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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
THE PEOPLE OF THE STATE OF CALIFORNIA,)
PLAINTIFF,)
VS.) CASE NO.
PHILLIP R. POWERS (01),) BA409225-01
NEIL D. CAMPBELL (02),) BA409225-02
DEFENDANTS.)

LOS ANGELES, CALIFORNIA MONDAY, 10/31/2014
11:10 A.M.
DEFENSE CLOSING ARGUMENT

UPON THE ABOVE DATE, THE DEFENDANTS, PHILLIP
R. POWERS AND NEIL D. CAMPBELL, BEING PRESENT IN COURT
AND REPRESENTED BY COUNSEL, JONATHAN MICHAELS,
ATTORNEY AT LAW; THE PEOPLE BEING REPRESENTED BY
ROBERT KNOWLES AND HILDA WEINTRAUB, DEPUTIES DISTRICT
ATTORNEY OF LOS ANGELES COUNTY; THE FOLLOWING
PROCEEDINGS WERE HELD.

DIANA VAN DYKE, OFFICIAL REPORTER,
CSR 10795, RPR

1 CASE NUMBER: BA409225-01, -02
2 CASE NAME: PEOPLE VS. PHILLIP R. POWERS,
3 NEIL D. CAMPBELL
4 LOS ANGELES, CA THURSDAY, 10/31/2014
5 DEPARTMENT 120 HON. CRAIG RICHMAN, JUDGE
6 APPEARANCES: (AS HERETOFORE NOTED.)
7 REPORTER: DIANA VAN DYKE, CSR 10795, RPR
8 TIME: A.M. SESSION
9

10 (INSIDE THE PRESENCE OF THE JURY:)
11

12 (OTHER MATTERS WERE REPORTED
13 BUT ARE NOT CONTAINED HEREIN.)
14

15 MR. MICHAELS: THANK YOU, SIR.

16 WELL, GOOD AFTERNOON, EVERYBODY. I WANT TO
17 START BY THANKING YOU FOR YOUR SERVICE HERE. THIS HAS
18 BEEN A LONG TRIAL. IT'S BEEN A LONG TIME FOR YOU.
19 IT'S CERTAINLY BEEN A LONG TIME FOR YOU GUYS. AND YOU
20 KNOW WHAT, THIS ISN'T YOUR DISPUTE. IT'S NOT FAIR
21 THAT WE HAVE TO TAKE EVERYONE'S TIME LIKE THIS, BUT
22 IT'S PART OF OUR SOCIETY. IT'S PART OF OUR CIVICS.
23 AND I JUST WANT TO SAY I APPRECIATE IT. THIS IS AN
24 EXTREMELY IMPORTANT CASE TO BOTH OF MY CLIENTS. THEY
25 APPRECIATE IT, AND I WILL RECOGNIZE THAT IT'S VERY
26 IMPORTANT TO US. THANK YOU FOR HELPING US WITH THIS
27 VERY IMPORTANT MATTER.

28 SO THIS MORNING WE HEARD A LOT FROM

1 MR. KNOWLES, AND THE ONE THING THAT STUCK OUT TO ME IS
2 ABOUT MR. KNOWLES'S CLOSING ARGUMENT IS THAT IT WAS
3 BASED ON THESE EMAILS WE HAVEN'T SEEN BEFORE.

4 HERE'S THE THING ABOUT ALL OF THESE EMAILS,
5 EVERY SINGLE ONE OF THEM IS MADE UP. EVERY SINGLE ONE
6 OF THEM IS FAKE. EVERY SINGLE ONE OF THEM HAS BEEN
7 MANUFACTURED BY DR. MICHELSON AND HIS TEAM OF PEOPLE.
8 AND THAT'S NOT JUST ME SAYING THAT. I'M GOING TO SHOW
9 YOU HOW THAT WORKS. SO WE HAVE TO ASK OURSELVES:
10 WHERE DID THESE EMAILS COME FROM?

11 WELL, WE KNOW FROM THE TRIAL THAT THEY CAME
12 FROM SCOTT COOPER, WHO HAS HAD THIS HARD DRIVE FOR THE
13 LAST FOUR YEARS. PRIOR TO THAT, THERE IS A CHAIN OF
14 EVENTS AND IT'S EXTREMELY IMPORTANT FOR US TO FOLLOW
15 WHAT'S CALLED A CHAIN OF CUSTODY. YOU GUYS HAVE SEEN
16 ENOUGH T.V. SHOWS TO HEAR THE PHRASE "CHAIN OF
17 CUSTODY" AND KNOW HOW IMPORTANT THAT IS, HOW IMPORTANT
18 IT IS WHEN YOU'RE DEALING WITH EVIDENCE TO ENSURE THE
19 EVIDENCE IS NOT TAMPERED WITH AND THAT EVERYBODY KNOWS
20 EXACTLY WHERE THE EVIDENCE IS AT ALL TIMES. THAT WAY
21 WE CAN MAKE SURE THAT THERE ARE NO PROBLEMS. NOTHING
22 IS FAKE, NOTHING IS PLANTED.

23 SO THE PROSECUTION TOOK IT UPON THEMSELVES
24 TO BRING EIGHT PEOPLE UP HERE FROM COSTA RICA. WHAT
25 DID THESE EIGHT PEOPLE TESTIFY TO AS IT RELATES TO THE
26 COMPUTERS?

27 WELL, THEY SAID THE COMPUTERS -- FOUR
28 COMPUTERS WERE SEIZED FROM MR. POWERS'S RESIDENCE ON

1 DECEMBER 16, 2008. THAT, WE KNOW. NOW, NOBODY HAS
2 IDENTIFIED ANY OF THOSE FOUR COMPUTERS AS BELONGING TO
3 MR. POWERS. ALL WE KNOW AT THIS POINT IN TIME, THERE
4 ARE FOUR COMPUTERS TAKEN FROM A HOME IN COSTA RICA.

5 THEN THE NEXT PERSON THAT TESTIFIED SAID
6 THAT ON MAY 11TH, 2009, SOME FIVE MONTHS LATER, THOSE
7 FOUR COMPUTERS, WHOEVER THEY BELONGED TO, WERE COPIED
8 ONTO A MASTER HARD DRIVE. YOU GUYS RECALL THAT. AND
9 THAT MASTER HARD DRIVE WAS PUT BACK IN THE EVIDENCE
10 LOCKER. THERE WAS TESTIMONY OF THAT. AND ON JANUARY
11 27TH, 2011, THE MASTER HARD DRIVE WAS COPIED TO
12 ANOTHER HARD DRIVE AND THAT HARD DRIVE, THE SECOND
13 ONE, WAS SENT TO THE UNITED STATES. WE KNOW THAT.

14 SO WE KNOW THERE WAS A SEIZURE OF FOUR
15 COMPUTERS, AND WE KNOW WHAT HAPPENED FROM MAY 11TH,
16 2009 FORWARD. BUT WHAT IS REMARKABLE IS THAT THERE IS
17 A FIVE-MONTH MISSING LINK. THERE IS A FIVE-MONTH
18 MISSING LINK FROM DECEMBER 16TH, 2008, ALL THE WAY UP
19 TO MAY 11TH, 2009. NOBODY HAS ANY IDEA WHERE THESE
20 COMPUTERS WERE.

21 WE HEARD TESTIMONY THAT THE COMPUTERS WERE
22 PUT IN A CAR. THE CAR DROVE OFF. THE NEXT CHAIN THAT
23 WE HAVE WAS ON MAY 11TH, 2009. NO ONE HAS ANY IDEA
24 WHERE THOSE COMPUTERS WERE FOR THAT FIVE-MONTH PERIOD
25 OF TIME. THESE GENTLEMEN BROUGHT HALF THE COUNTRY OF
26 COSTA RICA TO TESTIFY. THEY CERTAINLY HAD THE ABILITY
27 TO BRING THE PERSON FROM COSTA RICA TO COME UP HERE
28 AND SAY I BROUGHT -- THE COMPUTERS WERE BROUGHT IN ON

1 DECEMBER 16TH, 2008. I LOGGED THEM IN INTO OUR
2 EVIDENCE LOCKER. THAT'S WHERE THEY STAYED. THAT'S
3 WHAT OUR PROCEDURE IS. AND THEN SHOW AN EVIDENCE LOG,
4 LIKE WE'VE ALL SEEN BEFORE, AN EVIDENCE LOG ACTUALLY
5 DEMONSTRATING THAT IT WAS PUT AWAY PROPERLY AND
6 SECURE.

7 THEY HAVE NOBODY DURING THIS FIVE-MONTH
8 PERIOD OF TIME, AND WE KNOW THEY HAD THE ABILITY TO
9 GET THAT PEOPLE -- THAT PERSON OR THOSE PEOPLE.
10 MR. VILLASENOR WENT DOWN THERE THREE SEPARATE TIMES TO
11 COSTA RICA. YET, IT WAS SILENT AS TO WHAT HAPPENED
12 DURING THIS FIVE-MONTH PERIOD OF TIME.

13 THEY BROUGHT EVERY PERSON THAT EVEN SAW
14 THIS HARD DRIVE. I THINK THEY EVEN BROUGHT FEDEX GUY
15 UP HERE. SO YOU HAVE TO WONDER WHAT WAS GOING ON
16 DURING THAT PERIOD OF TIME. AND WHY IN THE WORLD
17 WOULD THE PROSECUTION WITH ALL OF THEIR RESOURCES NOT
18 JUMP ON THE OPPORTUNITY TO PROVE ME WRONG, TO PROVE
19 THAT THERE WAS IN FACT A PROPER CHAIN OF CUSTODY?

20 DID YOU GUYS SEE ANY PICTURES OF THESE
21 COMPUTERS? BECAUSE I DIDN'T. DID YOU GUYS SEE ANY
22 PICTURES OF THE CHAIN OF CUSTODY DOCUMENTS OR THE
23 PICTURES SHOWING THAT THEY'RE ACTUALLY STORED
24 SOMEWHERE? BECAUSE I DIDN'T. SO WHAT HAPPENS TO
25 THESE COMPUTERS?

26 WELL, IN 2011 THEY'RE SHIPPED -- EXCUSE ME,
27 THE HARD DRIVE IS SHIPPED TO THE UNITED STATES. AND
28 WHERE DOES IT GO? IT GOES TO A GENTLEMAN BY THE NAME

1 OF SCOTT COOPER. YOU REMEMBER HIM, HE'S THE COMPUTER
2 GUY ON THE STAND THAT WAS REALLY DIFFICULT TO PIN HIM
3 DOWN WITH ANYTHING. WHO IS SCOTT COOPER? MR. COOPER
4 IS DR. MICHELSON'S LONG-TIME FRIEND. THEY GO WATER
5 SKIING TOGETHER.

