

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

2 THE COURT: This is Cause No. 1233855,
3 1233856; and the accompanying case on bond is 1285835.

4 Both sides ready to proceed?

5 MR. LEWIS: We are ready, Your Honor.

6 MS. TURNER: State's ready.

7 THE COURT: Folks in the audience, if you
8 want to talk to your lawyer or your neighbor, have that
9 conversation out in the hallway.

10 All right. What says Defense?

11 MR. LEWIS: I believe that --

12 MR. BLIZZARD: Bryan Vaclavek as a
13 witness, Your Honor.

14 THE COURT: All right. Good morning, sir.

15 MR. BLIZZARD: Good morning, sir.

16 (Witness sworn.)

17 THE COURT: Feel free to adjust the chair
18 and microphone and answer as directly as you can.

19 You may proceed.

20 **BRYAN VACLAVIK,**
21 having been first duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 BY MR. BLIZZARD:

24 Q. Please state your name for the record.

25 A. My name is Bryan Vaclavik, last name V as in

M. Nancy Capetillo, CSR, CRR
(281)344-7973

1 "Victor," A-C-L-A, V as in "Victor," I-K.

2 Q. How are you employed?

3 A. I'm an independent consultant related to white
4 collar fraud and property investigations.

5 Q. Give the idea -- give the Judge an idea of what
6 your duties are.

7 A. I worked for the District Attorney's Office
8 here in Harris County for the first 18 years in my
9 career, mostly in the white collar fraud section doing
10 cases related to significant amounts of money, lots of
11 paperwork to ascertain if there was a crime committed,
12 first and foremost, and what restitution may be made and
13 to testify as an expert witness.

14 Q. In what field do you testify in as an expert
15 witness?

16 A. In white collar-related crimes.

17 Q. And how many years have you been doing that?

18 A. 18 years.

19 Q. How many times have you testified as an expert?

20 A. 150, 200 times.

21 Q. How many investigations -- white collar
22 investigations have you been involved in?

23 A. 300, 400.

24 Q. Are you a certified fraud examiner?

25 A. Yes, sir.

1 Q. What is that?

2 A. That is a certification related to individuals
3 who have background in law enforcement, financial
4 analysis, fraud detection and loss prevention.

5 Q. How long have you been a certified fraud
6 examiner?

7 A. Over a decade.

8 Q. Have you had any other kind of educational
9 background to assist you in your work?

10 A. Yes. I have a BS in finance from the
11 University of Houston as well as a master's in business
12 administration.

13 Q. Do you keep up to date on various new
14 developments in your field?

15 A. Yes.

16 Q. How do you do that?

17 A. Reading the newspaper, looking at financial
18 magazines, anything related to, you know, economic
19 losses and prevention and fraud detection.

20 Q. Do you also attend classes from time to time?

21 A. Yes, I have to, as part of my certification,
22 keep at least 20 hours a year in continuing education.

23 Q. Did you happen to become involved in a
24 investigation concerning a Dwayne Jordon?

25 A. Yes, sir.

M. Nancy Capetillo, CSR, CRR
(281)344-7973

1 Q. When did you become involved in that
2 investigation?

3 A. Late last year.

4 Q. How did you become involved in it?

5 A. You and Mr. Lewis asked me to look at the
6 records and the file.

7 Q. Did you do that?

8 A. Yes, sir.

9 Q. How did you initially approach the problems
10 that we're presented with today?

11 A. After, initially, a consultation with you, I
12 contacted the Harris County D. A.'s Office and started
13 looking at the file.

14 Q. How did you do that?

15 A. I called Ms. Turner and asked her if I could
16 come by and look at the boxes related to the case.

17 Q. How many boxes are involved?

18 A. I looked at three or four.

19 Q. Okay. Did you do anything else?

20 A. I interviewed a couple of the individuals that
21 would pertain to the extraneouses.

22 Q. Did you meet with Mr. Jordon?

23 A. Yes, sir.

24 Q. Did you meet with his staff?

25 A. Yes, sir.

1 Q. About how many times did you meet with them?

2 A. I met with Mr. Jordon at least seven or eight
3 times.

4 Q. Did you have an opportunity to go through their
5 records?

6 A. Yes.

7 Q. Were you given free rein to go in and examine
8 his records?

9 A. As well as the D. A.'s office records, yes.

10 MR. BLIZZARD: May I approach the witness,
11 Judge?

12 THE COURT: You may.

13 Q. (BY MR. BLIZZARD) Let me show you what's been
14 marked as Defendant's Exhibit 3. Can you identify that?

15 A. Yes.

16 Q. And what is it?

17 A. It is a summary of the addresses in question
18 related to the indictment.

19 Q. Okay.

20 A. Or documents.

21 Q. And how was this developed?

22 A. This was developed, along with Ms. Stephanie
23 Mendoza, related to the properties that were in question
24 and the pleadings that were related to the theft of real
25 estate.

1 Q. In doing this, did you review what's been
2 introduced as Defendant's Exhibit No. 1?

3 A. I'd have to see what Defendant's Exhibit No. 1
4 is.

5 MR. BLIZZARD: Sorry, Judge.

6 THE COURT: That's all right. I
7 believe --

8 MR. BLIZZARD: It's the big envelope.

9 THE COURT: And Ms. Capetillo has the
10 other exhibits.

11 MR. BLIZZARD: Thank you, Judge.

12 THE COURT: You're welcome.

13 Q. (BY MR. BLIZZARD) Let me put in front of you
14 what's been introduced into evidence as Defendant's
15 Exhibit No. 1, and I'll ask if that's part of the
16 documentation you reviewed in creating Defendant's
17 Exhibit No. 3.

18 A. Yes.

19 Q. Did you relay the information on the
20 Defendant's Exhibit No. 3 accurately and truly?

21 A. Yes.

22 Q. Is it a summary of voluminous records?

23 A. It is.

24 MR. BLIZZARD: The State would offer into
25 evidence Defendant's Exhibit 3 and tender to opposing

1 counsel.

