

1 sure.

2 THE COURT: As to the remaining exhibits, are
3 there any objections from the Defense?

4 MR. MARTIN: No objection, Judge, to any of
5 those items offered.

6 THE COURT: Those exhibits are admitted. I
7 believe that you skipped that.

8 (State's Exhibits 31-58 and 60-66, 68 were
9 admitted into evidence.)

10 MS. VOLLMAN: Yes, Judge.

11 THE COURT: You may proceed.

12 MS. LEWIS: Thank you, Judge.

13 FAIRAN JONES,
14 having first been duly sworn, testified as followed:

15 DIRECT EXAMINATION

16 BY MS. LEWIS:

17 Q. Please state your name for the jury.

18 A. Fairan Jones.

19 Q. And where are you currently employed?

20 A. I work for Bain and Barkley Law Firm in Sugar
21 Land, Texas.

22 Q. And what is your position at Baine and Barkley?

23 A. I'm the litigation coordinator.

24 Q. Where were you working in 2006 and 2007?

25 A. For the Texas Health and Human Services

1 Commission.

2 Q. What was your position?

3 A. I was an investigator for the Medicaid Provider
4 Integrity Unit.

5 Q. Give us a brief description of your background
6 and training that qualifies you to be an investigator for
7 the Medicaid Program Integrity?

8 A. I worked for the State off and on for about 12
9 years. I started out with the State as a Compliant
10 Auditor for the Texas Commission on Alcohol and Drug
11 Abuse. After that, I worked as a drug investigator for
12 the Texas Department of Health.

13 After that, I moved to Texas Health and
14 Human Services Office of Inspector General Medicaid
15 Provider Integrity as a Medicaid investigator, and then my
16 last position with the State was a Civil Rights
17 Investigator.

18 THE COURT: Let me go ahead and stop you
19 right there. Can all of you hear?

20 THE PANEL: Yes.

21 Q. (BY MS. LEWIS) Are you a licensed peace officer?

22 A. No, ma'am.

23 Q. And do you have any degrees?

24 A. I have a bachelor's degree from the University of
25 Houston.

1 Q. Were you -- how did you receive your job
2 assignments when you worked as an investigator?

3 A. As an investigator, we received our assignments
4 from our intake unit that was located in Austin. I was
5 here in the Houston office and I received a packet
6 overnight mail with the enrollment packet and various
7 other information about the provider that we were going to
8 investigate.

9 Q. In 2006, early 2007, you've become acquainted
10 with two DME companies. Do you recall that?

11 A. Yes.

12 Q. We're going to first talk about C&M Medical
13 Supply. Do you remember being -- investigating C&M
14 Medical Supply?

15 A. Yes.

16 Q. How did you become in that investigation?

17 A. I was given that assignment by my manager. We
18 were given, as I said, an enrollment packet that contained
19 some basic information about the business. We did some
20 research about other business organization with the
21 Secretary of State or with the Comptroller. We were also
22 given information about the claims handling process, and
23 that included running a business objective report.

24 Q. When you first receive a case from Austin, the
25 first thing you do, as you just stated, was look at the

1 Secretary of State's website and the Comptroller's report?

2 A. Yes.

3 MR. MARTIN: Objection. Leading.

4 THE COURT: Overruled.

5 Q. (BY MS. LEWIS) Okay. And after you -- what did
6 you determine once you pulled down that information?

7 A. Once I pulled that information down for C&M
8 Medical Supply, I determined that there was an unusual
9 billing pattern with this particular provider.

10 They had billed for extra large adult
11 diapers, wipes and under pants for ages 0 to 100; and they
12 billed the maximum amount every month for each product
13 line.

14 Q. And is that unusual?

15 A. Yes.

16 Q. What can you tell the jury about the
17 organizational structure of C&M Medical Supply?

18 A. C&M Medical Supply was run by Broderick Carter.
19 He was the lead principal that was named in there. There
20 was also a Willie Mitchell who was a lead principal.
21 There were two other people, I believe Ms. Cox and
22 Ms. Bibbs that were also listed on the board.

23 Q. Do you recall the business address listed for C&M
24 Medical Supply?

25 A. It was 3702 Thunderbird, Missouri City, Texas in

1 Ft. Bend County.

2 Q. And what is the billing address?

3 MR. MARTIN: Objection, Judge. She's reading
4 from a report that hasn't been admitted into evidence.
5 She does not identified that she needs to have her memory
6 refreshed.

7 THE COURT: Sustained.

8 A. I apologize.

9 MS. LEWIS: Your Honor, may I address some
10 questions for her refreshing her memory?

11 THE COURT: Yes, you may.

12 Q. (BY MS. LEWIS) Did you prepare a report
13 regarding your investigation?

14 A. Yes, I did.

15 Q. Did you bring that with you?

16 A. Yes.

17 Q. And will it be helpful to you in refreshing your
18 memory?

19 A. Yes, it will.

20 Q. Okay. After you received the information about
21 the board of directors and the download, what did you do
22 first?

23 A. The first thing I would do is generate a list of
24 recipients so we can obtain records to confirm or to
25 compare the information received in the business objects

1 report as far as claims that have been issued by C&M and
2 paid.

3 Q. Okay. Would you investigate the addresses?

4 A. Yes.

5 Q. And did you do that in this case?

6 A. Yes.

7 MS. LEWIS: May I approach?

8 THE COURT: Yes, you may.

9 Q. (BY MS. LEWIS) I'm showing you what's been
10 marked as State's Exhibit 110. Can you please review that
11 exhibit? Can you identify that exhibit?

12 A. It's a map of 3702 Thunderbird Street.

13 Q. Does this exhibit fairly and accurately depict
14 the area where you went to visit?

15 A. Yes.

16 MS. LEWIS: Permission to publish, Your
17 Honor.

18 THE COURT: Yes.

19 Q. (BY MS. LEWIS) Now, does this exhibit show where
20 you went to visit?

21 MR. MARTIN: Excuse me, Judge. I don't think
22 110 was formally offered.

23 THE COURT: Is that an objection?

24 MR. MARTIN: And no objections, Judge.

25 MS. LEWIS: I offer 110 into evidence.

1 (State's Exhibit No. 110 was offered into
2 evidence.)

3 THE COURT: It's admitted.

4 (State's Exhibit No. 110 was admitted into
5 evidence.)