6 DR. MICHELSON PAID HIM OVER A HUNDRED
7 THOUSAND DOLLARS. THEY TALKED ON THE PHONE RIGHT
8 BEFORE MR. COOPER WENT ON THE STAND IN THE PRELIMINARY
9 HEARING IN THIS CASE. JUST THINK ABOUT THAT FOR A
10 SECOND. AND THIS HARD DRIVE THAT HAS ALL OF THESE
11 EMAILS SUPPOSEDLY HAS BEEN LIVING IN MR. COOPER'S
12 HOUSE, BUSINESS, BACK YARD, WHO KNOWS WHAT, FOR
13 THREE YEARS, FOUR YEARS.

14 THEY NEVER GAVE ME A COPY OF THE HARD
15 DRIVE. SEEMS LIKE THAT WOULD BE KIND OF IMPORTANT.
16 YOU KNOW WHAT ELSE THEY NEVER DID? AND THIS IS THE
17 PART THAT JUST -- IT'S JUST CRAZY, CRAZY, CRAZY.

18 YOU REMEMBER WE LOOKED AT EXHIBIT 159 AND I
19 ASKED MR. VILLASENOR AND I SAID NOW, WE HAVE MR. SCOTT
20 COOPER WHO IS TESTIFYING ABOUT THESE HARD DRIVES.
21 DOESN'T THE D.A. HAVE ITS OWN DEPARTMENT THAT DOES
22 THIS? SURE ENOUGH, THEY DID. THIS IS EXHIBIT 159.
23 THE HIGH TECHNOLOGY CRIME DIVISION PROVIDES TECHNICAL
24 SUPPORT AND FORENSIC SERVICES FOR THE D.A.'S EVER
25 GROWING NUMBER OF CASES INVOLVING COMPUTER AND OTHER
26 HIGH TECH DEVICES. THEY HAVE THEIR OWN DEPARTMENT.
27 THEY HAVE FLOORS OF PEOPLE WHO DO JUST THIS.

28 AND YOU KNOW WHAT THE THING ABOUT THESE

1 PEOPLE ARE? THEY'RE NOT ON DR. MICHELSON'S PAYROLL.
2 THEY DON'T GO WATER SKIING WITH DR. MICHELSON.
3 THEY'RE NEUTRAL. THEY'RE UNBIASED. AND IF THESE
4 PEOPLE HAD THE HARD DRIVE FOR THE LAST THREE YEARS OR
5 IF THESE PEOPLE FOUND THESE EMAILS SUPPOSEDLY ON THIS
6 HARD DRIVE, OKAY, MAYBE. BUT NONE OF THAT HAPPENED.
7 AND THEY HAD THE POWER TO MAKE ALL OF IT HAPPEN.

8 AS A MATTER OF FACT, THEY DIDN'T JUST HAVE
9 THE POWER, THEY HAD THE DUTY. WHEN YOU PROSECUTE, YOU
10 PROSECUTE IN THE NAME OF THE PEOPLE. THAT'S US. THEY
11 HAD THE RESPONSIBILITY TO GIVE THIS TO SOMEONE WHO WAS
12 NEUTRAL, UNBIASED AND SOMEONE THAT WE COULD TRUST.
13 BUT THERE IS ANOTHER REASON I'M TELLING YOU THESE
14 EMAILS ARE MANUFACTURED AND IT'S SIGNIFICANT.

15 WE HEARD TESTIMONY THAT WHEN MR. POWERS WAS
16 ARRESTED IN TEXAS, IT WAS A SURPRISE. HE WAS AT THE
17 AIRPORT TRAVELING FROM SOMEWHERE TO SOMEWHERE ELSE IN
18 TEXAS AND HE GETS ARRESTED. AND WHAT WAS ON HIM AT
19 THE TIME HE GOT ARRESTED? HIS COMPUTER. RIGHT, HIS
20 COMPUTER. DO YOU KNOW WHERE THAT COMPUTER IS TODAY?
21 IT'S TWO BLOCKS FROM HERE. IT'S RIGHT DOWN THE
22 STREET. IT'S SITTING IN SOMEONE'S OFFICE COLLECTING
23 DUST. DID THEY BRING THAT COMPUTER IN HERE TO SHOW
24 US? NO. WE KNOW THAT COMPUTER IS MR. POWERS'S. IT
25 WAS ON HIM. HE WAS SURPRISED WHEN HE GOT ARRESTED.
26 IT JUST HAPPENED TO BE ON HIP. WERE ANY OF THESE
27 EMAILS ON MR. POWERS'S COMPUTER? NO. NOT A SINGLE
28 EMAIL. NOT A SINGLE EMAIL.

1 HERE'S THE OTHER THING THAT'S REALLY
2 INTERESTING, AND YOU GUYS HAVE FOLLOWED THIS. BY
3 DEFINITION -- BY DEFINITION, AN EMAIL IS A
4 COMMUNICATION BETWEEN TWO DIFFERENT PEOPLE. RIGHT?
5 WE ALL UNDERSTAND THAT. SO YOU GUYS SEND AN EMAIL TO
6 EACH OTHER. GUESS WHAT, BY DEFINITION, YOU HAVE A
7 COPY OF IT AND SO DO YOU. RIGHT? TWO PEOPLE HAVE A
8 COPY OF AN EMAIL BECAUSE IT'S A COMMUNICATION BETWEEN
9 TWO PEOPLE.

10 SO YOU KNOW WHAT THEY COULD HAVE DONE? DO
11 YOU KNOW WHAT THE PEOPLE COULD HAVE DONE? THESE
12 EMAILS ARE SUPPOSEDLY BETWEEN MR. POWERS AND
13 MR. CAMPBELL. GUESS WHAT? THEY COULD HAVE GOTTEN
14 MR. CAMPBELL'S COMPUTER. HE LIVES RIGHT HERE IN DANA
15 POINT, BECAUSE THOSE EMAILS WOULD HAVE NECESSARILY
16 BEEN ON MR. CAMPBELL'S COMPUTER; RIGHT?

17 THEY WENT TO THE TROUBLE OF FLYING EIGHT
18 PEOPLE UP FROM COSTA RICA TO TALK ABOUT THIS ISSUE,
19 AND THEY COULDN'T TAKE A 55-MINUTE CAR RIDE DOWN TO
20 DANA POINT TO PICK UP HIS COMPUTER? THEY DIDN'T DO
21 THAT BECAUSE IT WOULDN'T SHOW THAT CORRESPONDING
22 EMAIL. THEY KNOW THAT. THERE WAS NEVER ANY MENTION
23 OF THAT. THEY DIDN'T DO IT. THEY DIDN'T BRING THAT
24 TO YOU, AND THERE IS A REASON FOR THAT.

25 DO YOU KNOW WHAT ELSE THEY COULD HAVE DONE?
26 THEY COULD HAVE GONE -- LET ME TAKE A STEP BACK. WHEN
27 YOU GUYS SEND AN EMAIL TO EACH OTHER, YOUR COMPUTERS
28 ARE TALKING TO EACH OTHER, BUT YOUR COMPUTERS AREN'T

1 THE ONLY PEOPLE INVOLVED. RIGHT? YOU SEND AN EMAIL
2 AND I'M SURE EVERYONE HERE HAS AN EMAIL ADDRESS OR A
3 SON OR DAUGHTER WHO HAS AN EMAIL ADDRESS. WHO IS YOUR
4 EMAIL ADDRESS WITH? IT'S GOING TO BE WITH AOL, OR
5 YAHOO, OR G MAIL OR IN THIS CASE.

6 MR. CAMPBELL'S EMAIL ADDRESS IS WITH
7 COX.NET. YOU SAW THAT IN THE SOME OF THE EMAILS.
8 RIGHT? YOU KNOW WHAT THEY COULD HAVE DONE? THEY
9 COULD HAVE GONE TO COX.NET OR AOL OR YAHOO OR ANY
10 OTHER PLACE WHERE THESE EMAILS SUPPOSEDLY EXIST. YOU
11 HAVE THE POWER OF THE SUBPOENA. YOU SAW THAT I HAVE
12 THE SUBPOENA DOCUMENTS. THEY HAVE THE POWER OF THE
13 SUBPOENA. IT'S REALLY SIMPLE. YOU WALK IN, YOU SERVE
14 COX OR YAHOO OR AOL WITH A SUBPOENA, AND THEY PRODUCE
15 EVERY SINGLE ONE OF THOSE EMAILS. RIGHT?

16 THAT DIDN'T HAPPEN.

17 ALL WE KNOW IS THAT THERE IS A FIVE-MONTH
18 MISSING LINK WHERE THEY HAD THE ABILITY TO EXPLAIN IT
19 AND THEY DIDN'T. THEY DID NOT BRING IN MR. CAMPBELL'S
20 COMPUTER TO SHOW THE NECESSARY RECIPIENT OF THE EMAIL,
21 THE OTHER SIDE OF THAT CONVERSATION. THEY SUBPOENAED
22 NO DOCUMENTS FROM ANY EMAIL PROVIDERS BECAUSE THEY
23 DON'T EXIST. AND WE KNOW HIS COMPUTER IS TWO BLOCKS
24 AWAY SITTING -- IT'S PROBABLY SITTING IN
25 MR. VILLASENOR'S OFFICE. I DON'T KNOW. BUT THAT
26 DIDN'T COME IN, AND NONE OF THOSE EMAILS WERE ON
27 THERE.

28 SO WHY IS THIS SIGNIFICANT? WELL, YOU

1 REMEMBER YESTERDAY WE WERE GOING THROUGH THOSE CLOSING
2 INSTRUCTIONS. YOU GOT A PACKET FROM THE JUDGE. IN
3 THERE IS A LOT OF INSTRUCTIONS. I KNOW. WELL, I TOOK
4 THE LIBERTY TO BLOW UP A COUPLE OF THESE INSTRUCTIONS.
5 YOU'RE GOING TO GET THESE BACK IN THE JURY ROOM. AND
6 THIS IS WHY THIS TOPIC IS SO INCREDIBLY IMPORTANT,
7 THESE EMAILS, BECAUSE NO ONE CAN DIRECTLY LINK THESE
8 TO MR. POWERS. THESE ARE WHAT THE JUDGE REFERRED TO
9 EARLIER AS CIRCUMSTANTIAL EVIDENCE. REMEMBER WE
10 TALKED ABOUT THAT IN THE VOIR DIRE, THE JURY
11 QUESTIONING AT THE BEGINNING THE TRIAL? AND THERE
12 WERE JURY INSTRUCTIONS ON IT.