2 MS. TURNER: No objection, Your Honor.

3 THE COURT: All right. Defense 3 is
4 admitted.

5 (*Defendant's Exhibit No. 3 admitted.*)

6 MR. BLIZZARD: Your Honor, I think it
7 might be -- may I have permission to publish this?

8 THE COURT: You may. I'm a bit unfamiliar
9 with the -- is Deputy Johnson around? He's our
10 technical guy.

11 MR. BLIZZARD: Well, let me try to do it
12 this way, Judge.

13 THE COURT: The constable is somewhat
14 familiar with that.

15 (*Technical difficulties.*)

16 MS. TURNER: Your Honor, may I approach?

17 THE COURT: Sure.

18 MS. TURNER: This is an exhibit list I've
19 given to opposing counsel.

20 THE COURT: Thank you.

21 (*Short pause.*)

22 Q. (BY MR. BLIZZARD) Mr. Slavonic, is this what's
23 been introduced into evidence as Defendant's Exhibit 3?

24 A. Yes, sir.

25 Q. Okay. I'm going to kind of move across this

1 document so we can describe it to the judge. What is
2 the first column?

3 A. That is the property in reference related to
4 the indictments under one of the two numbers that were
5 part of the -- of the case.

6 Q. Okay. And do they correspond with those
7 exhibits in Defense Exhibit No. 1?

8 A. Yes.

9 Q. What is the next column?

10 A. The property tax that needed to be paid to
11 bring those properties current during that time when
12 Mr. Jordon was building the properties up.

13 Q. What is the next column?

14 A. The city liens that were on that property.

15 Q. What is a city lien; like what might that be?

16 A. Some type of back taxes, assessments by the
17 governing agencies.

18 Q. What is the next column?

19 A. That relates to the company that was -- I
20 believe had to process the tax payment.

21 Q. And then the next column?

22 A. That relates to the tax attorneys related to
23 assessing the tax.

24 Q. And the next?

25 A. Just the fees. Those one, two, three, four,

1 five are just the various fees that were associated with
2 bringing the properties current so the buildings could
3 permit and the houses ended up being sold in those
4 instances where there is the dollar figures.

5 Q. Okay. And then there is this column, the final
6 column, Neighborhood Protection. What is that?

7 A. I'm really unfamiliar with that. It was just
8 one of the expenses that were related to that particular
9 property.

10 Q. Okay. And then the next column?

11 A. That is just the total for the amount
12 associated with each property to bring current.

13 Q. Okay. So that would be a total, correct?

14 A. That is correct.

15 Q. And then the last column?

16 A. Those were the property values assessed by the
17 Harris County Appraisal District during that time frame
18 when those deeds were supposedly -- I shouldn't say
19 "supposedly." Those deeds were forged.

20 Q. And the second page of this just goes on to
21 list the other properties, correct?

22 A. Related to the other indictment.

23 Q. Okay. And it's a similar construction,
24 correct?

25 A. That is correct.

1 Q. Let's kind of look at it for a minute, total
2 amounts. I see that there is an amount, \$64,491.18?

3 A. Yes, sir.

4 Q. What does that refer to?

5 A. That represents the amount of money that
6 Mr. Jordon was out in bringing those properties current.

7 Q. Okay. And that relates to the first cause
8 number, 1233855?

9 A. It's either 55 or 56. Yes. That one, yes.

10 Q. Okay. And then down here we have another
11 figure at the property value. It's \$77,010. What does
12 that regard?

13 A. That represents the value of all those
14 properties pertaining to that indictment number, the
15 appraised value for those properties at the time that
16 those deeds were forged.

17 THE COURT: Now the appraised value, is
18 that HA --

19 THE WITNESS: That's HCAD, yes, sir.

20 THE COURT: HCAD, whatever it is.

21 THE WITNESS: Harris County Appraisal
22 District, yes, sir.

23 THE COURT: Thank you.

24 Q. (BY MR. BLIZZARD) And tell the Judge how it is
25 that you got that appraisal figure for that real estate.

1 A. Those are from the documents related -- from
2 HCAD.

3 Q. And are those documents also in what's been
4 introduced Defendant's Exhibit No. 1 for each one of
5 those properties?

6 A. I don't know specifically those, but I did
7 research related to those particular properties.

8 Q. Okay. And for the amount here for Cause
9 No. 128856, is that a similar construction?

10 A. Yes.

11 Q. And the Judge here can see the final tallies at
12 the bottom right corner, correct?

13 A. That is correct. What's different about that
14 particular exhibit is the fact that one relates to
15 Mr. Radley; and since they're co-defendants in that
16 particular indictment, then it was only fair to divide
17 it by two since both of those individuals are
18 responsible for that particular amount.

19 Q. And what would be the total amount of that if
20 divided by two?

21 A. \$62,680.

22 Q. Okay. And does that account for any of the
23 expenses?

24 A. That does not account for any expenses. That's
25 just half of the property value for that particular

1 indictment. If you take that from the amount of money
2 that Mr. Jordon spent on those properties, technically
3 Mr. Jordon is owed \$83,000 at that time.

4 *THE COURT:* Is that what that red figure
5 is?

6 A. Yes, sir, that's exactly right.

7 And if you take the other \$12,000 from the
8 other indictment, you're roughly looking at \$71,000 in
9 overpayments to bring those properties up to code and to
10 pay all the back taxes so that the properties could be
11 sold later on after Mr. Jordon built the houses on those
12 properties at his own expense.

13 Q. (BY MR. BLIZZARD) So Mr. Jordon was purchasing
14 low-income area housing, correct?

15 A. I don't know if he was purchasing low-income
16 housing. He was building property -- he was building
17 residences on those properties once the deeds were
18 forged.

19 MR. BLIZZARD: I'm sorry, Judge, one quick
20 question.

21 *THE COURT:* Well, let me ask you one
22 question about your last answer.

23 He was building houses on the properties
24 once the deeds were forged. You say those properties.
25 Properties in both cause number or properties in the

1 second cause number?

2 *THE WITNESS:* Both of those cause numbers.
3 You'll see -- I believe that Ms. Turner has a
4 spreadsheet related to what she says is the title
5 company's exposure, and that's related to those
6 residences that were built and subsequently sold to
7 individuals that didn't know that the deeds -- the deeds
8 were forged.

9 *THE COURT:* Okay.

10 *Q. (BY MR. BLIZZARD)* There are some properties
11 here where we indicate there's missing documents. Can
12 you explain that to the Judge?

13 *A.* Yes, after looking at Mr. Jordon's business
14 location, those particular files were not found. Now
15 there are -- there are columns and rows that have no
16 numbers in them because Mr. Jordon had nothing to do
17 with that from what we can understand pertaining to
18 those properties.

