

- 1 A. No.
- 2 Q. Why not?
- 3 A. Because I was asked if I could do it for X
- 4 amount of dollars which was at the time Mike said,
- 5 he asked me if I could do it for \$50,000. I said
- 6 now, Mike, I don't know, first of all. You're
- 7 asking me to give you a number here, a price on
- 8 something that I haven't even thought about. I
- 9 says I have -- you know, I started to break it
- 10 down. I says I have lifts to rent. I have to put
- 11 up the crew in a motel. I've got per diem. So he
- 12 started knocking those numbers down by I'll bring
- 13 you some lifts. I'll put the guys up. I'll pay
- 14 for the per diem.
- 15 Q. Knocking which numbers down?
- 16 A. Well, my rental. I wouldn't have to rent
- 17 lifts. He had purchased a lift which would have
- 18 helped me not have to incur that cost. So,
- 19 obviously, if I don't have to spend money, the
- 20 price of what it's going to cost us to do the work
- 21 is going to come down. I said I don't know what --
- 22 this is a nonunion company that Tomas was running
- 23 and I had no idea what he was paying his guys.
- 24 Q. Did you ever ask him?

- 1 A. No. That was his business. And a matter
- 2 of fact, I think one of his -- the foreman was his
- 3 brother and I think there was a cousin involved too
- 4 so. They seemed to be happy with what they were
- 5 getting paid plus, I think they were working for
- 6 Tony on the side anyway. So they were making quite
- 7 a bit of money.
- 8 Q. Okay.
- 9 So had you ever in your many years of
- 10 experience doing this kind of work received a site
- 11 estimate or assessment that had anything whited
- 12 out?
- 13 A. Oh, sure.
- 14 Q. What kind of things have been whited out?
- 15 A. Numbers.
- 16 Q. What kind of numbers?
- 17 A. Total value of the estimate. Sometimes
- 18 foremen are not privy to that and to make -- make
- 19 things simpler for the abatement contract -- the
- 20 abatement contractor, the specialist company, they
- 21 just white out the contract value. It's not the
- 22 business of the foreman. It's the business of the
- 23 project manager.
- 24 Q. Which is you in this case, right?

- 1 A. Well, it was Tomas but I filled out the
- 2 paperwork again for him just like I did for all of
- 3 his licenses and things. It was just easier for me
- 4 to fill it out than for him to try to --
- 5 Q. Well, you were the project manager for
- 6 this Cleveland Trencher site, right?
- 7 A. I -- yes. I put together the contract for
- 8 him in a form where he --
- 9 Q. Well, would you -- would you call yourself
- 10 the project manager or not?
- 11 A. No, because they didn't run the project
- 12 the way I would have managed it.
- 13 Q. Hold on one second.
- 14 At the beginning of this job, did you
- 15 refer to yourself or think of yourself as the
- 16 project manager?
- 17 A. I thought I was going to be the project
- 18 manager, yes.
- 19 Q. Were you ever the project manager?
- 20 A. During the transite removal I was.
- 21 Q. Okay.
- 22 Well, that's a project manager, right?
- 23 A. Yes.
- 24 Q. All right.

- 1 So you were the project manager during the
- 2 abatement, correct?
- 3 A. During part of the abatement.
- 4 Q. During part of the abatement, okay.
- 5 And you just testified that it would be
- 6 advantageous for a project manager to have those
- 7 values, right? Is that correct?
- 8 A. Well, advantageous for the estimator to
- 9 have the values of -- the value that I was given
- 10 verbally was \$50,000.
- 11 Q. Okay. I understand that. You told us
- 12 about the \$50,000.
- 13 A. Now, Molly, when she faxed it, she goes
- 14 the amounts have been whited out. She had already
- 15 told me before she faxed this.
- 16 Q. Did you ask her to put those amounts back
- 17 in -- in the fact that that would assist you in
- 18 understanding the nature of this project?
- 19 A. No, because they included the whole
- 20 building, the whole site and Mike had told me at
- 21 the site that he was not going to tear down the
- 22 brick building which had the offices and the
- 23 basement and -- it would have impacted the site a
- 24 lot. So the numbers wouldn't have matched what he

1 wanted me to do. And I understood him to say that
2 he wants to get the steel out of there and the
3 brick building he may get with the owner and they
4 may sell it outright.

5 Q. So there were some — there were some
6 different things —

7 A. Right.

8 Q. — that he wanted compared to what the
9 total assessment was?

10 A. Right. The assessment was an assessment
11 based on — it was an environmental assessment
12 so --

13 Q. Right.

14 A. — they assessed the whole big picture.

15 Q. Okay.

16 And the assessment, essentially, regarded
17 asbestos, did it not?

18 A. It regarded the asbestos and I think it
19 referred to some 55 gallon drums that were there.

20 Q. Okay.

21 So that Flynn environmental assessment
22 dealt with the drums?

23 A. Right.

24 Q. And the friable and nonfriable asbestos?

1 A. Right.

2 Q. But not the demolition, right?

3 A. No. It had nothing to do with that.

4 Q. Right.

5 So what about that environmental
6 assessment would you want to not have considered?

7 A. What I — what would I want — not want?

8 Q. Yes. What part of that assessment which
9 included both forms of asbestos and barrels of
10 hazardous materials would not be of interest to
11 you?

12 A. Well, the barrels because we weren't
13 licensed to be a HAZMAT team and do any HAZMAT work
14 and I had no interest in getting involved with
15 HAZMAT or any underground storage tanks.

16 Q. I appreciate that.

17 The assessment that was faxed to you --

18 A. Yes.

19 Q. — okay, dealt with three things, both
20 forms of asbestos, that's two?

21 A. Yes.

22 Q. And the barrels, correct?

23 A. Yes.

24 Q. And it had a projected cost for dealing

1 with those three things, correct?

2 A. Yes.

3 Q. And that cost was whited out, correct?

4 A. Yes.

5 Q. And it's your testimony that it was
6 convenient for you to have that whited out,
7 correct?

8 A. It didn't matter because — whether it was
9 whited out or not. It included things that we were
10 not going to do.

11 Q. Which things?

12 A. The barrels, the other building.

13 Q. What other building?

14 A. Well, the main brick building that was the
15 offices to the factory. The factory was several
16 buildings adjacent to the brick building which held
17 all the offices and it was loaded with a lot of old
18 furniture and the basement was flooded and...

19 Q. But that wasn't part of the Flynn report,
20 was it?

21 A. I'm assuming it was because when they do a
22 report, they do — they do a thorough. I don't
23 know, I mean.

24 Q. So do you misunderstand my question when I

1 said what was the purpose of the Flynn report and I
2 asked you if it had to do with asbestos removal and
3 you said yes. And then I asked you if it had to do
4 with the contaminated contents of the barrels, the
5 hazardous potential contents of the barrels and you
6 said yes.

7 And then my question was what else did
8 that report have to do with? Did it discuss
9 anything else?

10 A. I don't recall.

11 Q. Okay.

12 So it's quite possible that that report
13 did not talk about the adjacent office building and
14 the ceilings and the furniture, correct?

15 A. Yes.

16 MR. KRAMER: Objection.

17 BY MR. THOMAS:

18 Q. In which case, it would have been
19 advantageous to a person in your experience to have
20 seen that assessment before it was whited out,
21 correct?

22 A. No. I would have asked her if I thought
23 it was going to be advantageous. She would have
24 told me. It didn't matter because I was going

1 to -- I was going to try to base our price on the
2 \$50,000 and see if we could work this out because
3 he was offering me in conjunction with this project
4 another project that I went to look at in
5 Indianapolis.

6 Q. Okay.

7 So you -- you received this proposal by
8 fax, correct?

9 A. Yes.

10 Q. So you were back in Indiana?

11 A. Yes.

12 Q. So that Mike or Molly did not give you
13 that proposal when you were on site, correct?

14 A. No.

15 Q. Okay.

16 So when you received that proposal, what
17 did you do -- I'm sorry -- the assessment, what did
18 you do?

19 A. I called -- I think I called up Mike and I
20 told him let me put together -- let me talk to
21 Tomas, which I did the next day, let me talk to
22 Tomas and put together a proposal and see what we
23 could do.

24 Q. Okay.

1 And you talked to Tomas the next day,
2 correct?

3 A. Yes.

4 Q. And what did you talk to him about?

5 A. I showed him some pictures that I took.
6 We went over it. I explained the friable areas
7 that had the spray on. I says this looks to be one
8 of the more difficult areas. I told him that most
9 of the transite looked -- it wasn't the big sheets.
10 They were small overlapping sheets. They could be
11 easily taken down with a torch or the bolts were --
12 they were not -- they were ferrous. They weren't
13 stainless steel so they're easily knocked out with
14 a -- just with a chipper or anything. It's a very
15 easy removal.

16 Q. So you went over the physical -- some of
17 the physical details, correct?

18 A. Right.

19 Q. Did you go -- when you did this with him
20 where you showed him the pictures and went over
21 these things and gave him your assessment, you went
22 and found him at a job site?

23 A. No. We were talking in his office.

24 Q. Okay.

1 Was he not doing abatement work at the
2 time?

3 A. I think he was working nights.

4 Q. He was working nights, okay.

5 So you saw him in his office?

6 A. Yes.

7 Q. Where he was during the days, correct,
8 because he was preparing for this Cleveland
9 Trencher thing, correct?

10 A. Yes.

11 Q. In fact, he was not even at Safe
12 Environment at this time?

13 A. (Indicating.)

14 Q. When did he finish Safe Environment? That
15 was actually before your meeting, was it not, that
16 he was finished at Safe Environment?

17 A. What do you mean, finished working for
18 them?

19 Q. Yes.

20 A. No. I think he was still working for them
21 as an employee but I don't know that for a fact but
22 he --

23 Q. Okay.

24 A. He alluded to the fact that, you know,

1 he -- you know, he and some of the other guys -- I
2 said why can't you work on this day or on Saturday
3 or whatever and he says they got a job going with
4 Tony.

5 Q. Okay.

6 A. So either all or some of the guys were
7 working. Who, I don't know. I don't know if he
8 had made Tony aware of this other project or not.

9 Q. Okay.

10 When you spoke to Tomas, did you ask him
11 about the status of the contractor's license that
12 you filled out for him?

13 A. No.

14 Q. Do you know why you didn't?

15 A. Probably because I was focusing now on the
16 project. I just assumed that that was something
17 we'd have to wait for.

18 Q. But you assumed that it been turned in?

19 A. Well, yeah, sure. You know, same thing
20 with his personal license.

21 Q. Okay.

22 And he never -- just to ask you, he never
23 told you that he didn't turn in that contractor's
24 license, correct?

1 A. No.

2 Q. Okay.

3 A. We focused on whether or not it could be

4 done for \$50,000. And as it turned out, during the

5 first part of that project, we ran into more

6 material than the estimate showed or that the

7 takeoff, the Flynn report, it showed so many square

8 feet. I did some measuring and there was some

9 double layers. There was some hidden, interior

10 walls that were not -- that were not addressed or

11 whatever. They were -- they were hidden. But I

12 asked for a change order right off the bat because

13 it wasn't -- that \$50,000 wasn't enough. So the

14 proposal that I gave was -- pretty much it covered,

15 you know, we're going to do this based upon --

16 Q. Oh, I'll ask you about the proposal in a

17 minute. I just was interested in that conversation

18 with Tomas.

19 So you know that you cannot in Ohio do an

20 abatement project without a contractor's license,

21 correct?

22 A. Well, yeah.

23 Q. But instead of focusing on that when you

24 spoke to him after your visit and talking about

1 that, you said you only focused on the price,

2 right?

3 A. We focused on whether or not the price was

4 doable because -- I mean, Mike was open -- I mean,

5 if it wasn't doable, he wanted to know how much and

6 that's what I was trying to find out.

7 Q. Is it fair to say, John, that you were

8 going to get that project done with or without a

9 valid contractor's license?