6 MS. LEWIS: Thank you.

7 Q. (BY MS. LEWIS) Does the exhibit fairly depict
8 where you went?

9 A. Yes.

10 Q. Did you go to the Fondren Road address?

11 A. No, I did not.

12 Q. After reviewing this -- the Secretary of State's
13 record and enrollment application, you indicated you
14 reviewed a business objects report?

15 A. Yes.

16 Q. And after you reviewed that report, what did you
17 do?

18 A. I generated a list of recipients that we
19 requested from the auditor.

20 Q. Did you -- how many records did you request?

21 A. I believe I requested about 693 records.

22 Q. After you requested those records, what did you
23 do?

24 A. I went to the Thunderbird location with my list
25 of records and the records request letter to present to

1 Mr. Carter.

2 Q. What is a records request letter?

3 A. A records request letter, it kind of outlines
4 what the purpose of the investigation is, what records are
5 being requested, time frame in which they needed to be
6 brought to us.

7 Q. And why do you request records from providers?

8 A. To confirm the billing they made to the Medicaid
9 department.

10 Q. Was Mr. Carter at home?

11 A. No, he was not.

12 Q. Were you able to deliver the letter at all?

13 A. No, I was not.

14 Q. And what did you do while you were there?

15 A. I walked around the area to look and see if there
16 was, like, another entrance or someplace where I could
17 possibly see Mr. Carter. He was not there. I took
18 pictures of the area.

19 MS. LEWIS: Permission to approach?

20 THE COURT: Yes, granted.

21 Q. (BY MS. LEWIS) I'm showing you what's been
22 marked as Exhibits 112, 113 and 114 and 115. Can you
23 please look at those and identify those?

24 A. These are pictures of the location of 3702
25 Thunderbird, and it's a picture of a residence --

1 MR. MARTIN: Objection, Judge. She's
2 testifying about an exhibit that hasn't been admitted into
3 evidence.

4 THE COURT: Sustained.

5 Q. (BY MS. LEWIS) Did you take these pictures?

6 A. Yes, I did.

7 MS. LEWIS: State offers 112, 113, 114 and
8 115.

9 (State's Exhibit Nos. 112-115 were admitted
10 into evidence.)

11 MR. MARTIN: For record purposes, the Defense
12 objects to 112, 113, 114 and 115 due to lack of proper
13 predicate.

14 Q. (BY MS. LEWIS) Do they fairly and accurately
15 represent the address of 3702 Thunderbird on that date?

16 A. Yes.

17 MS. LEWIS: Again, Your Honor, I offer
18 Exhibits 112, 113, 114 and 115.

19 (State's Exhibit Nos. 112-115 were offered
20 into evidence.)

21 MR. MARTIN: Same objection, lack of proper
22 predicate, Judge.

23 THE COURT: Overruled. State's 112 through
24 115 are admitted.

25 (State's Exhibit Nos. 112-115 were admitted

1 into evidence.)

2 MS. LEWIS: Thank you.

3 All right. Can you please show exhibit
4 112?

5 Q. (BY MS. LEWIS) Ms. Jones, can you please
6 describe 112 for the jury?

7 A. It is a picture of the location of 3702
8 Thunderbird and the vehicles that are outside the front.

9 Q. Is that a residential neighborhood?

10 A. Yes, it is.

11 Q. And in your experience as an investigator, is it
12 unusual DME supply company in a residential neighborhood?

13 A. It's not unusual, but it happens. It's not
14 unusual.

15 Q. Please describe Exhibit No. 113.

16 A. It's, again, pictures of the vehicle up front and
17 the residence or the place of business at 3702
18 Thunderbird.

19 Q. Exhibit 114?

20 A. More pictures of the house and the vehicles
21 outside of 3702 Thunderbird.

22 Q. And 115?

23 A. This is a picture of another vehicle that's
24 outside the house at 3702 Thunderbird.

25 Q. We see there's another vehicle at the residence.

1 Was there anyone at home?

2 A. No one answered the door when I knocked.

3 Q. What did you do next?

4 A. After that, I went to a second address that I had
5 for principal Mr. Mitchell at Gypsy Lane.

6 Q. And was anyone home there?

7 A. No.

8 Q. And what did you do at that address?

9 A. I'm sorry?

10 Q. What did you do at that address?

11 A. At that address, I knocked on the door to see if
12 I can get someone to respond to the letter; and once
13 nobody was there, I took pictures of that location.

14 MS. LEWIS: May I approach, Your Honor?

15 THE COURT: Yes, you may.

16 Q. (BY MS. LEWIS) I'm showing you Exhibits 116 and
17 117. Do you recognize those exhibits?

18 A. Yes, I do.

19 Q. Did you take -- can you identify those?

20 A. Those are photos that I took of the residence on
21 Gypsy Lane.

22 Q. Do they fairly and accurately represent the house
23 on Gypsy Lane at that time?

24 A. Yes.

25 MR. MARTIN: Judge, same objection on 116 and

1 117, lack of predicate.

2 THE COURT: Overruled. State's Exhibit 116
3 and 117 are admitted.

4 (State's Exhibit Nos. 116 and 117 were
5 admitted into evidence.)

6 MS. LEWIS: Thank you, Your Honor.

7 Q. (BY MS. LEWIS) Can you please describe the
8 pictures to the jury on 116?

9 A. These photos are the property located at the
10 Gypsy Lane address.

11 Q. And is that in Harris County?

12 A. Yes, it is.

13 Q. Harris County, Texas?

14 A. Yes, ma'am.

15 Q. Can you describe 117?

16 A. Those are additional pictures of the residence at
17 the Gypsy Lane location in Harris County, Texas.

18 Q. Thank you. Now, Ms. Jones, were you ever
19 successful in handing demand letter for records to
20 Mr. Broderick Carter?

21 A. No.

22 Q. Are you allowed to do a demand letter pursuant to
23 the contract?

24 A. Yes.

25 Q. And you're not a peace officer, right?

1 A. No, I'm not.

2 Q. After conducting surveillance, what did you do
3 next?

4 A. The next step in the process would be to
5 interview recipients.

6 Q. Why do you interview recipients?

7 A. To determine if they received services that they
8 were billed for.

9 Q. And how many recipients did you interview?

10 A. I interviewed eight recipients.

11 Q. When you interviewed them, did you talk to them
12 on the phone or in person?

13 A. Some were on the phone, some were in person.

14 Q. And you can't tell us what someone else said; but
15 when you talked to them, what information were you trying
16 to discover?