13 WELL, THIS IS INSTRUCTION 224. AND THIS IS
14 SO SIGNIFICANT I WANT TO READ THIS TO YOU:

15 "IF YOU CAN DRAW TWO OR MORE
16 REASONABLE CONCLUSIONS FROM THE
17 CIRCUMSTANTIAL EVIDENCE AND ONE OF
18 THOSE REASONABLE CONCLUSIONS POINTS
19 TO INNOCENCE AND ANOTHER TO GUILT,
20 YOU MUST -- MUST ACCEPT ONE THAT
21 POINTS TO INNOCENCE."

22 SO LET'S THINK ABOUT THESE EMAILS. WE HAVE
23 A COUPLE OF DIFFERENT CONCLUSIONS WE CAN DRAW. ONE
24 CONCLUSION YOU CAN DRAW IS THAT THEY'RE MR. POWERS'S.
25 I DON'T BUY THAT FOR A SECOND.

26 ANOTHER REASONABLE CONCLUSION YOU CAN DRAW
27 IS THAT, GIVEN THIS FIVE-MONTH BREAK IN THIS CHAIN,
28 THE LACK OF MR. CAMPBELL'S COMPUTER, THE LACK OF A

1 THIRD-PARTY NEUTRAL -- THE INTENTIONAL LACK OF A
2 THIRD-PARTY NEUTRAL, THE LACK OF A SUBPOENA TO ANY OF
3 THESE EMAIL PROVIDERS, IT'S A REASONABLE CONCLUSION
4 THAT THOSE EMAILS ARE MANUFACTURED BY DR. MICHELSON
5 WHO WE KNOW HAS AN ENORMOUS VENGEANCE FOR THESE TWO
6 PEOPLE AND ENORMOUS RESOURCES AND PLACED ON HIS
7 COMPUTER. THAT'S A REASONABLE CONCLUSION. BOTH OF
8 THOSE CONCLUSIONS ARE ONES YOU COULD REACH. WE ALL
9 UNDERSTAND THAT.

10 THIS INSTRUCTION, THIS IS THE LAW IN
11 CALIFORNIA, MEANS YOU MUST ACCEPT THE ONE THAT POINTS
12 TO INNOCENCE. YOU MUST BELIEVE THAT THEY'RE INNOCENT
13 BASED ON THESE TWO REASONABLE CONCLUSIONS.

14 SO INVITING YOUR ATTENTION NOW TO SOME OF
15 THE ITEMS THAT WERE ACTUALLY DISCUSSED DURING THE
16 TRIAL -- I DON'T KNOW ABOUT YOU GUYS, BUT I WAS FAIRLY
17 DISTURBED BY THE BOUNCING BALL WHEN IT CAME TO HOW
18 MUCH DID DR. MICHELSON INVEST IN THESE TEAK
19 PROPERTIES? THERE WAS SO MUCH DIFFERING TESTIMONY ON
20 THIS POINT.

21 YOU RECALL THAT DAVID COHEN, WHO IS
22 DR. MICHELSON'S TRUSTED ADVISOR, HE TESTIFIED UNDER
23 OATH IN FRONT OF US THAT THE AMOUNT WAS \$20 MILLION.
24 YOU GUYS REMEMBER THAT? DR. MICHELSON, WAY BACK IN
25 2008, HE SIGNED THIS -- THIS IS EXHIBIT 138 -- UNDER
26 PENALTY OF PERJURY, UNDER OATH THAT THE INVESTMENT WAS
27 \$25 MILLION. OKAY.

28 THEN IN 2011, DR. MICHELSON SIGNED YET

1 ANOTHER DECLARATION, THIS ONE ALSO UNDER PENALTY OF
2 PERJURY. THIS ONE WAS THE INVESTMENT WAS \$32 MILLION.
3 WHEN I HAD HIM ON THE STAND, I ASKED HIM ON CROSS-
4 EXAMINATION "HOW MUCH DID YOU INVEST?" WE HEARD A
5 DIFFERENT NUMBER: \$36 MILLION.

6 THEN MR. KNOWLES, IN HIS OPENING STATEMENT,
7 HE SAID THE INVESTMENT WAS \$42 MILLION.

8 SO I WAS SO BOTHERED BY THAT, I WANTED TO
9 GET TO THE TRUTH OF IT. I WANTED TO FIND OUT: HOW
10 MUCH MONEY DID THIS PERSON -- IT'S NOT MY
11 RESPONSIBILITY TO DO THIS, MIND YOU. I WANTED TO FIND
12 OUT: HOW MUCH MONEY DID THIS PERSON SEND DOWN FOR
13 THESE PROPERTIES? DO YOU KNOW WHAT I DID? I ISSUED A
14 SUBPOENA FOR HIS BANK RECORDS. YOU GUYS WILL REMEMBER
15 YESTERDAY WE HAD THE COMERICA PERSON COME IN. WHAT DID
16 SHE SAY? BECAUSE DR. MICHELSON WAITED SO LONG TO
17 BRING THIS CASE, EVERYTHING HAS BEEN DESTROYED.

18 AND YOU HAVE TO ASK YOURSELVES: WHY IN THE
19 WORLD WOULD DR. MICHELSON NOT SIMPLY PROVIDE HIS BANK
20 STATEMENTS THAT HE'S HAD ALL ALONG? I MEAN, WITH A
21 GUY WITH THAT MUCH MONEY, YOU DON'T THINK HE HAS ROOMS
22 FULL OF BANK STATEMENTS? HE WOULD HAVE CALLED UP HIS
23 ADVISOR AND SAID, HEY, I NEED THE BANK STATEMENTS FOR
24 2000 TO 2006. HE DID NONE OF THAT. INSTEAD, HE
25 PROVIDED CONTRADICTORY TESTIMONY UNDER OATH OF
26 DIFFERENT AMOUNTS THAT WERE INVESTED.

27 AND YOU HAVE TO WONDER ABOUT -- ABOUT
28 DR. MICHELSON'S CHARACTER. I TOLD YOU THOSE EMAILS

1 ARE MANUFACTURED. NOW, THERE WAS SOMETHING THAT
2 HAPPENED IN THIS TRIAL AND YOU MAY NOT HAVE NOTICED
3 IT, BUT I'D LIKE TO HIGHLIGHT IT. DO YOU RECALL --
4 THIS IS THE WITNESS STAND, AND DR. MICHELSON WAS UP
5 HERE FOR SEVERAL DAYS? DO YOU REMEMBER THESE TWO
6 NOTEBOOKS? THESE NOTEBOOKS HAVE BEEN HERE THE ENTIRE
7 TIME; RIGHT? DO YOU RECALL THAT ONE OF THE QUESTIONS
8 I ASKED DR. MICHELSON WAS: DID YOU TAKE THIS NOTEBOOK
9 OF EVIDENCE OUTSIDE OF THIS COURTROOM? DID YOU
10 ACTUALLY TAKE THIS BINDER? LOOK AT THIS STUFF.
11 YOU'RE GOING TO GET THIS STUFF BACK IN THE JURY ROOM.
12 THESE ARE -- THIS IS THE OFFICIAL EVIDENCE, GUYS.

13 I SAID, DID YOU ACTUALLY TAKE THIS OUT OF
14 THIS BUILDING? AND DO YOU REMEMBER WHAT HE DID? HE
15 LAUGHED. HE LAUGHED AND SAID, YEAH I TOOK IT. HE
16 TOOK IT HOME FOR FIVE DAYS. YOU KNOW, I'VE BEEN DOING
17 THIS FOR 20 YEARS. I HAVE NEVER, EVER SEEN A WITNESS
18 PICK UP AN EVIDENCE -- A BINDER OF EVIDENCE AND REMOVE
19 IT FROM THE COURTROOM. I HAVE NEVER SEEN THAT HAPPEN.
20 AND MAKE NO MISTAKE ABOUT THIS. THIS IS NOT
21 DR. MICHELSON'S FIRST RODEO. THIS GUY SUES EVERYBODY.
22 HE'S PROFESSIONAL WITNESS. SO HE WASN'T JUST
23 MANUFACTURING EVIDENCE OF EMAILS IN COSTA RICA. HE'S
24 DOING IT RIGHT IN FRONT OF US WITH THE BINDER OF
25 EVIDENCE.

26 DID MR. KNOWLES GET UP HERE AND SAY
27 DR. MICHELSON, GEEZ, WAS THAT AN ACCIDENT? WHAT WERE
28 YOU THINKING? WAS THERE SOME INNOCENT EXCUSE FOR

1 THAT? NO HE DIDN'T. THAT SPEAKS VOLUMES. THAT
2 SPEAKS VOLUMES.

3 GETTING BACK TO THE AMOUNT OF THE
4 INVESTMENT, WE HAVE NO IDEA. WE HAVE NO IDEA. THE
5 AMOUNT OF THE INVESTMENT IS THE BASIS OF WHAT THEY'RE
6 CALLING A CRIME. WE CAN'T GET A STARTING POINT WITH
7 THESE GUYS, AT LEAST NOT A CONSISTENT ONE. EVERY TIME
8 YOU WRITE IT DOWN IT CHANGES ON US. SO IRRESPECTIVE
9 OF HOW MUCH WAS INVESTED, WHAT DID HE GET?

10 NOW, MR. KNOWLES MADE THE SUGGESTION THAT
11 THIS WAS WORTHLESS LAND, SELLING JUNK LAND AND TRY TO
12 RIP HIM OFF AND GET HIS MONEY. REALLY? REALLY?
13 WELL, GUESS WHAT? IN 2008, LONG BEFORE ANYBODY HAD AN
14 INCENTIVE TO LIE, OKAY, DR. MICHELSON'S OWN GUY,
15 ANDRES MARTEN -- YOU RECALL HE'S THE GENTLEMAN WHO
16 CAME HERE FROM COSTA RICA -- ON MAY 15TH, 2008, HE
17 PREPARED THIS VALUATION OF THE C & M PROPERTIES THAT
18 MR. POWERS HAD PUT TOGETHER FOR DR. MICHELSON. IN
19 THIS EXHIBIT 120 ON THE LAST PAGE, LOOK AT THE VALUE
20 OF THIS STUFF, THE VALUE OF THIS SUPPOSEDLY JUNK LAND.
21 BY DR. MICHELSON'S OWN GUY, HE SAYS IT'S WORTH \$41
22 MILLION ON THE LOW END TO A HIGH OF \$71 MILLION.
23 THAT'S WHAT HE GOT. NOT A BAD INVESTMENT.

