she say that you owed?

12 A I don't recall to the penny, but it was somewhere
13 in the neighborhood of \$2,500.

14 Q All right.

15 A As opposed to \$700 which is what I thought I owed.

16 Q Were you expecting your bill to go from \$700 to
17 \$2,500?

18 A God, no. I moved to DC because I couldn't find a
19 job. I could barely afford the move at \$700. A thousand
20 dollars was going to be possible but certainly not something
21 I wanted to do. \$2,500 essentially meant that, in my mind,
22 at that point in time, I had lost everything I own. I
23 mean --

24 Q Did you have the money to pay \$2,500?

25 A No, I absolutely didn't. I'm embarrassed to say
26 I'm 50 years old and I didn't have the money to pay it, but
27 I didn't.

28 Q In regards to paying for the move, were you

1 expecting additional money before they would move your
2 goods?

3 A Yes. I had to pay half of the total before they
4 would move my goods. And, during that period of time, they
5 moved my things from a storage space that I was paying a
6 hundred twenty something dollars a month to a storage space
7 in California that they were charging me \$350 a month. So
8 not only did my bill go up exponentially but my storage fees
9 doubled and then some.

10 Q Were you, then, making additional payments to try
11 and get your goods back?

12 A I did. I paid -- let me say this -- I did not
13 make incremental payments during that period of time. I
14 attempted to negotiate with them for several months, and
15 they finally informed me they were going to sell my things
16 if I didn't do something. So I, at that point, gave them
17 another \$1,200.

18 Q All right. How did you give the money \$1,200 that
19 you gave?

20 A I mailed them postal money orders.

21 Q All right. And so this was \$1,200 on top of the
22 prior payment of \$700?

23 A Yes.

24 Q Do you know anyone by the name of Roni Hayon?

25 A No, I do not.

26 Q Did you ever deal with an owner of Fast Moves?

27 A I never learned who the owner was.

28 Q And, other than the dispatcher and Sally, was

1 there anyone else that you dealt with at the company?

2 A No. I attempted to e-mail and talk to that
3 person -- the warehouse manager -- whose name was not Roni
4 Hayon. His name is something I couldn't tell you. I don't
5 know. But it wasn't that.

6 Q Why was your second payment by way of money
7 orders?

8 A That's all they would take was a money orders.

9 Q So would they have taken cash from you?

10 A Probably. But, as foolish as this makes me look,
11 I'm not that foolish. I certainly wouldn't mail cash.

12 Q So you were at a distance so the only way for you
13 to pay was --

14 A I'm a hundred percent certain that, if I had
15 walked into the Newark office and handed them cash, they
16 would have gladly taken it. But because I was in DC --

17 I certainly wasn't willing to mail them cash.

18 Q Where did you mail your payments to?

19 A I mailed them to Fast Move in Newark, to whatever
20 street --

21 Q I'll show you a document in a second.

22 Did you get your belongings?

23 A No, I did not.

24 Q What happened to them?

25 A After another year of round-and-round with these
26 guys, they finally, apparently, sold them. But there was
27 many other things that happened during that period of time.
28 They supposedly -- I got an e-mail saying they had gone out

1 of business and they were in bankruptcy and the new company
2 has taken my belongings as a favor. I attempted to contact
3 the new company and I asked them the obvious question if
4 they are tied up in bankruptcy and --

5 Q I'm going to stop you a second. So you contacted
6 the new company?

7 A The new company whose name --

8 Q Do you remember the name of that company?

9 A I don't remember the name of it. I only spoke
10 with them once and attempted to talk to them. After that,
11 they quit taking my calls. They would only take my call one
12 time.

13 Q Did you ever pay anything to the new company?

14 A No, I didn't, because it was, obviously, a scam,
15 at that point, to me, I mean, for that reason. If you are
16 in bankruptcy and another company takes over your
17 obligations, anything that comes into the old company would
18 go to the bankruptcy court and anything new would go to
19 them. Why in the name of God would I give them money that
20 would go to the bankruptcy court for the old company? That
21 makes no sense.

22 Q Okay. I'm going to stop you. In terms of your
23 belongings, where did you believe they were at that point?

24 A I believed that they were in San Jose or Santa
25 Clara. I don't remember where they said they moved them,
26 but they said they moved them to a storage facility
27 someplace here.

28 Q In San Jose?

1 A San Jose or Santa Clara. Santa Clara County. I
2 don't recall exactly where they said.

3 Q Do you know what ultimately happened to your
4 belongings?

5 A I'm certain they were sold. I was never informed
6 of what actually happened. But I was told that they would
7 be sold on "X" date if I didn't pay all the arrears that was
8 owed to Fast Move.

9 Q What were the things that were lost as a result of
10 this transaction?

11 A Well, I lost my whole house-full of stuff. Living
12 room furniture, bedroom furniture, and things like that.
13 But I also lost everything that my daughters had for high
14 school, everything that my kids had growing up, all the
15 pictures, all the school projects and -- (sobbing) --
16 things like that. You know. The things that I cared about
17 are the things that probably ended up in the dumpster
18 someplace. But my whole household and my grown daughters
19 and my teenage daughter. All of those things.

20 Q Did you ever try to explain to the representatives
21 of the company about the things that were important to you,
22 that you wanted back?

23 A Not in those terms. Really more in the terms of,
24 you know, what I owe you now exceeds the cash value of
25 everything that I owe. Why would you attempt to sell it
26 when we could settle for something that would be mildly
27 extortive but at least something that only screwed me a
28 little and gave you more than you are going to get from

1 selling it? You know. And, because I never got to speak to
2 anybody with any power, that stuff was just -- it just went
3 in one ear and out the other.

4 Q I'm going to show you some documents. The first
5 is Exhibit 58. I'd like you to take a look at it and see if
6 you recognize it as documents relating to your move.

7 A Do you want me to go through them?

8 Q Just take a look at the packet and make sure you
9 recognize that as documents relating to your move.

10 A Yes, yes. These are documents relating to my
11 move.

12 Q Okay. I'm going to put the first page of Exhibit
13 58, which ends in Bates number 146. Do you recognize your
14 information in the top box Linda Litzenberg?

15 A Yes. I didn't do that, but that is my
16 information.

17 Q Was that the information as to where you were
18 moving to?

19 A Yes.

20 Q And, at the bottom of it, do you recognize the
21 signature that appears?

22 A (Pause.) Can I look at it in person?

23 Q Yes.

24 (Approaching the witness.)

25 A No, I don't.

26 Q Okay.

27 A I don't know that person. I just don't recognize
28 Harry's signature. I apologize. I didn't even recognize

1 that that was Harry, but yes.

2 Q Okay. So do you believe, based on the other
3 documents in the packet, that your friend Harry was the
4 person that signed on that document?

5 A Yes. He and I were coworkers. And so I never had
6 occasion to ever see his signature. So I just didn't
7 recognize his signature now that I realize.

8 Q I'm going to show you another page in that packet
9 which ends in Bates number 8149. And do you recognize that
10 letter addressed to an address in Washington DC?

11 A I know that that letter existed because I was told
12 about it verbally. I don't believe that I ever received
13 that letter. But I was aware of the fundamental information
14 in the letter.

15 Q All right. And so did they ever request from you
16 over \$4,000 to get your things back?

17 A Absolutely. Absolutely.

18 Q Did you ever get communication from someone named
19 Ido Or?

20 A I've never spoken to anybody -- that's not the
21 name of the person who said they were the manager. That's
22 another name that I don't know. I don't recall ever
23 receiving that name on anything. But I was aware of the
24 information in that letter. I just don't know that name.

25 Q Okay. And the address that appears there for Ido
26 Or, is that the address you were familiar with?

27 A Oh, yes. Balentine. That's it.

28 Q That's where you believed your goods were

1 initially stored by the company?

2 A Yes, yes.

3 Q I am going to show you the next page of the
4 document which has Bates number ending in 8150. Do you
5 recognize that money order?

6 A Yes.

7 Q Does it have your handwriting on it?

8 A Yes, it does.

9 Q Does that pertain to one of the payments you made
10 for your move?

11 A Yes.

12 Q Was this one of the payments after you paid the
13 initial --

14 A Yes.

15 Q Hold on. Let me finish my question. Is it one of
16 the payments that you made after you made your initial
17 payment of \$700?

18 A Yes.

19 Q Okay. I am going to show you the next page. Is
20 this the other money order that you gave to the company?

21 A Yes, at the same time.

22 Q And is that also in your handwriting?

23 A Yes.

24 Q I'm going to show you a page ending in 8153. It's
25 entitled order for service. Do you recognize that as
26 relating to your move?

27 A Yes.

28 Q And does it include the information that you were

1 given about the initial estimate of \$1,300?

2 A Yes.

3 Q Was this information provided by Sally?

4 A Yes.

5 Q I am going to show you another page in the packet
6 which ends with 8166. And this one is entitled revised
7 written estimate. Do you see the name Harry Novick on that
8 page?

9 A Yes.

10 Q Do you know whether your friend Harry Novick ever
11 got a copy of this document?

12 A I'm not aware that he ever got a copy of that
13 document.

14 Q Did you ever get a copy of this document?

15 A I don't believe that I did. I know that I've
16 discussed figures like that with them over the phone. But I
17 don't believe that I ever received that document.

18 Q Okay. All right. I am going to show you the page
19 ending in 8171 which is some e-mail correspondence. Did you
20 get a copy of this e-mail that starts the date on it
21 July 23rd, 2010?

22 A May I look at that?

23 Q Yes. Let me get it out.

24 Are you able to see that?

25 A Yes.

26 Q And did you get more information from Sally during
27 the course of the move about the additional cost that you
28 would pay?

1 A (Pause.)

2 Q Here. Let me bring it to you.

3 A At that point in time, they had been --

4 Q Let me stop you a second. I want you to take a
5 look at that.

6 A (Complying.)

7 Yes.

8 Q Okay. There's no question pending. Let me ask a
9 question.

10 A Okay.

11 Q Have you reviewed more closely the page that ends
12 in Bates number 8171 that I am putting up on the screen?

13 A Yes.

14 Q And do you recognize that e-mail?

15 A Yes, I do recognize that e-mail.

16 Q How do you recognize it?

17 A It was the result of a conversation that I had
18 apparently -- you have to understand this has been several
19 years and I don't remember exactly who I spoke with.

20 So, apparently, I was still talking to Sally at
21 that point. They had agreed, at one point in time, to a
22 certain amount of the money that they said that I owed them
23 so that I can get my things back. And this was the
24 agreement that we had made. But, by the time it got to the
25 point where that could happen, they were no longer willing
26 to do it.

27 Q All right. Now, the top part of that e-mail is to
28 Sally at Fast Move and the bottom part was forwarded

1 information that references a Linda. Do you know who Linda
2 is?

3 A That's me.

4 Q Okay. So that was you. You were dealing --

5 A Yes. That's me.

6 Q Okay. I'd like to show you page number 58176 of
7 Exhibit 58. Do you recall ever getting this document?

8 A No, I've never seen that before.

9 Q Okay. Did you get any documentation of the weight
10 of your move?

11 A No, I did not. I was only told verbally, what
12 they told me it weighed. I never received any
13 documentation.

14 Q Now, you've already stated that you did not know
15 Roni Hayon; correct?

16 A Yes, that's correct.

17 Q I'd like to show you Exhibit 59, a copy of some
18 bank records. And these have a Bates number of
19 Chase-013755. Showing you that page of Exhibit 59, do you
20 recognize that money order?

21 A Yes. It's the same one.

22 Q All right. Did you write in the words Roni Hayon
23 on that money order?

24 A No, I didn't not.

25 Q Do you know who Roni Hayon is?

26 A Not outside of this conversation.

27 Q Was that something that was added to the money
28 order after you had sent it to Fast Moves?

1 A It certainly wasn't in the envelope. It wasn't
2 there when I put it in the envelope and mailed it.

3 Q Did you give Roni Hayon permission to add his name
4 to your money order?

5 A I don't know who that is. So, obviously, I did
6 not.

7 Q I'd like to show you the next page which has Bates
8 Chase-013756. Do you see the words -- or, first of all, do
9 you recognize that money order?

10 A Yes. It's the other one.

11 Q So this is the money order for a thousand dollars
12 that you prepared?

13 A Yes.

14 Q Did you write the words Roni Hayon on that money
15 order?

16 A No, I did not.

17 Q And, again, did you give permission for someone to
18 add those words to that money order?

19 A No, I did not.

20 Q Do you know of any reason for Roni Hayon to
21 deposit these money orders to a personal account?

22 A No. Nothing that wouldn't be an opinion based on
23 what I've learned in this.

24 Q So you have no --

25 A No.

26 Q -- no explanation based upon what the company told
27 you as to why those money orders would go --

28 A No. I've never had a conversation with anyone

1 from the company where his name came up in any way, shape,
2 or form.

3 Q Did Sally from Fast Moves ever say we never got
4 your money orders?

5 A No, they did not. No. They acknowledged receipt
6 of my money orders. So, clearly, it was something that Fast
7 Moves did with them subsequent to receiving them.

8 Q Did you receive any notice that your goods were
9 being auctioned off?

10 A On several occasions I received notice.

11 Q Were you able to keep your items from being
12 auctioned off?

13 A No, I was not.

14 Q Do you have any estimate of the total amount of
15 loss that you experienced?

16 A In monetary, it was probably less than \$10,000.
17 But, you know, it was worth more than that to me. But the
18 replacement value was probably \$10,000-ish.

19 MS. DONOHOE: Thank you. I have no further questions.
20 Do the grand jurors have any questions?

21 Yes. Grand juror number one?

22 THE GRAND JUROR: I'm number one? I thought I was --

23 MS. DONOHOE: No. You are number 14.

24 THE GRAND JUROR: I'm 14. My question is: Did she
25 file a complaint with the BBB or --

26 MS. DONOHOE: Public Utilities Commission?

27 THE WITNESS: No.

28 MS. DONOHOE: Wait, wait. I'm sorry. I have to ask

1 the question.

2 Q (BY MS. DONOHOE) So did you ever file a complaint
3 with the Better Business Bureau?

4 A No, I didn't. And can I tell you why?

5 Q Yes.

6 A I personally don't have -- like, Better Business
7 Bureau is not a governing body and all they can do is report
8 what they hear. So it didn't seem worthwhile to me.

9 As far as filing a formal complaint, the truth of
10 the matter is I felt at the time that, if I did file a
11 complaint, my ability to follow up on it would require my
12 presence here, like this. And I couldn't afford to do it.
13 So I didn't see where anything would come of it.

14 I live in Washington DC right now. I can't afford
15 to come to California. Had this not been something someone
16 else were doing for me, I wouldn't be able to do this. It
17 didn't seem like I could do it financially.

18 Q So did you ever file a complaint with California
19 Public Utilities Commission?

20 A No. I actually did look into it, but I didn't
21 follow up.

22 Q All right. Did you file a complaint with the U.S.
23 Department of Transportation?

24 A Ironically, I live in the DC, but it never dawned
25 on me. I realized when you said that, yeah, I could have
26 done that. It, literally, never dawned on me.

27 MS. DONOHOE: All right. Do I have any other grand
28 jurors that have questions?

1 All right. I have no further questions. And you
2 are going to be admonished by the foreperson and then you
3 are free to leave.

4 (Witness admonished and excused.)

5 MS. DONOHOE: My next witness is Glenn Gottlieb.

6 (Witness sworn.)

7 TESTIMONY OF GLENN GOTTLIEB

8 EXAMINATION

9 BY MS. DONOHOE:

10 Q Good morning, Mr. Gottlieb. Could you please
11 state your name for the record and spell both your first and
12 last name?

13 A It's Glenn Gottlieb. Glenn G-l-e-n-n. Last name
14 is spelled G-o-t-t-l-i-e-b.

15 Q Mr. Gottlieb, what is your occupation?

16 A I do corporate development.

17 Q And what city do you live in?

18 A Los Gatos.

19 Q And were you living in Los Gatos in September of
20 2008?

21 A Yes.

22 Q Approximately on September 27th of 2008, were you
23 arranging to move within the city of Los Gatos?

24 A Yes.

25 Q How did you go about arranging for that move?

26 A I called a variety of different service providers
27 and talked to them about their quotes and when they would be
28 available and made a decision.

1 Q All right. And what company did you finally
2 decide to have as your moving company?

3 A ASAP.

4 Q And how did you find ASAP?

5 A I think it was either a Yellow Pages search or
6 Internet search or something like that.

7 Q Did you get a quote from ASAP?

8 A I spoke to them on the phone. They provided me a
9 quote. And then they sent me an e-mail with an update or a
10 confirmation of that quote.

11 Q Do you recall the name of the person you spoke to
12 on the phone?

13 A I believe his name was Wayne.

14 Q And how did you go about describing the things
15 that you would be moving at the time of your move?

16 A Most material was moved out of the house by me
17 over a period of three or four weeks. It was very easy to
18 take an inventory of what was left. I just took an
19 inventory and let them know what was there.

20 Q Did Wayne offer to provide any visual estimate of
21 the cost of your move?

22 A No. I told him exactly what I told you. He said,
23 Okay. Great. Then I got a pretty good idea for what you
24 have.

25 Q Did you get a quote as to what it would cost to
26 move your belongings?

27 A They gave me quote of \$92 an hour for three men
28 and the estimate was somewhere in the neighborhood of two

1 hundred seventy something dollars, the initial estimate.

2 Q When you say they, are you referring to Wayne?

3 A Wayne. Yes. I believe that's in the e-mail or
4 the document that they sent.

5 Q You estimated your move based on what he told you
6 would cost approximately \$270?

7 A Yeah. But I knew it was going to be a little bit
8 more than that. I had a second location that they needed to
9 go to, a storage bin that was about a mile away, and I told
10 them I had to pick that up. So I figured the whole thing
11 would take six, maybe seven, hours, in that neighborhood.

12 Q All right.

13 A They knew that up front. I told them that up
14 front.

15 Q So you discussed that with Wayne?

16 A Yes.

17 Q What happened on moving day?

18 A (Chuckles.) They arrived. How much detail you
19 want me to go into? They arrived. They had me sign a
20 couple papers. I told them I was going to pay by credit
21 card. They told me, if I paid by credit card, there was
22 going to be a five-percent service charge.

23 Q I'm going to stop you there. Who was it that was
24 making these statements to you?

25 A The foreman.

26 Q And do you know the name of the foreman?

27 A I do not.

28 Q All right. When you said you had to sign some

1 documents, how were those presented to you?

2 A They were presented. There's a standard moving
3 document that, you know, if you want us to pack material,
4 here's the charge for those packing. Here's the estimate of
5 everything that's going to be and then we will settle up at
6 the end of the day. And so those were the documents I
7 signed.

8 Q Did you have a chance to read those documents
9 before you signed them?

10 A They are pretty straightforward. So, yes, I did.

11 Q And what if anything did the foreman say about
12 what would happen if you didn't sign?

13 A If I didn't sign, then they weren't going to move
14 me. And I had to be out of there by the next day or two.
15 So I didn't really have much of a choice.

16 Q What did you observe the moving men do once you
17 had signed the documents?

18 A They started coming in and looking through and
19 packing things up. So part of the quote was that blankets
20 were to be used for free and, you know, any other packing
21 material would need to be extra. And I told them very up
22 front on the phone that I didn't need any packing material.
23 There was nothing left that was fragile except for maybe the
24 LCD TVs. Everything else was just furniture. You can just
25 put moving blankets on and take off.

26 Q I'm going to stop you. How far were those items
27 going to travel?

28 A About two miles. Actually, less than two miles.

1 Q What did you see them do with your furniture?

2 A They started unloading the truck with huge amounts
3 of cardboard boxes and they started packing everything in
4 bubble wrap and cardboard. And I, from the very beginning,
5 said stop. You know. I'm not paying for this. There's no
6 need for this. Just put it on the truck and let's go. We
7 are talking about very, very heavy marble dining table. We
8 are talking about chairs, a leather couch, none of this
9 needed any kind of packing aside from just a couple moving
10 blankets and tape around it. Off you go.

11 Q What happened when you said stop?

12 A They continued to do it. They said we have to do
13 this. This is what we have to do. I said, No, this is not
14 what you have to do. This is what we talked about. They
15 continued doing it. They said, Well, we can stop. And I
16 said, No, I have to be out of here. So I continued to ask
17 them to stop using the packing materials. They continued to
18 do it.

19 Q I'm going to stop you. Did you make any effort to
20 contact the company about what the movers were doing?

21 A Yes. So I did call the company. And I forgot the
22 name of the lady I spoke to on the phone. Mia I believe her
23 name is. And she told me that there was no one there.
24 There's no manager. There's no one there to speak with.
25 Don't worry about it. These are professional movers. They
26 know what they are doing. I asked her to have her people
27 please stop using the packing material.

28 Q Did they stop using the packing material after you

1 spoke to Mia?

2 A They did for a brief period of time and then they
3 started moving things out. They didn't really pack anything
4 else. They started moving things out. And I left for about
5 20 minutes and came back. When I came back, I found them
6 repacking everything with excess cardboard and bubble wrap
7 and they packed it as if you were actually shipping it
8 overseas. It was very well done.

9 Q All right. Now, did the foreman or anyone on the
10 moving crew ever tell you about the fees you were going to
11 pay for all these packing that were going to take place?

12 A No. But I told her, Look, you are running up my
13 bill with materials. You are running up my bill with time.
14 This is completely unnecessary. And they refused to stop
15 the process. At this point, I am kind of stuck. I have to
16 be out. I've gotta get them moved. And they wouldn't
17 listen to me. They kept going I signed the documents. In
18 their mind, they are moving me.

19 Q Had you paid any money at that point?

20 A No.

21 Q When were you asked to pay money?

22 A When we arrived at the new location, before they
23 unload the truck, they give you the fee. And they say,
24 Okay. Here's the fee. You must pay this now before we
25 unload it. Otherwise, we are going to take all your
26 material and put it in a storage until you pay.