19 *THE COURT:* Right now Ms. Green is cause
20 number what? Can't see the top.

21 *THE WITNESS:* That might be six. Yeah,
22 five, six.

23 *THE COURT:* Thank you.

24 *Q. (BY MR. BLIZZARD)* Okay. So again just so I
25 understand, when there's no -- when there is nothing in

1 the column, coming across, for example, this Elwood
2 address -- Elmwood address, you couldn't find any
3 connection?

4 A. Could not find any documentation related to
5 Mr. Jordon purchasing or building a home on that
6 location.

7 Q. What is the concept of -- do you -- are you
8 aware -- have you worked very many real estate-related
9 fraud cases?

10 A. A couple related to mortgage fraud, yes.

11 Q. What is the concept of opening a title?

12 A. That's when someone is about to purchase a
13 home, so they have to have it -- run it through a title
14 company that does the research related to the title.
15 And that's usually where the closings -- where the
16 seller and the purchaser meet to sign all the
17 documentation and then the exchange of the funds.

18 Q. Did you try to do an analysis in this case of
19 restitution?

20 A. Yes.

21 Q. Can you explain how you approached that problem
22 to the Judge?

23 A. That was what you would -- what you saw on
24 those two -- that Exhibit 3, Defense Exhibit 3. If at
25 the time that the deed was forged, then the value of the

1 property at that time should be considered substantially
2 versus a situation where you're looking forward down the
3 years to see if the property sells, you know what it's
4 going to sell at, the economic impact during the time.
5 Let's say the housing market which went bust. So if the
6 title company is on the hook for possibly, you know, a
7 million five, well, all the properties have gone down
8 since, you know, '08. So what is the real figure?

9 The only way you could really look at the
10 real figure is if you take it at the day or the year as
11 when the deed was forged and look at the property at
12 that time, where in this case I believe maybe one or two
13 had some type of structure, but other than that it was
14 just property.

15 Q. Did you --

16 MR. BLIZZARD: Excuse me, Judge, may I
17 have a moment, please?

18 THE COURT: You may.

19 MR. BLIZZARD: I'm sorry, Judge.

20 Q. (BY MR. BLIZZARD) Did you happen to conduct an
21 investigation into some of the extraneous offenses?

22 A. Yes.

23 Q. Okay. Did you, in fact, meet with a couple of
24 the complaining witnesses in those extraneous offenses?

25 A. Yes, sir.

1 Q. Did you meet with a Mrs. Thibo?

2 A. Yes, sir.

3 Q. Explain to the Judge how it is that you met
4 with her.

5 A. I met her, first time, at J. P. Court related
6 to her business conflict with Mr. Jordon where she
7 believed that she was stolen from by \$500 and a tax
8 credit of \$8,000 that the IRS would have given her as a
9 credit had she bought a home in a particular period of
10 time. So that's the first time I met Ms. Thibo.

11 MR. BLIZZARD: May I approach the witness,
12 Judge?

13 THE COURT: You may.

14 (*Defendant's Exhibit No. 6 marked.*)

15 Q. (*BY MR. BLIZZARD*) Let me show you what's been
16 marked as Defendant's Exhibit 6. Can you identify that?

17 A. Yes, it is a small claims petition that I
18 received from Mr. Jordon the day that the court date was
19 set and when Ms. Thibo and Mr. Jordon were at the J. P.
20 Court in Precinct 6, I believe.

21 Q. Is it a government record?

22 A. Yes.

23 Q. Is it under seal?

24 A. Yes.

25 MR. BLIZZARD: Sir, we would offer into

1 evidence Defendant's Exhibit 6, tender to opposing
2 counsel.

3 *MS. TURNER:* No objection, Your Honor.

4 *THE COURT:* All right. Defense 6 is
5 admitted.

6 *(Defendant's Exhibit No. 6 admitted.)*

7 Q. *(BY MR. BLIZZARD)* Can you describe No. 6 for
8 us?

9 A. It's just a document that relates to the claim
10 against Mr. Jordon.

11 Q. Okay. And is it a small claims document?

12 A. Yes.

13 Q. It's a petition?

14 A. Yes.

15 Q. And what does it indicate what Ms. Thibo is
16 interested in?

17 A. It just gives a few facts of what she is
18 interested in trying to get from Mr. Jordon. And, in
19 fact, it says: There is no counterclaim. Plaintiff
20 only wants to reimburse \$500, which was not submitted
21 towards earnest money. And that one related to the
22 house that Mr. Jordon built for Ms. Thibo.

23 Q. Did you go to court on this case --

24 A. Yes, sir.

25 Q. -- Ms. Thibo's case?

1 Do you know generally when you went to
2 Court?

3 A. I do not remember.

4 Q. Who was there?

5 A. Mr. Jordon, his real estate attorney,
6 Ms. Thibo, myself and various other individuals related
7 to, I guess, other petitions or other claims.

8 Q. Did the case get resolved?

9 A. Yes.

10 Q. How did it get resolved?

11 A. Mr. Jordon paid Ms. Thibo, I believe 700, \$750.

12 Q. And why was that?

13 A. To bring into the particular claim.

14 Q. Did you have subsequent conversations with
15 Ms. Thibo?

16 A. Yes, I met Ms. Thibo again after that fact.

17 *MS. TURNER:* Judge, I would object to any
18 hearsay.

19 *MR. BLIZZARD:* Judge --

20 *THE COURT:* That question, this answer is
21 fine; but you want to ask something calling for hearsay,
22 ask the question so she can make the objection
23 appropriately.

24 *MR. BLIZZARD:* I apologize to the Court.
25 I'm not trying to try your patience, but all through

1 this hearing the prosecution has been saying that
2 hearsay is available. I didn't -- and so now she takes
3 the position that hearsay is now invalid. So I don't
4 know -- it's like the same moving target, Judge, that
5 we've been trying to hit. We never get a consistent
6 picture.

7 *THE COURT:* Well, here is the deal. There
8 is no objection on the table so I'm not going to get
9 into this. So ask your question, make your objection;
10 I'll make my ruling, and we'll go forward.

11 *MR. BLIZZARD:* Thank you, Your Honor.

12 *THE COURT:* You're welcome.

13 *Q. (BY MR. BLIZZARD)* Without saying what anybody
14 said, what is -- what was your understanding of the
15 conversation, what was it about concerning you and
16 Ms. Thibo, the subsequent conversation you had?