24 MR. MARTEN LATER REVISED HIS NUMBER IN JUNE
25 2009 THE LOW IT'S NOT 41 MILLION ANYMORE. I'M
26 ACTUALLY INCREASING IT TO 50 MILLION. 50 MILLION TO
27 70 MILLION DOLLARS. WHO WOULDN'T LIKE TO HAVE THAT?

28 AS A MATTER OF FACT, MR. COHEN, YOU RECALL

1 THAT I FIRST ASKED HIM IF HE WAS ONE OF THE LARGEST IF
2 DR. MICHELSON WAS ONE OF THE LARGEST TEAK PLANTATION
3 OWNERS OF THE WORLD HE SAID NO. NO. NO HE'S NOT
4 THAT. THEN I IMPEACHED HIM -- THAT'S WHAT WE CALL
5 IT -- WITH THIS ARTICLE THAT WAS PUBLISHED. HE DIDN'T
6 KNOW I HAD THIS. IT WAS PUBLISHED IN 2011. WHERE
7 MR. COHEN SAID, "WE ALSO HAVE A MEANINGFUL TIMBER
8 INVESTMENT IN CENTRAL AMERICAN HARD WOODS. THIS
9 INCLUDES BUILDING ONE OF THE WORLD'S LARGEST TEAK
10 PLANTATIONS WHICH WILL BE AN EXCELLENT INVESTMENT."

11 AN EXCELLENT INVESTMENT. THAT'S WHAT
12 MR. POWERS DID FOR DR. MICHELSON PROVIDED HIM WITH
13 THIS EXCELLENT INVESTMENT. IT WAS SO EXCELLENT THAT
14 DR. MICHELSON SOLD IT AND RECEIVED \$32 MILLION. 32
15 MILLION BUCKS. NOT BAD. AND HE ALSO HAS 5,400 ACRES
16 STILL IN HIS POSSESSION. IT'S LIKE THE SIZE OF LOS
17 ANGELES THAT HE STILL OWNS, TO BOOT.

18 NOW, DR. MICHELSON LIED ABOUT THIS AS WELL.
19 HE SAID, NO. NO. I HAVE LESS THAN 2,000 ACRES,
20 I ALMOST SOLD THE WHOLE THING. MR. MARTEN
21 CONTRADICTED HIS BOSS AND TOLD US HE HAS 5,400 ACRES.

22 SO THE QUESTION BECOMES WHAT WAS THE DEAL?
23 WHAT WAS THE DEAL THAT THESE PARTIES HAD? SO THE
24 ONLY -- THE ONLY AGREEMENT THAT YOU'RE GOING TO SEE
25 THAT ADDRESSES WHAT THEIR RELATIONSHIP WAS AND THE
26 COMPENSATION IS THIS EXHIBIT 112. THIS IS THE
27 PROFESSIONAL SERVICES AGREEMENT. YOU RECALL WE LOOKED
28 AT THIS A LOT DURING THIS TRIAL. ON PAGE 2,

1 INDEPENDENT CONTRACTOR RELATIONSHIP:

2 "IN THE PERFORMANCE OF THE
3 SERVICES HERE UNDER CONSULTANT" --
4 MR. POWERS -- "SHALL BE AN
5 INDEPENDENT CONTRACTOR AND NOT AN
6 EMPLOYEE OF COMPANY WITH THE SOLE
7 AUTHORITY TO CONTROL AND DIRECT THE
8 PERFORMANCE OF THE DETAILS OF THE
9 WORK, COMPANY BEING INTERESTED ONLY
10 IN THE RESULTS OBTAINED."

11 THERE WAS NO FIDUCIARY DUTY BETWEEN
12 MR. POWERS AND DR. MICHELSON OR C & M. HE WAS AN
13 INDEPENDENT CONTRACTOR.

14 NOW, DR. MICHELSON IS FIXATED ON THIS 6
15 PERCENT IDEA. IT DOES NOT EXIST. IT DOES NOT EXIST
16 ANYWHERE. THE ONLY PAGE THAT ADDRESSES COMPENSATION
17 IS THIS EXHIBIT A OF THE PROFESSIONAL SERVICES
18 AGREEMENT. I REALLY WANT YOU GUYS TO READ THIS.
19 OKAY. THERE IS A WHOLE SECTION ON COMPENSATION.
20 THERE IS NOTHING ANYWHERE THAT TALKS ABOUT 6 PERCENT.
21 THIS IS A DETAILED AGREEMENT, SEVEN, EIGHT PAGES LONG,
22 WRITTEN BY A LAWYER. THERE IS NOTHING HERE ABOUT 6
23 PERCENT.

24 AND YOU REMEMBER WHEN I HAD HIM ON CROSS-
25 EXAMINATION, I SAID, "YOU NEVER SENT A LETTER TO
26 MR. POWERS MEMORIALIZING YOUR AGREEMENT TO THE 6
27 PERCENT? YOU NEVER DID THAT, DID YOU?" HE ADMITTED
28 HE DID NOT. BUT THEN HE SAID MR. POWERS SENT HIM A

1 DOCUMENT MEMORIALIZING IT, MEMORIALIZING THEIR
2 UNDERSTANDING THAT HE'S NOT ENTITLED TO GET MORE THAN
3 6 PERCENT. I SAID OH, REALLY? THAT DOCUMENT IS IN
4 THIS COURTROOM? HE SAID, YES, IT IS.

5 WE'VE NEVER SEEN THAT DOCUMENT. THAT
6 DOCUMENT IS NOT IN EVIDENCE. I'VE NOT SEEN IT. YOU
7 HAVEN'T SEEN IT, AND YOU'RE NOT GOING GO TO SEE IT
8 BECAUSE IT DOESN'T EXIST BECAUSE THE 6 PERCENT DEAL IS
9 A FANTASY. HE IS A WEALTHY GUY WHO IS IDIOSYNCRATIC
10 WITH HIS WAYS. HE HAD IT IN HIS MIND HE DIDN'T WANT
11 MR. POWERS TO MAKE MORE THAN 6 PERCENT, BUT HE KNEW
12 EXACTLY WHAT THE DEAL WAS.

13 NOW, LET ME BACK UP FOR A SECOND. THE
14 PEOPLE SAY THAT MR. POWERS WAS IMPROPERLY BUYING THE
15 LAND, MARKING IT UP AND SELLING IT TO DR. MICHELSON,
16 THAT WAS ALL A SCAM AND IT WAS ALL SECRET AND
17 DR. MICHELSON DIDN'T KNOW ABOUT IT. HE THOUGHT HE WAS
18 JUST GETTING A 6 PERCENT COMMISSION. 6 PERCENT
19 COMMISSION DOESN'T EXIST ANYWHERE.

20 BUT I THINK THIS IS ONE OF THE MOST
21 IMPORTANT DOCUMENTS OF THE CASE. THIS IS EXHIBIT 108.
22 THIS IS A LETTER FROM -- REMEMBER BILL CAPPS?
23 REMEMBER THAT NAME. HE IS DR. MICHELSON'S ATTORNEY
24 HERE IN LOS ANGELES. AND IN MAY 2005, MR. CAPPS SENDS
25 A LETTER DIRECTLY TO GARY MICHELSON. AND WHAT DOES IT
26 SAY?

27 THE DIFFERENCE BETWEEN THE PURCHASE PRICE
28 THAT THE COSTA RICAN COMPANY BUYS -- THE COSTA RICAN

1 COMPANY THEY'RE REFERRING TO IS RICHARD POWERS --

2 "THE DIFFERENCE BETWEEN THE
3 PURCHASE PRICE THAT THE COSTA RICAN
4 COMPANY PAYS FOR THE PROPERTY AND THE
5 PRICE THAT C & M PAYS TO THE OFF
6 SHORE COMPANY IS A PORTION OF
7 MR. POWERS COMPENSATION AND IS PAID
8 BY C & M TO THE OFF SHORE
9 CORPORATION."

10 SO HE KNOWS HIS LAWYER IS TELLING HIM IN
11 2005 MR. POWERS IS BUYING THE PROPERTY, INCREASING THE
12 VALUE AND RESELLING IT TO C & M. THAT WAS THE DEAL.
13 HIS OWN LAWYER TOLD IT TO HIM.

14 AND WE KNOW THAT DR. MICHELSON HAS GOT
15 LAWYERS IN EVERY CORNER OF THE WORLD. THIS IS AN
16 EMAIL FROM MR. CAPPS REGARDING A MEMO FOR MR. POWERS
17 DATED DECEMBER 2000. SO WE KNOW THAT MR. CAPPS WAS
18 INVOLVED BEGINNING IN 2000. THIS IS A FAX FROM GARY
19 MICHELSON'S LAWYERS IN COSTA RICA, THE MUÑOZ FIRM.
20 HE'S GOT LAWYERS IN LOS ANGELES AND LAWYERS IN COSTA
21 RICA. WERE THESE PASSIVE LAWYERS THERE JUST TO DRAFT
22 DOCUMENTS? NO WAY.

23 APRIL 2, 2003 LETTER FROM BILL CAPPS TO
24 GARY MICHELSON:

25 "MY GOAL IS TO TRY TO ASSURE AS
26 BEST AS POSSIBLE WHEN THE TIME COMES
27 TO REALIZE YOUR INVESTMENT, THAT WE
28 DON'T FIND TOO MANY NASTY SPLICES."

1 DO YOU THINK FOR A SECOND THAT DR. MICHELSON
2 IS GOING TO ENTER INTO AN AGREEMENT THAT DOESN'T
3 COMPORT TO WHAT THE ACTUAL DEAL IS, WITH A BATTERY OF
4 LAWYERS? THERE IS NO CHANCE.