27 Q What was the fee that they quoted at that point?

28 A It was sixteen hundred sixty something dollars.

1 Almost \$1,700.

2 Q Was that substantially more than you had expected
3 you would pay?

4 A I believe \$92 an hour for seven hours. It was
5 going to be about \$700. Yes. So we are about a thousand
6 dollars above.

7 Q Now, did you agree to pay the \$1,600?

8 A I had no choice. It was either that or they took
9 my material away. So I signed and told them I would settle
10 up in small claims court. I had to sign. Otherwise, I
11 don't have any material -- my goods. I told him I would
12 either take them to court or speak with regulatory
13 authorities later.

14 Q All right. You told them you would call some
15 regulatory authority about the move?

16 A Yes.

17 Q Now, you mentioned that you used a credit card.
18 What did they say about the credit card initially?

19 A Initially, they were going to charge me a
20 five-percent service charge. And I had told them no. That
21 was not in the documentation. I'm paying by credit card and
22 they are going to accept it. And so they have, after a
23 couple minutes, decided that, yes, they were going to accept
24 it without the five-percent charge.

25 Q And what did they want instead of a credit card?

26 A Cash.

27 Q Who asked for cash?

28 A The foreman.

1 Q Did you have follow-up conversations with anyone
2 within the business after moving day?

3 A I believe I tried to get ahold of them. This is
4 actually a little fuzzy at this point. I believe I tried to
5 get ahold of them afterward. Yes, I did, actually. I did.
6 And they did not provide any satisfaction at that point.

7 Q Did you follow up with a complaint to the Public
8 Utilities Commission?

9 A Yes, I did.

10 Q Were you able to get any money back for your
11 transaction?

12 A I got nine hundred eighty some dollars back. It
13 was for, basically, overcharging for all the packing
14 materials.

15 Q Do you believe you would have gotten that money
16 back if you hadn't made the complaint to Public Utilities
17 Commission?

18 A No, because, as I did contact the company, they
19 basically told me, Hey, that's just the fee, you know. We
20 needed to pack everything. We are professional movers.
21 Tough.

22 Q Did you ever discuss with anyone in the company
23 about the difference between what Wayne told you and what
24 the movers told you on moving day?

25 A On the phone, yes. When I called them, yes, I
26 did. And they, again, told me that it was a necessary evil
27 to use all the packing materials.

28 Q Did you have any follow-up discussions or e-mails

1 with Wayne?

2 A No.

3 Q All right. I am going to show you a series of
4 exhibits. And, first, I'd like to show you Exhibit 66 and
5 ask you if you recognize them.

6 A Okay.

7 Q Do you recognize the document as relating to your
8 move?

9 A Yes.

10 Q And, showing you Exhibit 67, Bates number PUC-852
11 on the first page, can you take a look at that and tell me
12 whether it relates to your move?

13 A This was the original estimate of \$276.

14 Q Just tell me whether --

15 A Yes, yes.

16 Q And, showing you Exhibit 68, this has Bates number
17 CPUC-875 on the first page. Can you take a look at that and
18 tell me whether it relates to your move?

19 A Yes.

20 Q I am going to put these up on the screen. Showing
21 you Exhibit 66, do you recognize that document as relating
22 to your move?

23 A Yes.

24 Q And was that information about your initial
25 request for service from ASAP Relocations?

26 A Yes.

27 Q And did you receive a communication from them --
28 from Wayne -- at ASAP Relocations on September 11th of 2008?

1 A Yes, if that's the date on there. I can't read
2 it.

3 Q You can't read it?

4 A No.

5 Q Oh, okay.

6 A My eyes aren't quite that good.

7 Q Can you see it?

8 A A little bit better. Yeah.

9 Q All right. Is the e-mail consistent with what you
10 discussed with Wayne, that you would get a crew of three
11 movers and a truck at \$92 an hour for three hours?

12 A Yes. Minimum three hours.

13 Q And I'd like to show you the first page of
14 Exhibit 67. Is this the order for service that related to
15 your move?

16 A Yes.

17 Q And did this give an estimate of \$276 by Wayne
18 Allen?

19 A Yes. That was for the three hours at \$92.

20 Q Okay. But you personally estimated that it would
21 be six hours; correct?

22 A Yes.

23 Q Showing you the next page of Exhibit 67. Is this
24 a credit card receipt for your move?

25 A Yes.

26 Q And does that show the \$1,666 that you paid?

27 A Yes.

28 Q Do you know who Alex is?

1 A I do not. No.

2 Q Okay. Is this your signed credit card receipt?

3 A Yes, it is.

4 Q Do you recognize your handwriting on that
5 document?

6 A That's my scribble. Yes.

7 Q That's on the second page of Exhibit 67.

8 A Yes.

9 Q Showing you the third page of 67 which ends in
10 Bates stamp 854, do you recognize that document?

11 A Oh, yeah.

12 Q How do you recognize it?

13 A That's the billing that I received for all the
14 cardboard and packing materials that they used.

15 Q Had you seen this document prior to moving day?

16 A Yes. They did show it to me and they showed that,
17 if I want to use their parking material, this is the charge.

18 Q Had you decided not to use their packing material?

19 A I asked them not to use packing materials at the
20 beginning. And consistently, through the entire process, I
21 asked them to please stop using the packing materials.

22 Q I'm going to refer you to the last page of
23 Exhibit 67. And do you recall signing a document on
24 September 27th that says job number 62014 at the top?

25 A Yes.

26 Q Do you recognize your handwriting on that
27 document?

28 A Yes.

1 Q Why did you prepare that document?

2 A Because, during the move, there was some damage to
3 the rental place that I was staying in before I bought my
4 new place.

5 Q Okay. So is it your handwriting that says tiles
6 broken damaged in foyer, needs to be replaced?

7 A Yes.

8 Q Did you get any of that replaced?

9 A You know, I think the -- I honestly don't
10 remember. I honestly don't remember that portion of it. I
11 believe that their insurance company took care of it. But
12 I'm not positive of that.

13 Q Okay. Now, referring you to Exhibit 68, do you
14 recall sending this e-mail to the California Moving and
15 Storage Association?

16 A Yes.

17 Q Why did you send that e-mail?

18 A Because, after talking to ASAP and they were
19 refusing to discuss my move with me, I did a little research
20 and found that I could not go to small claims court unless I
21 went to the PUC first and didn't get any satisfaction. So I
22 found out the person to contact and I wrote this note.

23 Q Did you also convey the same information to the
24 management at ASAP?

25 A I did not in an e-mail form. But a phone
26 conversation, yes.

27 Q Was this to summarize everything that had happened
28 to you on moving day?

1 A Yes.

2 Q So you ultimately got at least the cost of your
3 packing materials back?

4 A Yes. I got \$982.

5 Q All right. Do you believe you would have received
6 it back had you not complained to the Public Utilities
7 Commission?

8 A No. Never.

9 MS. DONOHOE: Thank you. I have no further questions.
10 Do the grand jurors have any questions?

11 All right. Thank you, Mr. Gottlieb. The
12 foreperson is going to read you an admonition and then you
13 are free to leave.

14 (Witness admonished and excused.)

15 MS. DONOHOE: At this time, we are going to take a
16 break. The next witness I have coming in has quite a few
17 documents and so I need a little bit of time to set up for
18 her. If we could take 15 minutes, that would be good.

19 (Recess.)

20 MS. DONOHOE: Good morning, Ms. McCool. Could you
21 please state your name -- excuse me -- let the foreperson
22 swear you in first.

23 (Witness sworn.)

24 TESTIMONY OF ERIN MCCOOL

25 EXAMINATION

26 BY MS. DONOHOE:

27 Q Good morning, Ms. McCool. Could you please state
28 your name for the record and spell both your first and last

1 name?

2 A Erin McCool. E-r-i-n M-c-C-o-o-l.

3 Q And what is your occupation?

4 A I'm the operations supervisor at the Better
5 Business Bureau.

6 Q And which Better Business Bureau do you work for?

7 A Silicon Valley. San Jose.

8 Q How long have you had that position?

9 A That position, five years.

10 Q And how long have you worked for the Better
11 Business Bureau in Silicon Valley?

12 A 13 years.

13 Q Are you familiar with the company called ASAP
14 Relocations?

15 A I am.

16 Q How are you familiar with that company?

17 A We handle all of their complaints at our office.

18 Q Have you handled many complaints relating to ASAP
19 Relocations?

20 A Yes.

21 Q At one time, were they a Better Business Bureau
22 member?

23 A No.

24 Q Did you, over the course of time, learn of a
25 pattern of complaints relating to that company?

26 A Yes.

27 Q And how would you handle the complaints that you
28 received?

1 A When consumers file a complaint, we take an exact
2 copy of the complaint and send it to the company in an
3 attempt to conciliate the matter, asking them to respond to
4 the allegations.

5 Q Did you have to do that many times with ASAP
6 relocations?

7 A Yes.

8 Q Did you have occasion to deal with various people
9 that worked for that company, trying to mediate consumer
10 complaints?

11 A Yeah.

12 Q Can you name some of the people that you worked
13 with to mediate complaints?

14 A The main person that we worked with was Roni
15 Hayon, who had various other names as well that he would go
16 by in this work as ASAP. We worked with Mike Kadesh. His
17 first name is M-a-o-z. Not sure how it's pronounced. We
18 worked with Cassidy, Linda, and I believe somebody named
19 Jasmin. We did a lot of work with the claims adjusting firm
20 which was their insurance company in Florida. We also did a
21 lot of work with Anthem Claims Management, who was another
22 insurance company of theirs in Florida.

23 Q All right. Now, you mentioned first you dealt
24 with Roni Hayon. What did you understand his position was
25 with the company?

26 A We understand that his position was the president.

27 Q All right. And you've said he went by multiple
28 names. What were some of the names he went by?

1 A I couldn't even -- it was various spellings of
2 what would phonetically be Roni Hayon.

3 Q Did you ever know him to use a name that was
4 something other than the Roni type of name?

5 A He had a name that was more ethnic middle eastern
6 and I don't remember how he spelled it. But he pretty much
7 always went by a variation of Roni with us.

8 Q Okay. And, in terms of dealing with Roni, would
9 you give him copies of the complaints that the Better
10 Business Bureau had received?

11 A Yes.

12 Q And did you have occasion to discuss with him the
13 nature of those complaints?

14 A Yes.

15 Q What sorts of things did you tell him about?

16 A With any company, when we get a pattern of
17 complaints or multiple patterns of complaints, we attempt to
18 open a dialog with them and advised them, perhaps, how they
19 can improve their business practices. And, with ASAP, we
20 would talk to him on a regular basis about the types of
21 complaints he was getting, which were they would hold the
22 goods hostage and demand cash payment before they would
23 unload the truck. They would show up late or not show up at
24 all. They would charge exorbitant amounts for packing tape
25 and boxes and things like that. Sometimes double the quote.
26 And various other complaints. Lack of customer service.
27 The driver being rude or demanding tips. Pretty much that's
28 everything.

1 Q All right. Now, when you discussed these
2 complaints with Roni Hayon, how did he respond?

3 A They would mostly respond by saying that the
4 customer agreed to the terms before they signed up with the
5 company and that they weren't responsible for anything.

6 Q In discussing complaints with Roni Hayon, did you
7 ever perceive any change in their business practices?

8 A No.

9 Q And you said you had similar types of contacts
10 with people like Mike Kadesh?

11 A Yes.

12 Q Did he treat the matter any differently than Roni
13 Hayon?

14 A No.

15 Q How about Linda? Did she treat it any
16 differently?

17 A No.

18 Q How about Jasmin?

19 A No. We got pretty much the same response from
20 everybody. More recently, they have stopped responding to
21 the BBB.

22 Q So now they no longer respond to the Better
23 Business Bureau?

24 A No.

25 Q Now, as a result of the complaints that they have
26 had, can you tell us what happens internally within Better
27 Business Bureau as to businesses when customer complaints
28 come in?

1 A Can you please --

2 Q Let me rephrase my question. Is one of the
3 features of the Better Business Bureau website reports about
4 businesses?

5 A Correct.

6 Q And do the customer complaints factor into the
7 reports that are shown on the website?

8 A Yes. It's a large part of the report.

9 Q Okay. And what happens with any reports that are
10 available on the website regarding ASAP Relocations?

11 A When we started receiving a pattern of complaints,
12 we report those complaints and what they were concerning and
13 how the company handled them. It's available for the public
14 online 24 hours a day.

15 And, eventually, they did obtain an "F" rating
16 with us. And we've had about over 3,000 inquiries on them
17 and their "F" rating out of the complaints we have reported
18 as well.

19 Q That was just for ASAP Relocations. Did you know
20 them to use other names for the business?

21 A Uh-huh.

22 Q What other names did you know about?

23 A We had a company called ABM Van Lines who we tied
24 to ASAP. America's Best Movers which is ABM, again. But
25 that was the name that they used. Champions Movers.

26 Q How did you tie Champions to ASAP Relocations?

27 A The licensee and the address. We work very
28 closely with the Public Utilities Commission. And so, when

1 we receive high inquiries or complaints on a company, we
2 usually go to the PUC and ask them if they know anything
3 about the company. If you look at a company's license on
4 the PUC website, it won't tell you who the website belongs
5 to other than the company name, but they will let us know
6 who actually applied for it and who has the license. We
7 were able to tie the companies together based on the
8 licensees.

9 Q Who did you believe the licensee was for the
10 Champions Movers?

11 A It was -- I can't remember if it was Mike. I
12 think it was Mike. Or he was the licensee for Encore. I
13 don't remember which one.

14 Q Okay. And the Mike that you referenced, do you
15 know who Mike is from your experience with ASAP?

16 A Yes. Mike Kadesh.

17 Q All right. How did you know him from ASAP?

18 A We have had many opportunities to speak with him
19 as well as Roni.

20 Q All right. And why were you speaking with Mike in
21 regard to ASAP?

22 A We used to talk to him about the complaints. He
23 would call our office every so often. And we also spoke
24 with him multiple occasions about the trademark infringement
25 that they had in the Yellow Pages. They were using our
26 logo.

27 Q So ASAP was using your Better Business Bureau logo
28 in their Yellow Pages ad?

1 A Correct.

2 Q Who did you talk to at the company about that?

3 A Everybody.

4 Q So, when you say everybody, do you mean Roni
5 Hayon?

6 A Yes. We talked -- Roni would call our office on a
7 regular basis and wanted to be accredited. And he would
8 call our CEO and, you know, he would give us a story about
9 how he's trying to clean up the records. He wanted to have
10 a good rating so he could be accredited. But that never
11 happened.

12 BBB's torch logo is a federally registered
13 trademark. If they are not accredited, they can't use that
14 logo anywhere in print or online. The fact that he was
15 using it implied affiliation with us that didn't exist.

16 Q All right. Why, in your experience, do companies
17 use your logo when they are not accredited?

18 A To make consumers feel more at ease about using
19 them. To make them more trustworthy.

20 Q Did you discuss with Roni Hayon that he was
21 misusing your logo?

22 A Yes. Many times.

23 Q How did he respond to that?

24 A He didn't.

25 Q How about Maoz Kadesh or Mike Kadesh? Did you
26 discuss with him that it was being wrongly used?

27 A Yes.

28 Q How did he respond?

1 A He didn't. They would say that they would remove
2 it. They never did. It was in the Yellow Pages for many
3 years.

4 Q Ultimately what did you do when they continued to
5 advertise with your logo?

6 A We turned it over to our legal counsel at the
7 counsel of Better Business Bureaus, and they can press
8 charges if they wish.

9 Q Did you have experience with Roni Hayon or ASAP
10 trying to use Better Business Bureau logo for its other
11 businesses?

12 A They stated on their Encore Moving website that
13 they had an A-plus with us for ten years.

14 Q Okay. I am going to show you that exhibit which
15 is Exhibit Number 62. And I am going to show you the fourth
16 page of Exhibit 62. I am going to zoom in. I think I'll
17 come back to that.

18 A Okay.

19 Q So Encore Movers also represented that they were a
20 member of Better Business Bureau?

21 A Yes.

22 Q And did you have any accreditation for Encore
23 Movers?

24 A They applied but we denied it.

25 Q And why did you deny it?

26 A Because of the licensee for Encore Movers was Mike
27 Kadesh. And the company, since they had an affiliation with
28 an unsatisfactory company, wouldn't qualify.

1 Q Did you make any effort to track down where Encore
2 was physically located?

3 A We tried but I believe that, when we looked at the
4 building of the address that they gave us on the street view
5 on Google, it was an apartment building.

6 Q Were you familiar with the name Champions Movers?

7 A Yes.

8 Q How were you familiar with that?

9 A We have complaints on them.

10 Q Did you also handle the mediation of complaints
11 pertaining to Champions Movers?

12 A Yes.

13 Q Who did you handle those complaints with?

14 A We didn't have a contact person. They didn't
15 respond to us.

16 Q How about for America's Best Movers? Who would
17 you deal with?

18 A We dealt with Roni on those, and Linda.

19 Q Do you know Linda's last name?

20 A No.

21 Q How were your dealings with Linda?

22 A Most of our dealings with Linda were on a first
23 name basis because we originally obtained her name from
24 people who filed complaints. They would mention her as the
25 manager of the company. And so, when Roni wasn't responding
26 to us, we tried to reach out to Linda, and she would
27 generally not respond to our phone calls but she did respond
28 to some of the complaints. And, again, it was mostly that

1 they hadn't done anything wrong and that the people signed a
2 contract.

3 Q Did she send you things in writing as well?

4 A She responded to the complaints in writing. All
5 of our responses have to be in writing.

6 Q You would get written responses from Roni Hayon
7 and Linda?

8 A Yes.

9 Q How about from Mike Kadesh?

10 A Yes.

11 Q Was there anyone else within any of these
12 companies -- Champions, ASAP, America's Best Movers -- that
13 you would get written correspondence from?

14 A It's hard to say because sometimes they don't sign
15 the responses. So sometimes we don't know who the response
16 is actually from, which isn't a requirement for us receiving
17 a response. So it would just say that it was from the
18 company and I wouldn't be sure who wrote it.

19 Q Were you familiar with the company called Fast
20 Moving Van Lines?

21 A Yes.

22 Q How were you familiar with that company?

23 A We have them as a DBA of ASAP.

24 Q When was it that you learned that was a DBA of
25 ASAP?

26 A I can't be sure, but I would say years ago. At
27 least five years ago.

28 Q Okay. Now, did you know who was responsible for

1 that company?

2 A We would assume the same individuals are
3 responsible since the licensees and the DBA were tied to
4 ASAP.

5 Q Okay. Now, did you have any dealings with any
6 particular person within Fast Moving Van Lines?

7 A No. That was a DBA we saw less frequently
8 complained about.

9 Q Did you know where they were located?

10 A We had them at the same address as ASAP which I
11 believe is Ringwood or something like that.

12 Q Ringwood in San Jose?

13 A Uh-huh.

14 Q Okay. I'm going to show you a series of exhibits.
15 The first is Exhibit 69 which has the Bates number
16 BBB-64200. Do you recognize that document?

17 A Yeah.

18 Q And is that -- can you tell us what that is?

19 A It's a pre-2008 reliability report.

20 Q How do you know it's a pre-2008 reliability
21 report?

22 A In 2008, we changed our torch logo.

23 Q Okay. So the left-hand side of the document has a
24 torch logo. Is it now different than that torch?

25 A Yes.

26 Q All right. Are you still located at 700 Empey
27 Way?

28 A No, we are not.

1 Q Where are you located now?

2 A 1112 South Bascom Avenue, San Jose.

3 Q How long have you been at the Bascom address?

4 A Since August of 2008.

5 Q In regard to the report here, is that a report for
6 ASAP Relocations?

7 A Yes.

8 Q And was their address at that time 455 Queens Lane
9 in San Jose?

10 A Yes.

11 Q Did you know them later to move to an address on
12 Ringwood?

13 A Yes.

14 Q The information that is listed there -- the
15 business start date, the principle -- is that information
16 that the Better Business Bureau gathered or did the company
17 provide that information?

18 A Generally, the BBB gathers the information. In
19 this case, we would have taken the incorporated date as the
20 business start date. Sometimes they may start earlier than
21 that, but we didn't have any evidence of them operating
22 before their incorporation date which is through the State
23 of California.

24 Q And where would you get the information that there
25 were three employees?

26 A The company would provide that to us. But there's
27 also a website that we would use through the PUC. And,
28 based on the permit, they would be required to provide that.

1 And so we would gather it from them.

2 Q Okay. Now, at that time and for the entire time
3 that you were familiar with the company, is it correct to
4 say that the company was never a member of the Better
5 Business Bureau?

6 A They were not.

7 Q At the bottom, there is information about customer
8 experience. And is that information -- it says
9 unsatisfactory record -- is that information that's
10 publically available?

11 A Yes.

12 Q And so that's something that a customer would see
13 on a website?

14 A Yes, they would see this exact report.

15 Q And is that something, also, the business would
16 see?

17 A Yes.

18 Q Showing you the next page. Is that a list of some
19 of the issues relating to why the company had an
20 unsatisfactory record?

21 A Vaguely.

22 Q All right. So all of this information --
23 advertising issues, billing or collection issues, sales
24 practices issues, delivery issues -- all of those things
25 would be available to public and to the company as well?

26 A Correct.

27 Q And does it continue on with additional issues?
28 Service issues, customer service issues, guarantee or

1 warranty issues, and product issues?

2 A Yes.

3 Q And the last page. Does it include additional
4 addresses for the company?

5 A Yes.

6 Q Where would you get that type of information?

7 A Sometimes we get it from customers that file
8 complaints and then we will do our part to investigate the
9 address by going there or, if it's too far, we will look it
10 up on Google maps or whatever to get the street view.
11 Sometimes a company provides it to us. We may get it from
12 the DOT or the PUC. Various outlets where we get our
13 information.