17 *A.* Ms. Thibo was satisfied with the outcome of the
18 small claims court.

19 *Q.* Does she want to have anything to do with this
20 hearing we're having here today?

21 *A.* She specifically --

22 *MS. TURNER:* Judge, I'd object to any
23 hearsay.

24 *THE COURT:* Well, unless you know from
25 personal knowledge, that's sustained. She's not here or

1 if she is here, all of that remains to be seen; but
2 right now that's a hearsay conversation.

3 MR. BLIZZARD: Thank you, Judge. May I
4 approach the witness?

5 THE COURT: You may.

6 MR. LEWIS: Ask him if he's seen her here
7 today.

8 Q. (BY MR. BLIZZARD) Is Ms. Thibo here today?

9 A. I haven't seen her.

10 Q. Did you see her here yesterday?

11 A. No, sir.

12 (Defendant's Exhibit Nos. 7, 8, 9 marked.)

13 MR. BLIZZARD: May I approach the witness,
14 Judge?

15 THE COURT: You may.

16 Q. (BY MS. TURNER) Mr. Vaclavik, let me show you
17 what's been marked now as Defendant's Exhibits 7, 8, 9,
18 and 10. Do you recognize those documents?

19 A. I believe I saw these a little earlier, yes.

20 Q. Okay. And what are they?

21 A. They are in -- a receipt of a cashier's check
22 and several money order receipts.

23 Q. And who are those to?

24 A. The first one -- the cashier's check is made
25 payable to Shanette Williams (sic), and the various

1 money orders have Nanette Cornish's name on them.

2 Q. Has the defendant in this case been making any
3 kind of efforts towards restitution?

4 A. Substantial efforts.

5 MR. BLIZZARD: The State (sic) would offer
6 into evidence Defendant's Exhibit 7 through 10. Tender
7 to opposing counsel.

8 MS. TURNER: No objection, Your Honor.

9 THE COURT: Defendant's 7 through 10 are
10 admitted.

11 (*Defendant's Exhibit No. 7, 8, 9, and 10*
12 *admitted.*)

13 Q. (BY MR. BLIZZARD) Let me reference you back to
14 Defendant's Exhibit 7. Who is that to?

15 A. Shanette Smith in the amount of \$10,000, and it
16 says, Memo, Brinkley project paid in full, J. B. -- I
17 mean J. Homes -- J. Home Builders.

18 Q. Okay. And does that appear to be signed?

19 A. Yes.

20 Q. And then the other exhibits we referenced, 8
21 through 10. Can you describe those to the Judge?

22 A. These are just receipts of money orders and
23 they have Nanette Cornish's or a reference of Nanette
24 Cornish's name on them.

25 Q. And is that one of the complaints in the

1 extraneous offenses?

2 A. Yes, sir.

3 Q. I'm going to ask some more questions of you,
4 Mr. Vaclavik, concerning willingness to make
5 restitution.

6 A. Yes, sir.

7 Q. Let me show you Defendant's Exhibits 11 and 12.
8 I'll ask if you can identify those?

9 A. Yes, sir.

10 Q. What are they?

11 A. These are general warranty deeds pertaining to
12 two of the properties that the Harris County District
13 Attorney's Office asked Mr. Jordon to sign back over to
14 the initial or the original owners.

15 Q. When he was asked to sign property back over to
16 original owners, what did he do?

17 A. He signed them back over. Ms. Turner asked me
18 and said if he really wants to pay the money back and
19 make restitution, why didn't he do these two properties.
20 I said, okay, well, then we'll talk to him about that
21 and get that taken care of, which was done.

22 Q. And, again, are these under seal?

23 A. Yes.

24 Q. Are they government records? Are these
25 government records under seal, sir?

1 A. Yes, sir.

2 MR. BLIZZARD: The State would offer into
3 evidence Defendant's Exhibits 11 and 12.

4 THE COURT: All right.

5 MS. TURNER: No objection, Your Honor.

6 THE COURT: Admitted, 11 and 12.

7 (Defendant's Exhibit Nos. 11 and 12
8 admitted.)

9 MR. BLIZZARD: May I have just a moment
10 please, Judge?

11 THE COURT: You may.

12 Q. (BY MR. BLIZZARD) I'm going to reference back
13 to Defendant's Exhibit 3. Do you recall that exhibit?

14 A. Yes.

15 Q. It would indicate that Mr. Jordon paid good
16 money for all these properties?

17 A. Yes.

18 Q. Wouldn't it?

19 A. Paid the taxes and every other fee associated
20 with them, yes.

21 Q. The money spent on the real estate and the
22 money spent to take care of the various loans, were they
23 incorporated into any of the documentations shown to the
24 judge concerning restitution?

25 A. No.

1 Q. He was not given any credit for any of that,
2 was he?

3 A. No, sir.

4 Q. And he also paid money to Mr. Radley, the
5 co-defendant in this case. Isn't that true?

6 A. I saw some payments, yes.

7 Q. Was he given credit for any of that?

8 A. No, sir.

9 MR. BLIZZARD: Pass the witness.

10 THE COURT: All right.

11 **CROSS-EXAMINATION**

12 BY MS. TURNER:

13 Q. Mr. Vaclavik, how are you doing?

14 A. Fine.

15 Q. You and I know each other, do we not?

16 A. Yes, for many years.

17 Q. We've worked together?

18 A. Yes.

19 Q. The chart that you've created today -- and I'm
20 sorry, I don't remember the defense exhibit number.

21 MS. TURNER: May I see that, please?

22 A. 3. Defense Exhibit 3.

23 THE COURT: It's right here.

24 MS. TURNER: Thank you, Your Honor. Do
25 you have an extra copy for her?

1 MR. BLIZZARD: Yes, Judge, I sure do.

2 Q. (BY MS. TURNER) Mr. Vaclavik, the chart that
3 you've created which is labeled Defense Exhibit 3 -- I
4 believe possibly it's the second page. The cause number
5 says 128856 (sic).

6 A. Yes, ma'am.

7 Q. Do you have it in front of you?

8 A. Yes, ma'am.

9 Q. Would you agree with me that the cause number
10 is 123 --

11 A. 33.

12 Q. -- 3856?

13 So we'll correct that. These charts that
14 you've made for each of the cause number that Mr. Jordon
15 has pled guilty to, your charts on Defense Exhibit 3 do
16 not include every property in the indictment, do they?