10 A. No, I would not move without a license.

11 Q. Okay.

12 And yet, you did not ask Tomas about the

13 license at that second meeting, correct?

14 A. No, not within a few days. There was no

15 way he would have ever gotten a license in a few

16 days.

17 Q. No.

18 But you never just followed up to see if

19 he actually put in the mail by certified mail all

20 this paperwork you filled out, right?

21 A. No, but I believe I did see the green

22 registration that you get when you send registered

23 mail.

24 Q. Okay.

1 So you had seen that to know that he

2 actually took care of it from that standpoint?

3 A. Yes.

4 Q. Okay.

5 Tomas Amaya testified in his deposition

6 that he gave you the responsibility of getting the

7 contractor's license, gave you the materials and

8 told you you were in charge of obtaining that.

9 Did that happen?

10 A. No.

11 Q. Okay. Okay.

12 After you had that conversation with Tomas

13 Amaya, did you then prepare the proposal?

14 A. Yes.

15 Q. Okay.

16 And what did you do with that proposal?

17 Did you show it to Tomas Amaya?

18 A. Yes.

19 Q. What did he say about the proposal?

20 A. We could do it.

21 Q. Okay.

22 And did he make any corrections to it?

23 A. No.

24 Q. Okay.

1 And once he gave his verbal assent, what

2 did you do with that proposal?

3 A. Forwarded it to the attention of Mike and

4 Molly via fax and mail. I believe I sent both out.

5 Q. Okay.

6 And that would also have been the

7 contract, correct?

8 A. Yes.

9 Q. Okay.

10 I have Amaya Exhibit 5 we've called it.

11 And is that the proposal and the contract?

12 MR. KRAMER: Can we take a minute or two break?

13 MR. THOMAS: Can he answer the question and

14 then yes?

15 MR. KRAMER: Sure.

16 THE WITNESS: Yes, this is the proposal and

17 this is Mike's signature so we could -- yes, this

18 is it and -- yes.

19 BY MR. THOMAS:

20 Q. And your signature is on that as well?

21 A. Yes, it is.

22 Q. And that is the contract with Nationwide

23 Demolition, correct?

24 A. Yes, it is.

1 Q. Was there ever another contract that you
2 had with them?

3 A. There was an addendum, an additional
4 contract which, again, addressed additional
5 materials and he did not live up to his part of the
6 contract with the equipment he promised us.

7 Q. That addendum, was that actually an
8 executed contract by both parties?

9 A. Yes. Yeah, he agreed to it.

10 Q. Okay.

11 Do you know where a copy of that addendum
12 might be? Did you ever save a copy?

13 A. No, I don't. Tomas was keeping all the
14 files.

15 Q. So Tomas would have a copy of that
16 addendum, correct?

17 A. He should.

18 Q. What about Nationwide, they would have a
19 copy too, right, because they signed it?

20 A. They should.

21 MR. KRAMER: Objection.

22 THE WITNESS: I don't know. I mean, I don't
23 know how they do their paperwork but --

24 MR. THOMAS: I just have one or two more

1 questions so we can break at a reasonable time
2 here.

3 BY MR. THOMAS:

4 Q. You signed this contract on behalf of
5 Asbestek, correct?

6 A. Yes.

7 Q. And you wrote in project manager, correct?

8 A. Yes.

9 Q. And you dated it?

10 A. Yes.

11 Q. And where did you get authority to sign
12 that contract?

13 A. From Tomas.

14 Q. Okay.

15 MR. THOMAS: I suppose it's a good time to take
16 a break.

17 MR. KRAMER: Let me just ask, do you understand
18 what Mr. Thomas means when he says execute the
19 contract? He means this addendum, executing means
20 actually signing it. You may have agreed with
21 something verbally but do you remember that any
22 addendum was ever signed?

23 THE WITNESS: Yeah, to tell you the truth, I
24 don't remember. I mean, I -- as I was reading the

1 original contract, I barely remember that. But I
2 do remember it being broken down by linear footage
3 and I remember that there was some discrepancies.

4 BY MR. THOMAS:

5 Q. Well, you wrote this contract in
6 Exhibit 5, did you not?

7 A. Yes, I did.

8 Q. Did you write --

9 A. All those takeoffs were based off the
10 Flynn report. I didn't actually measure all that.
11 That was -- you know, he wanted to move on this as
12 quick as possible.

13 Q. I understand that.

14 A. I told him if I -- you know, he told me,
15 let's just go with this. If you find out that it's
16 going to cost you more, I'll take care of it. He
17 gave me a verbal, you're right. It wasn't -- it
18 was a verbal that I could go ahead with this but I
19 won't let you get hurt. That's what he said.
20 That's exactly the way he said it. And I trusted
21 Mike at that time based on the LaPorte job. I --
22 and he gave me his word he wouldn't let us get
23 hurt. He says you're not going to make a lot of
24 money here but it's going to get our foot in the

1 door with the building owner and we're going to be
2 able to move on this other Indianapolis job and I
3 got another one in Evansville or somewhere else
4 downstate. I don't know where.

5 Q. But the goal was to get this done as
6 quickly as possible, right?

7 A. The goal is always to get it done as
8 quickly as possible.

9 Q. Even if it means breaking the rules,
10 right?

11 A. No.

12 Q. Okay.

13 A. No.

14 MR. THOMAS: We'll take a break maybe at this
15 point.

16 THE VIDEOGRAPHER: We're off the record at
17 2:43 p.m.

18 (A short break was taken.)

19 THE VIDEOGRAPHER: Back on the record at
20 2:56 p.m.

21 BY MR. THOMAS:

22 Q. With respect to the Cleveland Trencher
23 project that Asbestek had with Nationwide
24 Demolition, do you agree with me that Tomas Amaya

1 did not have authority from Tony Paganelli?
 2 A. I don't know that. No, I don't because I
 3 don't. I don't know that.
 4 Q. Is that a possibility?
 5 A. Sure.
 6 MR. KRAMER: Objection.
 7 THE WITNESS: Always a possibility.
 8 BY MR. THOMAS:
 9 Q. Can you give us an assessment of if it's
 10 more possible or less possible?
 11 A. Less only because I've seen him use his
 12 license with Fred.
 13 Q. So for that reason --
 14 A. I mean, I'm saying it's more possible that
 15 Tony knew about it and let him use his license.
 16 That's what I'm saying.
 17 Q. Because of your experience with Fred?
 18 A. Yes.
 19 Q. Okay.
 20 What about the fact that you and Tomas
 21 Amaya both knew that Asbestek did not have
 22 authority from Tony Paganelli, is that the case,
 23 John?
 24 MR. KRAMER: Objection.

1 BY MR. THOMAS:
 2 Q. No?
 3 A. No.
 4 Q. Or yes?
 5 A. I'm saying I had a license that I thought
 6 was clean and I could use, period.
 7 Q. Okay. All right.
 8 A. I would never go on a job site without the
 9 proper authority and licensing.
 10 Q. Okay. Let me ask you some questions about
 11 that.
 12 We were talking about Exhibit 5 which is
 13 the contract, correct?
 14 A. Yes.
 15 Q. You understood this to be the contract
 16 when you signed it; is that correct?
 17 A. I wrote it.
 18 Q. You wrote it as a proposal and a contract
 19 if accepted, correct?
 20 A. Yes.
 21 Q. All right.
 22 A. Something to go by.
 23 Q. A legal agreement, right?
 24 A. Yes, something to go by other than just

1 verbal.
 2 Q. Would you ever have entered into an
 3 agreement with Nationwide Demolition without a
 4 written contract?
 5 A. Personally I would but it wasn't my call.
 6 It's Tomas's company.
 7 Q. Okay.
 8 A. Now, if I had the money and a company that
 9 was, you know, pretty well off, yeah. I trusted
 10 Mike Collins. I mean, that wasn't ever in
 11 question.
 12 Q. So if Tomas Amaya did not instruct you to
 13 generate a written contract, you would not have in
 14 this situation; is that correct?
 15 A. If he instructed me not to? Right -- no,
 16 I still would say we should get something on paper
 17 just -- basically, just so we have something to go
 18 by more or less for regulatory. They might want to
 19 see, you know, what did you agree to do? If the
 20 question comes up on linear footage, well -- and it
 21 did.
 22 Q. So if the authorities step in and have
 23 questions, you want to have written documentation
 24 of things, correct?

1 A. Yes.
 2 Q. Okay.
 3 A. More is less -- more is better. I mean,
 4 that's -- you know, working without a contract
 5 would be questionable.
 6 Q. Would you -- is there ever a scenario in
 7 your experience where you would involve yourself
 8 with another party and not get something in
 9 writing?
 10 A. No. I don't have the finances to do that.
 11 Q. So -- and I apologies for using a double
 12 negative there.
 13 Is it fair to say that you would always
 14 get arrangements done in writing?
 15 A. Yes.
 16 Q. Okay.
 17 Especially if the authorities want
 18 information about it, right?
 19 A. Sure.
 20 Q. I mean, does sure mean yes or is that --
 21 A. Yes. Yes, I would get it in writing.
 22 Q. Okay.
 23 A. I learned that at LVI. They pounded it in
 24 our heads.

1 Q. Get it in writing, right?

2 A. Get it in writing.

3 Q. Get it in writing.

4 A. But, again, it's -- it's -- it's a

5 starting point. Things change. Negotiations start

6 at that point.

7 Q. What were your duties as a project manager

8 for Asbestek?

9 A. To get the ball rolling when I got to

10 Cleveland, set up a -- I used Tomas's credit card,

11 basically, for expenses. Set up demolition -- or

12 set up a cartage company that can pull the waste,

13 find out what their hours are, how they work, their

14 prices, everything, if we can get a break on the

15 nonfriable as opposed to the friable, the sized

16 dumpsters. Everything to do with managing the

17 waste flow and that was -- and signing the manifest

18 before they left, inspecting them and signing them

19 which didn't always happen because I couldn't get

20 out to Cleveland all the time. It's 336 miles one

21 way from my house and it was quite a drive.

22 Q. How many times did you go back and forth

23 between Euclid, Ohio, and Hammond, Indiana, during

24 this period?

1 A. Probably four or five times and it's on

2 Tomas's credit card. I used his -- it's something

3 that can be found out pretty easy. But I think

4 about five times and I stayed there once at a

5 motel.

6 Q. Why did you come back at all?

7 A. Why did I come back at all? I was working

8 on that Indianapolis project, trying to get some

9 assimilation of what -- how we can do that. It had

10 a low ceiling, a lot of pipe. I was trying to

11 think of a way -- it was spread out in a large area

12 but it was wide open. There wasn't anything to

13 impact the work so.

14 Q. How much time were you spending on this

15 Indiana project from the time that you first had

16 that meeting in Tomas's office until Cleveland

17 Trencher? How many days or weeks did you spend on

18 the Indiana project?

19 A. Only a few because it got to the point

20 where all I was doing was working for -- for free,

21 basically.

22 Q. You said that when you had that meeting in

23 Amaya's office that you knew that this was going to

24 be a high pressure job, right?

1 A. I knew it was going to be what, high

2 pressure?

3 Q. Yeah, in terms of Collins wanting to get

4 things done.

5 A. Well, yeah, but he was that way at LaPorte

6 too.

7 Q. So what does that mean, you weren't really

8 concerned about the pressure?

9 A. Ch, no. I'm always concerned about the

10 pressure but he was -- you know, he would say he

11 could supply water and then tell me that there's a

12 flooded basement I could use to pump out. That's

13 not the same thing as supplying water. In his

14 mind, it was.

15 Q. This is Mike Collins?

16 A. Yes. Mike, you can't pump out water from

17 the basement. I have no idea what's in that water.

18 I have to use clean water whether I'm wetting

19 asbestos down or for a shower. I said I need clean

20 water so.