14 We try to have a complete picture of the company
15 especially when they are generating inquiries of complaints.
16 If the customers were to look up the company by the address,
17 they would still find it even if they might be using a
18 different DBA.

19 Q Did you find multiple addresses being used by the
20 people who were involved in running ASAP Relocations?

21 A Yes. We had a lot of addresses for them.

22 Q Is that something Roni Hayon discussed with you
23 that there were so many addresses listed on their website?

24 A He was aware of it because we would ask where the
25 addresses were and why they had them. They just said it was
26 another business address. You know. Even if they just keep
27 their trucks there or it's an office, then we will list it
28 because we want, like I said, a more complete picture. If

1 somebody sends us a contract and the address is on there,
2 the company actually may not be there but we still list it
3 because they are using it.

4 Q Okay. I am going to show you Exhibit 70, which is
5 the front of an AT&T Yellow Pages. And have you viewed that
6 document before?

7 A Yes.

8 Q Is that the Yellow Pages for June 2006 for San
9 Jose and Santa Clara?

10 A Yes.

11 Q And, inside that Yellow Pages, did it include an
12 ad for America's Most Reliable Movers and ASAP Relocations?

13 A Yes.

14 Q Is this an example of an ad that included the
15 Better Business Bureau logo?

16 A Yes.

17 Q At the bottom.

18 A It's hard to see.

19 Q And is that one of the ads that you discussed with
20 Roni Hayon?

21 A Yes.

22 Q Were you able to get any response from him in
23 terms of stopping that advertising?

24 A No.

25 Q Did you know him to attempt to put ads in other
26 Yellow Pages other than the AT&T Yellow Pages with the
27 Better Business Bureau logo?

28 A Yes.

1 Q Can you tell us about that?

2 A One of our accredited businesses is the Valley
3 Yellow Pages. And, luckily, for us, the Valley Yellow Pages
4 calls us or verifies on our website every time somebody
5 wants to use our logo in their ad. So they verify that the
6 company is actually accredited before they print it.

7 In this case, they called us and stated that the
8 company was trying to use our logo in their advertisement in
9 the Valley Yellow Pages and are they not accredited, and we
10 said they weren't allowed to use it. And so they weren't
11 going to print the logo in the ad. But the company tried.

12 Q The company tried to print the logo in the ad?

13 A Right. But, luckily, they contacted us before
14 they print it just to verify.

15 Q Okay. I have marked as Exhibit 71, a packet of
16 documents that are entitled Better Business Bureau complaint
17 details. Have you reviewed this packet?

18 A I have.

19 Q And is this a packet of documents that was
20 provided to us by your office?

21 A It is.

22 Q And does this consist of complaints -- one-page
23 complaints -- for the years between 2004 and 2011?

24 A Yes.

25 Q And do all of these complaints pertain to ASAP
26 Relocations?

27 A Yes.

28 Q And these complaints have been provided to Roni

1 Hayon?

2 A Yes.

3 Q Or would they have been provided to the business?

4 A Yes.

5 Q And so what's in these complaints is all
6 information that you would have communicated to the business
7 about their practices?

8 A Yes. We send them the exact copy.

9 Q And this is what you would -- excuse me -- your
10 office would have been trying to mediate with ASAP
11 Relocations?

12 A Yes.

13 Q And does this consist of approximately a hundred
14 complaints?

15 A Sounds about right.

16 Q Did you have many more complaints or many more
17 contacts about ASAP Relocations aside from these written
18 complaints?

19 A We've been dealing with the company for about
20 11 years now. So it's hard to say how many complaints we
21 have on file. We only have a three-year reporting period.
22 So, right now, the last three years, we have about 79
23 complaints on file. But, at one time, I believe that we had
24 more like 125 reportable complaints.

25 Q Okay. Looking at this packet, is the first
26 complaint included here from 2004?

27 A Yes.

28 Q I'm going to show you Exhibit 72, which has Bates

1 number BBB-64204. Is this a more recent Better Business
2 Bureau review of ASAP Relocations?

3 A Yes.

4 Q And is this review for a time period after they
5 had moved to Ringwood?

6 A Yes.

7 Q And what was the rating at that time?

8 A An "F."

9 Q And does this also have the information about the
10 nature of complaints that were, then, on file?

11 A Yes.

12 Q And, as you mentioned, those complaints drop off
13 over a period of time in terms of, once a certain amount of
14 years goes by, the complaints are wiped away?

15 A Three years.

16 Q So this would just be a three-year snapshot of
17 complaints?

18 A Yes.

19 Q Showing you the next Exhibit 73, is this also a
20 Better Business Bureau review of ASAP Relocations?

21 A Yes.

22 Q And does this have a different address of Dakota
23 Road on it?

24 A Yes.

25 Q That's in Union City?

26 A Uh-huh.

27 Q Would this be an example of where the Better
28 Business Bureau learned of another address for ASAP

1 Relocations?

2 A Yes. Where it says view BBB rating for ASAP
3 Relocations headquarters, that would be a link that would
4 take the customer directly to our report from the BBB
5 because this is a BBB Oakland report. But, if we have an
6 address that we found out is outside of our jurisdiction and
7 the customer might check with the BBB Oakland, we would make
8 sure that they are able to find the company. So Oakland
9 would build the report and link it, using that link.

10 Q This is a way of letting the public know, even if
11 they were checking Oakland Better Business Bureau website,
12 they could find out information about the company on the
13 Silicon Valley Better Business Bureau website?

14 A Yes.

15 Q And was it true that, for the Oakland branch of
16 the Better Business Bureau, that ASAP was not accredited?

17 A No, they were not.

18 Q Showing you the last page of Exhibit 73, does that
19 include information about America's Best Movers?

20 A Yes.

21 Q And was that another instance of where the Better
22 Business Bureau had linked two businesses ASAP and America's
23 Best Movers?

24 A Yes.

25 Q I'd like to show you Exhibit 74, which is a Better
26 Business Bureau review for Fast Moving Van Lines, Inc. Do
27 you recognize that report?

28 A Yes.

1 Q Can you tell me whether that is for Silicon Valley
2 or for the Oakland branch?

3 A That would be Oakland.

4 Q Okay. So are you able to tell that by the
5 information on the document?

6 A Yes. The address is Newark which is in the
7 Oakland area.

8 Q Okay. So the address of Balentine Drive in
9 Newark, is that the basis for the Oakland branch having
10 jurisdiction over it?

11 A Yes.

12 Q And is there any information there about the link
13 to ASAP?

14 A It doesn't look like it. It's hard to say.

15 Q Okay. And I'll show you the next page. Does this
16 show any information other than an alternate name of Fast
17 Move?

18 A No.

19 Q Okay. So do you believe that, based upon the time
20 of this report, that there was not an identified link
21 between ASAP and Fast Move?

22 A Not at this time. It doesn't look like it.

23 Q So is it correct to say that Fast Move's rating
24 was "F" also?

25 A Yes.

26 Q Showing you Exhibit 75, Better Business Bureau
27 review for Champions Movers. Do you recognize that
28 document?

1 A Yes.

2 Q And would this also have been a Better Business
3 Bureau report from the Oakland branch of the Better Business
4 Bureau?

5 A Yes.

6 Q And why is that?

7 A Because it's in Fremont.

8 Q All right. So the address of 47000 Warm Springs
9 Boulevard in Fremont would have put it into the jurisdiction
10 of the Oakland branch?

11 A Yes.

12 Q At the time of this review, was the rating for
13 Champions Movers D-minus?

14 A Yes.

15 Q And, showing you the second page of Exhibit 75,
16 does it show alternate business names of Bay Area Fast
17 Moving, California Movers, and Cal Van Lines?

18 A Yes.

19 Q Were those all companies that you had occasion to
20 deal with --

21 A Yes.

22 Q -- Mike Kadash about?

23 A Yes.

24 Q What did you understand those businesses to be?

25 A We understood that he was the owner of the
26 businesses. Champions Movers was using an address in our
27 area as well. We were not able to pinpoint exactly where
28 the company was because they were apartment addresses, but

1 we tied them together because of Mike Kadesh and his
2 affiliation with ASAP. Although we can't ever legally tie
3 them together, we can -- the reports are separate -- because
4 he's the owner of this company and he was affiliated with
5 ASAP. But we can't certainly say ASAP is Champions Movers.
6 We just say that they have the same principals.

7 Q Did you see a common pattern of complaints with
8 Champions as you did with ASAP?

9 A Yes.

10 Q And, at times, were you dealing with Mike Kadesh
11 regarding ASAP and with Mike Kadesh regarding Champions at
12 the same time?

13 A Yes. We also dealt with him on Encore as well.

14 Q All right. So you also dealt with him as to
15 Encore Moving?

16 A Uh-huh.

17 Q Were those complaints more recent?

18 A Encore is more recent. Yes.

19 Q When were you last dealing with Mike Kadesh?

20 A They applied for accreditation with us in June of
21 last year, and that was the most recent contact that I've
22 had with him. June 2012.

23 Q Was Mike Kadesh able to get accredited for Encore
24 Moving?

25 A No.

26 Q Why not?

27 A Various reasons. The statement on the website
28 where he said that he had an A-plus rating with the BBB

1 would definitely have to be removed before we would even
2 consider it because it's a false statement. And another
3 reason is we do advertising review to make sure the
4 company's telling truthful statements. And, on Encore, they
5 had stated that they had been serving San Jose for the last
6 ten years, but we were unable to corroborate their time in
7 business. As far as we know, they are a pretty new company.
8 We don't have much information on them. We haven't had any
9 evidence that they have been in business for ten years. So
10 we asked them to substantiate it, but we didn't get a
11 response. And then, lastly, we wouldn't accredit him
12 because of his affiliation with ASAP which is
13 unsatisfactory.

14 Q All right. Now, did Mike Kadesh or anybody else
15 associated with Encore Moving ever tell you that Encore
16 Moving was a fictitious business name for ASAP?

17 A No. We learned from the PUC.

18 Q So, if you learned that ASAP and Encore were one
19 and the same, does that confirm they would not be entitled
20 to accreditation?

21 A Correct.

22 Q Would it be misleading for them to advertise that
23 they had been in business for ten years if it was just a
24 fictitious business name of ASAP?

25 A We would consider it misleading.

26 Q Why is that?

27 A Because we don't accredit people. We accredit
28 businesses. So, when you look at a business, you need to

1 say truthful statements about the business, not necessarily
2 the people that are in the business.

3 So, if John Smith was a plumber for 25 years and
4 he opened ABC plumbing, it wouldn't be a truthful statement
5 to say ABC Plumbing had been in business for 25 years. Does
6 that make sense?

7 Q Yes.

8 A Okay.

9 Q Okay. In terms of the representation that they
10 had an excellent reputation in the moving industry for ten
11 years, was that, in your opinion, a false statement?

12 A Yes.

13 Q Was it a false statement that they had any Better
14 Business Bureau rating at all?

15 A It is a false statement.

16 MS. DONOHOE: Okay. I am going to take just a moment
17 to look at my copy of this website and see if I can find
18 that statement. So if you want to relax for a minute. I
19 have an electronic copy of it.

20 (Pause in the proceedings.)

21 Q (BY MS. DONOHOE) All right. I am going to have
22 you -- ask you to go and walk up to the screen and tell me
23 whether you see the representation about the Better Business
24 Bureau.

25 A (Complying.)

26 Yes.

27 Q All right. So is that the --

28 You could go back to the witness stand. Sorry.

1 And, for the record, I am having the witness view a
2 photograph of the website as shown in the initial opening
3 Power Point. And we will have that printed and marked as an
4 exhibit. So that's from slide number 27.

5 Is that what you recall seeing online about the
6 Better Business Bureau on the Encore website?

7 A Yes. It's also the same site where they stated
8 they have ten years in business that we challenged.

9 Q And who did you discuss that with?

10 A Encore, it was Mike Kadesh.

11 MS. DONOHOE: Okay. All right. I have no further
12 questions. Do the grand jurors have any questions?

13 Yes. Hold on a second. Do you know which number
14 you are?

15 THE GRAND JUROR: Five.

16 MS. DONOHOE: Okay.

17 THE GRAND JUROR: I think one of the pages that has the
18 letter grade on it, there was a term called closed
19 complaints. And so there's a chart that says something
20 about closed complaints. I wonder what closed complaints
21 mean.

22 Q (BY MS. DONOHOE) Ms. McCool, I am going to show
23 you an example of one of those reports and I'll ask the
24 question again. So let me see. All right. I am going to
25 show you Exhibit 72 at the top of the second page. Do you
26 see the notation total closed complaints 69?

27 A Yes.

28 Q Can you tell us what that means?

1 A Closed complaint is just a complaint that's gone
2 through the reconciliation process. We don't report open
3 complaints because, while we do our best -- we call it
4 scrubbing the complaints -- when they come in, to make sure
5 they are valid complaints from the legitimate customers of
6 the company. We never show those complaints online until
7 the company's had their chance to respond to them.

8 So, when a complaint is closed, it's because it's
9 either gone through the process of or they have been given
10 their 30 days to respond and they didn't. At that time,
11 we've determined that it is a valid reportable complaint and
12 it's closed. And so it goes on there. The open complaints
13 aren't reported.

14 Q All right. Now, the fact that it's closed, does
15 that mean with un-satisfaction or does it mean it's closed?

16 A It just means it's closed.

17 Q That's not an indicator whether the customer got
18 any relief or whether the matter was resolved?

19 A No. It's not necessarily resolved complaints.
20 It's any type of closure whether it's unresolved,
21 unanswered, or whatever. It's just all the complaints in
22 that period that are closed.

23 Q And that would be for just the three-year period;
24 correct?

25 A Yes.

26 MS. DONOHOE: Any other questions? Yes.

27 THE GRAND JUROR: So that, basically, means it's an
28 acknowledgement of a complaint?

1 MS. DONOHOE: Okay. Can you tell me your juror number
2 please?

3 THE GRAND JUROR: Two.

4 MS. DONOHOE: Juror number two.

5 Q (BY MS. DONOHOE) The question is: Is this an
6 acknowledgement by anyone of a particular complaint?

7 A I don't understand.

8 Q Well, did the company acknowledge that there was a
9 complaint? Is it simply that Better Business Bureau has
10 received a complaint?

11 A It's simply that we've received a complaint. If
12 the company doesn't respond, we wouldn't say that they
13 acknowledged it.

14 Q Okay.

15 A But, you know, to the best of our ability, we
16 determine that it's a valid complaint --

17 If there's a contract involved and the customer
18 was a client of the company's, then we send it to the
19 company. And, if they don't respond, we don't require that
20 they make an acknowledgement in order for us to report it.
21 So in this case --

22 Q I'm going to refer you again to Exhibit 72, the
23 first page with the table that has the complaint type on the
24 left and the total closed complaints on the right. Can you
25 explain that table?

26 A The complaint type is just kind of a vague
27 description of what the complaint was about. Advertising or
28 sales issues might be they advertise one thing and did

1 another thing. Or we call them hard sales where they are
2 pushy. Billing is billing issues, collection issues.
3 Delivery issues are fairly common in the moving industry.
4 And the total closed complaints are just the number of
5 closed complaints for that particular complaint type.
6 Again, it's not indicative of how the complaint was closed
7 or really when it was closed. It's just the total number of
8 closed complaints in 36 months.

9 Q All right. It doesn't even tell you whether the
10 company ever responded. It could be 30 days went by since
11 the time the customer complained and you forwarded it to
12 ASAP and, if they didn't respond, then it's closed?

13 A Correct.

14 MS. DONOHOE: Does that answer your question?

15 THE GRAND JUROR: (Nodding.)

16 MS. DONOHOE: Any other questions? All right.

17 Ms. McCool, the foreperson is going to give you an
18 admonishment and then you are free to go.

19 THE WITNESS: Thank you.

20 (Witness admonished and excused.)

21 MS. DONOHOE: I need just a minute to check in with my
22 next witness who wasn't here when I last started. So if you
23 want to take a bathroom break. But I will be back in five
24 minutes.

25 (Pause in the proceedings.)

26 (Witness sworn.)

27 TESTIMONY OF KIM BALCHIOS

28 EXAMINATION

1 BY MS. DONOHOE:

2 Q Good morning, Ms. Balchios. Could you please
3 state your name for the record and spell both of your first
4 and last name?

5 A Kim Balchios. K-i-m B-a-l-c-h-i-o-s.

6 Q Ms. Balchios, what is your occupation?

7 A Senior admin.

8 Q Senior admin?

9 A Uh-huh.

10 Q What city do you live in?

11 A Now I live in Hayward.

12 Q Okay. Back in 2009, where were you living?

13 A I was living in Foster City and I moved to
14 Burlingame.

15 Q Was it approximately in November of 2009 that you
16 moved?

17 A Yes.

18 Q How did you go about making arrangements to move?

19 A Usually I pay the men at my church. This time,
20 unfortunately, I saw a truck in front of one of the
21 neighbors at my complex. I was looking for a moving
22 company, and I thought it would be easier to go with
23 professional. So I just called the number on the truck.

24 Q All right. And what name was on that truck?

25 A ASAP Movers.

26 Q And what happened when you called ASAP Movers?

27 A So they told me I can either get two men for \$60
28 an hour or three men for \$80 which was a better deal and

1 that it would probably only take two or three hours. The
2 quote I was given was \$240 to \$320.

3 Q I'm going to stop you. Who was it that you spoke
4 to?

5 A Stevie, the sales rep.

6 Q Was Stevie a man or a woman?

7 A A woman.

8 Q A woman. What did you tell her about her your
9 move in order for her to give you that quote?

10 A That most of my items were in boxes already. So I
11 just really needed help with big furniture items. I had
12 brought some moving boxes home from my work and they have
13 lids on them. So everything was in boxes except for the big
14 furniture items.

15 Q How far was it that you were going to move?

16 A It was a 20-minute drive.

17 Q And you were moving from Foster City to where?

18 A Burlingame.

19 Q All right. And, when Stevie talked to you about
20 the move and the moving quote, were you given the option of
21 having a visual estimate of your move?

22 A No.

23 Q The goods that had to be moved?

24 A No.

25 Q Was it -- did you believe it was standard practice
26 to just give information over the telephone and get the
27 price of the move?

28 A Yes. And she didn't even ask me like what items I

1 had which, in retrospect, was strange but, at the time, as I
2 said, I just had one-bedroom apartment. I started naming
3 things that I had.

4 Q Were you asked to give an inventory of what you
5 had?

6 A No.

7 Q And so, in the end, what did you opt to do based
8 on the information she gave you about men and hourly fees?

9 A I thought it would be better to pay \$80 for three
10 men.

11 Q So you agreed to pay \$80 an hour for three men.
12 And how long did you expect, based on the discussion, that
13 the move would take?

14 A Three to four hours.

15 Q So what was the most that you expected you would
16 be paying for your move?

17 A \$320. But I will tell you that I did have extra
18 money on me. I was about to declare bankruptcy. So I
19 didn't have credit cards in case of emergency. I had extra
20 money on me in case the move ended up taking maybe one hour
21 longer.

22 Q All right. Now, how were you to pay for the move
23 based on what you were told over the telephone?

24 A Cash.

25 Q And who told you to pay cash?

26 A I didn't have credit cards at the time. So I
27 think I asked if I could pay cash and I was told yes. And,
28 when the foreman got to my house, he was really excited when

1 I told him that. And he told me, I am going to knock off
2 seven-percent tax.

3 Q I'm going to slow you down. You have to talk
4 slowly for the sake of our court reporter because she has to
5 write down every word. I can tell you normally talk fast.

6 A Yes.

7 Q So please just try to speak slowly.

8 A Okay.

9 Q Now, when you met with the foreman, do you know
10 who it was that you met with?

11 A Eli.

12 Q That was his name? And what was the first thing
13 that Eli did when you met with him?

14 A So he came into my house at 9:55. He told me,
15 Here's a contract. You have to sign this before we can
16 begin work.

17 Q All right. Had you ever seen that contract
18 before?

19 A No.

20 Q When he came into your house, were your items
21 already packed up?

22 A Yes.

23 Q And did he do any estimate of what you had in your
24 apartment or your house?

25 A I don't think so.

26 Q And the documents that he showed you, did you have
27 a chance to read them?

28 A No. He just kept saying sign here, initial here.

1 We were talking about other things. I was asking, What am I
2 signing? Oh, this is just government stuff. In retrospect,
3 it does make me look pretty dumb.

4 Q So you, basically, relayed your concerns about
5 what you might be signing?

6 A Yes.

7 Q Did he ever tell you that you would be signing
8 documents that might cause you to pay more money?

9 A No. Definitely not.

10 Q Did you ask him about whether there were any other
11 fees at that point?

12 A No.

13 Q What happened after you signed the documents?

14 A He went downstairs for a half hour. And I finally
15 called him. Of course, when you are moving, you are still
16 trying to organize and get things together. I finally
17 called half hour later and asked him like what's taking so
18 long. They said we are staging the packaging materials or
19 something.

20 And so I got charged by the hour for eight hours.
21 And they started at 10:25 and finished at 5:00. And you can
22 add 20 minutes for the -- you have to pay, by state law,
23 double time for the drive. It should have been six and a
24 half hours. I got charged for eight.

25 Q Now, you mentioned initially that they arrived at
26 9:55?

27 A Yes.

28 Q Was that the time they were expected?

1 A I wanted them to show up at 9:00. They said we
2 have a two-hour window. They were within that timeframe, I
3 guess, 9:00 to 11:00. I've seen it in different places 9:00
4 to 11:00 or 8:00 to 10:00. Either way, I asked for 9:00.
5 They said there was a two-hour window. I don't have a
6 problem with that if that's their policy.

7 Q So the reason that you know 9:55 was because you
8 were trying to keep track of how much time they spent on
9 your job?