17 A. Every property that we're aware of. If there's
18 a missing one, then that's my fault.

19 Q. Okay.

20 THE COURT: Excuse me. For the record
21 I've got the original State's 3, and I'll change that
22 cause number.

23 MR. LEWIS: Defense 3, yes, Your Honor.

24 THE COURT: I'm going to change the cause
25 number on this document and put my initials.

1 MR. LEWIS: Thank you, Your Honor.

2 Q. (BY MS. TURNER) In our meetings on this case,
3 we met many times, you and I?

4 A. Uh-huh. Yes, ma'am.

5 Q. Sometimes Mr. Blizzard was present; sometimes
6 he wasn't?

7 A. Right. And sometimes you just said, "Here's
8 the boxes, go at it," yes.

9 Q. Okay. And I think you already testified that
10 you basically had free rein to look at all the State's
11 boxes. Is that right?

12 A. Yes, ma'am.

13 Q. And you and I discussed what was in those
14 boxes, right?

15 A. Yes, ma'am.

16 Q. And I offered to walk you down the hallway in
17 considerable protection and show you the location of all
18 the boxes?

19 A. Yes, ma'am. I believe all the boxes were in
20 your office, and I just went in there and took whatever
21 I needed.

22 Q. And some of them were -- but we also talked
23 about the other boxes. Is that correct?

24 A. Other boxes as in more property records, or
25 were we talking about the actual --

1 Q. Do you recall we talked about the prior
2 investigation of Mr. Jordon that began back in 2006?

3 A. The prior investigation? No, I think we just
4 stuck with what we had here. Now, I mean, I was aware
5 of Mr. Jordon's previous run-ins with the law, yes.

6 Q. Would you agree with me that your concentration
7 in terms of wanting to look at the boxes was as to
8 financial matters?

9 A. Yes, because I think the issue was restitution,
10 and it's always been the -- it's about the money.

11 Q. But our agreement is that you could look at
12 anything as long as it wasn't work product?

13 A. That is correct, and I think that's the
14 philosophy of the District Attorney's Office in general.

15 Q. And if I understand correctly, the purpose of
16 your charts are to show that the defendant paid property
17 taxes on stolen properties?

18 A. That is correct.

19 Q. These are all properties he's pled guilty to
20 stealing. Is that correct?

21 A. That is correct. That is correct. Sorry.

22 Q. And I guess the purpose of this would be to
23 show that he's paid taxes on properties after he stole
24 them?

25 A. Properties after he stole them, yes, that is

1 correct.

2 Q. Okay. And so your argument would be that he
3 should get credit for having paid property taxes on
4 something that he stole?

5 A. That is correct.

6 Q. In our discussions and when I shared
7 spreadsheets with you on this case, has there ever been
8 a time when I've used a value for a property besides the
9 Harris County Appraisal District number or, excuse me,
10 Harris County Appraisal District amount?

11 MR. BLIZZARD: Sorry, Judge, I'm going to
12 object to the relevancy of what figures the prosecution
13 wants to use.

14 THE COURT: Well, you can say an opinion.
15 You don't -- you can say an opinion. It's overruled at
16 this time.

17 Q. (BY MS. TURNER) Have I ever used any other
18 value for the properties besides the HCAD appraised
19 values?

20 A. That I do not know because there are some
21 discrepancies with your particular exhibits that you
22 provided us versus what that particular Exhibit 3 is. I
23 know there's one property in particular on Baer Street
24 where you had \$50,000 as the value, and we believe it
25 was \$36,000. So as far as where your number came from,

1 I don't recall specifically what that was. That might
2 have been the value when the house sold. I don't know.

3 MS. TURNER: Okay. And may I approach the
4 witness, Your Honor?

5 THE COURT: You may.

6 Q. (BY MS. TURNER) And you testified previously
7 that you're familiar with Defense Exhibit No. 1?

8 A. Yes.

9 Q. Okay. And so the property 2914 Baer, is that
10 the one we're talking about?

11 A. Yes, ma'am.

12 Q. Would you agree with me in all of our
13 discussions that I always told you my value of the
14 properties were HCAD values?

15 A. That is correct.

16 Q. Would you agree with me that I always told you
17 that those HCAD values were at the year that the deeds
18 were first forged on the properties?

19 A. That's probably a conversation we had, yes.

20 Q. Okay. All right. So 2914 Baer, which is in
21 Defense Exhibit No. 1 -- looks like there's some HCAD
22 records here. These appear to be HCAD records for 2914
23 Baer from the year 2011. Would you agree with me on
24 that?

25 A. Yes, ma'am.

1 Q. Okay. And if the first forged deed on 2914
2 Baer was filed prior to 2011, the value of the property
3 that I would have listed would be different, would it
4 not?

5 A. Repeat your question.

6 Q. Okay. This HCAD record in reference to 2914
7 Baer lists the property value as of January 1st, 2010 as
8 \$52,000, does it not?

9 A. Yes, ma'am.

10 Q. Okay. And you understand that the offense
11 dates for all the properties in the indictments span
12 from February 1st, 2005 through, I believe, February of
13 2008?

14 A. That I'm not specific, but it's definitely
15 going to be before 2011, yes.

16 Q. Would it help you if I showed you my files, the
17 felonies?

18 A. Show me -- yeah. Show me what you're referring
19 to, yes.

20 Q. Okay. I'll just show you this.

21 A. 2001 -- '05 to --

22 Q. And the last date?

23 A. February 12th, '08.

24 Q. Would you agree with me that all the properties
25 listed in the two indictments for 1233855 and 56 all

1 occurred between 2005 and 2008?

2 A. Yes.

3 Q. Okay. And so the HCAD value that you and I
4 discussed during this case would have been the HCAD
5 value at the time the first deed was forged on Baer. Is
6 that right?

7 A. Say that again.

8 Q. Okay.

9 A. Sorry.

10 Q. In our discussions when we talked about the
11 properties --

12 A. Uh-huh.

13 Q. -- the property value calculated would have
14 been the HCAD value at the time the first deed was
15 forged?

16 A. That may have been the conversation; but as far
17 as the actual documents, now I'd have to look at what
18 you're saying HCAD versus what we have HCAD. Because I
19 know that on your -- actually on the H.U.D. from this,
20 it says \$50,000.