21 Q. Given your history with Mike Collins and

22 your knowledge that he would want to do something

23 like you've just described as well as Mike Collins

24 in general wanting to get this job done, would it

1 not have been prudent for you to stay in Cleveland

2 from the inception and just get to work on this

3 thing?

4 A. No. There was nothing more -- actually,

5 it was at Tomas's request not -- you know, I

6 shouldn't have to worry about it. His brother Juan

7 has control. He's got it. Don't worry about it.

8 Let them do the work. He's got it.

9 Q. What does that mean, Juan was going to do

10 what?

11 A. Run the crew. You don't need two foremen.

12 As a matter of fact, that could be detrimental.

13 Q. So they didn't need you there?

14 A. No, they didn't need me there. They

15 didn't want me there. The only time that I was

16 advantageous and did go there is when they had a

17 flat tire on the -- on one of the machines, one of

18 the machines broke down. I found a rental place

19 right down the street, got another one. We were

20 using Mike Collins's Bobcat at the time. Mike got

21 it repaired. They also -- one of Mike's crew broke

22 the Bobcat, tried to blame our crew on it. Juan

23 showed me the break and I showed Mike. There's no

24 way we could have done that kind of break. And

1 then we figured out a way to have his crew fess up.
 2 Again, I'm usually called for problems.
 3 Q. Can we break down this Cleveland Trencher
 4 job into phases?
 5 A. Yes.
 6 Q. How many phases were there?
 7 A. Two.
 8 Q. And what was phase one?
 9 A. Phase one was the transite panels, all the
 10 nonfriable which has a whole different set of
 11 circumstances. It doesn't require the ten-day
 12 notification. It just requires -- I don't even
 13 think it requires a courtesy notification but I
 14 called up EPA and asked them anyway.
 15 Q. Did you -- were you present for phase one?
 16 A. I was present for the very beginning of
 17 phase one when we unloaded the truck. I went and
 18 purchased -- there's a Home Depot or -- yes, I
 19 think it was Home Depot not too far from there and
 20 bought some equipment for the crew that they didn't
 21 have.
 22 Q. Was Tomas Amaya present for phase one?
 23 A. Yes.
 24 Q. For the entire project?

1 A. No.
 2 Q. For which part?
 3 A. I don't know what days he was there. He
 4 was there at the first day. He didn't stay the
 5 night. We drove together. He let Juan run the job
 6 pretty much. There was a couple of times that he
 7 went there to help when he wasn't working or when
 8 he wasn't involved in --
 9 Q. For phase one?
 10 A. Yes.
 11 Q. So how many trips did Tomas Amaya make
 12 from Hammond to Euclid for phase one?
 13 A. I don't know. I mean, I just know the
 14 times he went with me. That would be I think two
 15 and one counting the inspection, three.
 16 Q. And this is -- this is phase one, correct?
 17 A. Yes. Well, put two because the third time
 18 was actually at the end of the job or...
 19 Q. And did you go for that last time?
 20 A. Yes.
 21 Q. So you and he traveled three times
 22 together for phase one?
 23 A. Two times for phase one. One time after
 24 phase two was --

1 Q. Well, let's just stay with phase one for
 2 now. We'll get to phase two.
 3 A. Two times.
 4 Q. So two times.
 5 And you traveled together on that trip; is
 6 that correct?
 7 A. Yes.
 8 Q. Would you be surprised to learn that Tomas
 9 Amaya has a different version of both you and him
 10 being present for phase one?
 11 A. What -- I don't know. I mean, would I be
 12 surprised? No. It's three years ago.
 13 Q. So either he could have made a mistake or
 14 you might be making a mistake with that today?
 15 A. Could be.
 16 Q. Are you just giving answers then to some
 17 of the questions and kind of thinking, well, it was
 18 three years ago so I'll just give what I have or?
 19 A. Well, I mean, I don't have all the records
 20 in front of me that would show -- a matter of fact,
 21 I didn't -- I didn't even have a daily log. His
 22 foreman was supposed to keep track of who was on
 23 the site and who wasn't.
 24 Q. Who's that foreman?

1 A. Juan Amaya.
 2 Q. Okay.
 3 So Juan was in charge of those records of
 4 who was on and who wasn't, correct?
 5 A. Daily logs are supposed to speak for
 6 themselves. They should tell the whole story.
 7 Q. And you don't remember three years later
 8 how many times exactly you went during phase one;
 9 is that correct?
 10 A. I know I went at least twice with Tomas
 11 and once or twice myself.
 12 Q. Oh, so four times during --
 13 A. Well, no. Once to look at the job and
 14 once to look at the -- get the water supply
 15 straightened out without Tomas.
 16 Q. For this Nationwide Demolition project,
 17 paperwork was required, correct?
 18 A. For the demolition?
 19 Q. For the contract. For the entire thing
 20 that you were going to do, phase one, phase two?
 21 A. Yes. Sure.
 22 Q. Okay.
 23 This paperwork would have included the
 24 worker's log -- log that you said that Juan was in

1 charge of, correct?

2 A. Yes.

3 Q. Would that worker log shift from Juan to
4 somebody else when phase two started or would he
5 maintain that?

6 A. It could have shifted to Tomas.

7 Q. Okay.

8 Do you know who it was supposed to shift
9 to if at all?

10 A. Whoever's in charge. If Tomas was there
11 in charge of the friable, then it was Tomas. But
12 under the circumstances, a lot of foremen, myself
13 included, have done project logs after the fact.
14 You get busy. You know, you write down little
15 notes but then you fill in the blanks later and you
16 do a more comprehensive log later.

17 Q. When you -- when you and Tomas met earlier
18 in the summer to discuss this whole project, you
19 knew he was not a licensed specialist in Ohio,
20 correct?

21 A. No, I didn't.

22 Q. You didn't testify that he didn't -- that
23 he wasn't a licensed specialist in Ohio?

24 A. Before we got together?

1 Q. No. At the time you had the meeting.

2 A. Oh, yeah. That's why we went and got him
3 a, you know, license and stuff. Yeah, I knew he
4 didn't have an Ohio license.

5 Q. Not a contractor's license, a specialist
6 license.

7 A. Yes, I knew his company did not hold a
8 license.

9 Q. So you filled that paperwork out for him
10 and submitted it, correct?

11 A. I filled it out. He said he was going to
12 get it submitted.

13 Q. I want to see if I can correct you on
14 that.

15 That was the contractor license, right,
16 for Asbestek --

17 A. For Asbestek.

18 Q. -- to perform contracting work?

19 A. Right.

20 Q. That's what you filled out, correct?

21 A. That's what I helped him fill out.

22 Q. And that's what he was supposed to put in
23 that green certified form and submit which you saw?

24 A. Along with the ten-day notification for --

1 yes, the notifications as well. We did a courtesy
2 notification for the friable -- or the nonfriable
3 but I didn't see him mail anything. I just seen
4 the receipt.

5 Q. Okay.

6 What -- you testified before that you
7 cannot fill out the ten-day notification until you
8 have the asbestos contractor's license, correct?

9 A. Right.

10 Q. Okay.

11 So you filled out the asbestos
12 contractor's license for Asbestek --

13 A. Right.

14 Q. -- and gave it to Tomas --

15 A. Right.

16 Q. -- and told him to mail it?

17 A. Yes.

18 Q. And you saw the green certified piece?

19 A. Right.

20 Q. And you assumed he mailed it?

21 A. Right.

22 Q. And he never told you he didn't?

23 A. Right.

24 Q. And he never told you he didn't receive

1 that license?

2 A. Right.

3 Q. At any time?

4 A. No.

5 Q. Never told you that?

6 A. Never told me that.

7 Q. Now, at that meeting in 2007, you also
8 discussed needing a specialist or a supervisor on
9 site, correct?

10 A. Right.

11 Q. And that's when Juan's name came up and
12 Carlos Bonilla's came up?

13 A. Right.

14 Q. Okay.

15 But you helped Tomas fill out a separate
16 application for him to be become a specialist,
17 correct?

18 A. Yes, to get him a license as well.

19 Q. Okay.

20 And who mailed that?

21 A. I'm assuming that Tomas did. I didn't
22 mail anything.

23 Q. Did you ever ask him if he mailed it?

24 A. No.

1 Q. Did you tell him or remind him make sure
2 you send in that application so that you can become
3 a specialist?

4 A. I didn't think I had to. No, I didn't.

5 Q. Okay.

6 And is that why you've just told us prior
7 to those review questions that the worker log
8 supervisor would shift from Juan to Tomas?

9 A. No. I knew -- I knew Tomas was going to
10 be there for the second part, for the -- you know,
11 I told him it would be in his best interest to
12 watch that closely.

13 Q. So you told him it would in his best
14 interest to watch phase two closely?

15 A. Yeah.

16 Q. But you never told him that -- to make
17 sure he had a specialist license in order to do
18 that?

19 A. Well, he would have to have -- have that
20 to do that so I assumed at that point he had his
21 license.

22 Q. Okay.

23 And did he ever tell you he didn't?

24 A. No.

1 Q. Okay.

2 So that's the worker's log.

3 What about safety forms, were any safety

4 forms as the job was progressing be -- be required?

5 A. There -- you know, again, that's an

6 in-house thing. Some companies do them daily.

7 Some companies do them weekly.

8 Q. How did Asbestek do them?

9 A. Per job. At the beginning of the job, mid
10 week, when situations changed, that was -- that's
11 right, there's another time I went up there. They
12 got rained heavily and I brought a bunch of rain
13 suits and stuff up there. They were getting
14 pounded.

15 Q. Were those in-house forms done for
16 Cleveland Trencher, safety forms, at all?

17 A. I don't know.

18 Q. Did you do any?

19 A. No.

20 Q. Okay.

21 Do you know if Tomas did any?

22 A. No, I don't.

23 Q. Did you ask Tomas if he were doing any?

24 A. No.

1 Q. Did he ask you if you were doing them?

2 A. No.

3 Q. Is it fair to say that as partners for
4 this job, you two ignored safety forms?

5 A. Well, no, because it's -- again, that's an
6 in-house thing. His foreman should have been doing
7 the safety --

8 Q. Foreman should have doing it.

9 So Juan would have been in charge of that?

10 A. Yes.

11 Q. And did you ever check up with Juan to see
12 if he were doing that?

13 A. No, but when I was on site, they were
14 wearing their safety equipment. You know, they
15 made sure that they had their harnesses on when
16 they were in the lifts.

17 Q. Okay.

18 And do you know if anybody filled out any
19 forms to make sure about that PPE thing that you're
20 an expert in, to find out if people had their --
21 were taking care of things properly? Did you fill
22 out any forms for that?

23 A. Did I fill out forms? No.

24 Q. Did you ever check with Juan to see if he

1 were taking care of this other than your visual

2 knowledge that they were wearing the equipment?

3 A. No.

4 Q. What about -- I'm asking you questions

5 about paperwork and how the paperwork was being

6 divided up between you and Tomas Amaya. I've asked

7 you about the worker log, okay. You said that Juan

8 took care of that and that your understanding is

9 that when phase two occurred, Tomas would take over
10 that.

11 Am I correct?

12 A. He -- well, he should take over. Whether

13 he would or not, he might have felt that it was

14 beneath him and his brother should continue to do

15 the logs. I don't know how --

16 Q. Okay.

17 A. I mean, that's --

18 Q. But you don't have any personal knowledge
19 of that?

20 A. No, I have no personal knowledge of that.

21 Q. And you have no personal knowledge of
22 safety forms that were or not -- that were or were
23 not filled out?

24 A. No, I have no personal knowledge.

1 Q. What about applications for waste, who
2 took care of that?

3 A. The waste generation, when a dumpster was
4 full, Juan would call me and I would call the
5 company for a pull or a switch depending upon what
6 they needed. It costs more money if you just pull
7 waste and you need another dumpster later so we
8 were doing two at a time.