17 A. I was trying to discover if they had ever heard
18 of C&M Medical Equipment, if they ever heard of Broderick
19 Carter or Mr. Mitchell, and to determine if they had, in
20 fact, received the services that they were billed for.

21 Q. What type of questions did you ask them?

22 A. Basically, like I said if they heard of C&M
23 Medical Equipment. I gave them a sheet where it showed
24 the items that they had been billed for; and I asked them
25 if they had received adult extra large diapers, if they

1 received wipes, if they received the disposable pads and
2 confirmed whether they had or had not received that.

3 Q. And of the eight that you spoke with, did they
4 answer your questions?

5 A. Yes.

6 MS. LEWIS: Permission to approach?

7 THE COURT: Granted.

8 Q. (BY MS. LEWIS) I'm showing you what's marked as
9 State's Exhibit 118. Can you please identify in exhibit?

10 A. This is a last of the interviews that I conducted
11 for C&M Medical Equipment.

12 Q. Do you keep these in the regular course of your
13 file in your investigations?

14 A. Yes.

15 MR. MARTIN: Judge, we object to 118 for lack
16 of business records predicate.

17 THE COURT: Sustained.

18 Q. (BY MS. LEWIS) Ms. Jones, I'm going to show you
19 118 again. Does it show the list of people you
20 interviewed?

21 A. Yes.

22 Q. Does it show the date you interviewed them?

23 A. Yes.

24 Q. Does it show the parent or the recipients
25 associated with that interview?

1 A. Yes.

2 Q. All right. And --

3 MS. LEWIS: Your Honor, I offer 118 again.

4 (State's Exhibit No. 118 was offered into
5 evidence.)

6 MR. MARTIN: Same objection, Judge, lack of
7 business records predicate.

8 MS. VOLLMAN: Can we approach, Judge? Judge,
9 instead of writing out everything on the board, it's not a
10 business record; but we're not going to offer the business
11 record. We're just offering it to save time for her to
12 testify to. It's a list. We can write it out on the
13 board, which takes time. We're just offering it. You see
14 what I'm saying?

15 THE COURT: For demonstrative purposes?

16 MS. VOLLMAN: I'm offering it.

17 THE COURT: Can you interview with them.

18 MS. VOLLMAN: Judge, it's not -- it's my
19 record. What I would do, normally, is just to save time,
20 I would ask her, "Who did you talk to? What's the name?
21 "I talked to the parent." I would have this on the board.

22 THE COURT: It is not a business record?

23 MS. VOLLMAN: This is just -- we wrote it out
24 just to save time.

25 THE COURT: But you're offering it.

1 MS. VOLLMAN: But what I'm saying, Judge --

2 THE COURT: I understand what you're saying,
3 but he's objecting to it.

4 MS. VOLLMAN: I will write it out. I don't
5 care.

6 MR. MARTIN: I'm going to object on that
7 basis.

8 THE COURT: Objection is sustained.

9 Q. (BY MS. LEWIS) Tell us -- Ms. Jones, tell us the
10 first person you interviewed.

11 A. May I refer to my report?

12 Q. Yes.

13 A. I interviewed Tanolia Smith.

14 Q. And who was the recipient?

15 A. The recipient is Antonio Hernandez.

16 Q. And what was the address of Antonio Hernandez?

17 A. 12600 Dunlap Street, Apartment 818, Houston,
18 Texas 77305.

19 Q. And what was the date of the interview?

20 A. February 2nd, 2006.

21 Q. And who was the second person you interviewed?

22 A. Juanita Roberts.

23 Q. And who is the recipient?

24 A. Teira Rogers.

25 Q. And what was the address?

1 A. 4818 Brookston Street, Houston, Texas 77045.

2 Q. And what's the date of that interview?

3 A. February 2nd, 2006.

4 Q. And who's the third person you interviewed?

5 A. LeKeshia Anderson.

6 Q. And who the the recipient?

7 A. Reginald Jerome, Jr.

8 Q. And the address?

9 A. 6810 Maxell, Houston, Texas 77091.

10 Q. And what's the date of that interview?

11 A. February 3rd, 2006.

12 Q. And who is the forty person?

13 A. Shamekia Ben.

14 Q. And the recipient?

15 A. Romeka Ben.

16 Q. And the address?

17 A. 3634 Corksie, C-O-R-K-S-I-E, Houston, Texas

18 77051.

19 Q. And what is the date of that interview? The
20 date?

21 A. February 2nd, 2006.

22 Q. And the fifth person you interviewed?

23 A. Rolanda Lemons.

24 Q. And the recipient?

25 A. Asley Lemons.

1 Q. And the address?

2 A. 14502 Zenith Street, Houston, Texas 77045.

3 Q. And when was that interview conducted?

4 A. February 9th, 2006.

5 Q. And the sixth person you interviewed?

6 A. Pamela Mark.

7 Q. Who is the recipient?

8 A. Kenisha Eldridge.

9 Q. And the address?

10 A. 3122 Keeling, Houston, Texas 77045.

11 Q. And the date of that interview?

12 A. February 13, 2006.

13 Q. The seventh person?

14 A. Flora Wilson.

15 Q. And who is the recipient?

16 A. Flora Wilson.

17 Q. The address?

18 A. 818 Pinemont, Apartment 44, Houston, Texas 77018.

19 Q. And the date of the interview?

20 A. February 15th, 2006.

21 Q. And the last person you interviewed was whom?

22 A. Marvin Thompson.

23 Q. And the address?

24 A. 2146 Twinbrook Drive, Houston, Texas 77088.

25 Q. And the date of that interview?

1 A. February 15th, 2006.

2 Q. Now, after you conducted your interviews, did you
3 continue your investigation?

4 A. After I completed that, I went to an address for
5 another location for C&M Medical Supply.

6 Q. How did you get that address?

7 A. I received that information when conducting the
8 recipients' interviews.

9 Q. Are you familiar with that area of town?

10 A. Yes.

11 Q. What was the address of the location?

12 A. It was 16511 Hedgecroft, Houston, Texas.

13 MS. LEWIS: May I approach?

14 THE COURT: Yes, you may.

15 Q. (BY MS. LEWIS) I'm showing you what's been
16 marked as State's Exhibit 120. Can you please identify
17 that exhibit?