10 A Yes.

11 Q That's because you were paying by the hour?

12 A Right.

13 Q You said the first half hour, after you signed,
14 Eli went someplace and wasn't around?

15 A Right.

16 Q You didn't see him moving anything?

17 A No. Definitely not. He went downstairs to the
18 truck.

19 Q Did the other movers move anything?

20 A No.

21 Q Was anybody moving anything during that first half
22 hour?

23 A Me. Just kidding. No.

24 Q When he said they were staging something, what did
25 you believe that meant?

26 A I have no idea. But what can you say? Like, he
27 seemed like a nice guy. He went downstairs for half hour.
28 I mean, what can I do at that point? Tell him to leave? I

1 am going to call another moving company? I didn't know what
2 to do.

3 Q All right. Then, once that half hour was up, what
4 happened?

5 A So then they came upstairs and informed me that
6 they were going to have to take this packing tape and start
7 rolling it all around all of my boxes and all of my items.

8 So, just to be clear, I brought moving boxes home
9 from work and these are moving boxes. My company has 11,000
10 people in this location. So we, unfortunately, move
11 sometimes. And the boxes have lids.

12 And I am a writer and I love to read. So I have
13 tons of bookshelves and books. I think I had 12 boxes of
14 books with lids.

15 And so they started picking up the boxes and they
16 rolled around it six times. I said, I don't care. First of
17 all, it has a lid. It's not going to open. If it does, I
18 don't care if the books fall.

19 I know it was six because I had to cut open all of
20 my boxes.

21 Q I'm going to stop you a second. So you talked to
22 the movers. There's at least 12 boxes of books and they
23 wrapped each of those 12 boxes of books six times around
24 with tape?

25 A Yes.

26 Q And, during the time that they were doing that,
27 you protested them doing that; correct?

28 A Yes.

1 Q Did that stop them from doing that?

2 A No. And --

3 Q I'm going to stop you there. Did the foreman
4 explain or did anyone explain why they needed to tape so
5 many times?

6 A So that the items wouldn't get damaged. Also,
7 they told me I have to pay for the tape. And they wanted me
8 to witness that they are opening up a new roll of tape
9 because I'm paying per the roll.

10 Q How many rolls of tape did they use?

11 A I don't know. I was charged \$317 for packing
12 material. I found that out yesterday. Yesterday was the
13 first time I saw the invoice, because your office gave it to
14 me. I never got a breakdown. So I don't know what I got
15 charged for it.

16 Q You paid a lump sum at the end, but you didn't
17 know what each item was that was charged?

18 A They stopped at the end -- in the middle and said,
19 if I don't give the money, they are stopping. Everything I
20 own is on the truck. So I really didn't have a choice. It
21 was trama.

22 Q I'm going to stop you. When you paid your initial
23 cash, how much was it that you paid?

24 A I don't know. It would have been -- I don't know
25 if it was \$240 or \$320. I don't remember. I'm sorry.

26 Q Was that paid at the beginning of the move or
27 after?

28 A Beginning.

1 Q At the beginning of the move. Did you get a
2 receipt?

3 A No.

4 Q Did you ask for a receipt?

5 A No.

6 Q And, once they had done their wrapping and
7 packaging, did you know you were going to pay for anything
8 other than tape?

9 A Then they informed me that I have to pay \$150 to
10 put my mattress in a box and because they don't have any
11 blankets. I said I have a house full of clean blankets. I
12 called dispatch and started, you know, asking for a manager.
13 It was --

14 Q I'm going to stop you. Who was it that you
15 contacted at the office?

16 A So Stevie never got on the phone again so I can
17 confront her for all the lies she told me. I'd have to look
18 at my testimony, but Linda, the dispatch manager, and
19 there's one other person who I eventually spoke to. And so
20 they told me I have to pay \$35 for each TV in a box, \$10 to
21 put each lamp in a box, \$150 to put the mattress in a box.
22 So I told them, Just leave the lamps. I'll drive them in my
23 car. That's ridiculous. I didn't pay for the TVs either.

24 Q I'm going to stop you. Did your TVs get moved?

25 A I moved them.

26 Q So you moved your lamps and you moved your TVs?

27 A Well, they moved two of the lamps. I'm so sorry.
28 I know I'm jumping around. So when I called to --

1 Q I'm going to stop you. I have to ask questions.
2 And then try and answer just the question that I ask.

3 A Okay.

4 Q When you said you would move various items, did
5 that occur during the course of the day or did it occur at
6 the end?

7 A During the course of the day.

8 Q And was that at times when they informed you that
9 you were incurring additional charges?

10 A Yes.

11 Q And so each time that you learned you were going
12 to incur additional charge, did you tell them to stop before
13 you incurred that charge?

14 A Yes. So I told them I am not going to pay to move
15 the TV. And I called dispatch and talked to Linda and told
16 her I was not informed that I was going to have to pay \$35
17 for the TV. She said -- this is going to sound funny --
18 most people don't have a TV. So I Googled it and found that
19 99 percent of U.S. households have a TV.

20 Not only that. So I said, Really? Do most people
21 not have a mattress either? Because you didn't tell me it
22 was gonna be \$150 for my mattress. She said, It's your
23 fault. We sent you an e-mail saying you are going to have
24 to pay for additional packing material.

25 I since looked at the e-mail. I have it in
26 writing. And it says that you will have the option that day
27 to purchase packing materials.

28 Q All right. Were you promised any items for free

1 during the course of your move?

2 A No. But I now see it says on the contract that
3 they would give me a wardrobe something. But I had already
4 moved my clothes myself.

5 Q All right. How long did it take at your address
6 in Foster City to pack up your items?

7 A Hours. So it's interesting.

8 Q Okay. I am going to stop you.

9 A Maybe till two o'clock.

10 Q All right. Started at 10:00 and went to
11 2:00 p.m.?

12 A At one point, I left to drive my TV, because I had
13 two days off work and I didn't get paid. I didn't get paid
14 vacation at the time. So, when I came back, I saw that
15 nothing was done. It was almost --

16 Q I want to go over that. Did you leave at some
17 point during the course of the move?

18 A Yes.

19 Q And why did you leave?

20 A To drive my TVs and anything else that I wasn't
21 going to pay them. Because they were going so slow, I was
22 going to run out of money. So I just started moving stuff
23 myself.

24 Q And did you explain to them that you had to be out
25 by a certain time?

26 A Yes.

27 Q And was it that particular day that you had to be
28 out?

1 A The next day.

2 Q The next day. Did you have to work the next day?

3 A I can't remember.

4 Q All right.

5 A Yeah. I think so, because my dad took the day off
6 and came over and moved the rest of the stuff.

7 Q Now, were there other people present during the
8 course of your move, other than the movers and yourself?

9 A At the end of the day, my dad took off work and my
10 parents came over because I was in such a panic.

11 Q Did they come to help you?

12 A Yes.

13 Q All right. Where did they meet you?

14 A I think it was at the new apartment in Burlingame.

15 Q At that point, what was happening?

16 A So I ran out of money. So they asked me for
17 money. I gave them all the money I had. At one point, he
18 said, You are out of money? We are going to stop working.
19 And so, like I've already mentioned, I didn't have credit
20 cards. So my mother -- we asked them, Can she give you her
21 credit card number over the phone? They said no. So they
22 stopped working while I drove to the bank. And then I
23 started protesting, Give me back that half hour you were
24 doing I don't even know what.

25 So I drove to the bank and got every last dime
26 that I had in the world and came back in Burlingame and
27 handed them the money. And, at this point, my parents
28 showed up. My dad left work. He worked --

1 Q Okay. I'm going to stop you.

2 A Okay.

3 Q How much did you pay by that time when you went to
4 the ATM and came back with cash? How much had you paid up
5 until that point?

6 A \$890.

7 Q \$890. So you started out with a quote of \$200 to
8 \$300 and you were up to \$890 at that point?

9 A Yes.

10 Q What time of the day was that approximately?

11 A I think it was 2:30. 2:00 or 230. They stopped
12 working for half hour.

13 Q You said they had also stopped working, you
14 believe, while you were driving your TV to Burlingame; is
15 that correct?

16 A They were working. They were working slowly.
17 Because -- one more thing -- in Foster City, I started
18 realizing these people were robbing me. So I kept going
19 downstairs to see the third man in the truck. And I keep
20 catching him standing there doing nothing. So I asked him,
21 Is your job making sure nothing gets stolen? Because, if it
22 is, I'll stand here and watch my stuff. He said no.

23 One person packs all the stuff, and one person
24 brings the stuff down to the truck, and then the person puts
25 the stuff on the truck. So there's a lot of people just
26 standing around doing nothing, because, when the person who
27 walks the stuff down to the truck goes back upstairs, the
28 next stuff is not wrapped yet.

1 Q So it is a very slow process?

2 A Of them standing around. Yeah.

3 Q Who told you the move would probably take two to
4 three hours?

5 A When I was on the phone with Stevie, I told her,
6 well, all my stuff is in boxes. I was telling her all the
7 items I have. It sounds like it's not going to take that
8 long. Probably two or three hours; right? And she was
9 agreeing with me.

10 Q All right. Once your parents were with you in
11 Burlingame, did the movers behave any differently?

12 A So, after I handed them the money, like ten
13 minutes later, he came up to me and said you have to unlock
14 the door to the -- because I live on the third floor. And
15 I'm like, You are not working yet? We've been back here for
16 ten minutes. He came and saw me in the hallway. You have
17 to sign more stuff. I was signing and initialling which,
18 in, retrospect, yeah, that's dumb. But you just had to have
19 been there. It was seven hours of panic. I'm calling
20 everyone I know, What should I do? People are telling me
21 send them away. But your stuff is already on the truck.

22 Q You felt you had to go forward with this move even
23 though you were upset by what was happening?

24 A I was hysterical. I cried twice. But I had no
25 other option.

26 Q Would you have ever contracted with this company
27 if you knew it was going to cost --

28 A No.

1 Q -- over \$800?

2 Let me finish my question. Would you ever have
3 contracted with them if you knew it was going to cost over
4 \$800?

5 A I wouldn't have contracted with them if I knew it
6 would be over \$500.

7 Q Had you gotten other moving quotes that were
8 lower? You didn't get any other quotes? This was the only
9 company you contacted?

10 A Yeah.

11 Q And, when your parents were there with you, what
12 did they do?

13 A Well, my dad and I started moving things off the
14 truck. But my mother was recovering from knee surgery. So
15 I told her, Sit in my living room, grab a pair of scissors,
16 and start cutting these boxes. The movers were doing that
17 at \$80 an hour.

18 So my mother actually caught them. I had said to
19 them, when they told me it's \$10 a box per lamp, I said,
20 I'll move the lamps myself. But the floor-length lamp
21 doesn't fit in my car. So take that one. The next thing,
22 there were two lamp boxes. I said one. He said, I thought
23 you said two. And my mother saw them open lamp boxes. It
24 was empty. And, when she asked, he yelled at her.

25 Q How many times did you call the business during
26 this whole process?

27 A Probably about ten. 10, 12, 15. I was hysterical
28 all day long.

1 Q How many different people did you talk to at the
2 business?

3 A Whoever answered, they would put me through to
4 Linda, the dispatch manager. Again, Stevie would never get
5 on the phone with me again.

6 Q Did you have any e-mail contact with anyone at the
7 business on moving day?

8 A No, because my laptop and everything was getting
9 moved. And I didn't have a smart phone back then.

10 Q Did anyone give you direction about what to do in
11 regard to the complaints that you had about the movers?

12 A I, repeatedly, was told the foreman had
13 discretion. They are not there. It's his word against
14 mine.

15 Q All right. So the foreman had complete control
16 over what would be charged during the move?

17 A Yes.

18 Q At some point, did they tell you they were going
19 to stop moving your things even though you had paid \$800?

20 A Yeah. So, at 4:30, he informed me that my money
21 ran out and I needed to pay for another hour. So I gave him
22 \$80. So that would have been till 5:30. Then, at
23 five o'clock, they announced they were leaving. And so all
24 my stuff was on the truck. They took it all out and put it
25 in the garage on the floor. I started screaming you owe me
26 \$40 or another half hour because, at 4:30, I paid for an
27 hour. And they said, well, too bad. He actually got on the
28 truck and waved at me. Honestly, I knew the day would come

1 where I testify about this case. I thought it would be a
2 murder case. I cannot believe nobody ever heard about these
3 people.

4 Q I'm going to stop you. All right. They drove
5 off?

6 A And waved.

7 Q Did they give your \$40 back?

8 A He kept saying, Sign, sign. You need to sign. I
9 said, Give me my \$40 back or another half hour. I'm not
10 doing nothing. That's why he forged my signature.

11 Q He wanted you to sign some more documents?

12 A Yes.

13 Q Did you agree to sign?

14 A No.

15 Q Okay. And I am going to show you a set of
16 documents. I just want you to take a look at these and tell
17 me whether you recognize them as documents related to your
18 move. Showing you Exhibit 78, do you recognize that as a
19 document related to your move?

20 A Yes.

21 Q And, showing you Exhibit 79, do you recognize that
22 as a document --

23 A Yes.

24 Q -- related to your move?

25 Showing you the first page of Exhibit 78. Is this
26 a moving quote related to your move?

27 A Yes.

28 Q Do you know why America's Best Movers is on the

1 document?

2 A I think they constantly changed their names.

3 Q Did they have America's Best Movers on any of the
4 documents that you signed on moving day?

5 A I think so. Yes.

6 Q All right. Did you ask any questions about that?

7 A No.

8 Q And, in regard to this particular document, does
9 it reflect what you were originally told over the phone
10 about a quote of \$240?

11 A Yes.

12 Q And does it have the representative information of
13 Stevie?

14 A Yes.

15 Q So is that consistent with what you heard from
16 Stevie?

17 A Yes.

18 Q Did you actually see this document during the lead
19 up to your move?

20 A I can't remember. But, if I signed it, then I
21 did. I don't know. He just came in and had me sign a bunch
22 of stuff before they started.

23 Q Okay. Showing you the second page of Exhibit 78,
24 do you recognize your signature on that document?

25 A Yes.

26 Q And did you, in fact, sign that November 2nd of
27 2009?

28 A Yes.

1 Q Showing you the third page of Exhibit 78. Do you
2 see your signature on that document?

3 A Yes. And I studied that document last night. I
4 still don't know what it means. So, when I asked him what
5 is that, he said it's a bunch of state stuff.

6 Q Is this one of the documents the foreperson Eli
7 asked you to sign at the beginning of the move?

8 A Yes.

9 Q Showing you the fourth page, do you see your
10 signature on that page?

11 A Yes.

12 Q And was this information about your move? One
13 bedroom, three men, one truck?

14 A That's my handwriting.

15 Q That's your handwriting. Okay. So you wrote that
16 in there?

17 A Yes.

18 Q Under what circumstances did you write that in?

19 A That this was the agreement we were having, that
20 I'm moving one bedroom; I'm paying three men, one truck, one
21 trip; and packing material is extra.

22 Q All right. At that time, did you know you were
23 going to have packing material?

24 A No. I didn't write in that dollar amount. That's
25 not my handwriting.

26 Q So the dollar amount that's shown above the
27 one-bedroom handwritten statement, is that your writing?

28 A No.

1 Q I'm going to show you a review. Were you ever
2 given this document?

3 A No.

4 Q Did you circle anything on that document?

5 A No. I'm a perfectionist. My circles are perfect.
6 That's not me.

7 Q Is that document signed?

8 A No.

9 Q Showing you the last page of Exhibit 78, do you
10 recognize this document?

11 A I saw it yesterday for the first time. Well,
12 actually, I signed. So I must have seen it before.

13 Q So you believe you saw this on moving day?

14 A Either in my living room before the move started
15 or when he caught me in the hallway. He said we are not
16 going to start working again until you sign.

17 Q All right. The handwriting that appears on this
18 document, does it have your signature at the bottom?

19 A Yes.

20 Q And the moving from and to information, is that
21 your handwriting or someone else's?

22 A Mine.

23 Q Okay. Are there notations on this document about
24 extra fees that will be paid?

25 A Yes.

26 Q And do you see initials down the right column?

27 A Yes.

28 Q And are those initials yours?

1 A No.

2 Q Did you authorize anybody to put your initials
3 on --

4 A No.

5 Q I'm going to finish my question then I'll ask you
6 to answer.

7 A Sorry.

8 Q Did you authorize anybody to put your initials
9 next to packing fees and extra charges on that document?

10 A No.

11 Q So did you ever approve any extra charges?

12 A No.

13 Q Did you know, prior to reviewing this document
14 last night, that you had or that this document had
15 information added after your signature?

16 A No. I never received an invoice. When I filed a
17 complaint with the Public Utilities Commission, they sent me
18 a letter saying that they would mail it to me, but I never
19 received it. So yesterday was the first time I saw it, and
20 I got it from your office.

21 Q Okay. Did you ask the company for copies of your
22 documents?

23 A Multiple times. I called them, screaming, for
24 days, asking, telling them about the extra \$40 at the end,
25 about all the charges. I wasn't aware how I didn't receive
26 a receipt. I never received an invoice.

27 Q I'm going to show you Exhibit 79. Is this a
28 complaint that you prepared regarding ASAP and ABM Van

1 Lines?

2 A Yes.

3 Q How did you decide to put ABM Van Lines on the
4 document?

5 A I think, because I was going to take them to small
6 claims court, I was trying to see where I could serve them.
7 And I noticed they changed their name.

8 Q And why did you prepare this complaint?

9 A I called the Public Utilities Commission to
10 complain, and they told me to put it in writing.

11 Q And did you document everything relating to your
12 moving day in that complaint?

13 A Every single thing. The reason is, when I was
14 calling them, screaming, for days, they were tired of me and
15 somebody there said, Send me an e-mail and I'll forward it
16 to the owner. They never should have said that. I'm a
17 writer. I wrote every single thing that happened. And I
18 turned around and changed the verbiage.

19 Q You communicated everything that is in this
20 12-page letter to ASAP so they would know what happened on
21 moving day?

22 A Yes. I e-mailed this to them.

23 Q Who did you e-mail it to?

24 A I don't remember the person's name. Whoever
25 answered the phone.

26 Q All right. Did you get any relief from ASAP after
27 you sent the 12-page letter?

28 A No.

1 Q Were you able to get any money back by way of your
2 complaint to the Public Utilities Commission?

3 A No.

4 Q What was the total amount that you wound up
5 paying?

6 A \$970.

7 Q And did you have any money left at that point
8 after you paid the \$970?

9 A No.

10 Q So, basically, your accounts were emptied?

11 A Yeah. But my parents gave me money. They had to.
12 One more thing.

13 Q Hold on a second. Did you ever deal with anyone
14 named Jasmin?

15 A I can't remember. Is that in my complaint? Yeah.
16 She's the manager; right?

17 Q Wait a second. I'm going to refer you to Page 9
18 of your letter. And do you recall having a call with Jasmin
19 in dispatch?

20 A Yes. I thought Linda was the dispatch manager.

21 Q Did you deal with more than one person in
22 dispatch?

23 A The day of, I can't remember. But, afterwards,
24 there's two managers there that I was speaking with.

25 Q Okay. I'm going to refer you to Page 11 of your
26 complaint. Do you recall speaking to Linda, the dispatch
27 manager?

28 A Yes.

1 Q So that's all documented in your letter?

2 A Yes.

3 Q And this entire letter was sent to ASAP?

4 A Yes.

5 MS. DONOHOE: I have no further questions. Do the
6 grand jurors have any questions?

7 Q (BY MS. DONOHOE) Did you have one more thing you
8 wanted to tell me?

9 A Yeah. They told me I must have already received
10 the invoice because my copy --

11 Q I'll ask the question. Did you ever get a copy of
12 your invoice?

13 A No.

14 Q Did you ask for the invoice?

15 A Yes. Repeatedly.

16 Q And what happened when you asked for a copy of the
17 invoice?

18 A I was told that I must already have it because
19 they have my signature and the customer copy is missing.

20 Q And were you asked to pay an additional fee in
21 order to get a copy?

22 A Yes.

23 Q Who told you that you would have to pay an
24 additional fee?

25 A Linda.

26 Q And how much would you have to pay?

27 A \$50.

28 Q Did you agree to pay another \$50?

1 A No, because I figured they weren't going to send
2 it anyway.

3 MS. DONOHOE: All right. I have no further questions.
4 Do the grand jurors have any questions?

5 All right. The foreperson is going to read you an
6 admonition and then you are free to go.

7 (Witness admonished.)

8 MS. DONOHOE: All right. We can take our lunch break.
9 Is 1:30 okay? This afternoon, we have another victim. And
10 then I expect the investigator will come in and talk about
11 the undercover operation.

12 (Grand jurors admonished by the
13 foreperson.)

14 (Recess.)

15 MS. DONOHOE: I'd like to take care of a housekeeping
16 matter. First, earlier today, you heard testimony from two
17 witnesses. One was Linda Litzenberg who talked about things
18 that Harry Novick said, and Harry Novick is not a witness in
19 this proceeding. And I think we've all heard of the term
20 hearsay. So when something is --

21 Do I have everybody here?

22 THE FOREPERSON: We are missing one.

23 MS. DONOHOE: Oh, I'm sorry.

24 (Pause in the proceedings.)

25 THE FOREPERSON: Now we are all back.

26 MS. DONOHOE: We have everybody. Okay. All right.

27 So a housekeeping matter. We had the testimony
28 from Linda Litzenberg. She talked about her friend giving

1 her information. And Mr. Novick is not a witness in this
2 proceeding.

3 We've heard the term hearsay. That's when
4 somebody says something. And, if it's offered during this
5 proceeding for the truth of the matter asserted without the
6 witness testifying, then that would be improper; however, it
7 was for a limited purpose, and the limited purpose was to
8 explain Linda Litzenberg's subsequent action.

9 So she got that information, relied upon it,
10 conveyed it to the business. Without regard to whether it's
11 true or not, it's information she relied upon in informing
12 the business.