21 Q. And this H.U.D. in here is actually dated --

22 A. 4/18/08.

23 Q. 4/16/08?

24 A. Is that 8 or 6? Yes, 8.

25 Q. We can agree it's either 4/16/08 or 4/18/08,

1 right?

2 A. Yes.

3 Q. And you calculate \$50,000. That says contract
4 sales price, doesn't it?

5 A. Yes.

6 Q. So the contract price that someone purchases a
7 property often will be different than the appraised
8 price, will it not?

9 A. Exactly, which is part of the problem with all
10 the other stuff, yes.

11 Q. And in State's Exhibit No. 2, which is in
12 evidence, and I'm showing you a copy of it, under 2914
13 Baer --

14 A. It's up here (pointing).

15 Q. -- the property value that I have listed is
16 50,000?

17 A. That is correct.

18 Q. Would you agree with me that that is in
19 accordance with what you have in your files?

20 A. That is in accordance, but that doesn't mean
21 that that is the value that was of HCAD on that
22 particular day.

23 Q. I would agree with that.

24 A. Okay. Yeah. So if you show me the HCAD
25 documents for when the documents were forged and if it's

1 \$50,000, then I would agree with you.

2 Q. But as it stands, the State's value for the
3 property is the same value that the Defense's value for
4 2914 Baer is?

5 A. No. The Defense value is 36,000-and-something
6 based on the HCAD. Now --

7 THE COURT: Excuse me. Based on the HCAD
8 record, on 2914 Baer on the date the deed was forged?

9 THE WITNESS: That is correct.

10 Q. (BY MS. TURNER) And you're not quarreling with
11 the jurisdictional limits of the cases that Mr. Jordon
12 has pled guilty to? One of them it's theft of more than
13 200,000 and the other one is theft of more than 100,000.
14 You're not quarreling with the jurisdictional limits,
15 are you?

16 A. When you say jurisdictional limits, what do you
17 specifically mean?

18 Q. Well, I mean, you worked at the District
19 Attorney's Office for many years. You understand that a
20 first-degree theft is more than \$200,000?

21 A. Uh-huh.

22 Q. And you understand that a second degree is
23 between more than 100,000 and under 200,000?

24 A. Yes, ma'am.

25 Q. And if Mr. Jordon has pled guilty to both of

1 those, are you quarreling with the jurisdictional limits
2 of those?

3 A. I am not. I am not, not at all.

4 Q. I'm just trying to understand the difference
5 between 36,000 and 50,000.

6 A. I'm just pointing out the difference in those
7 figures. Because if this all boils down to restitution
8 and the money, then we need to know what the amount is
9 so Mr. Jordon can pay it back.

10 Q. Agreed. When you talked about your
11 conversations with Ms. Thibo -- and I believe you were
12 in the court -- the J. P. Court when that case was
13 concluded.

14 A. Yes, ma'am.

15 Q. When did Mr. Jordon pay Andanishana Thibo?

16 A. I think there was a limitation of within a week
17 or see after that that they need to come to a conclusion
18 because I think they need to be back in court on that
19 day. That specifically I do not know; but after
20 conversations with Ms. Thibo and Mr. Jordon, I believe
21 that that is taken care of.

22 Q. Okay. Would you agree with me that that was
23 during a time period that Mr. Jordon was on bond for
24 these cases?

25 A. Yes, ma'am. Just like when he signed the deeds

1 back over, he was on bond during that time too.

2 Q. And you said that you met with Mr. Jordon I
3 think seven or eight times?

4 A. At least, yes, ma'am.

5 Q. Would you say that you're familiar with his
6 signature?

7 A. I am not familiar with anything related to his
8 signing or his business other than what I've reviewed.

9 Q. You're not familiar with his handwriting?

10 A. It was never an issue, for what I was asked to
11 do.

12 Q. So in the records you reviewed, it would be
13 your testimony that you didn't see handwriting of
14 Mr. Jordon's?

15 A. I may have saw a handwriting of Mr. Jordon's,
16 but I saw handwriting of countless people looking at the
17 records, your records, Mr. Jordon's records.

18 Q. Did you see the signature of Mr. Jordon
19 anywhere when you reviewed his business records?

20 A. I'm sure I did, especially when it came to the
21 financial records.

22 Q. Okay.

23 A. Because it was -- I believe he was assigned
24 there, and then I think sometimes a female was the
25 signer on some of the accounts.

1 Q. And the two deeds that we talked about that I
2 requested that since they were still in the name of
3 Mr. Jordon's entity that if he really wanted to show the
4 Court his willingness to make this right, he could grant
5 them back to the true owners?

6 A. That is correct.

7 Q. Right. And on those deeds, did you get a
8 chance to look at those deeds?

9 A. I did look at them, yes.

10 Q. And I think maybe you were even, in fact, the
11 person who delivered them to me?

12 A. I believe I was, yes. Because after you and I
13 had talked, I went to Mr. Lewis and Mr. Jordon, said,
14 look, you know, here's a way to start alleviating the
15 problem; and that's what we did.

16 Q. And do you recall me telling you that that's
17 not Mr. Jordon's signature on those deeds?

18 A. You did not tell me that.

19 Q. Didn't tell you that?

20 A. Because I just handed them off. We didn't have
21 a conversation related to them after that.

22 Q. Never sent you an email in reference to that?

23 A. If you sent -- you sent me many emails.

24 Q. We've been busy working, haven't we?

25 A. Yes. So do I remember that specifically? No,

1 I do not remember that specifically.

2 Q. Do you know whether that's Mr. Jordon's
3 signature on those two deeds?

4 A. I have no idea if it is or not. But I would
5 doubt that the -- well, I shouldn't say "doubt." I
6 don't believe that the man would just have somebody
7 forge his name on those deeds.

8 Q. That would be a bad idea while you're on bond
9 from a court?

10 A. Well, I mean, if he told somebody to sign his
11 name to them, then he's given effective consent for his
12 name to be signed. So, you know, what are we talking
13 about?

14 If I went to him and I asked him -- sorry
15 if I'm going too fast. If I went to ask him to provide
16 the deeds to sign them back over and he's getting
17 somebody else to sign them, then he's really given
18 effective consent to sign in his name, correct?