18 A. It's a map of 16511 Hedgecroft Drive in Houston,
19 Texas.

20 Q. Does this fairly and accurately represent the
21 location of the address?

22 A. Yes.

23 MS. LEWIS: Your Honor, after Defense's
24 inspection, we offer 120.

25 (State's Exhibit No. 120 was offered into

1 evidence.)

2 MR. MARTIN: No objection, Judge.

3 THE COURT: 120 is admitted.

4 (State's Exhibit No. 120 was admitted into
5 evidence.)

6 Q. (BY MS. LEWIS) Does this show where you went to
7 the Hedgecroft address?

8 A. Yes, that's correct.

9 Q. Is this in Harris County, Texas?

10 A. Yes, it is.

11 Q. Why did you go to this address?

12 A. Because I received information during the
13 interviews that this could be a possible location for C&M
14 Medical Supply.

15 Q. So you're still looking for Mr. Carter to serve
16 the letter?

17 A. That's correct.

18 Q. And what did you find when you went to the
19 Hedgecroft location?

20 A. I found an office building suite where there was
21 vanilla envelopes that were stacked inside with a C&M
22 Medical Supply address label on it with a laser label, and
23 doors were locked and the lights were out.

24 Q. Did you do anything while you were there?

25 A. I took pictures.

1 MS. LEWIS: May I approach?

2 THE COURT: Yes, you may.

3 Q. (BY MS. LEWIS) I'm showing you Exhibit 121, can
4 you please identify this?

5 A. These are pictures of the envelopes that I
6 observed inside.

7 Q. Does it fairly and accurately represent what you
8 found at the Hedgecroft address?

9 A. That is correct.

10 MS. LEWIS: After Defense's inspection, we
11 offer 121.

12 (State's Exhibit No. 121 was offered into
13 evidence.)

14 MR. MARTIN: I object to lack of predicate on
15 121, Judge.

16 THE COURT: Overruled.

17 (State's Exhibit No. 121 was admitted into
18 evidence.)

19 Q. (BY MS. LEWIS) I know it's a little dark. Can
20 you please describe to the jury what's in the picture?

21 A. There are manilla envelopes that are stacked.

22 Q. Can you give us an idea of the size of the
23 envelopes?

24 A. I would say 8-and-a-half-by-11 or 11-by-17 type
25 manila envelopes.

1 Q. And can you tell us about how high that appears
2 to be on the wall?

3 A. I would say -- I mean, it was probably about this
4 high, I mean. It's kind of hard to...

5 Q. From the floor, can you give an estimate? Yes or
6 no?

7 A. No, not really.

8 Q. Were you able to get any names or addresses off
9 of the packages?

10 A. I was able to obtain some.

11 Q. What names and addresses did you observe?

12 A. May I refer to my report?

13 Q. Yes.

14 A. I obtained addresses for a Robert Foley at 8105
15 Lova Drive on Apartment 170, Victoria, Texas; Ethel
16 Creeks, PO Box 38805, Houston, Texas; Jose Reyes at 123
17 Winkler Drive in Houston, Texas; Alfonz Johnson at 1445
18 Lakeside Estates, Houston, Texas; Maria Chavez at 7020
19 Myrtle Street, Houston, Texas; Martina Gonzalez at 1950
20 Heights Boulevard, Houston, Texas.

21 Q. Were any of those names Medicaid recipients?

22 A. Yes.

23 Q. Were any of these names -- could you fit 300
24 diapers into that envelope?

25 A. No.

1 Q. Were you ever successful in obtaining any of the
2 693 receipt records from Mr. Carter?

3 A. No.

4 Q. Did that conclude your investigation?

5 A. Yes.

6 Q. And what did you do next?

7 A. I went back to my manager; and we discussed the
8 next plan of action, which would be to enact a payment
9 hold.

10 Q. What's that payment hold?

11 A. A payment hold is to suspend payments from the
12 provider until we can make contact with them to discuss
13 the issues we had with their billing.

14 Q. Let's talk about the second company. Do you
15 recall Briscoe Medical Supply?

16 A. Yes, I do.

17 Q. How did you become involved with Briscoe Medical
18 Supply?

19 A. I initially became involved with Briscoe Medical
20 Supply in performing an onsite visit to this provider
21 before they received their Medicaid number.

22 Q. Is that standard procedure?

23 A. It became standard procedure by the time I came
24 to -- by the time this person applied for her Medicaid
25 license.

1 Q. Who assigned you that inspection?

2 A. I was assigned that through the intake unit.

3 Q. Why was there a need for an inspection at all?

4 A. We had noticed a trend where we were receiving
5 applications for Medicaid providers and they were giving
6 addresses that we were unable to locate them at. So it
7 was important for us to verify and check.

8 Q. When you went to inspect Briscoe Medical Supply,
9 where did you go?

10 A. I went to 505 North Sam Houston Parkway West,
11 Suite 245 in Houston, Harris County, Texas.

12 Q. Are you familiar with that location?

13 A. Yes.

14 MS. LEWIS: Permission to approach, Your
15 Honor?

16 THE COURT: Granted.

17 Q. (BY MS. LEWIS) I'm showing you State's Exhibit
18 No. 122. Can you please identify that exhibit that?

19 A. That's a map of 505 North Sam Houston Parkway
20 East in Houston, Harris County, Texas.

21 Q. And does it fairly and accurately represent the
22 place where you visited Briscoe Medical Supply?

23 A. Yes.

24 MS. LEWIS: After Defense's inspection, I
25 offer Exhibit 122.

1 (State's Exhibit No. 122 was admitted into
2 evidence.)

3 MR. MARTIN: No objection, Judge.

4 THE COURT: 122 is admitted.

5 (State's Exhibit No. 122 was admitted into
6 evidence.)