9 Q. Well, I -- I can appreciate the
10 description of how you accomplished it.

11 What I want to know is who filled out the
12 paperwork to apply for the waste company?

13 A. Who filled -- well, Tomas would have had
14 to sign the contract to use his credit card to pay
15 for it.

16 Q. Did you -- do you know if he did that?

17 A. Well, I know that they had asked for his
18 credit card. I met with the waste guy like the
19 second or third day that I was out there.

20 Q. That's phase one?

21 A. Yes. And I explained, you know, what we
22 were -- what we would need and talked to him about
23 the double, if we can get two at a time, two
24 switches and he said yes, no problems so.

1 Q. And did you fill out any paperwork for
2 that company?

3 A. Yes.

4 Q. So you filled that out?

5 A. I would sign that -- I'm aware of 30 cubic
6 yards of transite is ready to be pulled and
7 delivered and I would keep a copy, yes.

8 Q. And with respect to the contractor's
9 license that was filled out by you but turned over
10 to Tomas Amaya to handle, we've talked about that,
11 correct?

12 A. Yes. It could have been typed up too.
13 I'm not sure how it was done.

14 Q. But in terms of paperwork, you handled the
15 contractor's license and turned it over to Tomas to
16 mail, correct?

17 A. Yes.

18 Q. And with respect to insurance for the job,
19 who took care of the insurance?

20 A. Tomas gave me his insurance company's name
21 and I believe I just put it on the application,
22 whatever -- I don't even know the name of the
23 company he used.

24 Q. What application would you have put that

1 on? Do you know?

2 A. Whatever line item was required to --
3 probably the notification.

4 Q. Okay.

5 And then the contract was then prepared by
6 you, right?

7 A. It could have been the waste hauler's
8 manifest too. I think they ask for the -- it could
9 have been a couple of places where they ask for the
10 insurance.

11 Q. Is it fair to say that the paperwork was
12 kind of divided between the two of you?

13 A. Yes.

14 Q. All right.

15 And how did you two communicate in terms
16 of determining when and who was going to do things?

17 A. Well, most -- day by day, my cell phone
18 was going through minutes like crazy because there
19 was a lot of miscommunication between us
20 regarding --

21 Q. Miscommunication between whom?

22 A. Me and Tomas as far as he would say that
23 he's going to be -- be somewhere but he couldn't
24 make it because he had to work and I said, well,

1 that's not my problem. You know, you can't run a
2 job and work too. You got to make a choice. Are
3 you in business or not? This is my problem with
4 Tomas.

5 Then things started to get a little bit
6 dicey towards that end. I started to feel like I
7 was being used and my -- my contribution to the job
8 was -- was being abused. He was asking way too
9 much and not -- I understand that he had a job and
10 this and that but if you're trying to run -- run
11 your own company, then, you know, you need to put
12 in a little bit too.

13 Q. This -- this miscommunication and the fact
14 that you felt you were being used and contribution
15 abused and that he was asking too much, this was
16 all during phase one, wasn't it?

17 A. If actually started towards the -- yes,
18 completing phase one.

19 Q. Okay.

20 A. Yes. It was --

21 Q. And so you have now -- at the end of phase
22 one, you've got a feeling of miscommunication
23 between Tomas Amaya and yourself?

24 A. Right.

1 Q. And these feelings that you're being
2 abused, that he's using you and he's not present
3 for the job site, correct?

4 A. Yes.

5 Q. All right.

6 With respect to paperwork again, whose job
7 was it to fill out the ten-day notification?

8 A. Well, it was either of us but as the owner
9 of the company, he could have filled it out. I've
10 seen secretaries fill those out. It doesn't — as
11 long as it's filled out, then they have a ten-day
12 notification on file. It doesn't really matter who
13 fills it out.

14 Q. Does it matter what's written in it?

15 A. Well, sure, it has to be accurate. I
16 mean, it has to — it has to have the — you know,
17 what are you removing. It's got to have are you
18 removing nonfriable, friable, I mean, whatever. If
19 it's a courtesy notification, it should be
20 nonfriable. I think I did do a courtesy
21 notification just to be on the safe side.

22 I did stay in contact with the EPA. I
23 called them frequently on questions I had because I
24 wasn't 100 percent familiar with Ohio law and I

1 didn't know if there was any differences between
2 that and whatever I knew about Illinois.

3 Q. Who filled out the ten-day notification
4 for the Cleveland Trencher site?

5 A. I was on site with Mike Collins and I
6 needed — before I can fill that out, I needed
7 information that I did not have.

8 Q. Which was what?

9 A. I didn't know who owned the building. I
10 didn't know the age of the building. At the time,
11 I didn't know who Gary Piscazzi or whatever, who he
12 was and I come to find out he was the owner. I
13 asked — there were certain line items that Mike
14 needed to get to me to fill out. And I believe
15 we — we filled it out there on site and faxed it
16 at the neighbor's place of business. There was a
17 business right next door that had a fax machine and
18 faxed it over to his office and a copy over to
19 Tomas's office so that we could process it and get
20 a good copy because it — we're on a demo site. It
21 was a mess. It was all muddy and we're trying to
22 fill out this ten-day notification and you can't
23 send it in like it's a piece of crud.

24 Q. Send it in to the Ohio Department of

1 Health, correct?

2 A. Right.

3 Q. So you faxed it from a neighboring
4 property to the Department of Health?

5 A. No. I faxed it to Tomas's office. I
6 faxed a copy to I believe Mike's office as well.
7 He had — again, Mike had asked me to use this
8 person's name for the building owner and there was
9 questions on there that I couldn't answer. You
10 know, again, I'm not an expert at paperwork
11 regarding ten-day notifications or anything —

12 Q. Did you tell Tomas that you were not an
13 expert?

14 A. He knew that.

15 Q. How did he know that?

16 A. Well, because he worked with me for the
17 last year prior so.

18 Q. So Tomas knew that you were not an expert
19 in filling out ten-day notifications?

20 A. Well, who is? I mean, most of the — the
21 people that fill those out are usually secretaries
22 or something like that.

23 Q. That's not a very extensive form, is it?

24 A. No. You just pretty much read — but if

1 you don't have the answers, you can't send it in.

2 I mean, I don't — I didn't know the age of the
3 building. I didn't know who did know that fact. I
4 didn't know the name of the owner. There was
5 things that I just — that weren't present in any
6 document that I was privy to or that I received.

7 Q. Did you ever call the Department of Health
8 and ask a person there to assist you in answering
9 any of the questions on there?

10 A. Yes.

11 Q. Okay.

12 When was that?

13 A. Probably on one of my trips going back
14 home. I might have called the EPA. I can't
15 remember who I spoke with but —

16 Q. Do you know if you — do you know who —
17 do you know — do you remember what questions you
18 asked?

19 A. Well, one particular question I was
20 concerned about leaving the dumpsters on site.

21 They were un — they were —

22 Q. If I may, my question to you was about the
23 notification form.

24 Did you ever ask anyone at the Ohio

1 Department of Health for assistance on filling out
 2 the ten-day notification form because you said a
 3 moment ago nobody knows how to fill out those forms
 4 except secretaries? So since you didn't have a
 5 secretary –
 6 A. Well, no. I – let me rephrase that. You
 7 go by line item, you know. It asks you what to put
 8 there. If you have the answer, you put it there.
 9 Q. Okay.
 10 A. I mean, some of the things, you know.
 11 Some of the things, you just don't know.
 12 Q. Okay.
 13 Did you fill out the ten-day notification
 14 for this job?
 15 A. All the parts that I knew but I couldn't
 16 submit it without the rest of the information.
 17 Q. At some point, did you get it?
 18 A. Yes.
 19 Q. Okay.
 20 How did you get it?
 21 A. From Mike Collins.
 22 Q. Okay.
 23 Anyone else?
 24 A. Molly.

1 Q. Okay.
 2 Did you get anything from Tomas Amaya?
 3 A. Well, I got the name of the foreman, the
 4 supervisor.
 5 Q. But you already had that from the July
 6 meeting, right?
 7 A. Well, yeah, but I – you know, I still had
 8 to put it down. I mean, did you want me to use
 9 Carlos or do you want – you know, how do you want
 10 to do this?
 11 Q. What did he say?
 12 A. He said put down Carlos.
 13 Q. Did you ask him if Carlos was going to be
 14 present?
 15 A. No.
 16 Q. Did you care?
 17 A. Not really. It doesn't matter as long as
 18 a foreman is there. As a matter of fact, at that
 19 time, I wasn't even sure if –
 20 Q. Did you say it doesn't matter as long as a
 21 foreman is there?
 22 A. Well, a licensed foreman.
 23 Q. But it doesn't – didn't have to be
 24 Carlos, right?

1 A. No.
 2 Q. Where did you learn that?
 3 A. Where did I learn that? From running
 4 multiple jobs and seeing paperwork that didn't
 5 have – that had everybody but the foreman on
 6 there. My name was – I've run jobs where my name
 7 should have been there and it wasn't.
 8 Q. I believe you testified this morning that
 9 you had no prior experience in filling out a
 10 ten-day notification, correct?
 11 A. Right.
 12 Q. And despite that, from doing it this one
 13 time, you were aware of the rule that you can put a
 14 person's name down but they didn't have to be
 15 present?
 16 A. Well, I wasn't aware that that's a rule.
 17 I just know that that happened to me many times.
 18 Q. Okay.
 19 Even though you didn't fill out the form,
 20 correct?
 21 A. Right. It's usually done by a secretary
 22 or by somebody in the office.
 23 Q. Okay.
 24 I'm going to hand you Amaya Exhibit 6.

1 Take a moment to look at that, please. Okay.
 2 Have you had a chance to look at that?
 3 A. Yes.
 4 Q. That's the ten-day notification form,
 5 right?
 6 A. Yes.
 7 Q. Okay.
 8 Did you fill that out?
 9 A. I remember getting a lot of this
 10 information, yes.
 11 Q. Who typed that form up?
 12 A. I don't know. I didn't.
 13 Q. You did not type that form up?
 14 A. Nope.
 15 Q. We had testimony from Tomas Amaya that he
 16 didn't type it up. He said that you must have.
 17 Would that be true?
 18 A. No. I use Word or I use Adobe PDF. This
 19 is typed in. I don't have a typewriter.
 20 Q. So you have no idea who typed that up?
 21 A. No.
 22 Q. And it was not you?
 23 A. No, it was not me.
 24 Q. Have you ever seen that form before?

1 A. Yes.

2 Q. You have? I mean, have you ever seen that

3 filled out form, Exhibit 8, that you're looking at?

4 A. Well, not -- not in this form but I mean,

5 like I said, I remember getting Gary Thomas's P.O.

6 box number from Mike, but this was all handwritten

7 in, and the phone number. I didn't know any of

8 this information, the owner name.

9 Q. Well, you -- so you had a form that you

10 filled out by hand and then typed it up, right?

11 A. No, I didn't type anything up.

12 Q. You never typed up a ten-day notification?

13 A. No.

14 Q. At all?

15 A. No.

16 Q. Was the notification form typed up for

17 this job by anybody?

18 A. Well, it looks so, like it was. I mean,

19 you got a piece of it here.

20 Q. Did you see the ten-day notification form

21 that was submitted to the Ohio Department of

22 Health?

23 A. No.

24 Q. So if one were submitted to the Ohio

1 Department of Health, who would have taken care of

2 that?

3 A. It could have been Molly.

4 Q. Molly from Nationwide?

5 A. Yes.

6 Q. Where would Molly get the information on

7 Exhibit 8 about Anthony Paganelli and Safe

8 Environment?

9 A. I told you I filled out what I knew and

10 I -- whatever Mike gave me, I filled out and we

11 faxed it to her from the site.

12 Q. Did Mike give you the information about

13 Safe Environment?

14 A. No.

15 Q. Who gave you that information?

16 A. That came off of the license, the

17 abatement contractor's license.