5 NOW, WE NEED TO THINK IN TERMS OF
6 SPECIFICS. IT'S CRITICAL THAT WE THINK IN TERMS OF
7 SPECIFICS. THERE ARE SPECIFIC COUNTS AGAINST BOTH OF
8 MY CLIENTS. AND IT'S NOT ENOUGH TO SAY, WELL, YOU
9 KNOW, WE KIND OF THINK THAT MAYBE SOME STUFF HAPPENED.
10 THAT DOESN'T CUT IT, SO WE NEED TO LOOK AT THE ACTUAL
11 COUNTS. WE'VE LOOKED AT THIS DOCUMENT A LOT DURING
12 THE TRIAL. THIS IS COUNT NO. 1, AND THE CHARGE IS
13 THAT MONEY IN THE AMOUNT OF \$6,000, THE PROPERTY OF
14 GARY MICHELSON WHICH WAS TO BE USED FOR THE PURCHASE
15 OF APPROXIMATELY FOUR ACRES IDENTIFIED IN THE NATIONAL
16 LAND REGISTRY OF THAT COUNTRY -- COUNTY AS 5-27344.
17 THAT'S IT, THAT'S THE CHARGE.

18 THE QUESTION BECOMES: WHAT HAVE THE PEOPLE
19 DEMONSTRATED TO YOU BEYOND A REASONABLE DOUBT THAT WAS
20 TAKEN, THAT WAS STOLEN? WHAT'S THE THEFT? WHAT IS
21 THE THEFT?

22 LET'S JUST BREAK THIS DOWN. LET'S SAY THAT
23 \$6,000 WAS ACTUALLY SENT. WE DON'T EVEN KNOW THAT. I
24 CAN'T SUBPOENA BANK RECORDS, DR. MICHELSON DOESN'T
25 BRING THEM. HE LIES UNDER OATH HOW MUCH HE SENT DOWN.
26 LET'S SAY \$6,000 WAS ACTUALLY SENT. ALL WE KNOW IS
27 THAT DR. MICHELSON ACTUALLY RECEIVED THIS PROPERTY.
28 HE SENT \$6,000 DOWN AND GOT PROPERTY, AND THE PROPERTY

1 WAS VERY VALUABLE.

2 SO I ASKED HIM, WHAT'S THE THEFT? WHAT'S
3 THE THEFT? I ASKED HIM ON CROSS-EXAMINATION, AND I
4 WROTE THIS DOWN "I CAN'T TELL YOU THE SUM. I DON'T
5 HAVE ANY IDEA."

6 SO WE HAD JOSE SOLTERO. YOU RECALL HE WAS
7 THE DISTRICT ATTORNEY'S FORENSIC GUY. I THOUGHT HE
8 WAS GOING TO TELL US WHAT THE THEFT WAS. HE DIDN'T
9 TELL US ANYTHING. THERE IS NOT EVEN A SUGGESTION,
10 MUCH LESS EVIDENCE, THAT ANY OF THAT \$6,000 WAS USED
11 FOR ANYTHING OTHER THAN BUYING THE PROPERTY THAT
12 DR. MICHELSON ACTUALLY RECEIVED. HIS WORDS, "CAN'T
13 TELL YOU THE SUM."

14 NOW COUNT 2 IS KIND OF INTERESTING BECAUSE
15 I THINK I EMBARRASSED HIM ON COUNT 1 BECAUSE I ASKED
16 HIM THE SAME QUESTION AS IT RELATES TO COUNT 2, AND
17 YOU RECALL HE BLURTED OUT, MORE THAN A MILLION AND A
18 HALF DOLLARS. HE JUST PULLED THAT NUMBER OUT OF THIN
19 AIR. WE ALL KNOW THAT.

20 IN COUNT 3, SAME RESPONSE: "I DON'T HAVE
21 PERSONAL KNOWLEDGE." OF COURSE HE DOESN'T HAVE
22 PERSONAL KNOWLEDGE. NOBODY DOES BECAUSE THERE IS NO
23 THEFT. MR. KNOWLES DOESN'T HAVE PERSONAL KNOWLEDGE.
24 DR. MICHELSON DOESN'T HAVE PERSONAL KNOWLEDGE, THEIR
25 FORENSIC ACCOUNTANT DOESN'T HAVE PERSONAL KNOWLEDGE.
26 \$759,600 DOLLARS IF IT WAS EVEN SENT, BUT
27 DR. MICHELSON TESTIFIED HE RECEIVED THE PROPERTY.
28 IT'S NOT A THEFT. IT'S A PURCHASE.

1 | COUNT 4, IT'S SAME SITUATION.

2 "I PERSONALLY DON'T KNOW". THESE ARE QUOTES FROM HIM.
3 DO YOU RECALL WHEN I WROTE THIS?

4 COUNT 5, SAME ANSWER, "I DON'T KNOW."

5 SO IT'S IMPORTANT TO LOOK AT SPECIFICS AND
6 ASK YOURSELF WHAT SPECIFICALLY HAS THE PROSECUTION
7 PROVEN TO YOU BEYOND A REASONABLE DOUBT THAT WAS
8 STOLEN. ALL WE KNOW IS THAT DR. MICHELSON MADE A LOT
9 OF MONEY. IT'S STILL 5,400 ACRES. OH, MY GOSH.
10 WOULDN'T YOU GUYS LIKE TO HAVE THAT? HOW ABOUT WE
11 TAKE THAT AND SPLIT IT AMONGST THE JURY?

12 SO THERE WAS A STATEMENT THAT DR. MICHELSON
13 MADE ON THE STAND THAT I NEED TO ADDRESS. DO YOU
14 RECALL THAT HE TESTIFIED THAT NEIL CAMPBELL HAD THIS
15 EPIPHANY THAT HE MADE A CONFESSION, OH, I'M SORRY
16 I STOLE ALL YOUR MONEY. DO YOU GUYS RECALL THAT?
17 WELL, IT'S VERY CONVENIENT THAT THAT WAS NEVER WRITTEN
18 DOWN. IT'S VERY CONVENIENT THERE IS NOT A NOTATION.
19 IT WASN'T MEMORIALIZED IN A LETTER. THERE WAS NO
20 EMAIL THAT DR. MICHELSON SENT. THE LAWYERS DIDN'T
21 SEND HIM A LETTER.

22 THINK ABOUT IT. IF THAT WAS ACTUALLY TRUE,
23 DON'T YOU THINK HIS LAWYERS WOULD HAVE SENT A BATTERY
24 OF LETTERS. THE FACT THAT THERE IS NOTHING IN WRITING
25 IS IMPORTANT UNDER CALIFORNIA LAW. THIS IS ALSO IN
26 YOUR PACKET OF JURY INSTRUCTIONS. IT'S NUMBER 358.

27 "CONSIDER WITH CAUTION ANY
28 STATEMENT MADE BY A DEFENDANT

1 INTENDING TO SHOW HIS GUILT UNLESS
2 THE STATEMENT WAS WRITTEN OR
3 OTHERWISE RECORDED."

4 WE ALL KNOW THAT, WHAT THAT STATEMENT THAT
5 DR. MICHELSON MADE WAS.

6 NOW, MR. KNOWLES HAS REFERRED A LOT TO THE
7 PLANTABILITY OF THESE TEAK FARMS. THAT'S WHAT US
8 LAWYERS REFER TO AS A RED HERRING. THAT MEANS IT'S
9 TOTALLY UNIMPORTANT AND USELESS. OKAY? IT'S NOT
10 RELEVANT TO ANYTHING HERE. THE QUESTION IS: WAS
11 THERE A THEFT, WAS IT OUTSIDE THE STATUTE OF
12 LIMITATIONS?

13 THE WHOLE DISCUSSION -- AND THERE WERE
14 WITNESSES WHO TESTIFIED ABOUT THE PLANTABILITY. IT'S
15 JUST NOT IMPORTANT. THERE ARE TWO POINTS ON THIS.
16 FIRST, THE PARTNERSHIP AGREEMENT BETWEEN DR. MICHELSON
17 AND MR. CAMPBELL ACTUALLY INDICATES THAT THE MANAGER,
18 THE PERSON WHO IS CONTROLLING ALL OF THIS, IS KARLIN
19 HOLDINGS. THAT'S DR. MICHELSON. SO FOR HIM TO GET UP
20 THERE AND SAY, I HAD NO IDEA IT WAS UNPLANTABLE, DON'T
21 BELIEVE THAT FOR A SECOND.

22 AND THERE IS MORE. THIS IS EXHIBIT 114,
23 THESE ARE DR. MICHELSON'S OWN HANDWRITTEN NOTES. WHAT
24 DOES IT SAY? IN 2003:

25 "DEAR RICHARD, THANK YOU FOR
26 YOUR REPORT EARLIER THIS WEEK. I WAS
27 NOT PREVIOUSLY AWARE OF HOW MUCH
28 UNPLANTABLE AREA WE HAVE PURCHASED

1 AND HOW RELATIVELY LOW OUR NUMBER OF
2 TREES ARE PER ACRE."

3 I MEAN, IF IT WAS LOW, HE KNEW IT IN 2003.
4 AND YOU KNOW, IT JUST -- THAT REALLY SHOWS US HIS LACK
5 OF CREDIBILITY. TO PUT PEOPLE UP HERE TO SAY I HAD NO
6 IDEA IT WAS SO UNPLANTABLE, HE KNEW THAT IN 2003.
7 THAT'S HIS OWN WRITING.

8 SO DR. MICHELSON FINDS OUT THAT MR. POWERS
9 IS MAKING MORE MONEY THAN HE'D LIKE. THE RICHER YOU
10 GET THE GREEDIER YOU BECOME. SO WHAT DOES HE DO?
11 WELL, HE FIRST GOES DOWN TO COSTA RICA -- HE BEING
12 DR. MICHELSON -- AND HE GETS THE PROSECUTION IN COSTA
13 RICA TO FILE A CRIMINAL CASE AGAINST MR. POWERS. YOU
14 GUYS REMEMBER THAT IT WAS FILED IN 2007. AND HE GOES
15 DOWN THERE AND GIVES A STATEMENT TO THE PROSECUTOR
16 UNDER OATH. THE PROSECUTOR SITS THERE LOOKS AT THE
17 EVIDENCE, LOOKS AT THE STATEMENT AND SAYS WOW AND THEY
18 DISMISS THE CHARGES. THAT SPEAKS VOLUMES.

19 HE'S NOT HAPPY ABOUT THAT. YOU DON'T SAY
20 NO TO A BILLIONAIRE. WHAT DOES HE DO? THIS IS ONE OF
21 THE MOST INFLUENTIAL PEOPLE IN COSTA RICA. HE'S
22 PROBABLY THE LARGEST LAND OWNER IN THE ENTIRE COUNTRY.
23 HE GOES DOWN THERE AND SAYS, PERHAPS YOU DIDN'T
24 UNDERSTAND ME CORRECTLY. YOU'RE NOT ALLOWED TO
25 DISMISS THIS CASE, I WANT YOU TO REFILE IT. AND THEY
26 DO. COSTA RICA IS PERHAPS A LITTLE DIFFERENT HERE IN
27 THE UNITED STATES, AND THEY REFILE IT. AND THAT CASE
28 IS STILL PENDING NOW. TODAY. AND HE'S NOT DONE.