7 Q. (BY MS. LEWIS) Now, again, does that show where
8 you went to visit Briscoe Medical Supply?

9 A. Yes.

10 Q. Does it fairly and accurately represent where
11 Briscoe Medical Supply was located?

12 A. Yes.

13 Q. Is that location in Houston, Harris County,
14 Texas?

15 A. Yes, it is.

16 Q. When you arrived at the 505 Sam Houston Parkway,
17 did you meet Ms. Briscoe?

18 A. Yes, I did.

19 MS. LEWIS: Your Honor, may I approach the
20 board?

21 THE COURT: You, you may.

22 MS. LEWIS: Your Honor, what we have is a
23 blow up of the exhibit that was already admitted
24 yesterday; and we ask that we admit this one as No. 109A
25 for demonstrative purposes only.

1 THE COURT: 109A is admitted. It's just a
2 blow up of 109. It's granted.

3 Q. (BY MS. LEWIS) Now, can you identify --

4 MR. MARTIN: Judge, may I come around?

5 THE COURT: You may.

6 MR. MARTIN: Thank you.

7 Q. (BY MS. LEWIS) -- the person that you identified
8 as Ms. Briscoe?

9 A. Yes. She is on the top row, third from the -- my
10 left.

11 MS. LEWIS: Permission for the witness to
12 step down and point, Your Honor?

13 THE COURT: Yes, granted.

14 MR. MARTIN: Judge, the Defense objects to
15 this mechanism of an ID, because the names of the
16 individuals are underneath the pictures of them. So it's
17 not a true and fair identification.

18 THE COURT: She's not on trial. So your
19 objection is overruled.

20 A. This is Ms. Briscoe.

21 Q. (BY MS. LEWIS) Thank you. Do you know if she
22 knew you were coming?

23 A. These would be unannounced visits.

24 Q. Why would they be unannounced?

25 A. We would just want to make sure that we were

1 catching them during the business hours and that the
2 facility was opened and it was on location that they had
3 put on their Medicaid application.

4 Q. What would you look for -- when you had a new
5 provider, what would you look for when you did an
6 inspection?

7 A. We had a general checklist questionnaire that we
8 had to look at, the business arrangement. We would look
9 at the medical supplies they had on hand. We would look
10 at the layout of the business. We would review the
11 insurance to make sure they had the proper coverages and
12 make sure that -- basically to kind of make sure the
13 business was opened.

14 Q. Was this checklist written down?

15 A. Yes, it was.

16 MS. LEWIS: Permission to approach?

17 THE COURT: Granted.

18 Q. (BY MS. LEWIS) I'm showing you what's been
19 marked as 123. Does this fairly and accurately represent
20 the checklist you used when speaking with Ms. Briscoe?

21 A. Yes.

22 MS. LEWIS: Your Honor, I wish to offer
23 Exhibit 123.

24 (State's Exhibit No. 123 was offered into
25 evidence.)

1 MR. MARTIN: May I take the witness briefly
2 on voir dire regarding this exhibit?

3 THE COURT: Briefly.

4 MR. MARTIN: May I approach the witness?

5 THE COURT: You may.

6 VOIR DIRE BY THE DEFENSE

7 BY MR. MARTIN:

8 Q. Ma'am, you've been previously shown State's
9 Exhibit No. 123?

10 A. Yes.

11 Q. Did you personally prepare this form, or was it
12 this form prepared for you?

13 A. This form was prepared by me.

14 Q. And then you completed the information on the
15 form?

16 A. That's correct.

17 MR. MARTIN: Thank you. Ma'am.

18 Judge, Defense objects on the basis of
19 hearsay; and this appears to be a business record and lack
20 of proper predicate.

21 THE COURT: Sustained.

22 Q. (BY MS. LEWIS) Ms. Jones, are these the
23 questions you asked her on the date of that inspection?

24 A. That is correct.

25 Q. Was she present when you conducted the

1 inspection?

2 A. Yes.

3 Q. And did you talk with her?

4 A. Yes.

5 Q. And did you ask her each and every one of these
6 questions?

7 A. Yes, I did.

8 Q. That are on the checklist?

9 A. Yes.

10 Q. Is this the form you use in the ordinary course
11 of your business?

12 A. Yes, it was.

13 Q. Is it kept in the ordinary course of your
14 business?

15 A. Yes, it is.

16 Q. Does it fairly and accurately represent every
17 question you asked?

18 A. Yes.

19 Q. And every response that was given?

20 A. Yes.

21 MS. LEWIS: Your Honor, we offer 123 again.

22 (State's Exhibit No. 123 was offered into
23 evidence.)

24 THE COURT: Any objection?

25 MR. MARTIN: Same objection, Judge.

1 THE COURT: Overruled. It's admitted.

2 (State's Exhibit No. 123 was admitted into
3 evidence.)

4 Q. (BY MS. LEWIS) Did you speak with Ms. Briscoe
5 about her business?

6 A. Yes, I did.

7 Q. And what did she tell you?

8 A. She was just starting the business. She was the
9 only employee of the business; that she would be the
10 driver for the medical supplies; and she would be in the
11 general Houston area about a 100 mile radius. She
12 answered my questions about her --

13 MR. MARTIN: Objection, Judge, to hearsay.

14 THE COURT: Sustained.

15 MS. LEWIS: Your Honor, we offer this
16 nontestimonial that she's discussing the furtherance of
17 the conspiracy with the inspection.

18 THE COURT: Approach the Bench.

19 (Brief discussion at the Bench.)

20 MS. VOLLMAN: Judge, just a couple of
21 minutes. Now that it's in, look at this question and any
22 question and answer, then it's not hearsay. It's in
23 evidence. Just go through the question.

24 THE COURT: She's here and the statement of
25 hearsay, it does not matter and her hearsay contained

1 within hearsay.

2 MS. VOLLMAN: Okay. You can ask her do you
3 know if she was charged and is a co-defendant.

4 THE COURT: Okay.

5 MR. MARTIN: Can you put that on the record?
6 I'm going to be objecting.

7 MS. VOLLMAN: The problem is -- she is
8 available to testify. We just need a little bit of
9 latitude.

10 THE COURT: Is she going to testify?

11 MS. VOLLMAN: Yes, she is. She is one of the
12 ones --

13 THE COURT: I understand.

14 MS. VOLLMAN: I'm not going to --

15 MR. MARTIN: Ask for this.

16 MS. VOLLMAN: No. What I'm saying is, she's
17 going to be one that's going to testify; and unless we
18 approach on co-conspirator and some of these witnesses are
19 co-conspirators and application that came in before in the
20 proper combination of, we would represent to you that
21 Briscoe would testify. She was a co-conspirator.

