

1 Q Could you state your name and spell it for
2 the record?

3 A Robert Montoya; R-O-B-E-R-T, Montoya
4 M-O-N-T-O-Y-A.

5 Q How are you employed? How are you employed?

6 A With the Harris County District Attorney's
7 Office.

8 Q What are your duties?

9 A My duty as a fraud examiner is to analyze
10 records, data records, and to provide spreadsheets of
11 my findings. And then some cases I provide written
12 summaries on what I found.

13 THE COURT: Keep your voice up now.

14 Q (BY MS. BAKER) What is your training and
15 experience?

16 A My training, I have a Bachelor's Degree in
17 Accounting, and experience -- I've been with white
18 collar crime section for three years. I worked under
19 two fraud examiners. They kind of showed me the
20 ropes of what a fraud examiner does.

21 Q All right. At my request did you examine --

22 MS. BAKER: May I approach the witness.

23 THE COURT: You may.

24 Q (BY MS. BAKER) Did you examine State's
25 Exhibit 12?

1 A Yes.

2 Q All right. And did you make a written
3 summary of your examination of State's Exhibit 12?

4 A Yes, I did.

5 Q I show you what's marked as State's Exhibits
6 17 and 18. What are those documents?

7 A This is a spreadsheet I did from --

8 THE COURT: What are you -- what
9 document are you testifying from?

10 THE WITNESS: State's Exhibit 18 is a
11 spreadsheet I did from this ledger right here.

12 THE COURT: Thank you.

13 Q (BY MS. BAKER) State's Exhibit 12.

14 A State's Exhibit 12. And State's Exhibit 17
15 is an alphabetic sort of State's Exhibit 18.

16 Q All right. So they contain the same
17 information, just 18 is chronologic and 17 is
18 alphabetical?

19 A Yes.

20 MS. BAKER: All right. We will offer
21 into evidence State's Exhibit 17 and 18 after
22 tendering to defense counsel.

23 THE COURT: Very well.

24 MR. OWMBY: No objections, Your Honor.

25 THE COURT: Seventeen and 18 will be

1 admitted without objection.

2 *(State's Exhibit Nos. 17 and 18 are*
3 *admitted.)*

4 Q (BY MS. BAKER) Let's just look at State's
5 Exhibit 18. When you started your examination of
6 State's Exhibit 12, does it start at a certain date
7 or does it appear to start at a certain date?

8 A Yes, it appears July 1st, 2009.

9 Q And did you get that date from the ledger
10 itself in State's Exhibit 12?

11 A Yes.

12 Q Is that the date that you started your
13 chronological sort on the spreadsheet on State's
14 Exhibit 18?

15 A Yes.

16 Q And how did you go about doing that?

17 A I just took it from this ledger on State's
18 Exhibit 12. That's the date I started. That's the
19 date it's -- that's the first date that starts on
20 this ledger, and that's the date I started on my
21 spreadsheet.

22 Q And are there names on State's Exhibit 12?

23 A Yes, there are.

24 Q So did you enter that name in the
25 corresponding slot on the spreadsheet on State's

1 Exhibit 18?

2 A Yes, I did.

3 Q And are there what appears to be numbers or
4 dollar amounts?

5 A Yes.

6 Q Did you also include a date?

7 A Yes, I did.

8 Q How did you determine the date?

9 A Well, the date is the number right next --
10 right next to the left. It starts off with -- this
11 one's going to be one, so that's --

12 Q So in the far left column are there numbers?

13 A Yes.

14 Q And what do those numbers appear to you to
15 be?

16 A The date of the month.

17 Q All right. So then there is a name?

18 A Yes.

19 Q And then on the far right column is the
20 money amount?

21 A Yes.

22 Q And so is there a total at the end of a
23 period of time?

24 A Yes, for the month.

25 Q Does it appear consistently in that method

1 of organization throughout State's Exhibit 12. Is it
2 consistent with the way that the --

3 A Yes.

4 Q -- ledger is maintained?

5 A Yes.

6 Q So were you consistent in your State's
7 Exhibit 18 in your summary of the items in State's
8 Exhibit 12?

9 A Yes.

10 Q Could you read every name?

11 A No.

12 Q Why not?

13 A Handwriting was sometimes illegible,
14 couldn't make out the names.

15 Q So what did you do in that case?

16 A I would write, "Name illegible," and then
17 the dollar amount that corresponds with it.

18 Q What is the -- you said the very first date
19 is July 1st, 2009?

20 A Yes.

21 Q What is the very last date in your ledger of
22 State's Exhibit 12, or State's Exhibit 18? Because
23 they are the same, correct?

24 A Yes. July 15th, 2011.

25 Q So from July 1st, 2009, through July 15th of

1 2011, what is the total number of money entered in
2 the ledger?

3 A 7,700 -- \$778,663.58.

4 Q Is that the total money entered minus the
5 returns?

6 A Yes.

7 Q What were the returns for that over
8 \$700,000?

9 A The return is \$1,835.

10 MS. BAKER: May I approach the witness?

11 THE COURT: Yes, you may.

12 Q (BY MS. BAKER) So does that appear to be a
13 ledger of money earned in that time period from
14 roughly July 2009 through July 2011?

15 A Yes.

16 Q I'm going to show you what's already into
17 evidence as State's Exhibits 13, 14 and 15. If you
18 could turn to State's Exhibit 18. Do you see an
19 entry for February 19th, 2011?