18 Q. Where did you get that license?

19 A. Tomas.

20 Q. Okay.

21 How did he get it to you?

22 A. He handed it to me.

23 Q. In person?

24 A. Yes.

1 Q. Okay.

2 And when was that? Was that prior to

3 phase one?

4 A. No.

5 Q. Was that after phase one?

6 A. It was after phase one -- it was towards

7 the end of phase one.

8 Q. Okay.

9 Was that on one of the trips that you two

10 took together to Cleveland Trencher?

11 A. No. No. Again, you're asking me when he

12 gave me that license, Tony's license?

13 Q. Yes. Safe Environmental's license.

14 A. Okay. He gave me Safe Environmental's

15 license in Hammond at his office.

16 Q. During the summer meeting, correct?

17 A. No. I went to his office more than that.

18 Q. Okay.

19 Did he give you Safe Environmental's

20 license during phase one or before phase one or

21 after phase one?

22 A. During.

23 Q. Okay.

24 And what did he say to you when he gave it

1 to you?

2 A. That we can't -- you know, we're going to

3 have to use Tony's license? We can't wait for --

4 forever to get the other license in the mail,

5 something to that effect.

6 Q. Okay.

7 Did you ask him if -- about the status of

8 the contractor's license that you filled out

9 earlier for him?

10 A. No.

11 Q. Did you suggest that he call the

12 Department of Health to see what the status of that

13 was?

14 A. No.

15 Q. Did he make any indication to you that he

16 did not submit or did submit that form that you

17 filled out at that time?

18 A. No, he didn't tell me whether or not he

19 did.

20 Q. Did you care?

21 A. As long as he had a foreman there.

22 Q. Okay.

23 So as long as he had a foreman, you didn't

24 care whose license he used?

1 A. Right, even during the friable. I mean,
2 as long as he had a foreman, he could still be on
3 site and as long as he wasn't working, he could
4 still give directions to the foreman just like I
5 could over the phone.

6 Q. Did you ever call Safe Environment?
7 A. Never.

8 Q. What was your relationship with Safe
9 Environmental at this particular time?
10 A. I no longer worked for Tony. We parted
11 amicably, no grudges. As a matter of fact, I think
12 before this contract came up, I had spoke with
13 Sheila about doing a possible job for her, his wife
14 so. No, I had no — you know, I understood that he
15 was having money problems and I knew that he had
16 hired Rick Lovelace to do his estimating and I knew
17 Rick had more experience in that field and he was
18 probably making a good choice since he needed to
19 find work.

20 Q. So you were handed the license for Safe
21 Environment by Tomas Amaya, correct?
22 A. Correct.

23 Q. In Indiana?
24 A. Correct.

1 Q. In his office?
2 A. In Tomas's office.

3 Q. Right.
4 A. Yes.

5 Q. During phase one?
6 A. At some point, yes.

7 Q. Okay.
8 Well, do you remember which point?
9 A. No. It went very — it went pretty fast
10 because we overmanned it.

11 Q. Did he tell you that Tony gave him
12 authority at that time?
13 A. It was understood.

14 Q. Okay.
15 A. I figured there's no way he could get this
16 license without authority.

17 Q. Did you contact Nationwide at that time
18 and tell them the good news, that you had a
19 license?
20 A. Well, when I went back to the site and I
21 told him, you know, we can fill out the ten-day now
22 but I'm missing a lot of the information and then
23 Molly said that Mike will be on site tomorrow. He
24 was at another job site that he had just started.

1 He was running another job site too. This was kind
2 of getting under my skin because everybody's
3 running these other job sites and nobody's
4 focussing on the one that I'm focusing on. So I --

5 Q. Well, that includes you, right, because
6 you were still going back and forth to Indiana with
7 that three-day job that you had, right?
8 A. Three-day job?

9 Q. Didn't you say you had a three-day job
10 where you were looking at something in Indiana,
11 assessing it?
12 A. No. No. No. No. I looked at it when I
13 took my son back to college. It was an opportunity
14 because I was going through Indy. I looked at it
15 once. As a matter of fact, I called Mike's second
16 in command from there and — Chuck. I can't
17 remember Chuck's last name but it's Mike's go to
18 guy.

19 Q. I think I had asked you why you didn't
20 stay in Cleveland from the time that phase one
21 began through the end and you said that you had
22 work back in Indiana?
23 A. I had work back in Indiana, A. I didn't
24 have an Ohio license, B. I had a foreman that was

1 running the crew that they all spoke Spanish
2 anyway. They were given directions by Tomas. It's
3 pretty out and dry to remove — you know, there's
4 nothing — there was nothing difficult about the
5 engineering.

6 Q. Okay.
7 When you — so you've never seen this
8 particular notification; is that correct?
9 A. Not this neat and pretty, no.

10 Q. And you didn't type that out?
11 A. No, I did not.

12 Q. But you did receive the license — the
13 Safe Environment license; a photocopy of it from
14 Tomas?
15 A. Yes.

16 Q. And he told you that you would be using
17 Safe Environment's license, correct?
18 A. Yes.

19 Q. And you didn't pose any questions to him
20 because you trusted him, correct?
21 A. Yes.

22 Q. Was this during that same period that you
23 were concerned about the miscommunication and the
24 being abused and being phased out?

1 A. No, that was before that. I -- I was
2 still putting up with it. I was pretty tolerant.
3 Again, I was -- I've got a slow fuse.
4 Not to get into my personal life but I'm
5 bipolar and I could be very, very cordial or I can
6 be totally insane, just to let you know.
7 Q. I'll just ask you to be cordial for the
8 rest of this deposition if that's possible.
9 A. All right.
10 Q. So far you've been so.
11 A. Thank you.
12 Q. When the period of miscommunication
13 emerged, did you ever question Safe Environment's
14 license that was handed to you by Tomas?
15 A. Whether it was good or not?
16 Q. Yeah. Well, whether it was actually
17 authorized by Safe Environment?
18 A. No. Again, I was basing that on Tony does
19 that. He was probably going to get a percentage
20 and didn't matter to me as long as I had, you know,
21 a license that -- that was Ohio and it didn't
22 matter to Mike because that's what he was wanting
23 and --
24 Q. What was your understanding of what your

1 cut would be from this job after the \$50,000 was
2 paid and work was done?
3 A. Well, I thought -- I told Tomas not to be
4 overly excited because, you know, we're probably,
5 at best, even with the change orders, going to
6 break even, at best. I says, you know, this is not
7 a money maker at all. I says it's a foot in the
8 door. It's getting you started. You wanted to get
9 your business started. This is what you can do.
10 Q. How did you come up with the break even?
11 This was going to be a \$50,000 job, correct?
12 A. \$50,000 is not a lot in asbestos abatement
13 jobs.
14 Q. Okay.
15 How much would the workers have to have
16 been paid, all the workers in total, for their work
17 for this kind of job, both phases, all phases for
18 which you wrote the contract?
19 A. How much would they have to have been
20 paid?
21 Q. Right. For this kind of work.
22 A. I usually go percentage. The -- I had
23 nothing to do with payroll. I don't know what they
24 were paid but I would have paid them probably

1 40 percent of the job if it was a good money making
2 job. The materials, I would have paid probably 10
3 to 15 percent. The hauling, maybe 10 to
4 15 percent. But labor costs usually is a big part
5 of the job. But because I knew that these were
6 Tomas's people and I knew that they were going to
7 work for less than prevailing or less than -- I
8 mean, he would have -- he wasn't going to,
9 obviously, not pay them but under, you know, fair
10 wage but, you know, it was nonunion. He could
11 probably get away with paying them \$15 an hour and
12 they would be happy with that.
13 Q. What percent of that total \$50,000 would
14 that come to if it wouldn't be 40 percent?
15 A. I don't know. I don't have a calculator
16 on me right now. Because he -- he had started out,
17 we talked about starting out with a small start up
18 crew and then bumping it up towards the middle when
19 we got all the equipment. But what happened in
20 reality, we didn't have enough equipment for the
21 crew I had.
22 Q. Well, I can appreciate the changes that
23 occurred.
24 But at the beginning when you wrote up

1 this contract and you had some idea about whether
2 or not you were going to make a profit -- because
3 you wouldn't do this for free, would you?
4 A. Oh, no, but I would do it for break even
5 on the assumption -- or on the gimme that we were
6 going to get more work. That Indianapolis job
7 looked to be very lucrative.
8 Q. Is it true that really you cared only
9 about that Indiana -- Indiana job?
10 A. Oh, no. I cared about trying to do
11 something on my own with Tomas. I mean, I --
12 Q. Did you care about this particular job,
13 the Cleveland Trencher job?
14 A. Of course. I care about every job I do.
15 Q. Okay.
16 What -- if the labor would not be
17 40 percent, what would it be because of Tomas's
18 treatment of laborers?
19 A. Because of his treatment of laborers? I
20 don't know what he -- I'm assuming that he at least
21 paid these guys \$15 an hour.
22 Q. Well, what would a laborer get as a union?
23 A. Well, twice that.
24 Q. So \$30 per hour, right?

1 A. Yes.

2 Q. So is it fair to say that instead of 40

3 percent, the labor would be 20 percent of the total

4 cost? Is that fair?

5 A. Probably.

6 Q. Okay.

7 So 20 percent of \$50,000 is \$10,000.

8 Do you agree with that?

9 A. Yes.

10 Q. And then 15 percent for the waste would be

11 \$7,500, correct?

12 A. Yes, but this is where the problem

13 started.

14 Q. I understand that problems arose.

15 I just mean at the time you wrote this

16 contract if you had to assess the breakdown which

17 you would want to do, right?

18 A. Yes. I had a breakdown sheet. I'm trying

19 to think in my head what I -- what I did but --

20 Q. Well, we'll break it down and you tell me

21 if you agree?

22 A. Okay. Go ahead. Keep going.

23 Q. So \$10,000 for labor, \$7,500 for waste?

24 A. Yep.

1 Q. \$7,500 for hauling?

2 A. Uh-huh.

3 Q. Okay.

4 Any other expenses?

5 A. Equipment rental.

6 Q. What would the equipment cost, what

7 percent of that 50 or of the job?

8 A. 10 percent.

9 Q. So that's \$5,000.

10 Any other costs?

11 A. Materials, bags, poly, everything involved

12 in asbestos abatement. Some of it's reusable.

13 Most of it -- let's just go with disposables. 10

14 percent minimum on disposables.

15 Q. Okay. All right. So \$5,000 for that.

16 Any other costs?

17 A. Tools, another 5 percent on tools.

18 Q. Okay.

19 So \$2,500?

20 A. Right.

21 Q. Any other costs?

22 A. Well, putting the guys up and feeding them

23 and things of that nature but Mike shared that

24 burden.

1 Q. Was that in the contract?

2 A. No. I don't think I wrote it. I think --

3 I think we just agreed on that because he went

4 ahead and set it up so.

5 Q. So that was not an expense or if it was,

6 it was nominal, correct?

7 A. But I didn't know that for sure that he

8 was going to do that. You know, he talked like he

9 was going to do it but I had to cover the bases

10 just in case so.

11 Q. Well, what did you cover those as?

12 A. Well, I figured --

13 Q. Room and board?

14 A. -- two guys a night for the -- for the

15 week, you know, at \$100 a room times five, \$500 a

16 night times five, \$2,500 for the first week,

17 another \$5,000.

18 Q. Any other costs?

19 A. What I am missing?

20 Q. We have labor, waste, hauling, equipment,

21 materials, tools, and room and board.

22 A. Oh, transportation.

23 Q. Okay.

24 A. My costs and Tomas's and the trucks back

1 and forth from Chicago -- or from Hammond at figure

2 300 -- figure 700 miles a round trip. And I made

3 several trips with Tomas, without Tomas, with the

4 truck and the truck coming back at least twice for

5 equipment. So you got to figure each trip add at

6 least \$150. So figure 15 trips about. Put a

7 couple grand on transportation.