13 The other information that we had was an exhibit
14 packet marked Exhibit Number 71. And that was testified to
15 by Ms. McCool from Better Business Bureau. And that was a
16 stack of complaints from consumers. And we are not having
17 all of those people testify in this proceeding. So the
18 substance of their complaints we don't know if they're true
19 or not. All we know is that information was conveyed to the
20 business and they were given an opportunity to respond to it
21 and to change their business practices.

22 It's offered for the limited purpose of showing
23 that they knew about the complaints. They had an
24 opportunity to act on that. It's not offered to show that
25 the content of the complaints was necessarily true.

26 And the instruction on that -- and you will get
27 this again at the conclusion of the case -- is that certain
28 evidence was admitted for a limited purpose.

1 At the time this evidence was admitted, you were
2 instructed that it could not be considered by you for any
3 purpose other than a limited purpose for which it was
4 admitted. Do not consider this evidence for any purpose
5 except for the limited purpose for which it was admitted.

6 And my first witness is Jean Bates.

7 (Witness sworn.)

8 TESTIMONY OF JEAN BATES

9 EXAMINATION

10 BY MS. DONOHOE:

11 Q Good afternoon, Ms. Bates. Could you please state
12 your name for the record and spell both your first and last
13 name?

14 A Jean Bates. J-e-a-n B-a-t-e-s. B as in boy.

15 Q What is your occupation?

16 A I'm a retired teacher.

17 Q And do you live in San Jose?

18 A Yes, I do.

19 Q Drawing your attention to March of 2010, were you
20 involved in a move?

21 A On March 1st, I was. Yes.

22 Q I'm sorry. March 1st. And, prior to that time,
23 did you look for a moving company?

24 A I looked for lots of them and went through
25 interviews with three or four and decided I didn't need the
26 professional bubble wrapping and things that most of the
27 professional big named companies wanted to do. I have old
28 stuff.

1 So I interviewed ASAP movers. I found them in the
2 Yellow Pages. They said they would charge me per hour and
3 no fancy wrapping. That's the only thing. Just rent the
4 vans. And they charged me per hour. And I went with them.

5 Q Okay. So you indicated that you found them in the
6 Yellow Pages?

7 A Yes.

8 Q And did you telephone them?

9 A Yes, I did.

10 Q Who did you talk to when you telephoned them?

11 A Tammy.

12 Q And the name on the Yellow Pages, was that
13 America's Best Movers?

14 A It was ASAP Relocations, I think.

15 Q Okay. All right. Tammy, the person that you
16 spoke to, did you explain to her how far you were moving?

17 A Yes.

18 Q How long was the distance to the new house?

19 A Nine miles.

20 Q And what did you tell her about your belongings?

21 A I said they were mostly old, beat up, secondhand.
22 I didn't want anything fancy. I just want them piled in the
23 van and moved. And she had told me one van would do. I
24 said, no, I need two vans.

25 Q You told her the size of your property and what
26 you thought would be necessary, and she disagreed with you?

27 A Yes.

28 Q And what did you finally agree to during the

1 course of your telephone dealings with Tammy?

2 A Two vans, six men, and one day would do it.

3 Q And, when you say one day, did you mean eight
4 hours?

5 A They didn't specify. They would finish in one day
6 is all she said.

7 Q How was the fee quoted to you?

8 A \$150 an hour for six men.

9 Q What did you expect to pay for your move?

10 A \$1,630, I think, was what it came out with the
11 men. I think I figured it at ten hours. And the cost of
12 moving vans.

13 Q Did you think that was an outside figure based on
14 your discussions with Tammy?

15 A I figured that was just all there was going to be.
16 No other charges because that's what they told me. They
17 charge per hour. I had all my own supplies. I told her I
18 didn't need any of her supplies.

19 Q Were your items pre-packed?

20 A Everything was packaged and boxed. Big things
21 weren't. I figured just throw a blanket over it and it
22 would be fine.

23 Q Were any representations made about blankets?

24 A They came in with a stack of blankets and stacked
25 them in the living room but didn't use one of them.

26 Q Was your move date -- excuse me -- do you know the
27 book date of your move by any chance?

28 A The book date?

1 Q When you talked to Tammy.

2 A End of February. 18 or 19 somewhere around there.

3 Q And I believe you've already indicated that
4 March 1st was the date of your move?

5 A Right.

6 Q On the day of your move, who did you meet with?

7 A Eli was the foreman. Then five other movers. I
8 don't know their names.

9 Q When you first met with Eli, what if anything did
10 he do?

11 A He came in the house and he saw a stack of boxes
12 there. He said, Can I use those? I said, Sure. That's
13 what they are for. I got lots more if you need it. But
14 everything's boxed. He said okay.

15 He brings out the paperwork. He starts talking
16 about prices. And I said, Well, I don't need any of that.
17 I have my own moving supplies. Everything's here. I got
18 tape and everything you need. He said, Okay. We will get
19 started.

20 He had me sign on the bottom, and I think he
21 quoted \$3,000. I said, Why are you saying \$3,000? I don't
22 know the exact number. Over \$3,000. He says that's the
23 outside number, and I have to quote you that.

24 Q All right. So I am going to stop you.

25 A Okay.

26 Q So Eli asked you to sign some paperwork which you
27 did; correct?

28 A Uh-huh.

1 Q And then he said -- was it on that paperwork there
2 was a fee of \$3,000?

3 A I don't recall. There was some form. He said it
4 was an outside amount. But all the other places were left
5 blank. He said we will fill that out later. I said, You
6 don't need any supplies; I have my own supplies. He said,
7 Okay. Okay. I understand. Then he started to load up
8 things.

9 Q All right. Did the movers then proceed to load up
10 your prepacked items into their truck?

11 A First, they started taping all my boxes again. I
12 said they are all taped. He said it's a special packing
13 tape. I said I don't need them. He taped around three or
14 four times. I said I'm not paying for that tape. He said I
15 told you it's free tape. I said, My boxes don't need to be
16 re-taped; everything's taped.

17 Q Now, did Eli or the other movers ever stop taping
18 your boxes?

19 A They continued to tape, tape, tape, saying don't
20 worry about it because you are not being charged for the
21 tape.

22 Q Eli reassured you that you wouldn't be charged
23 anything extra?

24 A Yeah.

25 Q Were you concerned that re-taping was going to
26 take time?

27 A They were going pretty fast. I figured they would
28 take a little time, but I wasn't that worried about it.

1 Q Did they do any other kind of packaging other than
2 re-taping boxes?

3 A They moved most of the boxes. They started
4 carrying major furniture out. And they started to wrap
5 chairs. I said, You don't need to wrap chairs. Carry them
6 out like that and throw a blanket over them. They finally
7 did that. They moved some more. Then they started going
8 around, wrapping other things, like going in the backyard
9 and wrapping fake rocks.

10 Q I'm going to stop you. When they went into your
11 backyard, had you directed that they take things from the
12 backyard?

13 A Yeah. I told them what needed to go. Certain
14 statues. They were fine. They started picking up my
15 benches. They were stone. They didn't need to be wrapped.
16 Put a blanket over it or whatever. They ripped cardboard
17 boxes and wrapped them around the fake rocks and taped them
18 all up.

19 Q Did you know anything about the cardboard boxes
20 being used, whether they would be charged to you, at the
21 time they were doing this?

22 A I went out to him in the front yard. This was the
23 workers in the backyard I was asking to stop. I found Eli.
24 I said, What are you doing tearing up boxes? He said, These
25 are wardrobe boxes. You are not charged for wardrobe boxes.
26 I said I have my own boxes, and I don't need my rocks
27 wrapped. And he said, We have to do that. We have to wrap
28 everything that we put in the van. And I said, You don't

1 have to wrap everything you put in the van. I'll sign a
2 waiver if you want. This is my stuff. Load them up and
3 move it. That's all I want.

4 Q Okay. Now, was anyone with you at the time that
5 this was going on?

6 A My daughter was there and my son-in-law was there.
7 And my husband was around somewhere. I don't know.

8 Q And --

9 A They --

10 Q I'm going to stop you. When you asked them to
11 stop ripping up boxes and packaging your things, did they
12 stop doing that?

13 A No, they didn't. He kept doing it, saying he was
14 required to pack everything. I wasn't being charged for
15 wardrobe boxes. Tammy had already told me that I wasn't
16 charged for wardrobe boxes.

17 Q I'm going to stop you and ask you: Is that what
18 Tammy told you at the time that you were originally making
19 the plans for your move?

20 A Yes. On the 18th or 19th of February when I
21 talked to her, she said wardrobe boxes the company provided.
22 It's for clothes. You can hang them. You can use them and
23 return them afterwards.

24 Q And let me ask a question. Did Tammy tell you
25 anything about the use of blankets?

26 A She said that they use blankets to wrap the
27 furniture, but he hadn't used any blankets yet.

28 Q Did Tammy make any representation about whether

1 you would be charged for the use of blankets?

2 A No, there was no charge for blankets.

3 Q You knew up front you could get things moved just
4 with blankets without having any additional charges?

5 A Yes.

6 Q And you also knew that, if you had clothes to be
7 moved, they could be moved in wardrobe boxes for free;
8 correct?

9 A Yes.

10 Q And then, as far as anything else being boxed or
11 wrapped, you had not planned on that and did not expect to
12 do that; correct?

13 A Not at all.

14 Q All right. Now, once they were continuing to rip
15 up cardboard boxes, did you have any further discussion with
16 people at the office at ASAP?

17 A Not at that time because he was still using
18 wardrobe boxes. I said, How are you going to return these?
19 Tammy said the only reason they are not charging for
20 wardrobe boxes is because I return them afterward and they
21 use them again.

22 He said, Don't worry about it. And I said I'm
23 worried about it because I told you I can't afford a lot of
24 extra charges. I'm only paying per hour. And he said, You
25 are not going to be charged. Don't worry. I'll tell you if
26 there's going to be any extra charges.

27 Q Okay. At some point, did he tell you about extra
28 charges?

1 A No, he didn't.

2 Q And did they continue to wrap and box things?

3 A They continued to wrap and box things. And then
4 they got to the washer and dryer and stuff. And I said,
5 Just take them out and throw them on. They are 20 years
6 old. They said, oh, we have to, and started wrapping bubble
7 wrap. I said, Don't. This is ridiculous. Just throw them
8 on. They said, Oh, we cannot do that. I said I'm not
9 paying for the bubble wrap. He goes, Don't worry. I said,
10 I'm worried about it. I can't afford to pay extra. I am
11 not going to pay you any extra. He said, Don't worry about
12 it. He continued to wrap my refrigerator, washer and dryer.
13 I kept going back to Eli. I kept asking for the receipt
14 because I had to pay half in cash.

15 Q I'm going to stop you. They wrapped all your
16 major appliances with bubble wrap. At some point during the
17 course of the wrapping process, were you asked to pay some
18 money?

19 A I was asked to pay money before they even started.
20 And I said I'm going to put it on my Master Card when I'm
21 done.

22 Q Okay. Let me stop you. Prior to the discussion
23 with Eli about payment on a credit card, did you talk to
24 Tammy about how you would pay?

25 A Tammy said they accept credit card.

26 Q When you tried to give a credit card to Eli, what
27 did he say?

28 A He said there's a ten-percent additional charge if

1 I use a credit card.

2 Q Did he explain why there's a ten-percent
3 additional charge?

4 A It was their company policy. And he said he would
5 waive that fee and I could put half of it on the card if I
6 pay half in cash.

7 Q All right. Did he want you to come up with cash
8 right at that moment?

9 A Yes. He told me to go to the bank and get cash
10 right away.

11 Q How much cash were you expected to provide?

12 A \$1,500.

13 Q \$1,500? Is that approximately the amount that you
14 expected to be paying for your move?

15 A It was a little bit less, but it's about right.
16 Yeah.

17 Q You believe that was close to the total price of
18 your move based on what Tammy told you?

19 A Uh-huh.

20 Q And what happened when you heard him say that you
21 needed to pay half \$1,500 in cash?

22 A I told him that was more than half. He said,
23 well, he figured, with their transportation charges and
24 everything, it would probably be more than that. And he
25 wouldn't take my credit card, wanted \$1,500 in cash. I
26 could pay any extra on credit card, but I had to pay \$1,500
27 in cash or he would charge me ten percent more.

28 Q Did you agree to pay \$1,500 in cash?

1 A I did, because, at this point, I was so frustrated
2 I just wanted to get the move over with. And I told him,
3 Fine, but I don't want you to move my garage -- which was
4 packed full -- just move the furniture. I just wanted to
5 get the heavy stuff out of the backyard. We will move the
6 rest ourselves.

7 Q Is this what you had expected that you were going
8 to be moving the contents of your garage yourself when you
9 contracted for this work?

10 A Not at all. But, at this time, I was fed up. I
11 was tired of being hassled by him. I knew he wasn't doing
12 things we agreed on. But I just wanted to get it over with.

13 One van was full. They were loading the other
14 van. I figured just stop as soon as the house was empty and
15 I'd do the rest on my own later.

16 Q During the time that you were dealing with Eli
17 about the money, had you received any documents pertaining
18 to your move? Any copies of receipt or copies of move
19 agreements?

20 A No. Tammy e-mailed me some things just talking
21 about the move, what we had agreed. But that was before she
22 upped it to two vans. Even that was not accurate anymore.

23 I paid \$1,500 cash. I asked for a receipt. And
24 he wouldn't give it to me. He said, I'll put it on this
25 form. You will get it later at the end of the move. I said
26 I want a receipt. He said, I'll get it for you, and he
27 packed again. And --

28 Q I'm going to stop you. How many times do you

1 think you asked him for a receipt for the cash you had given
2 him?

3 A A lot. At least eight or nine times. I kept
4 going every half hour or so. Did you get distracted? I
5 want my receipt for the cash. He said, I'm getting it. He
6 goes to the van, sits in his van. I come back. He would be
7 packing again. I said, Where's my receipt? He says, Don't
8 you trust me? I said, No, I don't, frankly. I want the
9 receipt. He says, I'll go get it. And he would wander
10 around, sitting in the van.

11 Q All right. Did he ever give you a receipt for the
12 cash that you had given to him?

13 A I never got a receipt for the cash. At the end of
14 the move, the very end of the move, he wanted me to sign
15 something saying I was happy with the move and that
16 everything was fine. And I said I won't sign that. I said
17 I'm not happy with the move. You know that.

18 This is over at the new house now. And I said I
19 won't sign any papers. And I said I never even got the
20 receipt from you. And so he said, If you are not going to
21 sign this, I'll just leave. He starts to drive away.

22 Q I'm going to stop you. How long did it take for
23 them to pack up your house before they moved it to the new
24 residence?

25 A Probably seven hours. Six or seven hours.

26 Q And then how long did it take them to get your
27 goods over to the new house?

28 A 15 minutes -- it really wasn't far -- by freeway.

1 Q And both houses are in San Jose; correct?

2 A Yes.

3 Q Once you got to the new house, what happened?

4 A They stopped working and he said, I want you to
5 pay the second half. And I said, What second half? And he
6 said, Well, you owe the balance. Put it on your Master
7 Card. I said, What for? And he said, Well, for all the
8 packaging. I said, I'm not paying for packaging. You
9 haven't used any of your blankets. You didn't use any of my
10 boxes. You didn't use my tape. He said, I'm not charging
11 you for the tape but boxes and bubble wrap. I said, No, you
12 are not. He said, I most certainly am. If you don't pay
13 it, then I will not unload your things.

14 Q Were your belongings on his truck?

15 A They were on the truck.

16 Q Both trucks were at the new house?

17 A Both trucks were parked at the new house.
18 Everybody had stopped working. He wouldn't unload anything.
19 The men would stand around doing nothing.

20 Q And what did you do when he demanded additional
21 money by the credit card?

22 A I called the office. I talked to Tammy and
23 somebody else there.

24 Q All right. How did Tammy respond when you spoke
25 with her?

26 A She told me that Eli had told her they had used
27 all the supplies, that it was necessary, they couldn't move
28 without using these supplies, and I would be charged for

1 them.

2 Q And did you ask to speak with anyone after Tammy
3 said that you had to pay for all those supplies?

4 A I asked to speak to the manager.

5 Q Who did you get when you asked to speak to the
6 manager?

7 A I don't remember her name. I think it might have
8 been Linda. I'm not really sure.

9 Q Okay. When you spoke to that person, how did she
10 respond?

11 A She told me that Eli told her he used those
12 supplies, that I had to pay for them and if I could pay
13 cash, but I could pay with Master Card if I wanted to for
14 the remaining supplies, that they would not unload until I
15 paid the fees.

16 Q So you had to pay cash or credit card and then,
17 until you did, you would not get your belongings unloaded?

18 A Right. I asked for an itemized bill. He said he
19 couldn't provide that.

20 Q I'm going to stop you. Did you ask for anything
21 else from the manager when you spoke to the manager?

22 A No, because she wasn't being helpful. She said I
23 had to deal with Eli and take care of it.

24 Q Then did you go back to Eli?

25 A I did. I figured, if I put it on Master Card, I
26 thought I could challenge the charges later and they would
27 take the charges off because they weren't legitimate. So
28 that was my plan. I was going to put it on Master Card and

1 contest the charges later.

2 And so I asked for an itemized bill from Eli, and
3 he said he had to work it out, didn't have the exact, but he
4 knew how many boxes he used, and he would do the paperwork
5 later, but that I had to pay. And he wrote out this Master
6 Card receipt. He didn't have an automatic -- he wrote it
7 out. And he made it for seventeen hundred and something.

8 Q All right. I'm going to stop you. So you saw him
9 write out a receipt?

10 A There's a charge slip.

11 Q And you gave him your card to fill it out?

12 A Yeah.

13 Q And he put a figure of \$1,700 on that charge slip?

14 A But he made the one look like a seven. So I said,
15 I'm not signing that. That says seven thousand. He says,
16 That's a one. I said, That is a seven. So I asked my
17 daughter to come look at it. She said that's a seven. And
18 I changed the seven to a one. He said, You cannot do that.
19 He says, You wrecked it now. He tore up the slip and wrote
20 another one. This time, he made the one look like a one.
21 So I signed it. And he takes it and tears it up and says,
22 You signed it with a blue pen. You have to sign it with a
23 black pen.

24 Q Did he write the receipt again?

25 A So he says, I have to go out to my car. In the
26 meantime, I'm being charged. The men are still standing
27 around. He goes back to his van. He writes out another
28 slip. He comes back. And, at this time, he is just doing

1 anything he can to harass me. I'm already in tears. I want
2 to get it done. He brings me back the slip with a one and a
3 seven with his black pen. I signed it and threw it just to
4 finish the move and get them out of my house.

5 Q Did they, then, unload your belongings?

6 A He started unloading. They were being rough,
7 banging them around. Some of the dressers got dinged up.
8 They threw stuff everywhere. They just took it in the house
9 and threw it wherever they saw. I couldn't find screws to
10 put my tables back together. And we don't know where those
11 are.

12 Q How long did it take once you had gotten to the
13 new home?

14 A They unloaded really quick. Probably, in two
15 hours, it was all unloaded.

16 Q Six or seven hours at one location and two hours
17 at the other?

18 A Yeah.

19 Q What happened once they completely unloaded?

20 A He brought me the paperwork, wanted me to sign
21 saying I was happy with the move and that there was no
22 damage and everything was unloaded off the truck.

23 Q Did you agree to sign that paperwork?

24 A No, I didn't. I said I will not sign.

25 Q What happened when you said you wouldn't sign it?

26 A He stormed out, got his men together. I said,
27 Where did they go? And we ran out, and they were leaving.
28 So I ran into the street with my dog and my son so they

1 couldn't go anywhere. Once the truck was trying to pull out
2 my driveway --

3 Q I'm going to stop you. We will go step-by-step.

4 A Okay.

5 Q So, at the end of the move, they went out and you
6 didn't know where they went. You looked for them and found
7 them in their trucks; is that correct?

8 A That's correct.

9 Q And were you looking for them for a specific
10 reason?

11 A I still needed a receipt. I never got a receipt
12 saying that I paid cash, and I never had any paperwork at
13 all.

14 Q Did you, then, do something to prevent the moving
15 vans from leaving your street?

16 A Yes.

17 Q What did you do?

18 A I went out and stood in the middle of the street.
19 I screamed for Daniel, my son-in-law. He and his dog came
20 joined me in the middle of the street. It was getting dark
21 by this time. We just stood there. And so the helpers in
22 the second van, not Eli, they came over and said, Would you
23 move? We just want to go home. I said, You are in the
24 middle of it. I'm not moving until I get my paperwork.

25 Q Did Eli respond to you and your daughter and
26 son-in-law standing in the street?

27 A Not at first. He was trying to go. They went and
28 talked to Eli. And I said I'm not going anywhere until I

1 get the paperwork. He just stood there and he crept up a
2 little bit. He crept closer to me. I said, I just dialed
3 911. I am going to call 911. And so I called and they
4 answered. He got out of his van and ripped off paper and
5 threw it at me and got back in his van. I looked at it.
6 That was the receipt. So I thought that was okay and I took
7 it and moved out of the way and they drove off.

8 Q Okay. Once he had turned over that receipt, did
9 you expect to pay any additional charges other than what you
10 had paid?

11 A No, I didn't. And I looked at the receipt, and it
12 was blank. Nothing was filled out. And I couldn't tell at
13 the time, but, in the house, I was because it was dark by
14 that time.

15 Q So he gave you a receipt without noting all the
16 boxes that you had paid for -- the packaging?

17 A Yeah. Nothing was itemized. I didn't know what I
18 had paid for. I just knew I paid that amount.

19 Q Okay. What was the total amount that you paid for
20 your move?

21 A It was the \$1,500 in cash. And then it was \$1,730
22 on my Master Card. And there was a time, about an hour
23 after I signed the first Master Card, he came back and said
24 he forgot a charge. It was \$160 more and he wanted that in
25 cash.