22 THE COURT: You may proceed, Ms. Lewis.

23 MS. LEWIS: Thank you.

24 Q. (BY MS. LEWIS) Ms. Jones, do you know if
25 Ms. Briscoe was indicted for aggregate theft and organized

1 crimes?

2 A. I believe she was.

3 MS. LEWIS: May I approach?

4 THE COURT: You may.

5 MS. LEWIS: Can you put up 123?

6 Q. (BY MS. LEWIS) We're going to go through these
7 questions just to make sure this is the checklist you went
8 through for the inspection?

9 A. Yes.

10 Q. So let's go through each one. On question one,
11 please read that?

12 A. "Have they submitted application to Medicare for
13 Medicare number? What is the number that they issued?
14 It's a ten digit, which is durable."

15 THE COURT: Mr. Martin, I understand that you
16 have a running objection to those. It's duly noted and
17 your objection is overruled.

18 MR. MARTIN: Thank you, Judge.

19 THE COURT: You may proceed.

20 Q. (BY MS. LEWIS) And what did she respond?

21 A. Her response was "yes."

22 Q. And what was Question No. 2?

23 A. Question No. 2 was, "Has your Medicaid number
24 ever been suspended or revoked?"

25 Q. And the answer was?

1 A. "No."

2 Q. And number 3?

3 A. "Did they bill for any items prior to obtaining
4 their Medicare number?"

5 Q. And answer?

6 A. "No, not billing as of yet."

7 Q. Number four?

8 A. "Is the provider aware that they must not convey
9 or reassign their Medicaid number to anyone else?"

10 Q. And the answer?

11 A. "Yes."

12 Q. We're going down to No. 8.

13 A. What types of licenses do they have and what are
14 their numbers. And she answered, the medical device
15 diggers license and gave a number and expiration date.

16 Q. And No. 6?

17 A. How long have they been at the current location
18 and previous locations for over a year. And the answer
19 was "Since June 2006."

20 Q. And was that over a year?

21 A. No.

22 Q. And No. 7?

23 A. "The number of employees?" And "One."

24 Q. Number eight?

25 A. "Hours of operation."

1 "Monday-Friday from 9:00 a.m. to
2 5:00 p.m."

3 Q. And the website address?

4 A. Website address, she did not have one.

5 Q. And No. 10?

6 A. "What's supplies are stocked and where are they
7 kept?"

8 "It was a mobility aids, wheelchairs,
9 commodes, canes and walkers and the second room off the
10 back," and photos were attached.

11 Q. And No. 11?

12 A. It asks how they obtain their clients.

13 "Minimal advertizing right now, flyers,
14 cold calls to physicians, hospitals and friends in the
15 medical field."

16 Q. And No. 12?

17 A. "Identify the supplier's merit."

18 Q. Number 13?

19 A. "Did you have any problem with the provider
20 giving you access or answering your questions?"

21 "No."

22 Q. And No. 14?

23 A. "Did they have physical facility on appropriate
24 site?"

25 "Yes."

1 Q. And No. 15?

2 A. "Did they maintain a business phone number listed
3 on the name of the business locally or toll-free for their
4 client?"

5 "Yes."

6 Q. Number 16?

7 A. "Did they supply the business contact phone
8 numbers to the clients when they start deliveries?"

9 "Yes."

10 Q. Number 17?

11 A. "Do they have proof of liability policy in the
12 amount of at least \$300,000 that covers both the
13 supplier's place of business and all customers and
14 employees of the supplier?"

15 "Yes."

16 Q. Number 18?

17 A. "Do they operate their business following all
18 applicable federal and state licensure and regularory
19 compliance?"

20 A. Yes.

21 Q. Next page. Number 19?

22 A. "Have they made any false statements on their
23 Medicare or state Medicaid that you can ascertain?"

24 "No."

25 Q. Number 20?

1 A. "Are the applications signed by the companies?"

2 "Yes."

3 Q. Number 21?

4 A. "Do they contract with anyone excluded from
5 Medicaid or Medicare?"

6 "No."

7 Q. Number 22?

8 A. "Do they advise the clients that they may rent or
9 purchase routinely DME and the purchase option of
10 capital?"

11 "Yes."

12 Q. Number 23?

13 A. "Do they honor all warranties expressed and
14 applied under applicable state law?"

15 "Yes."

16 Q. And number 24?

17 A. "Does the provider contact client by telephone
18 when supplying a Medicaid?"

19 "No."

20 Q. Number 25?

21 A. "Do they maintain proof of delivery?"

22 "Yes."

23 Q. Number 26?

24 A. "Are all items delivered and in condition and
25 maintained in that condition?"

1 "Yes."

2 Q. 27.

3 A. "Do they accept returns from clients of
4 substandard items or unsuitable or inappropriate at the
5 time of delivery?"

6 "Yes."

7 Q. 28?

8 A. "Do they disclose the supplier standards to each
9 client to whom their services are rendered?"

10 "Yes."

11 Q. 29?

12 A. "Do they have a complaint resolution protocol for
13 clients' complaints?"

14 "Yes."

15 Q. 30?

16 A. "Do they keep a record of clients' complaints,
17 correspondence or any actions taken in response?"

18 "Yes."

19 Q. 31?

20 A. "Does the provider reapply for billing purchases
21 to Medicare every three years as required?"

22 "Yes."

23 Q. Number 32?

24 A. "Do they employ or contract with any certified
25 respiratory therapist?"

1 That's not applicable.

2 Q. Number 33?

3 A. "Do they do their own deliveries or use ground
4 courier?"

5 "Yes."

6 Q. No. 34?

7 A. "Do they use a billing service?"

8 "No."

9 Q. 35?

10 A. "Do they sell custom wheelchairs?"

11 "No."

12 Q. 36?

13 A. As to the bill.

14 Q. Did you do that?

15 A. Yes.

16 Q. And No. 37? It's just comments?

17 A. Those are just comments.

18 Q. Does that complete the checklist you reviewed
19 with Ms. Briscoe?

20 A. Yes.

21 Q. Attached to the checklist are two photographs.
22 Can you identify these, please?

23 A. These are photographs I took while at the
24 inspection of the medical supplies that were on hand at
25 Briscoe Medical Supply.