1 HE FILES A LAWSUIT IN 2007 AGAINST
2 MR. POWERS AND MR. CAMPBELL. AND EVEN AFTER HE FILES
3 THE LAWSUIT, HE'S NOT DONE. NOVEMBER 2008, HE FILES A
4 FIRST AMENDED COMPLAINT. THEN HE FILES A SECOND
5 AMENDED COMPLAINT. THEN IN DECEMBER 2010, HE FILES A
6 THIRD AMENDED COMPLAINT. SO HE'S GOT HIS SECOND CASE
7 PENDING IN COSTA RICA. HE'S FILED THE ORIGINAL
8 LAWSUIT AND THREE AMENDED LAWSUITS AGAINST THESE
9 PEOPLE HERE IN THE UNITED STATES.

10 AND AFTER HE CAN GET NO MORE SATISFACTION,
11 NO MORE SATISFACTION, HE BRINGS THE CASE TO HIS
12 FRIEND. HE BRINGS THIS CASE TO HIS FRIEND, STEVEN
13 COOLEY. STEVE COOLEY AT THE TIME THIS CASE WAS
14 BROUGHT HE WAS AN ELECTED OFFICIAL. HE HAS THE
15 RESPONSIBILITY TO LOOK OUT FOR OUR INTERESTS.

16 I'M SHOWING YOU EXHIBIT 126. THIS IS A
17 PICTURE OF DR. MICHELSON ACCOMPANYING HIS DEAR FRIEND
18 STEVE COOLEY AT A PRESS CONFERENCE. HOW MANY TIMES
19 HAVE YOU BEEN TO A PRESS CONFERENCE WITH OUR ELECTED
20 D.A.? HOW MANY TIMES HAVE YOU GUYS BEEN TO INVITED TO
21 GO TO LUNCH WITH OUR ELECTED DISTRICT ATTORNEY?

22 SO HE BRINGS THE CASE, AND THEY DO WHAT
23 FRIENDS IN HIGH PLACES DO, AT LEAST FRIENDS WHEN
24 YOU'RE A BILLIONAIRE. THEY MOVE FORWARD WITH THIS
25 CASE. DR. MICHELSON IS SMART. YOU DON'T GET TO BE A
26 BILLIONAIRE BY BEING DUMB. OKAY.

27 SO WHAT DOES HE DO? HE WAITS UNTIL HE
28 KNOWS THERE IS NO ABILITY FOR MR. POWERS OR

1 MR. CAMPBELL TO ACTUALLY GATHER CRITICAL BANK RECORDS
2 TO DEFEND THEMSELVES. YOU KNOW, A GUY AT THAT LEVEL
3 OF SOPHISTICATION, HE KNOWS THERE IS A FIVE-YEAR OR
4 SEVEN-YEAR RETENTION POLICY. OKAY. I'M NOT AS
5 SOPHISTICATED AS A BILLIONAIRE, AND I KNEW THAT. SO
6 HE WAITED UNTIL ALL THESE RECORDS WERE DESTROYED. AND
7 THEN HE THINKS, I GOT THEM. I'M GOING TO HAVE MY
8 FRIEND, MR. COOLEY PROSECUTE THESE GUYS.

9 YOU KNOW, YOU JUST HAVE TO REALLY ASK
10 YOURSELF -- THIS WHOLE TRIAL. WE'RE PAYING FOR THIS.
11 YOU GUYS ARE PAYING FOR IT. I'M PAYING FOR IT. THIS
12 IS -- THIS IS THE PEOPLE. HOW MUCH MONEY HAS BEEN
13 SPENT ON THIS CASE? WE'VE BEEN HERE FOR SEVERAL
14 WEEKS. THIS IS NOT AN INEXPENSIVE BUILDING. THIS IS
15 NOT AN INEXPENSIVE COURTROOM. WE'VE A COURT REPORTER
16 HERE. THEY SENT MR. VILLASENOR TO COSTA RICA THREE
17 TIMES. MS. WEINTRAUB, THEY SENT AN ATTORNEY TO COSTA
18 RICA. DO YOU HAVE ANY IDEA HOW MUCH THAT COSTS?

19 AND THEY BROUGHT SO MANY PEOPLE UP HERE FROM
20 COSTA RICA. LET'S COUNT. THERE WERE EIGHT PEOPLE
21 THAT CAME UP HERE WHO WERE PART OF THE COMPUTER ISSUE.
22 AND NOTABLY THEY DID NOT BRING THE PEOPLE THAT HAD THE
23 COMPUTER OR WHEREVER IT WAS FOR FIVE MONTHS. BUT THEY
24 BROUGHT EIGHT PEOPLE, ON OUR DIME, UP HERE. THEY WERE
25 HERE FOR THE BETTER PART OF A WEEK. WE KNOW SOME OF
26 THEM BROUGHT THEIR FAMILIES AND WERE GOING TO
27 DISNEYLAND. NO JOKE.

28 THEN THEY BROUGHT MR. MARTEN. AND CHECK

1 THIS OUT. THEY FLEW HIM UP HERE. THEY DIDN'T HAVE
2 TIME TO GET TO HIM LAST WEEK. AND SO WHAT'D THEY DO?
3 KEEP HIM HERE UNTIL MONDAY? NO. THEY FLEW HIM BACK
4 TO COSTA RICA FOR THE WEEKEND. LET'S GO TO COSTA RICA
5 FOR THE WEEKEND, THEN COME BACK. NOW HE'S GOING BACK
6 AGAIN AND THEY EVEN BROUGHT TWO PEOPLE TWO WITNESSES
7 THAT THEY DIDN'T EVEN USE. THEY FLEW 11 PEOPLE UP
8 HERE.

9 THINK ABOUT HOW MUCH THAT COSTS. MY GOD. I
10 AM INSULTED. SERIOUSLY. THAT'S JUST -- THAT'S JUST
11 INSANE. I MEAN THEY'RE SPENDING MONEY LIKE IT'S GOING
12 OUT OF STYLE. I'VE GOT TWO KIDS, A NINE-YEAR-OLD AND
13 FIVE-YEAR-OLD. I MEAN, I GET NOTICES THAT COME HOME
14 FROM SCHOOL, HEY, CAN YOU HELP US WITH \$20 SO WE COULD
15 BUY BOOKS FOR YOUR KIDS TO LEARN. AND WE'RE SENDING
16 PEOPLE BACK TO COSTA RICA FOR THE WEEKEND? SERIOUSLY?

17 NOW, THERE IS A WHOLE OTHER PART TO THIS
18 CASE. WE TALKED ABOUT WHO DR. MICHELSON IS. WE
19 TALKED ABOUT THE PERVERSION OF THE EVIDENCE IN THIS
20 CASE, INCLUDING OUR EVIDENCE -- YOUR EVIDENCE. WHEN
21 YOU'RE LOOKING AT THIS ASK YOURSELF. GOSH, I WONDER
22 WHAT'S DIFFERENT. WE DON'T KNOW.

23 WE TALKED ABOUT THERE BEING A LACK OF ANY
24 EVIDENCE THAT COULD SHOW YOU BEYOND A REASONABLE DOUBT
25 THAT THERE WAS AN ACTUAL THEFT. BUT THERE IS A WHOLE
26 OTHER ISSUE HERE WHICH IS CALLED THE STATUTE OF
27 LIMITATIONS, AND IT'S A BIG ONE. BECAUSE EVEN IF YOU
28 THINK THERE WAS MISCHIEF, THIS IS A BAR. WE WERE JUST

1 TALKING ABOUT WHAT I'LL CALL CHECK. THIS IS CHECK
2 MATE. THIS IS IN YOUR PACKET. STATUTE OF LIMITATION,
3 YOUR JURY INSTRUCTION, 3410. SUPER IMPORTANT.

4 "A DEFENDANT MAY NOT BE
5 CONVICTED OF GRAND THEFT UNLESS THE
6 PROSECUTION BEGAN WITHIN SEVEN YEARS"
7 -- SEVEN YEARS -- "OF THE DATE THE
8 CRIMES WERE COMMITTED, DISCOVERED, OR
9 SHOULD HAVE BEEN DISCOVERED."

10 SO THE CRIME IS COMMITTED, SEVEN YEARS
11 BETWEEN WHEN IT'S COMMITTED OR DISCOVERED. THIS
12 PROSECUTION BEGAN ON MARCH 31ST, 2013.

13 OKAY. SO INTERESTINGLY, WE ALREADY KNOW
14 ONE FACT. ACTUALLY, LET ME PUT THIS UP FIRST. SO I
15 MADE THIS TIME LINE HERE TO HELP YOU GUYS OUT. SO THE
16 JURY INSTRUCTION 3410 SAYS SEVEN YEARS FROM THE DATE
17 IT'S COMMITTED OR DISCOVERED/SHOULD HAVE BEEN
18 DISCOVERED. SO I'M GOING TO TALK ABOUT BOTH OF THOSE,
19 COMMITTED AND DISCOVERED. BECAUSE IF THEY WERE
20 COMMITTED OR DISCOVERED MORE THAN SEVEN YEARS PRIOR TO
21 THIS BEING FILED, THESE GUYS GO HOME. BAR. CHECK
22 MATE.

23 SO WE KNOW THE CLAIM WAS FILED MARCH 21ST,
24 2013. WE KNOW THAT. IT'S IN THE JURY INSTRUCTIONS.
25 SO THE QUESTION IS YOU GO BACK SEVEN YEARS. SO I
26 FIRST WANT TO TALK ABOUT THIS TERM. WHEN WAS IT
27 COMMITTED? NOW, THERE WAS NO CRIME. THE CRIME HERE
28 IS DR. MICHELSON NOT GETTING HIS WAY. THE CRIME HERE

1 IS DR. MICHELSON FINDING OUT THAT MR. POWERS WAS
2 MAKING MORE OF A PROFIT THAN HE WOULD HAVE PREFERRED.
3 HAVING \$1.5 BILLION IS JUST NOT ENOUGH.