19 Q. So you're saying despite the fact that this
20 defendant has pleaded guilty to stealing property using
21 forged deeds that you don't see any problem with him not
22 signing deeds filed at the County Clerk's Office related
23 to properties in the indictment; you don't see any
24 problem with that?

25 A. I think if anyone, if you told me to sign your

1 name and I signed it and I was confident in what I was
2 signing that you wouldn't come back on me, then I
3 believe it's okay. Now I think when there's an issue
4 about, "I never gave you consent to sign my name," then
5 I think we're talking about a different ballgame.

6 Q. Okay. Are you familiar with Stephanie
7 Mendoza's handwriting?

8 A. I am not familiar, but I've met with
9 Ms. Mendoza several times.

10 Q. You referenced some receipts in which
11 Extraneous Complainant Smith was repaid some amount by
12 Mr. Jordon?

13 A. Per that receipt, yes, ma'am.

14 Q. I think you testified her name is Shanette. I
15 think you're talk be about Shajuiet.

16 A. Shajuiet, whatever. I mean, I'd spell it for
17 you, yes.

18 Q. Same person?

19 A. Uh-huh.

20 Q. And I think you testified in reference to the
21 Defense Exhibit No. 3, the spreadsheets that you've
22 created, that after these properties were stolen the
23 defendant built houses on them?

24 A. That's my understanding, yes.

25 Q. Would you also agree with me he even sold those

1 houses to unsuspecting buyers?

2 A. I believe that that was an allegation, yes.

3 Q. And those are allegations that the defendant
4 has pled guilty to?

5 A. He pled guilt to stealing the property. I
6 don't know about building the houses. That's some type
7 of -- if that's a crime but --

8 Q. Are you familiar with the complainants listed
9 in the indictment on each property?

10 A. That I have not looked at. I know that the
11 pleading said Exhibit A, but I didn't look specifically
12 at the complainant's list, because I'm more
13 concentrating on the properties themselves and the
14 values that are going to be associated with this when it
15 comes to Mr. Jordon making restitution.

16 Q. So in Exhibit A to the indictments, if there
17 were unsuspecting buyers and true owners listed, you
18 wouldn't be surprised, would you?

19 A. No, I'm not surprised at that at all because
20 those are the effects of the forged deeds.

21 Q. And I believe you testified on your
22 spreadsheets, Defense Exhibit No. 3, that you believe
23 that Mr. Jordon is owed \$83,441.40?

24 A. I believe if you're going to relate to
25 restitution, I believe that number should be considered

1 in the restitution amount.

2 Q. Okay. And then I just want a little bit of
3 clarification. On the total property value divided by
4 two, you came up with \$62,680?

5 A. Yes, ma'am.

6 Q. Okay. And I think you testified you divided
7 that because there's a co-defendant?

8 A. That is correct. Mr. Radley.

9 Q. And I'm assuming your position there is that
10 Mr. Radley should also have to pay restitution?

11 A. I believe, yes. If he's a co-defendant and he
12 pled guilty to the same offense, yes, ma'am.

13 Q. Obviously you're familiar with the law of
14 parties, having worked at the District Attorney's
15 Office?

16 A. I mean in general.

17 Q. In your cases previously that you've worked as
18 a fraud examiner, in your analysis and on your
19 spreadsheets, for each defendant would your spreadsheet
20 refer to the total amount stolen and break it up by
21 co-defendant -- dividing by the number of co-defendants,
22 or would it just say total amount stolen?

23 A. It will depend. I mean, the 18 years of
24 learning what each prosecutor wanted, I usually would
25 give them a choice of how they wanted to break it down

1 so at least they would have those numbers so they
2 wouldn't always come back to me saying, hey, can you
3 look at this scenario; can you look at this scenario. I
4 would try to give it up to them to decide. It's not for
5 me to decide in the end.

6 Q. Would you agree with me that there were many
7 times when all the restitution owed would be attributed
8 to each defendant?

9 A. That is correct.

10 Q. Okay. And that would be many times, multiple
11 times?

12 A. Yes.

13 Q. Over your 18 years?

14 A. Yes, ma'am.

15 Q. And in terms of giving Mr. Jordon credit for
16 back taxes that he paid for property taxes, for the
17 Court's analysis, what's your position on who should be
18 given that credit? In other words, should we give that
19 credit to Mr. Jordon in reference to the true owners, or
20 should we give it to him in reference to the
21 unsuspecting buyers?

22 A. I think it's going to be the true owners of
23 those properties because everything else after that
24 you're just what if'ing, what if this scenario is looked
25 at, what if this scenario is looked at as far as the

1 value is concerned; and that's how we want to -- I'm
2 sorry.

3 Q. So, for example, if Mr. Jordon paid more in
4 back taxes than the HCAD value of the property at the
5 time it was stolen, your argument would be, that's a
6 wash; the true owner is owed nothing?

7 A. I believe that if it's going to be considered
8 in the broader picture that that should be considered.
9 Now if we're just going to talk about these particular
10 properties and the true owners of those properties, then
11 I believe that if there's going to be an issue about the
12 back taxes, because ultimately somebody didn't pay the
13 back taxes previous to Mr. Jordon taking over those
14 properties. So should they get the benefit of that? I
15 don't believe they should.

16 Q. Would you agree with me that in your review of
17 the properties in Mr. Jordon's files and in the State's
18 files that the defendant targeted properties that had
19 heavy back taxes that were owed?

20 A. I don't know if he targeted because I didn't
21 have that specific question. I can see where that could
22 be an issue because they're abandoned. I mean, those
23 properties are abandoned. If they weren't abandoned,
24 then why didn't someone keep up the property taxes?

25 Q. And when you say abandoned, you mean no one is

1 living there?

2 A. No one's -- I mean not living there, the
3 property is overgrown.

4 Q. It's not your position that nobody owned the
5 property?

6 A. Oh, no, never. No.

7 Q. In some of the -- we talked about a lot of
8 emails between you and I, right?

9 A. You and I and Chip -- and Mr. Lewis and
10 Mr. Blizzard, yes, because I think you sent it to all
11 three of us at the time.