26 Q Okay. How did he explain this additional \$160
27 that he needed?

28 A He forgot to put a charge down.

1 Q Did you know what that was for?

2 A No, I didn't. I said we will take care of it at
3 the end of the move. And he said, No, we will take care of
4 it now. I'm going to stop my men from unloading.

5 Q Did you pay?

6 A I had to. He was going to drive off with all my
7 belongings.

8 Q Now, if you had known that you were going to pay
9 over \$3,000 for this move, would you have ever contracted
10 with ASAP Relocations?

11 A Definitely not.

12 Q And the receipt that you got from Eli, did you
13 bring that to court with you today?

14 A Yes, I did.

15 Q Okay. I'm going to show you Exhibit 80. Is this
16 the receipt that you brought with you to court?

17 A That's the one.

18 Q I am going to put it up on the screen. Are you
19 able to see it from there?

20 A Yes.

21 Q And is this a document that Eli threw at you in
22 the street after you blocked his truck?

23 A Yes.

24 Q And does it have your signature at the bottom?

25 A Yes, it does. That's what I signed. Before the
26 move started, I signed that paper.

27 Q Did you sign something called issuance of
28 agreement for moving services? Did you sign some things in

1 the center portion there?

2 A I initialled that. There was a couple things I
3 initialled right around the other side. I did not make
4 those initials.

5 Q So the other side that has some writing along the
6 right column that provides for extra men, appliances, extra
7 pickup, long carry, valuation charge, did you initial any of
8 those things?

9 A No, I didn't. There's no way I would put my
10 initials down on a blank form.

11 Q I am going to show you a document Exhibit 81.
12 It's got a Bates number CPUC dash 233. I'd like you to take
13 a look at it and tell me whether you recognize it as
14 documents relating to your move.

15 A Yes. But it's all filled in now. All the blanks
16 are filled in.

17 Q You've seen this packet before, and this is all
18 documents relating to your move?

19 A Yeah. They sent that to me. When I filed a small
20 claims case against them, they sent that.

21 Q Okay. You got a copy of Exhibit 81 after you
22 filed a small claims action against ASAP Relocations?

23 A Yes. Master Card refused to honor my request to
24 contest the charges because I signed the form.

25 Q Okay. I am going to stop you. We are going to
26 take a look at Exhibit 81. And, on this copy of the form,
27 are there initials on the document?

28 A Yes. And they are all filled out by prices now.

1 Q And did it have the number of boxes used? Lamp
2 boxes, various cartons that were identified, mirror boxes.
3 Was any of that filled in on your copy of the document?

4 A No, it wasn't.

5 Q So that was filled in after they had left?

6 A Yes. And they didn't move any lamps or mirrors.
7 They told me any lamps, mirrors, and TV's I had to move on
8 my own. They didn't move that kind of thing.

9 Q All right. Are there also numbers filled in on
10 the amount column and initials? Do you see that on the
11 right-hand side of the page?

12 A Yes, I see that.

13 Q And were those initials put there by you?

14 A No, they weren't.

15 Q And were those numbers filled in at the time that
16 Eli gave you Exhibit 80?

17 A The numbers were. It was blank. But you could
18 see my signature and the initials on there. But I didn't
19 sign it.

20 Q Okay. So this is what your document looked like?

21 A Yeah. You can see there's some initials. I
22 didn't notice it until I was going back over it. But the
23 initials by the blank spots, there's no way I'm going to
24 initial blank spots.

25 Q Just in normal practice, you would not initial
26 blank spaces?

27 A I don't know anybody who would. That's crazy.

28 Q Okay. Your habit and custom is not to put your

1 initials next to blank boxes that require payment?

2 A Right.

3 Q All right. Did you follow through on your plan to
4 make a complaint and contest the charge through the credit
5 card company?

6 A Yes, I did.

7 Q And can you take a look at Exhibit 82 and tell me
8 whether this is a copy of your complaint that you made to
9 your credit card company?

10 A That's the one. Yes. I sent them everything.

11 Q Showing you Exhibit 82, is this information that
12 you sent to the credit card company?

13 A Yes, it is.

14 Q And was it your intention to try and get credited
15 back for the extra fees that you had been charged?

16 A Yes.

17 Q What happened when you tried to get the money
18 back?

19 A They told me that I signed the form; therefore, I
20 authorized it. So I was responsible for the charges and
21 that I could not have a refund.

22 Q Your explanation of what had happened was not
23 successful in getting a refund for you?

24 A No. That's a civil problem and I needed to go to
25 small claims court if I had a complaint.

26 Q Did you, then, go to small claims court?

27 A Yes, I did.

28 Q What happened when you went to small claims court?

1 A I got a judgment against them. And they didn't
2 pay. I sent them a letter requesting them to pay. I waited
3 the amount of time. They still didn't pay me. So I sent
4 them another letter and said I was going to take them back
5 to small claims again if they refused to pay and they didn't
6 pay. So I got them back in small claims court and I was
7 trying to get his bank account numbers.

8 Q I'm going to stop you. Who appeared for the case
9 in small claims court?

10 A Roni Hayon.

11 Q And so you actually saw him come to court on your
12 matter to respond to your small claims action?

13 A Yes.

14 Q And did he offer any evidence during the course of
15 the small claims action?

16 A No, he didn't.

17 Q And were you able to get a judgment on your behalf
18 as a result of this small claims action?

19 A Well, I already had the judgment. All I needed
20 was the information. I was trying to get his --

21 Q I'm going to stop you a second. I want to know --
22 I'm assuming that you went to small claims court initially.

23 A Uh-huh.

24 Q Before you got your judgment. And you made a
25 presentation. And who appeared for the company at that
26 point?

27 A Oh, somebody who said she was an office manager.
28 A young blonde girl.

1 Q Do you recall her name?

2 A No, I don't.

3 Q You just recall that she had blonde hair?

4 A Uh-huh.

5 Q And, as a result of that court proceeding, were
6 you given a judgment in your favor?

7 A Yes, I was.

8 Q And then you had a subsequent court proceeding in
9 order to try and collect on your judgment; correct?

10 A Yes.

11 Q And who appeared on that proceeding?

12 A I believe I was in court three times, trying to
13 get a judgment. The second time, the same girl appeared
14 back with Tammy, who I first spoke with.

15 Q All right. What happened during that court
16 proceeding? Did either the blonde haired woman or Tammy
17 make any representations to the court?

18 A They did. They told him what happened. And the
19 blonde haired girl told her side from the business side of
20 it. Tammy said what she had told her. I gave my side.
21 That's the day I got the judgment when the judge realized
22 neither of them knew what happened that day because they
23 weren't there.

24 Q Did Tammy confront she had given you a quote of
25 \$1,600 or \$1,700?

26 A Yes.

27 Q All right. And what did the other person say
28 about why you owed over \$3,000?

1 A Because of charges. Company policy. They have
2 surcharges. They charge on all the large items that they
3 wanted to move. They loaded my motorcycle on the truck and
4 he wanted to charge \$600 for moving it for a surcharge. And
5 I said, Take it off the truck. You are not moving it. So I
6 made them take it off. They had the washer and dryer. They
7 said it was \$250 surcharge for all the big items. I said
8 that's ridiculous. So Eli lowered it to a hundred dollars.
9 He was going to give me a break.

10 Q Okay. And then, ultimately, when you had a court
11 proceeding with the owner Roni Hayon, what happened during
12 that proceeding?

13 A I tried to get his bank account. The judge asked
14 me what I wanted. I said I want the money. I want to
15 attach his bank account because he didn't pay. I showed the
16 judge the letters I wrote. Then Roni mentioned that he was
17 arrested a few days ago and the judge immediately stopped
18 all the proceedings and told me that, because there was a
19 criminal matter, that I couldn't invade his privacy to ask
20 for any information. So my matter was dropped.

21 Q Did you get any money as a result of your small
22 claims action?

23 A No, I didn't.

24 Q And I'd like to show you Exhibit 10. Do you
25 recognize this individual?

26 A That's Eli.

27 Q Okay. This is the person that you were dealing
28 with in terms of the paperwork on moving day?

1 A Yes.

2 Q You mentioned earlier that, when you learned how
3 long it was going to take to move and they were wrapping all
4 these things, you decided to move your own garage contents.

5 A Yes.

6 Q How did you go about doing that?

7 A I rented a moving van and I went to Orchard
8 Supply. I hired Mexicans that stand out in front. That's
9 what I usually do with the move. I didn't do that this
10 time. I'm very sorry I didn't.

11 Q You paid some additional money in order to move
12 the rest of your house?

13 A Yes.

14 Q How much was that?

15 A \$800.

16 Q \$800?

17 A Uh-huh.

18 Q So what would you say was the total cost that you
19 paid for your move?

20 A If you include all the small claims fees and all
21 that, if you count all that, it was over \$5,000.

22 Q All right. And, if you leave the small claims
23 fees out and just the fees for moving your house -- the
24 cash, the credit card fees, the additional cash, and the
25 fees that you paid to the people at Orchard Supply -- what
26 was the total amount?

27 A Probably \$4,200 or \$4,300.

28 MS. DONOHOE: I have no further questions. Do the

1 grand jurors have any questions?

2 Yes, Juror Number One.

3 THE GRAND JUROR: I'm just curious. What was the
4 amount on the receipt Eli provided her in the street?

5 Q (BY MS. DONOHOE) Okay. Ms. Bates, do you know
6 what the amount was on the receipt that you signed for Eli?

7 A I know on the small claims it was \$1,700. The
8 Master Card was \$1,730.

9 Q All right. I'm going to show you a page of
10 Exhibit 81.

11 A The copy he gave me doesn't have a total. It's
12 blank.

13 Q I am going to show you -- this is Exhibit 81,
14 Bates page ending in 235. Do you recognize this receipt?

15 A Fourteen thirty-one. Yes.

16 Q All right. And is that the receipt that you
17 signed that day on moving day?

18 A Yeah. I guess it is. I thought it was seventeen.
19 But I guess it's fourteen. Looks like fourteen.

20 Q All right. The other copy of the receipt, did you
21 happen to see this copy of the master card receipt with the
22 name Elazar above it?

23 A I've never seen that.

24 Q Showing you Bates page 238 of Exhibit 81, do you
25 recognize this form?

26 A Yes. That's what he wanted me to fill out saying
27 I was happy with the move and everything was safe and not
28 damaged.

1 Q And is that in your handwriting?

2 A Yes. It says I can't sign this, because he asked
3 me three times. And I wrote no. He gave it back to me
4 again and asked me to sign it. So I wrote I cannot sign it.

5 Q So the signature at the bottom is yours; is that
6 correct?

7 A Yes.

8 Q Is the rest of the form in your handwriting?

9 A Dent in the dresser is not my handwriting. I
10 didn't write the dresser. And it's spelled wrong. I know
11 how to spell. The nightstand scratched, that's my writing.

12 MS. DONOHOE: Okay. Yes.

13 THE GRAND JUROR: Juror number three. What's the
14 approximate time of the small claims court proceedings?

15 Q (BY MS. DONOHOE) Can you tell us during what
16 period of time you were in small claims court, trying to get
17 your money back?

18 A I first filed the small claims court, I believe,
19 at the end of March or the first part of April.

20 Q Can you tell us what year?

21 A 2010. I got the judgment in July 2010.

22 Q When was it finally your actions were unable to
23 get your money back?

24 A By September, October 2010 is when I gave up.

25 MS. DONOHOE: All right. Any other questions ?

26 Ms. Bates, the foreperson is going to give you an
27 admonition and you are free to go.

28 (Witness admonished and excused.)

1 MS. DONOHOE: My next witness is Investigator Norm
2 Levy. Does anybody need to go to the bathroom? Okay. I am
3 going to have him talk on two topics. I am sure you will
4 see him again, but he is going to take care of these first
5 two topics today.

6 (Witness sworn.)

7 TESTIMONY OF NORMAN LEVY

8 EXAMINATION

9 BY MS. DONOHOE:

10 Q Good afternoon, Investigator Levy. Could you
11 please state your name for the record and spell both your
12 first and last name?

13 A My name is Norman Levy. Norman N-o-r-m-a-n. Last
14 name L-e-v-y.

15 Q Can you tell me what your occupation is?

16 A I am a senior criminal investigator with the
17 district attorney's office in Santa Clara County.

18 Q How long have you been working for the Santa Clara
19 County District Attorney's Office?

20 A Over 13 years.

21 Q And where did you work prior to that time?

22 A Before that, I worked for Monterey County District
23 Attorney's Office. And, prior to that, I worked for the
24 city of Santa Cruz.

25 Q How long have you been a police officer?

26 A 27 years.

27 Q And, drawing your attention to December of 2009,
28 were you involved in an undercover -- were you supervising

1 an undercover investigation of a business called ASAP
2 Relocations?

3 A I was.

4 Q Did you have the responsibility of directing how
5 that undercover operation would take place?

6 A I did.

7 Q Did you work with numerous agencies on that
8 undercover operation?

9 A I did.

10 Q Can you tell us the names of the different
11 agencies that were involved?

12 A There were the law enforcement agencies including
13 the FBI, United States Department of Transportation, their
14 investigative division. They have their own agents or
15 special agents. We worked with Monterey County District
16 Attorney's Office, Alameda County District Attorney's
17 Office, San Mateo County District Attorney's Office.

18 And the regulatory side -- non law enforcement --
19 we dealt with California Department of Consumer Affairs who
20 administers and manages moving companies. We worked with
21 the federal motor carrier folks who are equivalent for U.S.
22 Department of Transportation. We worked with State's
23 Weights and Measures. We worked with our own county staff
24 in Weights and Measures. There were other regulatory
25 agencies but those are the ones that come to mind.

26 Q This large operation, can you tell us why it was
27 initiated as to ASAP?

28 A We, as a collective group, both law enforcement

1 and administrative agencies, were being inundated with
2 complaints. All of our respective agencies were. We
3 realized it was a problem.

4 To better understand the problem, what we did is
5 we all came together in a series of meetings and identified
6 the companies that had the most complaints. It was a pretty
7 painstaking process because we had to figure out how our
8 different record systems could put it all together.

9 We went through thousands of complaints and tried
10 to evaluate all of the companies and identify the most
11 egregious.

12 Q Was ASAP one of the companies?

13 A It was.

14 Q Based on the identification of ASAP as a problem
15 company, did you plan an operation to determine whether you
16 could prove up a similar type of documented complaint about
17 the company?

18 A Yes.

19 Q And how did you go about doing that?

20 A Well, because, after reviewing literally hundreds
21 of complaints and roundtable discussing them, we recognized
22 that someone who had been the victim of a moving situation
23 boiled down to he said/she said between the client and the
24 moving company. And there was no way to prove either
25 person's side of the story or to refute the documents that
26 remained. So we would put together and complete a move with
27 this company.

28 Q How did you go about arranging for a move with

1 ASAP Relocations?

2 A To start with, we collectively assembled household
3 goods for a two-bedroom apartment. Rented a storage unit.
4 Myself and my co-workers, kind of, went far afield and we
5 bought some items new, for example, such as a couch. Other
6 items, such as appliances, we bought used from different
7 retailers. Some of the office staff provided things like
8 old dishes, curtains, towels. So we put this house together
9 with household goods.

10 Once we had it together, we asked the weights and
11 measures folks to inventory it so that, if there was any
12 dispute regarding what we had moved, we could document what
13 we were moving. So they went through -- weights and
14 measures staff -- and photographed every item and weighed
15 every item and inventoried every item to include every item
16 in every box. We had a complete controlled list of what we
17 were moving.

18 Q Where were these items stored in preparation for
19 the move?

20 A We used a serious of storage units here in Santa
21 Clara County and the counties I've already mentioned and
22 storage units in Las Vegas, Nevada.

23 Q Why did you use storage units in Las Vegas?

24 A Administratively, it was much simpler to move out
25 of storage units. And to create a ruse that we were moving
26 from a storage unit. To use a residence, to rent a
27 residence, the cost involved was just onerous. Way too much
28 money. So to simplify the case. And the staff needed to

1 monitor and observe the move to document it.

2 Q Were you specifically trying to investigate what
3 ASAP's practices were on interstate moves?

4 A Yes.

5 Q And was that one of the reasons why the location
6 in Las Vegas was selected?

7 A Yes.

8 Q The move that was initiated with ASAP, how did you
9 first make contact with the company?

10 A What I did is I created an e-mail address under an
11 alias. I used the name Mark Lewis. And I just responded
12 with that e-mail address to their website. One line entry.
13 Need to move my household goods from Las Vegas to where I'm
14 at currently in San Jose. Can you help me? And that's what
15 they responded to.

16 Q Who responded to you?

17 A The employee later when I spoke to him was
18 Mr. Wayne Allen.

19 Q When you first talked to Wayne Allen, what did you
20 tell him about your plan to move?

21 A I explained to him that I had a new job and had to
22 move to Las Vegas -- from Las Vegas. Excuse me. Had to
23 come quickly because the job demanded it, that my household
24 goods were in storage in Las Vegas, and that I wanted to
25 arrange for someone to go pick them up and bring them over
26 to the San Jose area. And I asked him, Does your company do
27 this kind of work? He responded yes.

28 Q And were you able to get a quote from Wayne Allen

1 over the telephone?

2 A Yes. He e-mailed me a quote and more than one
3 time.

4 Q Did he ask for any kind of information about the
5 amount of goods that you were moving?

6 A Yes. We discussed the inventory. He first said
7 just tell me over the phone what you have to move. And I
8 said, Oh, I've got an inventory because I had to put it in
9 storage, which was actually a version of what Weights and
10 Measures did. I said, I'll just send this to you. I
11 offered it to him. And that's what he responded with the
12 quote from. That general inventory.

13 Q At the time that you were communicating with him,
14 did you already know the weight of all the items that you
15 were moving?

16 A Yes.

17 Q And did you know the total, approximately?

18 A Within the ounce, I believe. I have a copy of it
19 from a report.

20 Q Give us a rough idea of what the total weight was.

21 A I am going to have to look at it. I want to say
22 2,000 pounds, but, beyond that, I couldn't say.

23 Q Do you need to refresh your recollection from your
24 report?

25 A Please.

26 Q All right. You can take a look at your report.

27 A The figure I am looking at --

28 Part of the process with Weights and Measures is

1 we would always weigh all of the goods before they picked
2 them up and also after they delivered it to identify any
3 discrepancies in the weight of the items.

4 When they picked up the items, it was
5 2,600 pounds. 2,687.7 pounds.

6 Q All right. So, when you were speaking to Wayne
7 Allen about your plan to move from Las Vegas to San Jose,
8 did you tell him that you knew that the weight was
9 2,680 pounds?

10 A No.

11 Q Okay. And so he had no idea specifically what the
12 weight was. How did he calculate the weight?

13 A I'd have to look at his estimate. Well, no, I
14 don't. He explained that they had a software program, that
15 they would list the items to be moved from the inventory
16 that I had, and that they would estimate from that software
17 application.

18 Q And did he ultimately give you an estimate for
19 your move?

20 A He did.

21 Q And what was the estimate that he gave?

22 A I'd have to refresh.

23 Q Okay.

24 A The estimate that he e-mailed me said the
25 estimated weight of the household goods was 4,410 pounds.

26 Q Do you know how he calculated that amount?

27 A Not beyond what I've described.

28 Q So you believed it was based on that software

1 program he talked about?

2 A Yes.

3 Q In talking to him while you were posing as Mark
4 Lewis, did you tell him anything about your concerns about
5 the finances involved in doing this?

6 A I did. What I explained to Mr. Allen was that I
7 was on a budget, that I would prefer that he estimate a hire
8 amount so that we could budget accordingly and not have any
9 surprises.

10 I asked him specifically throughout the
11 conversation that I will describe in a minute that, if there
12 were additional costs, please let me know so I have the
13 funds allocated to pay for them and we have no last-minute
14 changes. If he had any doubts, estimate a high value so we
15 can take care of any last-minute changes or increases.

16 Q Did he agree to do that?

17 A Yes, on more than one occasion.

18 Q And did he offer you reassurances that you were
19 getting an accurate price?

20 A Not only did he do that but he said that the
21 estimate he was providing me would accommodate any
22 additional cost which might arise.

23 Q Did you talk to him about any fees for packaging?

24 A I did.

25 Q What did he tell you about that?

26 A I'd have to look through my notes on that one. He
27 made a whole series of promises and, as such, I have to
28 refresh.

1 Q Okay. Are you referring to a report in order to
2 refresh your recollection?

3 A I am.

4 Q What report is that? The date?

5 A The Bates stamp?

6 Q Okay. The Bates stamp.

7 A The date of the report I have right here.
8 November 20th, 2010. This is one of the attached documents.

9 MS. DONOHOE: It is 2:40 right now. How about if we
10 take a brief break? 15 minutes? I didn't give you a break
11 this afternoon; right? You want to take your break now or
12 you want to wait? Okay. Five minutes. You want a shorter
13 break? That way Investigator Levy can find it.

14 (Recess.)

15 Q (BY MS. DONOHOE) We are back on the record.

16 And, Investigator Levy, over the break, did you
17 have an opportunity to refresh your recollection from the
18 notes that you made of undercover calls that you had on this
19 moving transaction?

20 A I did.

21 Q And can you give us a Bates document number of the
22 first page of the notes that you kept under undercover calls
23 that you used to refresh your recollection?

24 A First page number is ASAP2 dash DAVOI dash 003185.

25 Q And that's the first page? Have you refreshed
26 your recollection about the fees that were quoted by Wayne
27 Allen?

28 A I have.

1 Q And what did he have to say about packaging fees?

2 A His discussion with me was around the time I
3 received the estimate from him, and it was more of an
4 initial conversation regarding fees. I'm going to refresh
5 here as I go through.

6 He said that the maximum amount for the move would
7 be \$2,200 for the first 4,400 pounds. It would be \$0.50 for
8 each additional pound, but that was just the nature of their
9 business that they always qualify it, that my estimate was
10 much higher as I requested and that we shouldn't approach
11 that. He described there would be a fuel charge of \$154.