8 Q. And you could have saved a bulk of that if

9 you had just stayed in Euclid yourself, correct?

10 A. No, because I would have been paying more

11 on the per diem or the motel. It would have been

12 another -- I did stay in the motel one night.

13 Q. All right.

14 If I may add your figures up here, \$10,000

15 for labor, \$7,500 for waste, \$7,500 for hauling,

16 \$5,000 for equipment, \$5,000 for tools, \$5,000 for

17 room and board and \$2,000 for transportation well

18 be generous and give you \$2,500 for transportation,

19 that comes to \$45,000. That leaves \$5,000 left for

20 you and Tomas Amaya to split, is that correct?

21 A. Yes. If it rolled that way but it didn't.

22 Q. If it rolled that way, correct?

23 A. Yes.

24 Q. Now, if Safe Environment is going to make

1 a cut, which is what you assumed, that now becomes
 2 substantial in terms of whether or not you get
 3 \$2,500 or zero, doesn't it?
 4 A. No. That -- whatever arrangement that
 5 might have been made between Safe and Tomas was not
 6 discussed with me.
 7 Q. Did you ever bring it up?
 8 A. Nope.
 9 Q. If your estimate that you put together in
 10 your chart is consistent with what you've testified
 11 right now, it matters whether or not you take any
 12 money from this thing or not, doesn't it?
 13 A. It matters?
 14 Q. Does it?
 15 A. Well, Tomas might have absorbed the cost
 16 himself.
 17 Q. Okay.
 18 Would that be something that you'd want to
 19 know?
 20 A. If -- if he did and I got paid, great. If
 21 I got paid just a finder's fee at that point which
 22 that's what I was shooting for at that point
 23 because I didn't want to go into business with
 24 Tomas. This was going to be a trial and it failed

1 miserably. And I had no intentions of going into
 2 business with Tomas because he started talking
 3 about me paying rent towards his apartment building
 4 where my office was going to be and I said, Tomas,
 5 that's not a business. That's --
 6 Q. When did you have enough and back out?
 7 A. When did I have enough money? I never had
 8 any money.
 9 Q. When did you have enough of Tomas's method
 10 of doing business where you realized that --
 11 A. That he couldn't run -- he couldn't run a
 12 business?
 13 Q. Right.
 14 A. Right after I seen the aftermath of the
 15 friable.
 16 Q. Okay.
 17 But you stayed for that, didn't you? You
 18 stayed for all of phase two, didn't you?
 19 A. No.
 20 Q. You bowed out during phase two?
 21 A. I -- well, I was still talking to Tomas
 22 but after that incident, after they did the friable
 23 removal and we had the EPA shut the site down, I
 24 was trying to explain to Tomas that he does not

1 have an option to clean up. He thought he did. I
 2 says you do not have an option because now, Tony is
 3 saying that he didn't give you permission to use
 4 the license so you no longer have a license.
 5 Q. You learned as the project with Nationwide
 6 went on that Tomas couldn't run a business; is that
 7 correct?
 8 A. Well, yes.
 9 Q. Okay.
 10 And you testified that when you were his
 11 supervisor at other jobs and throughout the years
 12 that you didn't trust his approach to doing these
 13 jobs, is that correct?
 14 MR. KRAMER: Objection.
 15 THE WITNESS: No. I thought he was a good
 16 foreman. Again, he -- you know, he gave every
 17 indication that he could be professional and he
 18 could run a job. I just think this was a little
 19 bit over his head. He was trying to run it with a
 20 credit card. I think he got cut off and didn't
 21 want to tell me. Then he was trying use his own
 22 money that he was making on the side working for --
 23 or making -- as working for Tony. And I think he
 24 was putting everything into it to save a dying job

1 that should have been shot.
 2 MR. THOMAS: Okay.
 3 THE WITNESS: At the -- at the very least, he
 4 should have come to me or talked with Mike. I
 5 tried to put in for a change order but Mike at that
 6 time was basing his money on he can't get paid
 7 until he gets more steel out of there. I'm trying
 8 to tell him you can't take any more steel out of
 9 there until we get finished.
 10 BY MR. THOMAS:
 11 Q. Who is the person who gave clearance to
 12 Nationwide, was that you or Tomas, that the phase
 13 two was complete and that the building could be
 14 demolished in its entirety?
 15 A. It wasn't me because I wasn't there
 16 when -- when it was finished.
 17 Q. Okay.
 18 THE VIDEOGRAPHER: We have five minutes right
 19 now.
 20 MR. THOMAS: You want to change the tape?
 21 THE VIDEOGRAPHER: Yeah. This marks the end of
 22 tape number two. We are off the record at
 23 3:51 p.m.
 24 (A short break was taken.)

1 THE VIDEOGRAPHER: This marks the beginning of
 2 tape number three. We are back on the record at
 3 3:54 p.m.
 4 BY MR. THOMAS:
 5 Q. John, I had asked you about Exhibit 6.
 6 which you testified that you have not seen and you
 7 did not fill out; is that correct?
 8 A. That's correct.
 9 Q. Because this appears to have been typed
 10 and you don't type, you write; is that correct?
 11 A. That's correct.
 12 Q. Okay.
 13 Would you ever have typed out a form?
 14 A. No.
 15 Q. Okay.
 16 Do you know what the date of this form is?
 17 Do you see that bottom right? At least by whomever
 18 filled that out.
 19 A. Date, August 31st.
 20 Q. Okay. Thanks. I want to hand you
 21 Exhibit 7, have you take a look at that. Let me
 22 know when you're finished with that.
 23 Do you recognize that document?
 24 A. I recognize the information on the

1 document.
 2 Q. Okay.
 3 This is an -- a prior notification, this
 4 is a ten-day form, correct?
 5 A. Yes.
 6 Q. It's similar to Exhibit 6 but it differs
 7 in terms of the information, correct?
 8 A. Yes.
 9 Q. Did you fill out this form in Exhibit 7?
 10 A. The one I'm looking at right now?
 11 Q. Yes.
 12 Well, how about this, have you ever seen
 13 that particular document filled out before?
 14 A. Yes.
 15 Q. When did you see it?
 16 A. I -- I don't recall but it looks like
 17 August 31st.
 18 Q. Okay.
 19 Well, that's the date of the form,
 20 correct?
 21 A. Yes.
 22 Q. Did you fill that out?
 23 A. No, but it looks like I faxed it.
 24 Q. Well, let's -- let's focus on the form

1 itself.
 2 A. Okay.
 3 Q. Okay.
 4 Who filled that form out?
 5 A. Again, it's typed so I -- I don't -- I
 6 don't know if my -- can I use -- just look at this
 7 one again?
 8 Q. Sure can.
 9 A. The font is even different.
 10 Q. Do you know who filled out seven,
 11 Exhibit 7?
 12 A. Exhibit 7? Produced by Nationwide. It
 13 looks like Nationwide.
 14 Q. Well, don't be confused by that. That is
 15 a -- something that happens -- this is called a
 16 Bate's number. So during the course of this civil
 17 action, different parties send things and that's
 18 how different lawyers keep track of documents,
 19 okay?
 20 A. Okay.
 21 Q. So you can accept that this was produced
 22 by Nationwide as part of this litigation.
 23 A. Okay.
 24 Q. But I don't want that to get in the way of

1 your assessment of the form if you can help that.
 2 A. Okay.
 3 This looks like information -- it looks
 4 like this is something Molly may have gave -- given
 5 me and then this is --
 6 Q. Now, this -- and you're talking about six,
 7 correct, Exhibit 6?
 8 A. Six, yeah. And then this looks like
 9 changes I may have made and then sent back to her.
 10 Q. Okay.
 11 So you made this form, didn't you?
 12 A. 8-31-2007. This was faxed to myself. I
 13 don't know.
 14 Q. Is it fair to say that you -- you're very
 15 interested in the fax information at the top of
 16 this page? You've mentioned it twice. Are you
 17 interested in studying that, you want to look at
 18 that for a bit and think or are you able to answer
 19 questions about the document itself without
 20 focusing on that fax information?
 21 A. That fax is driving me crazy. I'm trying
 22 to figure out who I faxed this too.
 23 Q. Well, can you not do that for a moment and
 24 just answer questions about the form itself and

1 then — then I'll let you look at that and you can
 2 think about the fax?
 3 A. Sure.
 4 Q. Okay.
 5 Who filled out this form?
 6 A. Well, I put most of the information that I
 7 received from various people on this form.
 8 Q. Did you fill that form out?
 9 A. Person — yes, but I don't remember typing
 10 it in. I remember doing it by hand. And then — I
 11 don't remember typing — I don't have the
 12 capability to type it.
 13 Q. What does that mean, you don't have a
 14 typewriter?
 15 A. No, I don't.
 16 Q. Can this form be filled out as a PDF?
 17 A. It doesn't look like it.
 18 Q. Well, let me draw your attention to the
 19 answer for the address in section nine where it
 20 says 20100 St. Claire Avenue.
 21 Do you see that?
 22 A. Yes.
 23 Q. And then below that, there is a location,
 24 site location specified and then there's

1 information that says manufacturing building
 2 southeast of main brick office, et cetera.
 3 Do you see that?
 4 A. Yes.
 5 Q. Does that look like a different font than
 6 the St. Claire Avenue right above it?
 7 A. It looks like it went smaller to fit it
 8 in.
 9 Q. Okay.
 10 And isn't that what happens when a
 11 document is PDF filled out?
 12 MR. KRAMER: Objection.
 13 THE WITNESS: I don't know.
 14 MR. THOMAS: Okay.
 15 BY MR. THOMAS:
 16 Q. How about when somebody uses a typewriter,
 17 does a typewriter make a different sized font?
 18 A. You can see that the dates here are going
 19 off the line. They're going uphill. That looks
 20 more like a typewriter.
 21 Q. Okay.
 22 A. But I mean, I've — also, they're
 23 going there up and down on the days 7:00 a.m. to
 24 5:00 p.m.

1 Q. Okay.
 2 A. They're pretty square until you get to the
 3 last one, it's hitting the line.
 4 Q. Okay.
 5 So I'll ask you again, did you fill this
 6 form out?
 7 A. No.
 8 Q. Who did?
 9 A. I don't know. It could have been — I
 10 don't want to speculate because I don't know.
 11 Q. Okay.
 12 Well, could it have been you?
 13 A. Could have been, sure.
 14 Q. Do you have any recollection of that form?
 15 A. Yes. I recognize all the information on
 16 here.
 17 Q. Is that form important?
 18 A. It's important to start the job, yes.
 19 Q. Can you do the job without that form?
 20 A. No.
 21 Q. And yet you don't remember that form?
 22 A. I remember it being part of the package,
 23 yes.
 24 Q. But you don't remember if you filled that

1 out?
 2 A. No. It's got all the correct information
 3 on it, though, I mean.
 4 Q. Well, let's talk about the correct
 5 information.
 6 What does it say for number eight,
 7 certification number, what's that number?
 8 A. AS29688.
 9 Q. That's a certification number for whom?
 10 A. Carlos Bonilla.
 11 Q. Who wrote that in there?
 12 A. I would have.
 13 Q. Okay.
 14 Who told you to write that in there?
 15 A. Tomas.
 16 Q. When did he tell you to do that?
 17 A. When he gave me a copy of his license and
 18 said this is — use Carlos as the foreman.
 19 Q. Did you ask him if Carlos gave permission?
 20 A. Nope.
 21 Q. Why not?
 22 A. Because this was Tomas's friend and
 23 confidante and worker, foreman. They worked
 24 together all the time. I didn't figure it was a

1 problem.

2 Q. Did you figure it was a problem when phase

3 two began and Carlos Bonilla was nowhere to be

4 found?