1 Q. And do they accurately represent the photos?

2 A. Yes.

3 Q. Did you see any incontinent supplies on hand
4 during your inspection?

5 A. Yes.

6 Q. Did she ever tell you she was going to provide
7 incontinent supplies to Medicaid?

8 A. No.

9 Q. Did you have a chance to talk with her about the
10 Medicaid provider program, in general?

11 A. Yes. She had questions about the billing
12 procedures. I referred her back to the Texas Medicaid
13 Healthcare Partnership, which was the Administor that did
14 billing procedures; and then she had other questions about
15 being a Medicaid provider of DME. So I referred her back
16 to the Medicaid provider.

17 MS. VOLLMAN: Judge, can we approach?

18 THE COURT: Yes.

19 MS. VOLLMAN: I just realized a witness is
20 sitting with the Defendant and she's been sitting in
21 here.

22 MS. LEWIS: She's been sworn.

23 THE COURT: Do you have any of these
24 witnesses or two?

25 MS. VOLLMAN: She is a...

1 THE COURT: Okay.

2 MR. MARTIN: Judge, my position is for her to
3 be sworn in in front of the jury.

4 MS. VOLLMAN: She's going to be.

5 MR. MARTIN: Is this something that I can
6 ask, her be sworn in?

7 MS. VOLLMAN: We've been here.

8 MR. MARTIN: That's fine.

9 THE COURT: Where is she seated?

10 MR. MARTIN: Ask her to state her name.

11 Q. (BY MS. LEWIS) All right. Before our brief
12 bench conference, we were discussing the inspection. Do
13 you recall?

14 A. Yes.

15 Q. After the inspection, did you approve them to go
16 forward?

17 A. I just referred to information to management. I
18 don't actually make my kind of approvals or denials based
19 upon those questions.

20 Q. Did you have an opportunity to re-engage Briscoe
21 Medical Supply?

22 A. Yes, I did.

23 Q. And how did that come about?

24 A. I was giving it as a full-scale investigation.

25 Q. What did you do when you were assigned that

1 investigation?

2 A. I received the enrollment packet and the other
3 business information. I identified the principals of the
4 business. I was given the claim's file's information so I
5 can run a business objectives report and develop a
6 patient roster list so we can obtain our evidence.

7 Q. Did you try to deliver the records requests
8 letter?

9 A. Yes.

10 Q. Were you successful?

11 A. No.

12 Q. What did you observe when you arrived at the
13 business location?

14 A. I noticed that the business was locked and the
15 lights were out during normal business hours and I also
16 took pictures of what appeared to be returned mail.

17 Q. When did you go do this?

18 A. I'm sorry?

19 Q. When did you attempt to serve the letter?

20 A. May I refer to my report? I attempted on
21 December the 5th and December 6th of 2006.

22 MS. LEWIS: May I approach?

23 THE COURT: You may.

24 Q. (BY MS. LEWIS) I'm showing you what's been
25 marked as State's Exhibit 124 and 141. Can you please

1 identify these exhibits?

2 A. These are the photos outside of Briscoe Medical
3 Supply door that appear to be returned.

4 Q. Do they fairly and accurately represent what's in
5 the photographs?

6 A. Yes.

7 MS. LEWIS: Your Honor, State offers 124 and
8 141.

9 (State's Exhibit Nos. 121 and 141 were
10 offered into evidence.)

11 MR. MARTIN: Defense objects to 121 and 141
12 based on lack of predicate.

13 THE COURT: Overruled. They're admitted.

14 (State's Exhibit Nos. 121 and 141 were
15 admitted into evidence.)

16 Q. (BY MS. LEWIS) Please identify what's been
17 marked as 124.

18 A. It's a picture of the door, the suite and the
19 packages that were outside of the door.

20 Q. 141?

21 A. These were additional pictures of the packages
22 that were outside the door.

23 Q. What did you do next?

24 A. After that, I went to conduct recipient
25 interviews.

1 Q. And why did you do that again?

2 A. We conduct the recipient interviews so that we
3 can confirm the services that were billed.

4 Q. And how many recipients did you talk to?

5 A. Eight.

6 MS. LEWIS: May I approach?

7 THE COURT: You may.

8 Q. (BY MS. LEWIS) I'm showing you what's been
9 marked as 142. Does this accurately represent the persons
10 you interviewed or their recipients, the date of the
11 interview and where it was located?

12 A. Yes.

13 Q. Who is the first person you interviewed?

14 A. Ella Cruz, C-R-U-Z.

15 MS. LEWIS: Your Honor, I wish to offer
16 State's Exhibit 142.

17 (State's Exhibit No. 142 was offered into
18 evidence.)

19 THE COURT: Any objection?

20 MR. MARTIN: We object for lack of predicate
21 on business records, Judge.

22 THE COURT: Sustained.

23 MS. LEWIS: Your Honor, it was not offered as
24 a business record.

25 THE COURT: What's the basis of the offer?

1 MS. LEWIS: It reflects the interviews she
2 conducted?

3 THE COURT: Who prepared the document?

4 MS. LEWIS: Our office prepared it, Your
5 Honor.

6 THE COURT: Objection sustained.

7 Q. (BY MS. LEWIS) Who is the second person you
8 interviewed?

9 A. Alicia Jarston.

10 Q. And what date was that?

11 A. That was on December 14th, 2006.

12 Q. And the third person you interviewed?

13 A. Cheryl Bailey.

14 Q. And when was that interviewed conducted?

15 A. December 14th, 2006.

16 Q. And the fourth person?

17 A. Moni Rodriguez.

18 Q. And who is the recipient?

19 A. Louis Winters.

20 Q. And what was the date of that interview?

21 A. December 15th, 2006.

22 Q. The fifth person you interviewed?

23 A. Rosalinda Conn.

24 Q. What is that address?

25 A. It's 12703 Quail Valley Lane, Houston, Texas

1 77099.