12 And then he went on to state that, once the move
13 was completed, I would only end up paying for the weight of
14 the items I was moving so that my bill would be less than
15 the \$2,200 he described. It would be less. And that was
16 his initial representation.

17 Q Okay. Now, in reviewing your notes of your
18 telephone conversations with Wayne Allen, did it also
19 refresh your recollection about another call that you got
20 relating to your initial e-mail requesting moving services?

21 A Several things. One, it was getting close to the
22 Christmas holidays. So we delayed the move. I contacted
23 him and said we had to delay the move because of my family
24 and holiday obligations. He said, No problem. Contact me
25 after the holidays. This is via e-mail. I recontacted him
26 after the holidays and he said that he and his company would
27 honor the estimate as we had discussed prior to Christmas
28 holidays.

1 Q Did you also get a quote from another moving
2 company?

3 A I, actually, got a response. What that was is,
4 when I made the initial e-mail, several days later, I
5 received an e-mail from a lady -- I am going to refresh for
6 the name -- named Patty who provided a phone number. And
7 this was separate from Mr. Allen. And I am going to refresh
8 for the name of the business she said. She worked for -- I
9 don't see the name here -- she said she worked for a
10 different moving company. Excuse me. America's Best
11 Movers.

12 I was surprised because my understanding, as we
13 prepared the investigation, was that America's Best Movers
14 and ASAP were co-located. So I asked her, I go, Who do you
15 work for? She says America's Best Movers. And I said -- I
16 didn't describe what was happening with Mr. Allen -- I said,
17 How did you get my information? You know, I'd be happy to
18 work with you but I can't tell you. Okay. So I asked her,
19 Well, where's your office? Where are you at? I can't tell
20 you. So I said, Let me talk to your boss. And she gave me
21 her boss's name. Dispatch manager Linda had to authorize
22 her to provide any information.

23 I said, Well, give me a phone number. She did.
24 Over the next few days, I tried to contact Linda and never
25 got any response. I found it very mysterious. Here's this
26 person wanting to do an estimate for my bid. What ended up
27 happening a few days later, I said, in one of my
28 conversations with Wayne Allen, I go, Do you work with the

1 lady named Patty associated with America's Best Movers? Oh,
2 yes, she works right here in the same office. I go, Really?
3 Oh, yeah, yeah. I said to him I got a call from her and he
4 just said, Well, that kind of happens. Disregard it. We
5 will take care of it. But he said, yeah, they work right
6 here with us. So I don't understand why --

7 Q At any time during your discussion with Patty, did
8 you have occasion to ask her if she was related to ASAP?

9 A I did.

10 Q And what did she tell you about her relationship
11 with ASAP?

12 A I have to refresh for her answer. My
13 recollection -- I don't see it in the notes -- my
14 recollection is she said she didn't know anything about
15 ASAP.

16 Q Okay. Now, when you were doing your undercover
17 operation, was there somebody else working with you that was
18 posing as your wife?

19 A There was.

20 Q Who was it that posed as your wife?

21 A Special Agent Lisa Glazzy from the U.S. Department
22 of Transportation. She is a federal peace officer and she
23 has the same responsibility and authority as an FBI agent.

24 Q Okay. Now, when she posed as your wife, what was
25 going to be her role in the undercover operation as far as
26 the move went?

27 A The goal was, between the two of us, that we would
28 have repetitive questions about the move as we prepared for

1 it. For the pickup of the household goods in Las Vegas, she
2 would be there. I would be supposedly in California. So
3 she would handle the pickup of all the household goods. My
4 responsibility as the other half of the couple would be to
5 take delivery here in San Jose. And the two of us would
6 communicate with the moving company in order to understand
7 how they did business, together and separately, as needed.

8 Q All right. Was that so you could compare the
9 information that you got from the moving company?

10 A Yes.

11 Q And, in December of 2009, you indicated that you,
12 at some point, put off the move date; is that correct?

13 A That's correct.

14 Q And when was it that you arranged for the move to
15 go forward?

16 A I have to refresh for that date. Give me just one
17 moment.

18 We communicated with Mr. Allen right around the
19 7th of January -- myself and Investigator Glazzy -- to
20 schedule the move for the items to be picked up in Las Vegas
21 on January 12th.

22 Q Okay. The conversation you had with Wayne Allen
23 on January 7th, did you have a conference call with him?

24 A We did.

25 Q And when you say we, was it both you and Lisa
26 Glazzy posing as your wife?

27 A Yes.

28 Q What name was she using?

1 A Lisa.

2 Q Lisa Lewis?

3 A Yes.

4 Q And what was the nature of that conversation?

5 A Before that conversation, she and I agreed that we
6 would e-mail a series of questions to Wayne Allen to ask him
7 to answer regarding additional charges for the move. The
8 first time we sent the e-mail, he didn't respond. And then
9 the second time he responded with a very generic answer that
10 didn't address the specific questions. She and I, then,
11 decided to do a conference call with him so that we can, on
12 the phone, pose those specific questions regarding
13 additional charges. And that's what you are asking about?
14 That conversation on January 7th?

15 Q Yes. And so what things were you and Lisa Glazzy
16 asking him about on January 7th?

17 A I am going to have to refresh for the specifics.
18 Just a moment.

19 We asked about wrapping television, the washer and
20 dryer, and other bulky items.

21 Q And what did he tell you about any extra charges
22 that you might have to pay?

23 A For the specifics, I'll refresh.

24 A flat rate of \$25 to box the TV. Other bulky
25 items would be \$45 each. A mirror would be boxed \$32. And
26 washer and dryer would be classified as other bulky items at
27 the \$45 rate.

28 Q Did you try to pin him down as much as possible on

1 what would be the total cost for this move?

2 A Yes. We asked was the estimate that he gave us
3 the total cost of the move, and he said yes.

4 Q What was that total cost?

5 A Let's see. I'd have to look back at his estimate.

6 Q I'm going to stop you. Is the estimate that he
7 gave one that he gave in writing?

8 A It is.

9 Q Okay. And did it change between the time that you
10 spoke to him in December and your conversation on
11 January 7th of 2010?

12 A No. He said he would honor that original amount.

13 Q Okay. I am going to show you that document a
14 little later so you don't have to search for it.

15 A Okay.

16 Q On moving day, January 12th of 2010, were you in
17 Las Vegas or were you in San Jose?

18 A I was in Las Vegas.

19 Q So were you part of that undercover operation at
20 that point?

21 A I was in a car watching what was happening from
22 quite a distance away. I was not directly in the area when
23 they were loading the truck. Investigator Glazzy was.

24 Q Was there someone else present with Investigator
25 Glazzy?

26 A There were two FBI agents and she had a body wire
27 and there was a camera set up.

28 Q Was everything recorded about that transaction?

1 A Yes.

2 Q And were you familiar with what was happening
3 while it was happening?

4 A Yes. We planned in advance that Investigator
5 Glazzy would call me regularly and update me. I was
6 monitoring the body wire. Reception was intermittent. So
7 we were talking on the phone every few minutes.

8 Q Was she conveying information about what was
9 happening with the move?

10 A Yes.

11 Q And were you, then, following up on that
12 information with someone back at the ASAP office?

13 A Yes. What Investigator Glazzy was experiencing is
14 they weren't following her instructions. She asked them to
15 stop packing things.

16 Q I'm going to stop you for a second.

17 I gave you an instruction earlier about evidence
18 that's admitted for a limited purpose. We will have
19 Investigator Glazzy testify. But, for the moment, the
20 things that she told Investigator Levy about what was
21 happening is the basis for his subsequent actions and
22 contacting the business and saying things to them about what
23 was going on. So the statements of Investigator Glazzy are
24 not offered for the truth. They are offered to explain the
25 subsequent actions of Officer Levy.

26 So go ahead and tell us. What did she convey to
27 you about what was happening that you, then, communicated to
28 the office?

1 A What she did was she called me right there as they
2 are loading and packing as an upset hysterical wife calling
3 her husband. And she is doing it in such a way that the
4 movers can hear. But I'm receiving a call from her and she
5 is saying "They are packing things and I told them not to.
6 They are loading the truck. They won't tell me what things
7 cost. Will you call the moving company and find out what's
8 going on and what we can do?"

9 She was rather hysterical. It was a great call.
10 Anyway, so, after that, I called ASAP and spoke with -- I
11 have to refresh. Just a moment -- initially, I placed a
12 call to Wayne Allen and a woman by the name of Linda took
13 the call.

14 Q Were you able to reach Wayne Allen?

15 A No, not on that day.

16 Q And what happened when Linda took the call?

17 A I'm going to refresh here. Just a moment.

18 I asked, Why is this necessary? Why is this going
19 on? Why all these things that we were told weren't going to
20 happen -- I described what Wayne had said.

21 Linda's response was that the moving company had
22 to take precautions, that the estimate that Wayne Allen had
23 given us was based on fuel and weight only, and that the
24 moving foreman supervisor of the moving crew makes all the
25 decisions regarding packing material, how the stuff is
26 prepared for the shipment, and that the foreman will provide
27 me with all the additional fees and all the associates
28 costs.

1 That was my first phone call. I called back.

2 Q I'm going to stop you. So, after that first phone
3 call with Linda, did you convey that information back to
4 Lisa Glazzy in the field?

5 A Yes, I did.

6 Q And so you provided it just like as if you were
7 her real husband?

8 A Uh-huh.

9 Q About what you had learned?

10 A Yes.

11 Q Did she tell you anything more about what was
12 going on?

13 A She repeated what I would say. She more conveyed
14 that they are just out of control. They are just doing all
15 of this stuff Wayne Allen said wasn't going to happen,
16 wasn't going to be needed, that I need to call him back and
17 continue asking what's going on.

18 Q Did you, then, follow up with another call to
19 Linda?

20 A I did.

21 Q What happened when you spoke to Linda the second
22 time?

23 A I am going to refresh here real quick. Wait a
24 minute. I take that back. That's a different phone call.
25 I am going to have to correct myself. I'm sorry. That was
26 the only call I made to Linda. The next call wasn't until
27 two days later.

28 Q All right. Did you see the move get completed

1 from your car that you were in?

2 A Yes.

3 Q And how long did it take approximately for the
4 move to be completed?

5 A About two and a half hours.

6 Q How many movers were involved?

7 A Reviewing my notes, I only see the names of two.

8 Q Okay. Who were the two that you documented were
9 involved in the move?

10 A A person by the name of Nick and Darin. Again, I
11 refreshed for that.

12 Q Okay. Now, are you talking about the pickup in
13 Las Vegas or the delivery in San Jose?

14 A Pickup in Las Vegas.

15 Q Okay. Was any effort made by the surveillance
16 team or the investigators to get identification from the
17 movers in Las Vegas?

18 A No.

19 Q And was that because the operation wasn't over
20 until delivery occurred?

21 A Correct.

22 Q And, at the time after they picked up these items
23 from the storage space in Las Vegas, did you get any
24 documentation?

25 A Any documentation from the folks who loaded the
26 truck?

27 Q Yes.

28 A I'd have to refresh for that. I believe there was

1 an inventory sheet. And I'm not sure what else. Possibly a
2 bill. But there were some documents.

3 Q Do you know how much Lisa Glazzy was told she had
4 to pay at that point?

5 A My recollection was that the foreman -- one of the
6 crew said the truck would be re-weighed and we would receive
7 an updated amount that would be due.

8 Q Had you paid anything prior to January 12th of
9 2010?

10 A Paid \$200 deposit to schedule the truck, which I
11 had mailed. And then, when they arrived, Lisa Glazzy gave
12 them two money orders. I'd have to refresh to get the
13 specific amounts for those money orders.

14 Q Were you the person who supplied the money orders?

15 A I was.

16 Q Can you tell us where you got the money orders
17 from?

18 A I purchased them at the Bank of America here in
19 San Jose.

20 Q Did they have your undercover name Mark Lewis on
21 them?

22 A They did.

23 Q And did Lisa Glazzy turn over -- did you mail
24 those money orders? Oh, you said Lisa Glazzy delivered
25 them.

26 A The two. She hand delivered the two of them to
27 the movers when they picked up the household goods.

28 Q Okay. Now, some time after the items were picked

1 up from Las Vegas, did you have further contact with someone
2 from ASAP regarding money that was owed for the move?

3 A Yes. Linda again. And, also, an e-mail from
4 another employee Jasmin.

5 Q What if anything were you told about additional
6 money that had to be paid?

7 A I'd have to look for the e-mail from Jasmin.

8 Q I've already marked as exhibits a series of e-mail
9 communications. And this is Exhibit 83. And I'd like you
10 to take a look at it and see if you recognize this series of
11 e-mail communications.

12 A Okay. The first one is my initial e-mail to --

13 Q If you could just tell me whether you recognize
14 the documents and then I'll put them on the screen for the
15 grand jurors.

16 A Okay. Item number one, yes. Item number two,
17 yes. Item number three, yes. Item number four, yes. And
18 five is the attachment to that e-mail. Number six, yes.
19 Number seven and eight are the same continuing Document.
20 Nine, same document, a larger version. And then 12 is
21 response to the --

22 Yes. I'm sorry. Yes.

23 Q Okay. Why don't you take a look also at these
24 other exhibits? So Exhibit 84 has a Bates number 03109 on
25 the front. Do you recognize that document?

26 A Yes, and the attachments.

27 Q All right. Showing you Exhibit 85, which has a
28 Bates number 3114. Do you recognize that document?

1 A Yes.

2 Q Okay. You were just mentioning that you got
3 communication from Jasmin. And, showing you Exhibit 85, is
4 this the communication that you received?

5 A It is.

6 Q And was this information that you got about the
7 weight of your particular load?

8 A Yes.

9 Q And did she request additional money from you in
10 order to receive delivery of your move?

11 A Yes.

12 Q How did the weight compare with the amount that
13 you had gotten through the Weights and Measures Department?

14 A It's more.

15 Q And was there any explanation at that time for why
16 the move weighed more than the figure that Weights and
17 Measures had given you?

18 A No.

19 Q Okay. And is the weight substantially less than
20 the figure that Wayne Allen had quoted a fee for?

21 A Yes.

22 Q Did he indicate that your weight would be quoted
23 at 4,400 pounds?

24 A He said it would be substantially less.

25 Q Okay. However, the quote you received was for
26 4,400 pounds at the outside?

27 A Yes, the written quote was.

28 Q So were you, nevertheless, asked to pay more money

1 based on a weight of 2,980 pounds?

2 A Yes.

3 Q And how much additional money did you need to pay
4 in order to get delivery of your goods?

5 A Let me look here. Balance due was \$1,958.19.

6 Q And were you required to pay some money before
7 they would even start delivery of your goods?

8 A Yes. The explanation I was given is the initial
9 agreement was that I would pay half of the cost of the move
10 at the time of pickup. Since the cost of the move had
11 increased from the estimated amount, I had to make up that
12 difference of \$330 before they would schedule the move. And
13 they said just mail us a money order and then, once we have
14 the money order, we will contact you and schedule the
15 delivery.

16 Q Okay. Now, what did you say about having to give
17 another money order for this move?

18 A I acted upset on the phone. I said, We had an
19 agreement. I'll pay you when you deliver. Let's just go
20 ahead. They said, No, we have to have that money. So I
21 came up with a ruse to deliver it.

22 Q All right. Where did you arrange to deliver the
23 money?

24 A I arranged to deliver the money to Linda at their
25 office. And I told her I would bring cash. I told her that
26 I didn't know the San Jose area and, because I don't know
27 the San Jose area, my quote/unquote undercover
28 brother-in-law would be coming with me and driving because I

1 spend more time getting lost than getting there. And she
2 agreed to get the money.

3 Q The agreement was you were going to show up at
4 their office with the additional \$330 in cash?

5 A Yes.

6 Q And did you, in fact, go to the office with \$330
7 in cash?

8 A It ended up being \$320 not \$330. That was the
9 amount delivered.

10 Q Okay.

11 A You have the receipt there.

12 Q Yes. I'm going to refer you to the second page of
13 Exhibit 85. Is this your receipt for the cash that you
14 received on January 14th of 2010?

15 A It is. And it was amended to \$320.

16 Q All right. Can you tell us about that incident
17 where you went to the ASAP location?

18 A Yes. Myself and Investigator Glenn McGovern went
19 to their business on Ringwood. I had the cash with me. And
20 we arrived in the afternoon, got out of the car. And a
21 group of men were standing by the front of the business.
22 The best way to describe it is small warehouse complex.

23 Q I'm going to stop you for a second and ask you to
24 take a look at Exhibit 87. Is this a photograph -- can you
25 tell me whether that's a photograph of the business?

26 A Oh, yeah. That's it.

27 Q Okay. So is this 2295 Ringwood?

28 A It is.

1 Q And I'll show that to the grand jurors. So,
2 showing you Exhibit 87, is this a picture of the side of the
3 business?

4 A Yes.

5 Q And is this on the opposite side of Exhibit 87? A
6 picture of the front door?

7 A That is the front door.

8 Q Is that the front door that you saw some men
9 standing at?

10 A Yes. As we got out of the car, three men -- three
11 large men, one of whom I later learned was Roni -- blocked
12 the door -- it was pretty tenuous -- and asked why we were
13 there. And I said to him Linda is expecting me to deliver
14 some cash on a move. And, again, Mr. Hayon said she is at
15 lunch. And he was very short about it. I said, I'm here
16 with cash. Can somebody take the money? And, at that very
17 moment, Linda drives up in her Honda and Hayon says she's
18 over there. And then they get out of our way. I meet Linda
19 just outside the door and then myself and Investigator
20 McGovern follow her into her office.

21 Q Okay. I'm going to show you Exhibit 3. Can you
22 tell me whether this is the Linda that you met?

23 A That is her.

24 Q Okay. And you mentioned, also, that you had
25 contacted the owner. I'm going to show you Exhibit 2. Is
26 this Roni Hayon?

27 A It is.

28 Q So he was one of the men at the front door when

1 you arrived?

2 A Yes.

3 Q And did you know -- did you have any idea why they
4 were barring your entry to the office?

5 A Given the business history, we understood from the
6 research prior to the undercover that they have had a lot of
7 angry customers come to their business. So it was my
8 presumption that they believed we were just another angry
9 customer.

10 Q Okay. So you mentioned that Linda, then, accepted
11 money from you inside the office?

12 A She did.

13 Q So you had occasion to go into her office?

14 A I did.

15 Q And did she write out this receipt for you?

16 A She did.

17 Q How did your fee come down from \$330 to \$320?

18 A I explained to her I didn't have any tens, that I
19 just did an ATM withdrawal. I had an empty wallet. I said
20 to her, This is it. I need to deliver. You need the cash.
21 And she agreed.

22 Q So she wrote out that receipt and gave it to you?

23 A Yes.

24 Q All right. What happened after you had paid the
25 additional cash?

26 A Took the receipt and we left.

27 Q Were you able to schedule delivery of your goods?

28 A Yes.

1 Q And where were the goods to be delivered to?

2 A For that delivery, we had a storage unit in the
3 city of Santa Clara.

4 Q And who arranged for the delivery with you?

5 A Linda.

6 Q And who met the delivery of goods to the storage
7 unit?

8 A I did.

9 Q Okay. I'm going to go back, before we talk about
10 the delivery, and go over some of the documents relating to
11 your initial contact with Wayne Allen. And so I am going to
12 show you the first page of Exhibit 83. I'll zoom in. Is
13 this the initial e-mail that you sent, asking for moving
14 assistance from ASAP?

15 A It is.

16 Q And, showing you the second page of Exhibit 83, is
17 this the e-mail response that you received from Wayne Allen?

18 A That is his response. Yes.

19 Q Okay. So this is when he initially quoted you
20 2,000 pounds minimum for a thousand dollars and seven
21 percent fuel charge and \$0.50 per pound thereafter?

22 A Correct.

23 Q Showing you the third page of Exhibit 83, is this
24 the confirmation that you received about your order from
25 Wayne Allen?

26 A I believe that was a follow-up e-mail. I hadn't
27 provided any information yet beyond what we've talked about.

28 Q Did you initially planned moving date of

1 December 22nd, 2009?

2 A We did.

3 Q Was that date moved to a later date?

4 A It was moved to a later date. Yeah.

5 Q Showing you the fourth page of Exhibit 83, is this
6 the later e-mail about your furniture?

7 A Correct.

8 Q And attached to that e-mail was a long list of
9 items that you were planning to move?

10 A Yes.

11 Q Showing you Exhibit 83, Bates number ending in
12 3097, is this the estimate of what the move was going to
13 cost?

14 A It is.

15 Q And did he give you any explanation about what an
16 interstate non-binding estimate was?

17 A None.

18 Q Did you believe, based on what he quoted, that the
19 total cost was going to be no more than \$2,200?

20 A I did.

21 Q And did you make every effort possible to pin down
22 whether there would be any additional cost above that?

23 A If you look at the bottom of that form or the next
24 page -- there you go -- the column on my right on the
25 screen, that's the total services to include all the fees,
26 associated charges. That's the amount that I expected the
27 move to be based on his statements.

28 Q Okay. So this is based on that follow-up

1 conference call you and Lisa Glazzy did with Wayne Allen
2 where you gave all of the appliances and all possible
3 additional things that would be added?

4 A Yes.

5 Q All right. Showing you the page of Exhibit 83
6 ending in Bates number 3099, did you get this follow-up
7 e-mail from Wayne about giving proof of payment?

8 A Yes.

9 Q And did he direct that you get a receipt from the
10 driver?

11 A Yes, he did an e-mail.

12 Q Showing you Bates number ending in 3101, is this a
13 follow-up e-mail that you and Investigator Glazzy did with
14 Wayne Allen to pin down Wayne Allen on the additional fees?