5 A. No --

6 MR. KRAMER: Objection.

7 THE WITNESS: -- because I knew that Carlos --

8 I had seen Carlos at Tony's job. I know Carlos

9 either lives in Indianapolis or commutes between

10 Indianapolis and Hessville.

11 BY MR. THOMAS:

12 Q. Well, as you said, he's Tomas's confidant

13 and friend so he would probably be in that area but

14 did you see him at the Euclid, Ohio, Cleveland

15 Trencher area?

16 A. I've never seen him there, no, but that

17 doesn't mean he wasn't there.

18 Q. Oh, you think he may have been there?

19 A. He might have been.

20 Q. Okay.

21 A. I mean, you know, sometimes foremen get

22 switched around, especially when they were going

23 between jobs. They were running another job for

24 Safe Environment while this was going on.

1 Q. Going back to Exhibit 6, Tomas Amaya

2 testified that you filled out this form, that he

3 did not?

4 A. Right.

5 Q. Is he correct?

6 A. I filled out that form but I did not type

7 that form out.

8 Q. Okay.

9 So when you filled it out, did you write

10 Anthony Paganelli's information in there?

11 A. I was going off the license, yes.

12 Q. And why did that get changed from Anthony

13 Paganelli to you? Who authorized that change?

14 A. I don't know.

15 Q. Do you find it peculiar?

16 A. No.

17 Q. Do you think that Tomas Amaya would have

18 substituted Anthony's name and added yours?

19 MR. KRAMER: Objection, calls for speculation.

20 THE WITNESS: Well, I don't -- I don't know why

21 he would do that because I'm not the holder of the

22 license.

23 MR. THOMAS: Okay.

24

1 BY MR. THOMAS:

2 Q. Well, did you do that?

3 A. No.

4 Q. So you didn't fill out this form which is

5 Exhibit 7?

6 A. No. I acquired some or all of the

7 information here.

8 Q. Are you the appropriate person to be

9 listed as the holder of the Safe Environmental

10 license?

11 A. No.

12 Q. Were you concerned about that when you

13 looked at it?

14 A. Wait. I could be the contact. That's --

15 I've been the contact for LVI's license.

16 Q. Okay.

17 Who made the decision to change the

18 contact person from Paganelli to Vadas?

19 A. I don't know.

20 Q. Who made the decision to change the name

21 of the person filing this notice from Paganelli to

22 Vadas?

23 A. I'm not sure that this was the one that

24 was filed. That might have been the one that was

1 filed.

2 Q. Did you ever look?

3 A. No.

4 Q. Did you care?

5 A. Well, of course I cared but there were so

6 many other things that were coming up. I was more

7 concerned with the on-site work.

8 Q. Is this not the most important document in

9 order to do the job?

10 A. The license -- having the license in hand

11 is the most important document. This is a

12 notification.

13 Q. Okay.

14 A. These get changed. And I've had stacks of

15 them on my desk on jobs before. As a matter of

16 fact, there's --

17 Q. What is more important, having the license

18 in your hand or filing this form with the

19 Department of Health?

20 A. They're equally just as important. But,

21 again, you're -- you're missing revisions that I

22 know I filled out. There's numbers that aren't

23 there.

24 Q. Where are those revisions?

1 A. I have no idea.

2 Q. Well, when you filled out those numbers,

3 where did you send those completed forms?

4 A. Gave them to Tomas.

5 Q. How did you get them to him?

6 A. Handed them to him, here's the revisions

7 for the project.

8 Q. What determines whether or not you would

9 fax something or hand something to Tomas?

10 A. Logistics. If I'm at home, I might just

11 go over there and give it to him. If he's at work,

12 I would fax it so that when he came home, he would

13 see it on his fax machine. There's a dozen reasons

14 why I would fax something. But you don't typically

15 fax -- I mean, you could fax a notification but

16 you're supposed to mail it with registered mail so

17 you have proof that it was mailed on the date so

18 you can start counting your days.

19 Q. Who did that in this case?

20 A. That would have to be Tomas.

21 Q. Okay.

22 Tomas said you did it.

23 Is he wrong?

24 A. He's wrong. I didn't do it.

1 Q. How can we find out who did it?

2 A. Look -- the Department of Health or --

3 well, it went to somebody so they have a record of

4 it.

5 Q. Okay.

6 And would you be surprised if you -- if we

7 found out that the Department of Health showed you

8 as the remitter?

9 A. Would I be surprised?

10 Q. Yes.

11 A. I don't think you're going to find me as

12 the remitter.

13 Q. And if we did, would that be something

14 that's acceptable to you? Would you agree that you

15 did it?

16 MR. KRAMER: Objection, calls for speculation.

17 THE WITNESS: I don't think I would have done

18 it.

19 MR. THOMAS: Okay.

20 THE WITNESS: Again, I was asked to get this

21 thing rolling and --

22 BY MR. THOMAS:

23 Q. Who are the possible people who could have

24 submitted this form to the Department of Health?

1 A. Oh, man.

2 Q. You're one, correct?

3 A. I'm one. Tomas is one.

4 Q. Tomas is one.

5 Who else?

6 A. Molly.

7 Q. Okay.

8 A. The information that I needed from Mike:

9 Mike could have even -- but no, Mike's not a

10 paperwork guy.

11 Q. If Mike or Molly submitted this form to

12 the Department of Health, did they have your

13 authority to use your name?

14 A. Nobody has authority to use my name.

15 Q. So if it turns out you're the person who

16 did not fill this form out, does this upset you

17 that your name was used in relation to the Safe

18 Environment certificate?

19 A. Yes.

20 MR. KRAMER: Objection.

21 MR. THOMAS: Okay.

22 BY MR. THOMAS:

23 Q. And why does it upset you?

24 A. Well, because my name was put in there. I

1 don't believe I gave anybody permission to do that.

2 Q. And you certainly didn't give anyone

3 permission to align you with Safe Environment, did

4 you?

5 A. No.

6 MR. KRAMER: Objection.

7 THE WITNESS: I don't work for Safe

8 Environment.

9 MR. THOMAS: Okay.

10 BY MR. THOMAS:

11 Q. And you never had any personal contact

12 with Safe Environment to verify whether or not

13 their license was provided; is that correct?

14 A. No, I didn't talk with Safe at all.

15 Q. If you had seen that form, since you claim

16 you didn't, and you saw your name associated with

17 Safe Environment, would you correct it?

18 MR. KRAMER: Objection.

19 THE WITNESS: It depends where the form was

20 going.

21 MR. THOMAS: Well, it would be going to the

22 Ohio Department of Health.

23 THE WITNESS: No, I wouldn't let this go.

24

1 BY MR. THOMAS:
 2 Q. But you faxed that somewhere, didn't you?
 3 A. Yes. Late at night.
 4 Q. So you did let it go, didn't you?
 5 A. No.
 6 Q. How do you describe that discrepancy?
 7 A. Well, I wouldn't have sent it at night.
 8 Q. Well, when did you send it?
 9 A. I didn't send it.
 10 Q. Did somebody else use your fax machine?
 11 A. No. I'm not sure that this fax — just
 12 because my fax number is on here doesn't mean I
 13 faxed it to the Department of Public Health. I
 14 could have faxed this to Tomas's office.
 15 Q. Would you have done that?
 16 A. I might have.
 17 Q. Why would you submit to Tomas a
 18 notification with your name as the contact person
 19 for Safe Environment when you just told us that you
 20 would not authorize that?
 21 MR. KRAMER: Objection.
 22 THE WITNESS: I don't know. One says original.
 23 They both say original. One doesn't have the
 24 number on it.

1 BY MR. THOMAS:
 2 Q. I can give you copies of these so that you
 3 can compare them later on but I want to make sure
 4 that you're focused on the questions that I'm
 5 asking about the one that's faxed.
 6 Did you fax that or not?
 7 A. I don't know.
 8 Q. Okay.
 9 Did you ever send any faxes?
 10 A. I sent lots of faxes.
 11 Q. Okay.
 12 To whom and why?
 13 A. Molly, Mike for information. I usually
 14 had to chase them down to try to get any kind of
 15 information. It was hard to get a hold of either
 16 of them on the phone to talk with them so I would
 17 usually fax them and wait for faxes back, period.
 18 Q. Okay.
 19 When you faxed Mike and Molly, did you
 20 represent yourself as different — excuse me —
 21 I'll rephrase that question.
 22 When you faxed Mike and Molly, did you
 23 make a different representation about yourself than
 24 when you faxed a governmental authority?

1 A. I don't understand what you're asking me.
 2 When I faxed Mike and Molly? It depends what I
 3 faxed them. I faxed Mike and Molly things about
 4 any questions that might have been on their mind
 5 about — we had conversations about the
 6 Indianapolis job. We had conversations about a lot
 7 of things but this in particular, I don't recall.
 8 Q. What do you consider your legal — what do
 9 you consider was your legal relationship with Tomas
 10 Amaya for the Cleveland Trencher job?
 11 MR. KRAMER: Objection.
 12 MR. THOMAS: I'll rephrase that question.
 13 BY MR. THOMAS:
 14 Q. What do you consider your contractual
 15 relationship?
 16 A. We had no contract. I was doing him a
 17 favor.
 18 Q. This job was an entire favor, wasn't it?
 19 A. Well, it started out to be a favor and —
 20 Q. Started out to be a favor and how did it
 21 end up?
 22 A. Well, pretty poorly, obviously.
 23 Q. Was it ever a business enterprise for you?
 24 A. No.

1 Q. Did you ever have any concern about the
 2 business end of it?
 3 A. Yes, like why did I get involved in this
 4 to start out with.
 5 Q. I mean, at the beginning, did you ever
 6 have any business interest in the Cleveland
 7 Trencher job?
 8 A. Yes. I had high hopes that, you know,
 9 this would work. He guaranteed me that he had guys
 10 that could pull this off and that's it.
 11 Q. Who guaranteed you that?
 12 A. Tomas.
 13 Q. Okay.
 14 A. I said, you know, we're going to need some
 15 good guys. He says he's got a hall down in
 16 Indianapolis where he can get all the guys that are
 17 licensed and he told me the cost was very
 18 productive and we can get — get the work done.
 19 He — he was the one making all the comments that
 20 it could be done.
 21 Q. When did — when did Tomas — when did
 22 Tomas Amaya confirm for you that — that — that
 23 Safe Environment's license would be used?
 24 A. When we were pressured by Mike to get

1 started on the friable because we were running out
2 of time and work and he says we're going to have to
3 use Tony's license.

4 Q. Okay.

5 A. Period.

6 Q. Okay.

7 He said we're going to have to use Tony's
8 license, correct?

9 A. Yes.

10 Q. Okay.

11 And the pressure was high from Mike,
12 wasn't it?

13 A. Very.

14 Q. In fact, it was so high that you weren't
15 going to question whether or not using Tony's
16 license was valid, right?

17 MR. KRAMER: Objection.

18 BY MR. THOMAS:

19 Q. Isn't that right?

20 A. Well, I used his license -- I had a valid
21 license in my hand. I didn't see any other way I
22 can have a valid license without the owner's
23 permission.

24 Q. Well, it would have been possible for

1 Tomas to just give you that license and tell you
2 that it was given to him?

3 A. How can he get that without -- I mean, the
4 State surely would have sent some type of
5 notification back that they received it.

6 Q. Let's talk about that.

7 Does the State send notification back?

8 A. They do in Illinois.

9 Q. Do they in Ohio?

10 A. I don't know.

11 Q. Do they in Indiana?

12 A. I don't know.

13 Q. Do they in Virginia?

14 A. I don't know.

15 Q. Do they in Missouri?

16 A. No. These --

17 Q. Do they in South Carolina?

18 A. I don't know.

19 Q. Then how do you draw the conclusion that
20 you would get notification back from the State on
21 this license?

22 A. There's a possibility.

23 Q. Just a possibility, right?

24 A. Yes.

1 Q. But it's not for certain, is it?

2 A. No.

3 Q. And you knew that at the time too, right?

4 A. Well, yeah, but --

5 Q. And you testified earlier this morning
6 that as a project -- as a supervisor on many of
7 these sites, you've got a stack of paper for each
8 worker, don't you?