4 SO WHEN WAS THIS COMMITTED? I'M GOING TO
5 SHOW YOU, DR. MICHELSON, WITH HIS OWN TESTIMONY, HE
6 STATED -- COUNT 1, I ASKED HIM: WHEN WAS THIS
7 PROPERTY PURCHASED? WHEN DID YOU PAY FOR IT? WHEN
8 WAS THE PROPERTY PURCHASED? ON OR ABOUT SEPTEMBER
9 2005. OKAY. COUNT 1 IS SEPTEMBER 2005. IT WAS
10 COMPLETED AT THAT POINT IN TIME. WE HAVE FIVE
11 INDEPENDENT COUNTS. SO DID THE LAWSUIT BEGIN WITHIN
12 SEVEN YEARS OF SEPTEMBER 2005? NO, NO. THAT WOULD
13 HAVE BEEN SEPTEMBER 2012. IT WAS FILED MARCH 2013.

14 COUNT 1, TIME BARRED. MAKE SENSE?

15 COUNT 2, DR. MICHELSON -- LET'S TALK ABOUT
16 COUNT 2. WHEN DID THIS TRANSACTION OCCUR? HIS WORDS,
17 NOT MINE, "ON OR ABOUT OCTOBER 2005". OKAY.

18 COUNT 2, OCTOBER 2005 MUST BRING IT WITHIN
19 SEVEN YEARS THAT. WOULD HAVE BEEN OCTOBER 2012.
20 DIDN'T HAPPEN. BARRED.

21 COUNT 3, DR. MICHELSON -- WHEN DID THIS
22 TRANSACTION OCCUR? HIS WORDS, "NOVEMBER 2005,
23 "NOVEMBER 2005". HE WAS UNEQUIVOCAL. COUNT 3
24 NOVEMBER 2005, TIME BARRED.

25 COUNT 4, SAME THING, NOVEMBER 2005. ALSO
26 TIME BARRED.

27 COUNT 5, THIS IS THE LAST OF THE FIVE
28 COUNTS. "WHEN DID THIS OCCUR? WE NEED TO KNOW HIS

1 WORDS, "DECEMBER 2005" LAST ACT. NOT A CRIME, IT'S A
2 BUSINESS DEAL THAT HE DIDN'T LIKE. HE'S TRYING TO
3 SPIN IT A DIFFERENT WAY FOR YOU.

4 THE LAST EVENT OCCURRED IN DECEMBER 2005.
5 SO NOW LET'S GO BACK AND LOOK AT THIS JURY
6 INSTRUCTION. THIS IS YOUR INSTRUCTION IN YOUR PACKET,
7 3410. IT HAS TO BE BROUGHT WITHIN SEVEN YEARS. SO
8 WHAT THAT MEANS IS SEVEN YEARS FROM DECEMBER 2005 --
9 YOU GUYS WITH ME? IT WOULD HAVE HAD TO HAVE BEEN
10 BROUGHT -- HAD TO HAVE BEEN FILED DECEMBER 2012. AT
11 THAT POINT IN TIME, THE STATUTE OF LIMITATION EXPIRES.
12 THEY FILED IT MARCH 11TH, 2013. IT'S TOO LATE. IT'S
13 TOO LATE.

14 AND WE HAVE STATUTES OF LIMITATION FOR GOOD
15 REASON. DO YOU GUYS REMEMBER WHAT YOU WERE DOING IN
16 2012? I DON'T REMEMBER WHO WAS PRESIDENT BACK THEN.
17 SO I TOLD YOU THERE WAS TWO ISSUES. ONE IS, WHEN WAS
18 IT COMMITTED, AND THE SECOND IS WHEN WAS IT
19 DISCOVERED?

20 NOW, MR. KNOWLES DURING HIS OPENING -- YOU
21 HAVE TO CATCH HIM ON THIS KIND OF STUFF. HE CAN GET A
22 LITTLE TRICKY. HE TRIED TO TELL YOU OH, WELL,
23 DR. MICHELSON DIDN'T DISCOVER THIS UNTIL THE END OF
24 2006. DO YOU GUYS REMEMBER THAT? OKAY. WELL, GUESS
25 WHAT, THE DOCUMENT THAT WAS FILED IN THIS CASE BY
26 DISTRICT ATTORNEY'S OFFICE ACTUALLY SAYS IT WAS
27 DISCOVERED MARCH 26TH, 2006.

28 SO HIM NOW TRYING TO TELL YOU IT WASN'T

1 UNTIL LATER 2006 OR DECEMBER 2006, IT'S CONTRADICTED
2 BY HIS OWN FILING IN COURT IN THIS CASE. BUT IT WAS
3 ACTUALLY BEFORE MARCH 26TH. THEY'VE ADMITTED IT'S
4 MARCH 26TH. NOW, IF YOU GO SEVEN YEARS FORWARD, THAT
5 MAKES IT MARCH 26TH, 2013. WELL, THEY FILED MARCH
6 21ST, SO THAT WOULD BE OKAY. SO THIS DATE WAS AN
7 IMPORTANT DATE FOR THEM. BUT I'M GOING TO SHOW THAT
8 YOU IT WAS ACTUALLY DISCOVERED BEFORE MARCH 26TH,
9 2006.

10 SO I'M GOING TO LOOK AT REAL DOCUMENTS THAT
11 DR. MICHELSON ADMITTED HE RECEIVED ON THIS CASE. THE
12 FIRST IS A JUNE 11TH, 2005 LETTER. SO AT THIS POINT
13 IN TIME, THE QUESTION BECOMES DID DR. MICHELSON
14 DISCOVERED THAT THE COMMISSIONS WERE HIGHER THAN SIX
15 PERCENT, HIGHER THAN HE WANTED? DID HE DISCOVER IT,
16 OR SHOULD HE HAVE DISCOVERED IT? THIS IS A LETTER
17 CONFIRMING THAT HE HAS CONCERNS. JUNE 2005, HE HAS
18 CONCERNS. THIS IS EXHIBIT 130. YOU'RE GOING TO GET
19 THESE BACK IN THE JURY ROOM. THE NEXT LETTER IS
20 OCTOBER 31ST, 2005, COINCIDENTALLY, SAME DAY AS TODAY.
21 ANOTHER LETTER ABOUT CONCERNS.

22 THEN WE GO TO A NOVEMBER 7TH, 2005 LETTER.
23 NOW DR. MICHELSON IS SO CONCERNED, HE'S ACTUALLY
24 ASKING FOR COPIES OF CONTRACTS AND CORRESPONDING
25 CHECKS. THAT'S EXHIBIT 131. THEN WE GO TO EXHIBIT
26 132. THIS IS A NOVEMBER 15TH, 2005 LETTER, AGAIN,
27 ASKING FOR COPIES OF CONTRACTS AND CHECKS. SOMETHING
28 HE HAD NEVER DONE BEFORE IN FIVE YEARS, HAD NEVER DONE

1 IT.

2 THEN WE GO TO NOVEMBER 29TH, 2005, AGAIN,
3 ASKING FOR COPIES OF EXTRAS AND CHECKS, EXHIBIT 133.
4 WE ACTUALLY KNOW THIS HAPPENED.

5 AND THEN -- AND THIS IS WHERE THINGS GET
6 INTERESTING.

7 HIS TESTIMONY BEFORE THE COSTA RICAN D.A.
8 IS GOING TO COME BACK TO BITE HIM. YOU GUYS REMEMBER
9 WE TALKED ABOUT THIS. THIS IS EXHIBIT 137. HE WENT
10 DOWN THERE. THIS IS THE FIRST COSTA RICAN CASE BEFORE
11 IT GOT DISMISSED AND HE INSISTED IT GOT REFILED. HE
12 WENT DOWN TO COSTA RICA PERSONALLY ON APRIL 8TH, 2010
13 AND GAVE TESTIMONY UNDER OATH. SO HE GOES DOWN THERE
14 AND HE SAYS THAT IN 2005 -- NOW, LET ME REMIND YOU THE
15 TIME WE'RE TALKING ABOUT.

16 2005.

17 IN 2005 MR. DAVID COHEN ASKED MR. POWERS TO
18 SEND HIM C & M'S RECORDS TO WHICH HE ANSWERED THAT HE
19 WOULD BUT HE HAS TO GET HIS STUFF TOGETHER. THEN HE
20 TOLD ME HE HAD GONE UP TO HIS ATTIC AND THERE WAS A
21 LEAK IN HIS ROOF AND C & M'S FILES HAD BEEN SOAKED AND
22 WERE NOW ALL DESTROYED. THAT WAS IN 2005. HE'S
23 GETTING SUSPICIOUS AT THIS POINT. NEXT PASSAGE ON
24 EXHIBIT 137, PAGE 3:

25 "THIS WENT ON FOR ALL OF
26 2005" -- HIS WORDS NOT MINE -- "AT
27 THIS POINT, MR. DAVID COHEN TOLD ME
28 THAT SOMETHING WAS VERY WRONG. I GOT

1 IN TOUCH WITH POWERS AND TOLD HIM
2 THAT WE THOUGHT SOMETHING WAS WRONG
3 AND WE WANTED THE FILES."

4 SO SHOULD HE HAVE DISCOVERED THIS IN LATE
5 2005? HE KNOWS SOMETHING IS VERY WRONG, AND HE, IN
6 FACT, TELLS MR. POWERS SOMETHING IS VERY WRONG.

7 THEN WE HAVE ANOTHER DECLARATION FROM
8 DR. MICHELSON. THIS IS IN THE CIVIL CASE WHERE HE
9 SUED THESE TWO GENTLEMEN. AND WHAT DOES HE SAY?
10 AGAIN, THIS DOCUMENT WILL COME BACK TO HAUNT HIM. HE
11 SAYS THAT SINCE C & M'S DISPUTE WITH POWERS AROSE IN
12 LATE 2005. HE IS IN A FULL-BLOWN DISPUTE WITH
13 MR. POWERS IN LATE 2005. SO, BY LATE 2005, HE'S
14 DISCOVERED WHATEVER IT IS. HE'S DISCOVERED IT, AND IF
15 HE DIDN'T DISCOVER IT, HE CERTAINLY SHOULD HAVE. A
16 REASONABLE PERSON WOULD HAVE. YOU GUYS WOULD HAVE.

17 AND THIS LAST PACKAGE HERE IS THE DEATH
18 NAIL. AGAIN, INVITING YOUR ATTENTION TO PAGE 3 OF
19 EXHIBIT 137:

20 "IN MARCH OF 2006 I CAME TO
21 COSTA RICA."