15 A Yes. Myself and Investigator Glazzy.

16 Q All right. Was this one of the e-mails that Wayne
17 didn't respond to?

18 A Yes.

19 Q And that was the reason for the follow-up
20 telephone call?

21 A It was.

22 Q Did you eventually receive a list from Wayne of
23 fees for packaging if you went with packaging by ASAP?

24 A Yes. He did send that. His response to our
25 e-mail and phone conversation both.

26 Q That's the last page of Exhibit 83. Did you agree
27 to have any of the packaging done?

28 A We agreed to washer and dryer, television, and, I

1 believe, the mirror.

2 Q I'm showing you Exhibit 84. Is this document that
3 you received at the time of the pickup in Las Vegas?

4 A Yes. Investigator Glazzy gave it to me after they
5 had departed.

6 Q And had you known during the surveillance that
7 America's Best Movers was involved?

8 A Only, as we described before, as Wayne Allen
9 stated they were the same place. But not associated with
10 this pickup.

11 Q Had you ever seen paperwork, before the move date,
12 from America's Best Movers pertaining to the move?

13 A No.

14 Q And was any additional information given at that
15 time about the additional fees that would have to be paid?

16 A No.

17 Q Now, turning to the delivery day, you said you
18 were at the storage site in San Jose. Can you tell us how
19 many movers came to deliver the items to San Jose?

20 A Two.

21 Q And who were the two people that came to make the
22 delivery?

23 A I have to refresh for their names. There was a
24 driver or foreman named Augustin, and he was assisted by a
25 man by the name of Darin.

26 Q Okay. I'd like to show you Exhibit 16. Do you
27 recognize this person?

28 A That would be Darin.

1 Q So, during the course of the delivery, did you
2 discuss with Augustin and Darin the fact that you had to pay
3 additional money?

4 A Yes.

5 Q And did they request any additional money at that
6 point?

7 A They wanted additional money to unpack the TV.

8 Q At that point, did they also request a final
9 payment for the move?

10 A Oh, they did. Excuse me. I'm refreshing here.
11 Yes, they did.

12 Q What did they want to collect from you at that
13 point?

14 A I had two postal money orders totalling \$1,638.

15 Q And that was based on the information that had
16 been previously provided by Jasmin?

17 A Yes.

18 Q And so, on top of the postal money orders for
19 \$1,600 and some additional money, the movers requested some
20 additional sums?

21 A Yes.

22 Q And was that just an un-crating fee for the
23 television?

24 A There was an additional fee for un-crating the
25 television.

26 Q Did you agree to pay anything more?

27 A No.

28 Q And did you talk to the movers about the people

1 that were in charge of the company?

2 A I did. I expressed how angry we were, how the
3 fees changed, and asked why all the changes. I presented
4 myself just as an angry consumer who needed to get the load
5 delivered and move out and I was pretty upset about the
6 series of events that had occurred.

7 Q How did each of those men respond to you?

8 A When I presented my anger, they basically said I
9 don't know, no idea, no clue. They just said we need our
10 money. And I said, Well, how about copies of the documents
11 that you have? They had a stack of all the moving documents
12 and they wouldn't provide me any of those documents or any
13 copies either.

14 Q Did they offer any explanation as to why they
15 wouldn't give you copies?

16 A They said they didn't have any copies that Linda
17 didn't tell them that they needed any copies. I
18 specifically asked for the weight ticket. They said they
19 didn't have it. In my prior conversations, Linda said it
20 would be delivered -- the weight ticket would be provided at
21 delivery. It wasn't. They just said they couldn't give me
22 anything.

23 Q Okay. Did you talk to either Augustin or Darin
24 about who was in charge of the business?

25 A I did.

26 Q Who told you something about who was in charge?

27 A I am going to refresh. Let's see. Augustin. He
28 said that Roni owns the company, referring to Roni Hayon.

1 Augustin went on to describe Roni as having a big Hummer, a
2 Mercedes, a big ski boat, and that he is travelling all the
3 time, not there a lot.

4 Q Did he tell you anything about Linda?

5 A I am going to refresh. Just that she's a dispatch
6 and runs the office.

7 Q What did Darin tell you about anything?

8 A I kept asking for the weight ticket because of the
9 weight question. And they actually had it there and they
10 refused to give me a copy. And I questioned it because of
11 the increased amount. And Darin said, Oh, I was with the
12 owner when we drove the truck and weighed it. That is what
13 it is.

14 Q So he verified that it was an accurate weight?

15 A He did.

16 Q Now, how much time did you spend with the two
17 movers?

18 A I have to refresh. About an hour and a half.

19 Q Was that the time it took to unload the truck?

20 A It was.

21 Q After they unloaded the truck, did they drive
22 away?

23 A They did.

24 Q You didn't disclose at all that this was an
25 undercover investigation?

26 A No.

27 Q So your investigation was still continuing at that
28 point; correct?

1 A Yes, it was.

2 Q And, after the move had been completed, did you
3 follow up to check what the weight was for the items that
4 had been moved into storage?

5 A Yes. I scheduled for the folks from Department of
6 Weights and Measures to come out and re-weigh and inventory
7 all of the items.

8 Q Was there any change in the weight?

9 A There was. Small amount.

10 Q Small amount?

11 A A couple pounds. I have to look for that. Just a
12 moment. There was a change of approximately 12 and a half
13 pounds.

14 Q And did it equal 2,980 pounds as Jasmin had
15 indicated to you?

16 A No.

17 Q What was the final weight?

18 A Reweigh-in total is 2,695.05 pounds.

19 Q Did you ever follow up with the business about the
20 weight?

21 A No.

22 Q Did you have any further contact about this move
23 with anybody at the office in your undercover capacity?

24 A I have to refresh. I don't think so.

25 Q Okay. I'd like to show you Exhibit 86, which has
26 a Bates number beginning with ASAP3-SW-4-WFB-027897. Do you
27 recognize that Bates number?

28 A Oh, Wells Fargo Bank. Yes.

1 Q Were you involved in receiving documents from
2 Wells Fargo Bank in response to a search warrant?

3 A I was. I was the affiant on the search warrant
4 for the records.

5 Q Did you obtain records pertaining to your move
6 transaction in the group of documents that was provided by
7 Wells Fargo Bank?

8 A Yes.

9 Q Can you review that and tell us whether your money
10 orders are included with those documents?

11 A I recognize the money order one, two. Yes, there
12 are two money orders here.

13 Q Okay.

14 A I must add there was a series of search warrants.
15 I was not the affiant on all of them.

16 Q Okay. Have you been involved in managing the
17 evidence and providing documents to David Ocampo for Bates
18 stamping?

19 A I have.

20 Q Has that included numerous boxes of bank records?

21 A Oh, yes.

22 Q All right. And I am going to show you a page of
23 Exhibit 86. And this ends in Bates number 24058. Is this
24 one of the money orders that you wrote?

25 A Yes.

26 Q And do you recognize her handwriting?

27 A I do.

28 Q And did you use your undercover name of Mark

1 Lewis?

2 A I did.

3 Q Is that for \$638?

4 A It is.

5 Q Do you know was that for the initial transaction
6 or after the move?

7 A That was presented to the movers when they
8 delivered the household goods in Santa Clara.

9 Q Okay. So this was at the time of delivery, and
10 you delivered this to the movers?

11 A Yes.

12 Q And, showing you the next page of Exhibit 86, is
13 this a second money order in your handwriting?

14 A Yes.

15 Q And is it for a thousand dollars?

16 A Yes.

17 Q Was this also delivered at the time of delivery?

18 A Yes.

19 Q And so you gave it to the movers?

20 A I did.

21 Q So just prior to these transactions would have
22 been your cash to Linda Reyna; correct?

23 A Yes.

24 Q So the \$330?

25 A Correct.

26 Q And I'd like you to take a look at the deposit
27 slips that are included with your money orders and confirm
28 that your money orders are there and also confirm whether or

1 not there's any cash deposited to the ASAP account between
2 January 13th and January 19th of 2010.

3 A This only lists checks. On January 13th, they
4 only list four checks.

5 Q How about after that time?

6 A January 14th, they list a single check.
7 January 15th, they list three checks. January 19th, they
8 list 13 checks.

9 Q All right. Among the checks that were listed in
10 that group includes your two money orders; correct?

11 A Yes.

12 Q And so, between the period of January 13th and
13 January 19th, there was no cash deposited into that account;
14 correct?

15 A None in these records.

16 Q I am going to move on to another topic. Is there
17 anybody that needs a break at this point?

18 Investigator Levy, did your investigation continue
19 on after the delivery in January of 2010?

20 A Yes.

21 Q Did it ultimately culminate with you obtaining a
22 search warrant for the Ringwood offices in January of 2011?

23 A It did.

24 Q And what was your role at the time of the search
25 warrant?

26 A On the day of the search warrant, I was the
27 finder. I am the person who inventoried the items seized.

28 Q Can you tell us a little bit more about what a

1 finder does during the course of a search warrant?

2 A Yes. During the search warrant, once the
3 residence or building is safe -- there are no threats to the
4 officers or anyone present -- each officer usually has a
5 job. And a finder's responsible for inventorying and
6 documenting all of the items seized. That includes where
7 the item came from, a description of the item. And then we
8 do a property report that lists the item.

9 In a case like this, files or documents might be
10 assigned a specific number based on where it was found. The
11 room number, the location in the room. And then it might
12 just be miscellaneous documents or it could be something
13 specific like a Dell computer tower or something like that.

14 But the finder is the person who identifies the
15 item, creates the inventory, and creates property report.
16 One copy is left for the person who owns the property
17 because we are required to leave a receipt. That's part of
18 our receipt. And then one copy of the same document we use
19 internally.

20 Q All right. Were you working with a team of many
21 investigators to conduct that search warrant at the Ringwood
22 address?

23 A I was.

24 Q And, during the course of that search warrant, did
25 you seize voluminous records from the business?

26 A Oh, yeah. A lot of records.

27 Q Did you also document the condition of the
28 business, have members of the team take pictures of

1 everything?

2 A On two occasions. We take pictures before we
3 search to establish what the place of business was like when
4 we arrived. And then, when we depart, we take a second set
5 of pictures so we establish the condition of the business as
6 we left.

7 Q And are people also tasked to interview the
8 various people present at the location?

9 A Yes. There were quite a few interviewers.

10 Q So there was a big operation taking place at the
11 time of that search warrant?

12 A My recollection is well over 12 investigators were
13 in there or more at any given time.

14 Q Approximately how long did it take to execute the
15 search warrant?

16 A Three, four hours. Four hours is my best
17 estimate.

18 Q And you know how many boxes of records and
19 computers that you brought back from that search?

20 A I don't recall the amount. I will say it was a
21 lot. A lot.

22 Q So would you describe it as voluminous?

23 A Yes. Yes.

24 Q Now, the process of seizing items, you said that
25 there's a record made of what the business looks like, where
26 things are located. Did someone have the job of making a
27 diagram of the business?

28 A Yes. One investigator is assigned that specific

1 task to draw a detailed diagram of the place being searched
2 and even more specific if it's a scenario where there's a
3 lot of records of this complexity.

4 MS. DONOHOE: I'm going to ask that we take a
5 five-minute break because I don't have these exhibits
6 numbered, and it will be faster if I number them now rather
7 than do it as I go along. If you could take a five-minute
8 break. I expect this testimony will probably complete by
9 4:15 today.

10 (Recess.)

11 Q (BY MS. DONOHOE) Looking at Exhibit 88, is this a
12 diagram that was made of the ASAP location on Ringwood?

13 A It is.

14 Q And so was this done in order to document where
15 items were seized from during the course of the search
16 warrant?

17 A It was.

18 Q And is it an accurate representation of the inside
19 of the Ringwood offices?

20 A It is.

21 Q When you went in the front door and paid your
22 money to Linda, can you tell us which area you went into?

23 A The three of us entered the front door and went
24 into her office which is room letter F as in Frank.

25 Q Okay. So this room to the right?

26 A Correct.

27 Q Okay. And, during the course of your search
28 warrant, did you identify any other offices that were linked

1 to specific people at that time?

2 A Yes. Room letter B as in boy was Roni Hayon's
3 office. Room letters C, D, and E appeared to be
4 workstations used by the sales staff. I don't have the
5 record in front of me, but my recollection is Mr. Allen
6 worked in room C as in Charles.

7 Q They also had an area that was called warehouse on
8 the diagram?

9 A Yes.

10 Q Can you tell us what was located there?

11 A The warehouse was household goods that were
12 pelletized and wrapped and put into what they called a vault
13 or locker -- approximately six feet by eight feet by six
14 feet cube is the best way to describe it -- stacked as many
15 as three high throughout the warehouse.

16 Q So that's where all the customer goods were
17 stored?

18 A And also stored there -- I think Mr. Hayon had
19 some of his personal property there too.

20 Q Do you recall the boat there?

21 A That was it. And there were personal items around
22 the boat.

23 Q Did the search focus on the warehouse at all?

24 A No. We documented what was there and that there
25 were no business records there. But, beyond that, we didn't
26 open those vaults.

27 Q Okay. Now, based on the diagram that was created,
28 did you subsequently create a list of the items that were

1 being seized?

2 A Yes.

3 Q I'd like to show you Exhibit 89, which, on the
4 first page, indicates return to search warrant. And I am
5 going to show you the second page of Exhibit 89. Is this an
6 example of the list that was created based on the items that
7 were seized?

8 A Yes, it is.

9 Q And this list, is it tied to the diagram that you
10 previously identified as Exhibit 88?

11 A Yes.

12 Q Can you explain the numbering system that was
13 used?

14 A Yes. As you look at the first line, you see
15 2-A-1. And it's the nature of just how things are done.
16 But the number one represents site number one. On that day,
17 the search warrant was site number one. "A" would be the
18 room A at that location. And two would be item two within
19 that room.

20 Q Okay. And so could item two be a group of
21 documents? Or, in this case, you indicate current client
22 moves.

23 A Well, and then the description to the right of
24 that number is quantity one envelope which means what we
25 found was put into a single envelope. Again, you see room
26 A. On the narrative, it says top wood desk current client
27 moves. What that would tell me is that those items in that
28 envelope were on top of a wood desk and, based on the names

1 and dates, were current client moves.

2 Q So everything is packaged. And is it labeled?

3 A It is.

4 Q Would the group of documents that were current
5 client moves be put into a box or envelope?

6 A Yes.

7 Q Would a label be put on the outside?

8 A Yes.

9 Q What is the goal of doing all this marking and
10 labelling?

11 A So that, for future reference, testimony, and
12 documentation, I can state that the items or the documents
13 in that envelope labeled item 2-A-1 came from the top of the
14 desk in room A.

15 Q Okay. And the numbering of the item also included
16 the process of Bates stamping the item for future use in
17 court?

18 A It did.

19 Q And does it become part of the prefix for the
20 Bates stamp?

21 A Yes.

22 Q And were you involved in regularly delivering
23 things to David Ocampo to make sure that they would be Bates
24 stamped?

25 A Yes.

26 Q And I'd like to show you a group of items based on
27 the list that you created. And you did many page lists;
28 correct?

1 A Yes.

2 Q And many different prefixes based on rooms?

3 A Yes.

4 Q Are you able to identify, based on a Bates stamp,
5 that the item comes from a certain area of the room?

6 A Slowly but yes.

7 Q Okay. For instance, I'm going to show you
8 Exhibit 82, which has previously been identified by Jean
9 Bates, and ask you, based on that Bates stamp of
10 ASAP3-SW-13-B-1, can you tie that to a location at the
11 Ringwood search warrant?

12 A Yes. That would be room B as in boy, item number
13 13. Did you want me to find the property report regarding
14 that?

15 Q Yes. Can you match it up?

16 A Yes. That would be property report -- the last
17 four digits of Bates stamp are 3833.

18 Q Can you tell us the description of the items,
19 where they were seized from that location?

20 A From room B, file cabinet on the west side of the
21 room, and the items were financial and business records.

22 Q Okay. All right. So I'm trying to determine that
23 you used this practice as a habit, essentially, to identify
24 the records.

25 A Yes.

26 Q So any document that I were to show you that was
27 from your Ringwood search warrant, you would be able to tie
28 it to something on your list; correct?

1 A Correct.

2 Q So I'd like to show you next Exhibit 90. And can
3 you tell us, based on this document, the Bates number,
4 whether this was from the Ringwood search warrant?

5 A Yes.

6 Q And do you know that because of the prefix that is
7 applied?

8 A ASAP3 search warrant. And then it came from room
9 B, item number eight.

10 Q Okay. And I'm going to show you Exhibit
11 Number 91. Are you able to identify this document based on
12 the Bates number?

13 A Yes.

14 Q And did that come from the Ringwood search
15 warrant?

16 A It did.

17 Q Was one of the things that you were doing while
18 you were at the location gathering any indicia related to
19 who was in control of the business?

20 A Oh, yes.

21 Q And this particular document that says billed to
22 Fast Moving Van Line, Roni Hayon, at Balentine Drive, would
23 this be the type of indicia that you would seek?

24 A Yes.

25 Q At that time, did you have any knowledge that Roni
26 Hayon had some sort of connection with Fast Moves?

27 A Not prior to the search warrant.

28 Q And did it take many months to go through the

1 records that were gathered in the course of the search
2 warrant?

3 A Yes.

4 Q So, when you were engaged in the undercover and
5 even subsequently when you did the search warrant, at that
6 time, did you have any knowledge that Roni Hayon had some
7 responsibility for Fast Moves?

8 A No.

9 Q I'm going to show you another document. This is
10 Exhibit Number 92. Can you tell from that Bates number
11 whether it was one of the items that were seized from
12 Ringwood?

13 A Yes.

14 Q And is it also something that was taken from room
15 B-1?

16 A Yes. Room B, item number 13.

17 Q And would this be also the type of business
18 records that you were interested in getting in the course of
19 the search warrant?

20 A Yes.

21 Q Does that letter make reference to Roni Hayon
22 having some relationship with ASAP Relocations, Fast Move,
23 and America's Best Movers?

24 A That letter lists three business names. ASAP
25 Relocations, Fast Move, and America's Best Movers.

26 Q Showing you Exhibit 93, which is entitled
27 employment application and has a Bates number of
28 SW-3-D-1064372. Can you identify that as coming from the

1 Ringwood search warrant?

2 A Yes. Room D, item number three.

3 Q And does that appear to be an employment
4 application for someone with the last name of Perez?

5 A Yes.

6 Q I'm going to show you a page in Exhibit Number 93
7 which has a Bates number 3-D-164378. Do you see that Bates
8 number?

9 A Okay. Yes.

10 Q Does that indicate that it's an employment
11 application for Fast Moving Van Lines, Inc.?

12 A Yes.

13 Q I'm going to show you another page of Exhibit 93.
14 This one ends in Bates number 64376. Does that appear to be
15 a certification and signature of employer signed by Linda
16 Reyna?

17 A Yes. The signature is similar to the receipt she
18 gave me.

19 Q Okay. I'll show you that receipt again. Does it
20 appear to be the same signature or a similar signature?

21 A Yes.

22 Q Now, at that time, did you know anything about
23 Linda Reyna having the role of employing people for Fast
24 Moving Van Lines?

25 A No.

26 Q Was it much later in your investigation that you
27 learned of the connection between Fast Moving Van Lines and
28 ASAP Relocations?

1 A Yes.

2 Q I'm going to show you Exhibit 58, which are
3 documents identified by witness Linda Litzenberg. And can
4 you tell us, based on the Bates number, whether that was
5 among the items you seized from Ringwood?

6 A It was.

7 Q And is that because it indicates 10-D-1 in the
8 prefix?

9 A That would have been from ASAP Relocations
10 business room D as in David, item number ten.

11 Q I'm going to show you Exhibit 59. And I'd like
12 you to take a look at a deposit slip and the money orders
13 that were deposited that has a Bates number of Chase-013754.
14 Is this among the group of documents that you got pursuant
15 to search warrant from Chase Bank?

16 A Yes.

17 Q And could you look at the last three pages of that
18 exhibit?

19 A Yes.

20 Q Does that appear to be a deposit slip for two
21 money orders by Linda Litzenberg by Fast Moving Van Lines?

22 A Yes.

23 Q And does it also list Roni Hayon's name on those
24 money orders?

25 A Yes.

26 Q Were you involved in getting records for Roni
27 Hayon's personal account from Chase Bank -- Washington
28 Mutual/Chase Bank?

1 A Yes. Myself and another investigator did multiple
2 search warrants over the last few months.

3 Q And did you, in fact, obtain account records for
4 Roni Hayon and Adii Karter from Chase Bank?

5 A I did.

6 Q And does that appear to be a part of those
7 records?

8 A Yes.

9 Q I'd like to show you Exhibit 94. Do you recognize
10 this as a photograph of 977 Sweet Avenue in San Jose?

11 A I do.

12 Q And is that a location that you associate with
13 Roni Hayon?

14 A Yes. That's on multiple personal records of
15 Mr. Hayon. 977 Sweet Avenue in San Jose.

16 MS. DONOHOE: All right. Thank you. I have no further
17 questions for today. Do the grand jurors have any
18 questions? Mr. Levy will be back. Okay.

19 The foreperson is going to admonish you and then
20 you are free to go.

21 (Witness admonished.)

22 MS. DONOHOE: We will see you back here at 9:15
23 tomorrow morning.

24 (Grand jurors admonished by the
25 foreperson.)

26 (Adjourned.)

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STATE OF CALIFORNIA)
) SS
COUNTY OF SANTA CLARA)

I, ASHLEY PARROTT, do hereby certify that foregoing is a full, true and correct transcript of the proceedings had in the within-entitled action on FEBRUARY 6, 2013.

That, I reported the same in stenotype being the qualified and acting official court reporter of the Superior Court of the State of California, in and for the County of Santa Clara, appointed to said court, and thereafter had the same transcribed into typewriting as herein appears.

I further certify that I have complied with CCP Section 237(a)(2), in that all personal juror identifying information has been redacted, if applicable.

Ashley Parrott, CSR No. 13157