9 A. Yes.

10 Q. Including a copy of their asbestos license
11 card, right?

12 A. Yes.

13 Q. And their driver's license card, right?

14 A. Yes.

15 Q. And you have a copy of the certificate for
16 the contractor's license for your company, don't
17 you?

18 A. As a supervisor, yes. I was not a
19 supervisor on this project.

20 Q. Okay. Well, I'm not asking you if you
21 were.

22 I'm saying that copies of documents are
23 available to supervisors on certain jobs, aren't
24 they?

1 A. Yes.

2 Q. And you know that, don't you?

3 A. Yes, I do.

4 Q. So you agree with me that Tomas Amaya
5 might have a copy of a license in his hand when he,
6 in fact, did not receive that from anybody, right?

7 MR. KRAMER: Objection.

8 THE WITNESS: That -- the business license is
9 very seldom loosely given to foremen.

10 MR. THOMAS: Okay.

11 THE WITNESS: That is something that if
12 somebody comes on site and wants to see the
13 license, they're referred to the office.

14 MR. THOMAS: Okay.

15 THE WITNESS: It's something that doesn't have
16 to be posted. It doesn't have to be provided.

17 BY MR. THOMAS:

18 Q. So the contractor's license was provided
19 to you from Tomas at the time when the pressure was
20 high to start phase two, right?

21 A. It was provided at the time when we didn't
22 have one.

23 Q. Which was when?

24 A. When it was time to start the friable

1 ten-day notification.
 2 Q. Okay.
 3 Which was when? When would that have
 4 been?
 5 A. September 14th.
 6 Q. Where do you get that date?
 7 A. Right there.
 8 Q. Okay.
 9 A. September 13th, September 14th,
 10 September 22nd.
 11 Q. Now, that was the original date that you
 12 were supposed -- that you were supposed to do phase
 13 two, correct?
 14 A. Yes.
 15 Q. But that changed because of the pressure
 16 from Mike Collins, correct?
 17 A. Well, I don't know.
 18 Q. You don't remember?
 19 A. No, I don't.
 20 Q. Did that pressure from Mike change the
 21 date that phase two was to begin?
 22 A. No.
 23 Q. Okay.
 24 So everything was still on schedule from

1 the beginning?
 2 A. Yes. It should start on -- whenever the
 3 ten-day says it starts, that's the day it starts.
 4 Q. Do you know what was significant about
 5 August 31, 2007? Did something happen on that day?
 6 A. Sox won the World Series. Oh, that was
 7 '05. I don't know.
 8 Q. Okay.
 9 Was there during this project anything --
 10 any day that stands out in your mind as being a
 11 rush day or hurry day or a significant day?
 12 A. No. They were all rushed days,
 13 significant and hurry. It was hot. It was -- we
 14 were under -- under a lot of pressure. These guys
 15 were putting in ten, 12-hour days.
 16 Q. Well, there was a lull between phase one
 17 and phase two, right?
 18 A. There was some -- yeah, some down days.
 19 Q. How many down days?
 20 A. I don't know.
 21 Q. Okay.
 22 And you don't recall anything occurring on
 23 August 31, 2007?
 24 A. No.

1 Q. Would you agree with me that both of these
 2 forms, six and seven, both notifications, were
 3 filled out on August 31, 2007?
 4 A. That's what it says, yes.
 5 Q. Okay.
 6 And you don't recognize six, correct?
 7 A. No.
 8 Q. But you do recognize seven, correct?
 9 A. Again, I recognize the information on
 10 there but I don't recognize filling that out only
 11 because of the way it's filled out.
 12 Q. But you agree also that you at least
 13 physically held that document because you faxed it
 14 to somebody, right?
 15 A. Right. It might have been just in a --
 16 you know, this needs to go to --
 17 Q. Could have been to anyone, right?
 18 A. Could have been to Mike.
 19 Q. Could have been to Mike, could have been
 20 to Tomas, could have been to the State of Ohio,
 21 right?
 22 A. I doubt if it was to the State. I
 23 wouldn't -- it says 1748, the time. I wouldn't fax
 24 it to the State at that time.

1 Q. That's 5:48 p.m., right?
 2 A. Yeah. I wouldn't have done that.
 3 Q. Okay.
 4 In any case, you don't approve of having
 5 your name listed as the contact person for Safe
 6 Environment, you've determined that, right?
 7 A. Well, I don't -- I'm looking at it now. I
 8 don't -- no, I don't agree with my name being there
 9 because it's not my license. But I don't think it
 10 matters because it says contact and being a contact
 11 person that can be construed as, well, who's the --
 12 who's the contact?
 13 Q. Contact for what, for the license or the
 14 job?
 15 A. The job.
 16 Q. Okay.
 17 You're saying that this line right here in
 18 line seven, the third one down where it says
 19 contact, your -- your fake is that contact is
 20 contact for the job, not contact for the licensure?
 21 A. It could be.
 22 Q. Well, is it?
 23 A. No.
 24 Q. That contact person, that's for

1 section seven, correct?
 2 A. It looks like it.
 3 Q. And the contact person would be the person
 4 who verifies and is answerable to that license,
 5 correct?
 6 MR. KRAMER: Objection, calls for speculation.
 7 BY MR. THOMAS:
 8 Q. Is that true?
 9 A. I don't know. I mean --
 10 Q. Is that logical?
 11 MR. KRAMER: Objection.
 12 THE WITNESS: A lot of these forms aren't
 13 logical. I mean, you've got three different --
 14 four different types of material here and we did
 15 surface -- you've got glove bag, you've got AFD,
 16 engineering controls.
 17 BY MR. THOMAS:
 18 Q. So if the form isn't logical, you just put
 19 down what you --
 20 A. Well, your best guess, you know. Again,
 21 this was my first time at, you know, trying to be a
 22 project manager for a guy who was trying to start a
 23 business.
 24 Q. And that's what you've said, that this was.

1 your first time.
 2 Did you call anybody from the Ohio
 3 Department of Health for assistance with this form?
 4 A. No.
 5 Q. Okay.
 6 I want to ask you about Exhibit 14, the
 7 first page here. I just want you to look at the
 8 first page.
 9 This is a fax, is it not?
 10 A. Yes.
 11 Q. And that's a fax that was sent by you, is
 12 it not?
 13 A. It looks to be.
 14 Q. Okay.
 15 And what's the date of the fax?
 16 A. August 15th.
 17 Q. Okay.
 18 And there's a section in the upper right.
 19 It says a facsimile from and who is the fax from?
 20 A. Facsimile from John Vadas, JVP Services,
 21 Asbestek, Incorporated, my old phone number.
 22 Q. That was a phone number that was active at
 23 the time; is that correct?
 24 A. Yes.

1 Q. Why did you put JPV Services?
 2 A. Because that was the name of my old
 3 company.
 4 Q. Okay.
 5 And did you then add Asbestek in a larger
 6 font there?
 7 A. Yes, because I didn't want her to get
 8 confused with where this was coming from.
 9 Q. Because this was coming from Asbestek,
 10 right?
 11 A. It was going to her regarding Asbestek,
 12 yes.
 13 Q. Okay.
 14 In fact, this fax was sent doing business
 15 by you for Asbestek, correct?
 16 A. Ohio application for business, yes.
 17 Q. You weren't doing any work for JPV when
 18 you sent this fax?
 19 A. No.
 20 Q. Okay.
 21 At the bottom of the fax, you also
 22 indicate your old phone number, correct?
 23 A. No. That's Asbestek's phone number.
 24 Q. Okay.

1 So you put Asbestek's phone number?
 2 A. Yes.
 3 Q. And you put Asbestek's fax number?
 4 A. Yes.
 5 Q. Okay.
 6 But you also have written here your JPC --
 7 JPV Services cell phone, correct?
 8 A. Right.
 9 Q. And your fax number?
 10 A. Yes.
 11 Q. So were you doing work for JPV when you
 12 sent this fax?
 13 A. No.
 14 Q. You did put your website as well on here,
 15 JPVServices.com?
 16 A. It doesn't exist anymore.
 17 Q. Fair enough.
 18 But at the time, it did exist, right?
 19 A. Yes.
 20 Q. And you typed these things in, your JPV
 21 information after you wrote the letter, didn't you?
 22 A. No. I -- I typed all that at the same
 23 time. What do you mean after I wrote the letter?
 24 Q. Well, so you -- you typed -- in the

1 comment section, you write a letter to Molly,
 2 right?
 3 A. Yes.
 4 Q. And at the end, you write thanks, John
 5 Vadas, right?
 6 A. Yes.
 7 Q. And then you type in my e-mail address and
 8 my website, www.JPVServices.com, right?
 9 A. Yes. Okay.
 10 Q. Then you put the JVP Services cell phone?
 11 A. Right.
 12 Q. And then the JVP Services fax number?
 13 A. Some of this might have been already in –
 14 programmed in Word.
 15 Q. Okay.
 16 A. And that's why Asbestek's coming up last.
 17 Q. Okay.
 18 A. So it – when I sign something, it
 19 automatically shoots this stuff in there.
 20 Q. I see.
 21 And then you added the Asbestek so that
 22 there would be no confusion?
 23 A. Yeah. Right. Yeah.
 24 Now, you can see here what I say, I still

1 need a copy of the asbestos report on the Euclid
 2 property. I never got that. Mike said he was
 3 going to go over it to go overnight it but it – we
 4 still have not received it. Could you please look
 5 into getting us that info. We were getting for
 6 workers – a lot – I mean, it speaks for itself.
 7 Read it. I mean, I was begging them for
 8 information to get this thing going.
 9 Q. Okay.
 10 On page two, there's a fax sent by you on
 11 August 16th; is that correct?
 12 A. Yes.
 13 Q. This also went to Molly and Mike Collins,
 14 correct?
 15 A. That's right.
 16 Q. And then at the end, you have your
 17 signature line that you say may already have been
 18 there; is that correct?
 19 A. Yes.
 20 Q. Okay.
 21 And then there's a fax on August 23, 2007
 22 and this also is to Mike and Molly, correct?
 23 A. Yes.
 24 Q. With your signature, e-mail, fax number,

1 website?
 2 A. Yes.
 3 Can I – can I read this just for a
 4 second?
 5 Q. I'll give you a chance in a minute. I'm
 6 just – want to ask you some questions about your
 7 faxes in general.
 8 On August 24th, you send a fax number and
 9 this time, you remove JVP Services, correct?
 10 A. Yes.
 11 Q. You just have Asbestek on there; is that
 12 correct?
 13 A. Yes.
 14 Q. Okay.
 15 You still sign it John and you have your
 16 e-mail address, JVP Services website, your phone,
 17 and fax and Asbestek's information at the bottom.
 18 This time, you add his name, correct?
 19 A. Yes.
 20 Q. All right.
 21 Any reason for that change to take off
 22 JVP?
 23 A. I don't know.
 24 Q. Did you write that out?

1 A. No.
 2 Q. You just didn't –
 3 A. Didn't type it in.
 4 Q. Just didn't type it in.
 5 Do you recall why you would not have?
 6 A. What's the difference? I don't really
 7 recall. I mean, it's – I think I still signed it
 8 JVP.
 9 Q. You did.
 10 A. If doesn't really matter. I mean,
 11 sometimes I just forget to do things.
 12 Q. Okay.
 13 Then you sent a fax to Mike and Molly on
 14 August 31st and you put your JVP back in?
 15 A. Yes.
 16 Q. At the top.
 17 And now you add Safe Environment under
 18 Asbestek.
 19 Do you see that?
 20 A. Yes.
 21 Q. Why did you do that?
 22 A. Probably since we were using their license
 23 so they wouldn't get confused on what was going on.
 24 Q. So who wouldn't get confused?