20 A Yes.

21 Q Okay. And what name on State's Exhibit
22 18 -- well, let me back up. I'm sorry.

23 On State's Exhibit 13, what name is
24 listed as a client on State's Exhibit 13?

25 A Leslie --

1 Q You can spell it?

2 A L-A-V-E-R-G-N-E.

3 Q Did you find an entry in State's Exhibit 12
4 also reflected in your spreadsheet in State's Exhibit
5 18 with that same name on this same date?

6 A Yes.

7 Q And there appears to be a receipt or a money
8 order here. Do you see that?

9 A Yes.

10 Q All right. Why don't you check State's
11 Exhibit 14. Do you have an entry in your spreadsheet
12 on State's Exhibit 18 consistent with the date on
13 State's Exhibit 14 of January 2nd, 2011?

14 January -- does that say January? I'm
15 reading it upside down. June 22nd, 2011.

16 A Yes.

17 THE COURT: Which exhibit are you
18 looking at?

19 MS. BAKER: State Exhibit 14, Judge.

20 THE COURT: That's what I thought.

21 Thank you.

22 A Yes.

23 Q (BY MS. BAKER) All right. In fact there's a
24 mark next to it so the Judge can find it, too,
25 correct?

1 A Yes.

2 Q All right. And what is the client's name on
3 State's Exhibit 14?

4 A John Stapler [sic].

5 Q Stapleton.

6 A Stapleton. Sorry.

7 Q Well, is State's Exhibit 14 consistent with
8 the --

9 A Yes.

10 Q -- entry you found in State's Exhibit 12 on
11 the date of June 22nd, 2011?

12 A Yes.

13 Q And how about State's Exhibit 15? Can you
14 look up the date April 25, 2011?

15 (Attorneys confer.)

16 Q (BY MS. BAKER) And on State's Exhibit 15,
17 what is the name on the ledger by the entry -- I'm
18 sorry, on the entry for that date that I just told
19 you, what is the name on the ledger entry?

20 A Chris Badellio.

21 Q You can spell it.

22 A B-A-D-E-L-L-I-O.

23 Q Okay.

24 MS. BAKER: We pass the witness, Judge.

25 THE COURT: Thank you.

1 Mr. Owmbly.

2 MR. OWMBY: Thank you, Your Honor.

3 **CROSS-EXAMINATION**

4 BY MR. OWMBY:

5 Q Now, the ledger that you had, and it's
6 reflected here, a date, a name and an amount?

7 A Yes.

8 Q Was there anything else that -- by your
9 examination, the ledger, that indicated where this
10 money went?

11 A No.

12 Q Was there any notations that indicated what
13 the purpose of the --

14 A Some entry --

15 THE COURT REPORTER: "Indicated what
16 the purpose of the," what?

17 MR. OWMBY: Purpose of the entry was,
18 or purpose of the funds were.

19 THE COURT REPORTER: Thank you.

20 A On a couple of entries it had a hyphen with
21 "DWI" or "divorce." That is what I noticed.

22 Q (BY MR. OWMBY) Find any evidence of
23 deposits, accounts where the money finally ended up
24 except that it was recorded as coming in on this
25 ledger?

1 A No.

2 Q Were you able to examine any of the material
3 found in Delaware from the storage locker or found in
4 the car?

5 A I only examined the notebook.

6 Q Just the notebook?

7 A Yes.

8 Q Were you given the total money that was
9 recovered in Delaware? Do you know what that was?

10 A No.

11 Q But your total is approximately \$778,000?

12 A Yes.

13 Q And I believe you testified you -- that --
14 the final disposition of these funds you did not find
15 evidence of where this money went?

16 A No.

17 Q Now, the ledger was found in -- do you know
18 counsel pointed out a couple of people, I guess to
19 exemplify what the ledger means. Do you have
20 knowledge of who these people are? It doesn't have
21 to be your personal knowledge, any knowledge at all
22 of who these people are. Are they Houston residents,
23 Delaware residents, do you know what they are?

24 A The names in the ledger?

25 Q Right.

1 A No, I don't.

2 MR. OWMBY: Pass this witness.

3 MS. BAKER: No further questions,
4 Judge.

5 THE COURT: May this witness step down
6 and be excused not subject to recall?

7 MR. OWMBY: That's fine with us, Your
8 Honor.

9 MS. BAKER: Yes, Your Honor.

10 THE COURT: Thank you for your time and
11 your testimony. You are excused, sir.

12 THE WITNESS: Thank you.

13 MS. BAKER: State calls Calvin Johnson.

14 THE COURT: Thank you.

15 THE BAILIFF: Judge, this witness has
16 been sworn.

17 THE COURT: Thank you, sir.

18 Please take your seat, make yourself
19 comfortable. Keep your voice up so everyone can hear
20 what you have to say.

21 Please proceed when you're ready.

22 MS. BAKER: Thank you, Judge.

23

24

25

1 **CALVIN JOHNSON,**
2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 BY MS. BAKER:

5 Q Mr. Johnson, would you state and spell your
6 name, please?

7 A It's Calvin Johnson. The first name Calvin,
8 C-A-L-V-I-N; last name Johnson, J-O-H-N-S-O-N.

9 Q We had a little hard time hearing the last
10 witness. Thank you for speaking loudly.

11 A All right.

12 Q Now, Mr. Johnson, how are you employed?

13 A I'm an investigator with the Harris County
14 District Attorney's Office.

15 Q And what are your duties?

16 A I've got many duties. Right now I'm
17 assigned to the white collar crime section, but I'm
18 also a technical investigator and I also do a lot of
19 the undercover roles that's needed in the Special
20 Crimes Bureau.

21 Q All right. Back in 2009 do you remember
22 arriving at a location 1585 South Highway 6 in Harris
23 County, Texas?

24 A Yes, ma'am, that is correct.

25 Q And why did you go to that location?