2 Q. And the date of that interview?

3 A. December 15th, 2006.

4 Q. And then number six?

5 A. Vicki Ridloft.

6 Q. And what date was that interview?

7 A. December 15th, 2006.

8 Q. Who is the seventh person you interviewed?

9 A. Alexis Crawford.

10 Q. And who is the recipient?

11 A. Kevin Whitehead.

12 Q. And the address?

13 A. 2022 Bridgecross Lane, Houston, Texas, 77066.

14 Q. And the date of the interview?

15 A. That was May 14th, 2007.

16 Q. Okay. And the eight person you interviewed?

17 A. Lydia Christian.

18 Q. And the recipient associated with that interview?

19 A. Solan and Tykesia Christian.

20 Q. And the date?

21 A. It was May 15th, 2007.

22 Q. And what was the address?

23 A. It is 4602 Klienway, Houston, Texas 77066.

24 Q. Was there anyone else you interviewed?

25 A. We received a call from a Margaret Sharper.

1 Q And that was a phone interview?

2 A. Yes.

3 Q. And what date was that interview?

4 A. That was January 19th, 2007.

5 Q. Why don't you talk to everyone?

6 A. It's difficult to talk to -- I mean, if you're
7 obtaining 500-and-some-odd records. Some clients move.
8 Some clients, you know, are not easily assessible; and
9 some clients don't want to talk to you.

10 Q. What did you do next?

11 A. After that, we decided to consult with my manager
12 to enact a payment hold.

13 Q. Did you ever recover any records from Ms. Briscoe
14 or Briscoe Medical Supply?

15 A. No, I did not.

16 Q. And what did you conclude?

17 A. That Ms. Briscoe had, in fact, billed for
18 services that she had not rendered.

19 MS. LEWIS: I tender, Your Honor. Pass the
20 witness.

21 THE COURT: You may proceed.

22 MR. MARTIN: Thank you, Judge.

23 CROSS-EXAMINATION

24 BY MR. MARTIN:

25 Q. Good morning, ma'am.

1 A. Good morning.

2 Q. How are you today?

3 A. Pretty good.

4 Q. Ma'am, I've got a couple of questions for you,
5 not very many.

6 A. Okay.

7 Q. You indicated during your direct testimony that
8 you reviewed documents as part of your preliminary
9 investigation review on C&M Medical Supply. Do you
10 remember that direct testimony?

11 A. Yes.

12 Q. And you specifically commented, under direct
13 examination, that the business appear to be run by
14 Broderick Carter, a person by the last name of Bibbs and
15 also a person by the last name of Cox. Do I recall that
16 correctly?

17 A. Yes.

18 Q. Okay. Marcus Jefferson does not appear on any of
19 those documents as an owner, operator or director, does
20 he?

21 A. No.

22 Q. You sent a records request letter to
23 Mr. Carter; is that correct?

24 A. I was going to hand-deliver that record to him.

25 Q. I apologize. You're correct. You tried to hand-

1 deliver it?

2 A. That's correct.

3 Q. There was nothing in that records requests letter
4 relating to Marcus Jefferson, correct?

5 A. That is correct.

6 Q. You conducted, I recall, if my notes are correct,
7 eight interviews relating to C&M Medical Supply?

8 A. That's correct.

9 Q. And you remember that testimony?

10 A. Yes.

11 Q. And I'm not going to go through each one of the
12 eight names; but for each one of those interviews, you did
13 not ask any questions relating to Marcus Jefferson, did
14 you?

15 A. No, sir.

16 Q. You did not receive any answers from any of those
17 interviewees identifying Marcus Jefferson, did you?

18 A. No, sir.

19 Q. You went to an address for C&M, for lack of a
20 better phrase, called a Hedgecroft building?

21 A. Yes.

22 Q. You remember that testimony.

23 A. Yes.

24 Q. And you took some pictures. You remember that?

25 A. Yes, I did.

1 Q. None of those pictures at the Hedgecroft building
2 indicated anything relating to Marcus Jefferson, did it?

3 A. No, sir.

4 Q. Switching from C&M now to Briscoe.

5 A. Okay.

6 Q. You took a look at the business records that you
7 had on hand at the beginning of your investigation for
8 Briscoe?

9 A. That's correct.

10 Q. Nothing in those business records related to
11 Marcus Jefferson, correct?

12 A. Yes, sir.

13 Q. In fact, the State provided you, during your
14 direct testimony, an exhibit that you had prepared that
15 forms Exhibit 123. That was that checklist?

16 A. Right.

17 Q. You remember that testimony?

18 A. Yes, I do.

19 Q. Not a single question on that checklist related
20 to Marcus Jefferson, did it?

21 A. No, it did not.

22 Q. And no answer provided by Ms. Briscoe related to
23 Marcus Jefferson, did it?

24 A. No, it did not.

25 Q. And last, you remember that in direct testimony

1 you had again eight interviews with the Briscoe patients?

2 A. Right.

3 Q. If I'm missing using the word patient, I don't
4 mean to. Patients or customers?

5 A. Customers, clients.

6 Q. Well, let me use your word. What word would you
7 use, ma'am?

8 A. I don't work with the State anymore, so I would
9 probably call them clients.

10 Q. Clients. But am I correct on the eight
11 interviews with clients?

12 A. Yes.

13 Q. For Briscoe?

14 A. Yes.

15 Q. And again, same question as with C&M, no question
16 that you asked any of these eight people had anything to
17 do with Marcus Jefferson?

18 A. No.

19 Q. And no answer that you got back from any of these
20 eight folks had any indication related or connected to
21 Marcus Jefferson, correct?

22 A. That's correct.

23 MR. MARTIN: Pass.

24 THE COURT: Anything further, Ms. Lewis?

25 MS. LEWIS: No, Your Honor.

1 THE COURT: May this witness be excused?

2 MS. LEWIS: Yes.

3 THE COURT: Thank you, ma'am. You are
4 excused. Call your next witness.

5 MS. LEWIS: Vantrice Crayton.

6 THE COURT: Ms. Lewis, has this witness been
7 sworn?

8 MS. LEWIS: Yes.

9 THE COURT: You may proceed.

10 VANTRICE CRAYTON,
11 having first been duly sworn, testified as followed:

12 DIRECT EXAMINATION

13 BY MS. LEWIS:

14 Q. Please state your name?

15 A. Vantrice Crayton.

16 Q. And where are you employed?

17 A. Currently, I'm with the Health and Human
18 Commission, Office of Inspector General, Medicaid Fraud
19 Integrity.

20 Q. And what are your duties there?

21 A. Well, now, I'm a manager of about 12 people who
22 investigate Medicaid fraud; but before that, I was an
23 investigator.

24 Q. Was that in 2005, 2006 era?

25 A. Yes.