12 Q. And one of the emails that I sent you included
13 the State's offense summary, did it not?

14 A. Yes. I believe that was a couple of weeks ago,
15 three weeks ago.

16 Q. It was about 30 days ago so it would have been
17 early March or, excuse me, early February.

18 A. Okay.

19 Q. Is that --

20 A. Is it the one -- let me make sure. Is it the
21 one that had several attachments to it at the time?

22 Q. Yes, it has attachments A through D.

23 A. Yes, ma'am.

24 Q. You got a copy of that. You've reviewed it?

25 A. Yes, ma'am.

1 Q. You're aware that Mr. Jordon filed for
2 bankruptcy for his company, E Jordon, Inc., in 2010?
3 Are you aware of that?

4 A. I'm not specifically aware of that.

5 Q. And if I were to show you something, would that
6 maybe refreshes your recollection?

7 A. You can show it to me, but I don't remember
8 specifically if there was a bankruptcy or anything
9 pertaining to a bankruptcy that I recall after looking
10 through all those records. But if you say there was a
11 bankruptcy, then I don't -- I have no reason to doubt
12 you.

13 Q. And for that bankruptcy, it was for
14 Mr. Jordon's company, not for him individually as far as
15 you're aware?

16 A. That would depend on how the bankruptcy is
17 filed. Is it he personally or he Jordon Home Builders?

18 MS. TURNER: May I approach the witness?

19 THE COURT: You may.

20 Q. (BY MS. TURNER) I'm showing you a certified
21 copy of bankruptcy records pertaining to E Jordon, Inc.
22 Would you agree with me that those were filed in October
23 of 2010?

24 A. Yes, ma'am.

25 Q. Are you aware that this bankruptcy was

1 voluntarily withdrawn by Mr. Jordon after its filing?

2 A. That I do not know. If you would want to refer
3 me to a particular page to identify that, I will confirm
4 it.

5 Q. And I don't want to take up the Court's time,
6 but I think you remember in the State's offense summary
7 there was a paragraph referencing the bankruptcy
8 petition.

9 A. There could have been. It was a long -- a long
10 report plus all the other attachments that related to
11 it.

12 Q. And if I showed you a copy of my offense
13 summary, you'd be able to take a quick look and see
14 whether that information on the bankruptcy was included,
15 would you not?

16 A. Yes. If this document is the document that, in
17 fact, that you sent over.

18 Q. And I'm showing you page 9 of the State's
19 offense summary which I believe in the PSI report -- if
20 I could see the heading on page 8, it will help me find
21 it in here.

22 Okay. So in the PSI report this would
23 have been page 10. I'm showing you a copy of the PSI
24 report, am I not?

25 A. Okay. Uh-huh.

1 Q. And on page 10 it says -- there's a heading,
2 Defendant's Actions and Attempts to Shield His Identity?

3 A. I think this is on page -- that is page 8.

4 Q. Correct. On the offense summary submitted by
5 the State which you've got a copy of, it's page 8.

6 A. Okay.

7 Q. On the PSI it's page 10.

8 A. Okay.

9 Q. Would you agree with me that the second
10 paragraph there says: The defendant may have formed
11 this corporation in anticipation of filing a bankruptcy
12 of E Jordon, Inc. However, the bankruptcy petition was
13 not filed until October 4, 2010, and his petition was
14 later withdrawn?

15 A. Okay.

16 Q. Is that fair to state?

17 A. It states that there, yes.

18 Q. And do you have a question as to whether this
19 is the offense summary you received and whether this is
20 the PSI report?

21 A. I have none, no.

22 Q. You don't know that?

23 A. No. I mean, I'm not disputing that. No.

24 MS. TURNER: May I approach the witness?

25 THE COURT: You may.

1 Q. (BY MS. TURNER) Mr. Vaclavik, I'm showing you
2 what's been marked as State's Exhibit 4 (sic). Would
3 you take a look at that and tell me what it is?

4 A. It is articles of incorporation that are filed
5 with the State of Texas related to J. Home Builders &
6 Construction, Inc.

7 Q. And I'm sorry, I meant to say State's Exhibit
8 24. I'm not sure if I did.

9 Would you agree with me -- well, Your
10 Honor, at this point I'll offer State's Exhibit 24.
11 This is a certified copy on file with the Secretary of
12 State's office relating to J. Home Builders &
13 Construction.

14 MR. BLIZZARD: I have no objection, Judge.

15 THE COURT: State's 24 is admitted.

16 (State's Exhibit No. 24 admitted.)

17 MS. TURNER: And, Your Honor, if I could
18 just reference it with the witness, if you wouldn't
19 mind. Thank you.

20 Q. (BY MS. TURNER) Mr. Vaclavik, would you agree
21 with me that State's Exhibit 24 shows a certificate of
22 formation of August 25th, 2009?

23 A. That is correct.

24 Q. And I'm assuming, Mr. Vaclavik, that you've
25 reviewed the defendant's sentencing memorandum and

1 mitigation packet?

2 A. I have not, no.

3 Q. So if there were a statement in there that
4 conflicted about when J. Home Builders & Construction
5 was incorporated, which would you believe is the better
6 source, the Secretary of State or the defendant's
7 sentencing memorandum?

8 A. As formed officially, then it's going to be the
9 Secretary of State.

10 Q. I believe that -- have you reviewed the
11 defendant's income versus monthly expenses?

12 A. Specifically, no.

13 Q. "No"?

14 A. No.

15 Q. Are you aware that he has stated that his
16 monthly expenses are \$7,100?

17 A. Are we talking currently?

18 Q. In the --

19 A. Are we talking about in those years?

20 Q. Currently.

21 A. I have no clue what his current financial
22 situation is.

23 Q. So you're not aware of what his income is
24 either?

25 A. No, ma'am.

1 Q. So you can't make any statements as to whether
2 it appears Mr. Jordon can pay restitution as ordered by
3 the Court?

4 A. I have no clue currently if he has. I just
5 know the things that he has done to try to pay
6 restitution.

7 Q. But you can't make any statements as to whether
8 he has the funds to pay restitution?

9 A. I have no idea.

10 MS. TURNER: Pass this witness, Your
11 Honor.

12 THE COURT: All right.

13 MR. BLIZZARD: A few questions.

14 THE COURT: You may.

15 **REDIRECT EXAMINATION**

16 BY MR. BLIZZARD:

17 Q. Mr. Vaclavik, again, can you tell the Judge
18 about how many state investigations you've been involved
19 in?

20 A. 3 to 400.

21 Q. Did you take a careful look at all the records
22 involved in the State's case, in this case?

23 A. The records that I was -- that I believe were
24 important to this case and what my particular objective
25 was, yes.