22 DATES ARE SUPER IMPORTANT HERE. WE KNOW
23 THIS WAS ON MARCH 24TH AND 25TH OF 2006. OKAY.

24 "CAME TO COSTA RICA TO MEET WITH
25 MR. MARTEN, AND APPROXIMATELY TEN
26 DAYS PRIOR TO MY VISIT" --

27 SO WE GO BACK -- AND WE ACTUALLY HAVE THE
28 LETTER. THIS IS EXHIBIT 17.

1 "TEN DAYS PRIOR TO MY VISIT" --

2 THIS IS MARCH 15TH, 2006. THIS IS LETTER IS
3 CRITICAL, EXHIBIT 17.

4 "APPROXIMATELY TEN DAYS PRIOR TO
5 MY VISIT, I RECEIVED A LETTER FROM
6 MR. POWERS THAT CONTRADICTED
7 EVERYTHING HE HAD BEEN TELLING ME AND
8 WHICH REVEALED FOR THE FIRST TIME
9 THAT HE WAS TAKING MULTIPLE LEVELS OF
10 COMMISSION."

11 BY HIS OWN WORDS, HIS OWN TESTIMONY, WE KNOW
12 THAT ON MARCH 15TH, 2006, IT WAS "DISCOVERED" -- THAT
13 WAS THE WORD THAT HE USED -- THAT MR. POWERS WAS
14 TAKING MORE COMMISSIONS THAT HE WOULD HAVE LIKED.

15 SO GETTING BACK TO OUR JURY INSTRUCTION ON
16 THIS POINT, IT'S GOT TO BE BROUGHT WITHIN SEVEN YEARS
17 OF THE COMPLETION. WE ALREADY TALKED ABOUT THE
18 COMPLETION, OR THE DISCOVERY, WHEN IT WAS DISCOVERED
19 OR SHOULD HAVE BEEN DISCOVERED. OKAY. THIS IS THE
20 DISCOVERY. IT WAS DISCOVERED ON MARCH 15TH, 2006.
21 YOU'VE GOT SEVEN YEARS. THAT EXPIRES. CRITICAL DATE
22 HERE, GUYS. IT EXPIRES MARCH 15TH, 2013. THEY HAD TO
23 FILE BY THAT DATE. THEY DIDN'T. THEY FILED ON MARCH
24 21ST, 2013. IT'S TIME BARRED. IT'S TIME BARRED.
25 CHECK MATE.

26 SO NOW THE QUESTION BECOMES: SO WHAT DO WE
27 NEED TO DO? HOW DO WE CLEAN UP THIS BIG MESS THAT
28 THESE GUYS HAVE CREATED FOR US?

1 WHEN YOU GO BACK IN THE JURY ROOM, YOU'LL
2 GET THESE NOTEBOOKS. YOU'LL GET THIS ONE HERE, AND
3 THIS ONE HERE THAT DR. MICHELSON TAMPERED WITH. AND
4 YOU'RE ALSO GOING TO GET A COUPLE OF VERDICT FORMS.
5 ALL RIGHT. I APOLOGIZE, I DON'T HAVE BLOWUPS. WE'VE
6 BEEN WORKING KIND OF LATE, ALL OF US HAVE, MOST
7 IMPORTANTLY THE JUDGE HAS, AND WE HAVE A COUPLE OF
8 VERDICT FORMS.

9 THERE IS FIVE COUNTS AND TWO DEFENDANTS.
10 AND YOU'RE GOING TO GET A SEPARATE VERDICT FORM FOR
11 EACH COUNT AND FOR EACH DEFENDANT AND THERE IS A REAL
12 SIMPLE WAY YOU FILL THESE OUT. THERE ARE TWO
13 DIFFERENT STACKS. YOU HAVE ONE THAT SAYS "GUILTY."
14 YOU GUYS SEE THAT? OKAY. THERE IS ONE THAT SAYS
15 "GUILTY," AND THEN YOU'RE GOING TO GET ANOTHER ONE
16 THAT SAYS "NOT GUILTY." IF YOU THINK THEY DID
17 SOMETHING WRONG, YOU PICK UP THE GUILTY ONE. BUT YOU
18 GUYS ARE GOING TO PICK UP THIS ONE THAT SAYS NOT
19 GUILTY. AND THE VERY FIRST QUESTION IS ALL YOU GUYS
20 NEED TO DO. YOU ANSWER THE QUESTION, YOU SIGN THE
21 FORM AND WE GO HOME AND GO TRICK OR TREATING.

22 SO THE QUESTION IS: "WE, THE JURY IN THE
23 ABOVE-ENTITLED ACTION, FIND THE PROSECUTION IN THIS
24 CASE" -- AND THEN YOU INSERT WAS OR WAS NOT -- FILED
25 WITHIN SEVEN YEARS OF THE DATE THE CRIMES WERE
26 COMMITTED, DISCOVERED, OR SHOULD HAVE BEEN DISCOVERED.

27 WELL, THAT DOES WHAT WE JUST TALKED ABOUT.
28 SO YOU PUT "WAS NOT." ALL YOU GUYS GOT TO DO. YOU

1 GUYS PICK A FOREMAN. YOU SAY THERE IS NO WAY THIS WAS
2 BROUGHT WITHIN SEVEN YEARS, ALL OF THIS OLD STUFF FROM
3 2005. YOU WRITE "WAS NOT," YOU SIGN IT AND THAT'S IT.

4 NOW, IF YOU GUYS PICK UP THE OTHER FORM,
5 THIS IS THE ONE THAT SAYS GUILTY. THAT'S OKAY TOO
6 BECAUSE LOOK AT THIS. THE VERY FIRST QUESTION IS THE
7 EXACT SAME QUESTION. IT SAYS, "WE, THE JURY IN THE
8 ABOVE ENTITLED ACTION, FIND THAT THE PROSECUTION" WAS
9 OR WAS NOT BROUGHT WITHIN SEVEN YEARS. AGAIN, ALL YOU
10 HAVE TO DO IS FILL OUT "WAS NOT." CHECK MATE. YOU
11 SKIP THE REST OF THE QUESTIONS, YOU SIGN IT AND WE GO
12 HOME.

13 SO THAT'S WHAT YOU DO BACK IN THE JURY
14 ROOM. NOW, I JUST WANT TO LEAVE YOU WITH A COUPLE OF
15 THOUGHTS. YOU KNOW, I FIND IT INTERESTING THAT --
16 REMEMBER WE HAD THE LEXUS GENTLEMAN UP HERE? YOU
17 REMEMBER WHAT HE SAID ABOUT MR. CAMPBELL? HE SAID HE
18 WAS A GREAT PERSON. YEAH. I DIDN'T KNOW HE WAS GOING
19 TO SAY THAT. FRANKLY, I DIDN'T KNOW WHO HE WAS.
20 I DIDN'T CALL HIM TO TESTIFY.

21 WHAT POSITION WAS MR. CAMPBELL IN AT THAT
22 DEALERSHIP? HE WAS, ACCORDING TO THE LEXUS
23 GENTLEMAN'S TESTIMONY, HE WAS A SALES MANAGER. THAT'S
24 A PERSON OF KIND OF A HIGH LEVEL OF RESPONSIBILITY. A
25 LEXUS DEALERSHIP IS NO SMALL BUSINESS. HE WAS IN A
26 POSITION OF TRUST. HE HANDLED PRESUMABLY A LOT OF
27 VALUABLE ASSETS, A LOT OF VALUABLE CARS AND A LOT OF
28 VALUABLE MONEY. WHAT DID THE PERSON WHO WORKED FOR

1 HIM YEARS SAY ABOUT HIM? SAD TO SEE HIM GO, HE WAS A
2 GREAT GUY. IF IT COMES DOWN TO CREDIBILITY, I WANT
3 YOU TO THINK ABOUT THAT STATEMENT. THEN I WANT YOU TO
4 THINK ABOUT THIS, AND YOU TELL ME WHO IS TELLING THE
5 TRUTH.

6 NOW, THIS IS AN EXTREMELY IMPORTANT
7 DECISION FOR MY CLIENTS. THEIR LIVES ARE IN JEOPARDY.
8 IT'S IMPORTANT TO THEM. I THANK YOU FOR TAKING THE
9 TIME TO TAKE THIS SERIOUSLY. BUT AS THE JUDGE SAID IN
10 THE BEGINNING OF THIS CASE, THIS IS NOT MY
11 RESPONSIBILITY TO PROVE THEY DIDN'T DO ANYTHING. YOU
12 HAVE TO HOLD THIS GENTLEMAN HERE TO AN EXCEPTIONALLY
13 HIGH STANDARD. AS A MATTER OF FACT, HE SAID
14 SOMETHING -- THE JUDGE SAID SOMETHING AT THE BEGINNING
15 OF THE CASE THAT WAS SO MEANINGFUL TO ME, I ACTUALLY
16 HAD OUR TRUSTY COURT REPORTER PULL THE COPY. THIS IS
17 THE ORIGINAL ONE RIGHT HERE. I SAID DID HE REALLY SAY
18 THAT BECAUSE THAT WAS REALLY -- THAT WAS VERY
19 IMPORTANT. ON PAGE 5 OF THIS TRANSCRIPT FROM OCTOBER
20 17TH, 2014, OUR JUDGE SAID:

21 "AGAIN, IT'S PUT UP OR SHUT UP."

22 REMEMBER HE SAID THAT MANY TIMES?
23 MR. KNOWLES, PUT UP OR SHUT UP. MR. KNOWLES DID NOT
24 PUT UP.

25 "IT'S ENTIRELY UPON THE PEOPLE
26 TO PROVE MR. POWERS AND MR. CAMPBELL
27 GUILTY BEYOND A REASONABLE DOUBT.
28 UNLESS THEY DO, YOU MUST FIND THEM

1 NOT GUILTY."

2 BUT IT'S THE NEXT PASSAGE THAT I ACTUALLY
3 FOUND TO BE VERY MOVING. THE JUDGE CONTINUES BY
4 SAYING:

5 "SO WHEN WE TALK ABOUT PROOF
6 BEYOND A REASONABLE DOUBT, YOU NEED
7 TO BE SURE. YOU NEED TO BE SURE
8 TODAY, TOMORROW, NEXT WEEK, NEXT
9 MONTH, NEXT YEAR, FOREVER."

10 LADIES AND GENTLEMEN, I THANK YOU FOR YOUR
11 TIME AND I LOOK FORWARD TO YOUR VERDICT.

12
13 (OTHER MATTERS WERE REPORTED
14 BUT ARE NOT CONTAINED HEREIN.)

15
16 (PROCEEDINGS WERE CONCLUDED FOR THE DAY.)
17
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26

27 ////

28 ////

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