

1 Q. Well, as far as what?

2 A. Just the license notification.

3 Q. Well, what – what sort of liability does

4 that put on Safe Environment to offer a license?

5 What – what does that make Safe Environment

6 responsible for in your opinion?

7 A. I don't know. I'm not a lawyer. I don't

8 know. I can't answer that question because I don't

9 know.

10 Q. So other than the license which you claim

11 to have received from Paganelli in a two-minute

12 call and you're not sure if he truly understood

13 you –

14 A. Yes.

15 Q. – what responsibility did Safe

16 Environment have at Cleveland Trencher at all?

17 A. They never been there. They never do any

18 work over there.

19 Q. They had no relationship to it, did they?

20 A. Except the little thing, license.

21 Q. Is that a little thing or a big thing?

22 A. It's a big thing now.

23 Q. What was it back then, was it little or

24 big?

1 A. It was small thing.

2 Q. Why was it small back then?

3 A. Because if everything goes with no

4 problem, everything can be happy by now. Everybody

5 can be happy by now.

6 Q. But if it didn't go well, then it becomes

7 a big problem?

8 A. Yes, which is now.

9 Q. And people get insurance in case there are

10 big problems?

11 A. Yes.

12 Q. And that's why you had insurance, correct?

13 A. Yes.

14 Q. And that's why you named Nationwide under

15 the policy?

16 A. Yes.

17 Q. Why didn't you name Safe Environment in

18 case anything went wrong?

19 A. Maybe I didn't think about it back in that

20 time.

21 Q. You didn't think about it because they had

22 nothing to do with this project, right?

23 A. That's your opinion but...

24 Q. Well, what's your opinion?

1 A. They let me use the license.

2 Q. Why didn't you name them as an insured?

3 A. The thing is it was my first business. I

4 didn't have a lot of experience in this thing. I

5 didn't never think, oh, I have to put Safe over

6 here, I have to put the other company over here.

7 Q. Well, why did you put Nationwide?

8 A. Because they asked for certificate.

9 Q. Okay.

10 Did that make you think why they might

11 want a certificate?

12 A. For – yes, for something, something

13 wrong, yeah.

14 Q. For something to go wrong.

15 And you also knew that you had to have

16 insurance on your own, correct?

17 A. Yes.

18 Q. Which you had prior to this date?

19 A. Yes.

20 Q. In case something went wrong?

21 A. Yes.

22 Q. What if something went wrong for Safe

23 Environment? Did you ever think to include them in

24 your insurance policy?

1 A. I never think about it.

2 Q. You never thought about it because they

3 had nothing to do with it, right?

4 A. Okay. Your opinion.

5 Q. But is that – is that a fair opinion?

6 A. Your point, yes. From my point, it's

7 different.

8 Q. Why is it different?

9 A. Because I'm – I'm the one talk to Tony.

10 I'm the one got the license. I'm the one in this

11 position but your position is different.

12 Q. Did you ask Tony when you talked to him

13 about getting insurance?

14 A. Nope.

15 (Whereupon, Amaya Deposition

16 Exhibit No. 12 was marked for

17 identification.)

18 BY MR. THOMAS:

19 Q. I've marked Exhibit Amaya 12 and if you'd

20 take a moment and look at that.

21 A. Yes.

22 Q. Okay.

23 What is Exhibit 12?

24 A. It's an account I opened with the – with

1 the dumpster company.
 2 Q. And this is for the disposal of the
 3 contaminated waste --
 4 A. Yes.
 5 Q. -- correct?
 6 A. Yes.
 7 Q. Because when you do a project, as you
 8 testified before, you've got to properly dispose --
 9 A. Yes.
 10 Q. -- right?
 11 So in addition to having a contract with
 12 Nationwide, you had a contract with Allied Waste,
 13 correct?
 14 A. Yes.
 15 Q. And this contract was only between you and
 16 Allied Waste; is that correct?
 17 A. Yes.
 18 Q. And you filed this application --
 19 A. Yes.
 20 Q. -- on August 17, 2007?
 21 A. Yes.
 22 Q. Okay.
 23 Was there any waste generated by phase
 24 one?

1 A. Yes.
 2 Q. Okay.
 3 And did you use Allied Waste for that --
 4 A. Yes.
 5 Q. -- generated waste?
 6 Okay.
 7 (Whereupon, Amaya Deposition
 8 Exhibit No. 13 was marked for
 9 identification.)
 10 BY MR. THOMAS:
 11 Q. I've marked this document Amaya 13. Take
 12 a moment. Take a look at that.
 13 What is 13?
 14 A. It's a credit application.
 15 Q. That's a credit application to whom?
 16 A. To the dumpster company, Allied Waste.
 17 Q. So Allied Waste, correct?
 18 A. Yes.
 19 Q. Phase one of the remediation took place
 20 under the direction of Vadas, correct?
 21 A. Yes.
 22 Q. Okay.
 23 You were there for one day?
 24 A. Yes.

1 Q. Was Carlos Bonilla ever there?
 2 A. Never.
 3 Q. When you were not there, who was the
 4 supervisor on site?
 5 A. It was Juan Amaya.
 6 Q. Juan Amaya?
 7 A. Yes.
 8 Q. He has a supervisory license in Ohio?
 9 A. No.
 10 Q. Was he authorized under Ohio law to be a
 11 supervisor on phase one?
 12 A. No. It was not regulated asbestos.
 13 Q. He was not regulated in asbestos?
 14 A. Yes.
 15 Q. He was not, correct?
 16 A. Yes. Transite.
 17 Q. Did he have any authority whatsoever to be
 18 a supervisor at phase one?
 19 A. From any state or from...
 20 Q. From any state?
 21 A. No.
 22 Q. Yet, you knew he was the person
 23 supervising that phase one, correct?
 24 A. Yes.

1 Q. And you knew that that was illegal,
 2 correct?
 3 A. Illegal?
 4 Q. Yes.
 5 A. If it's not regulated, how -- anybody can
 6 do it. How can be illegal?
 7 Q. Well --
 8 MR. KRAMER: Objection to the question. Move
 9 to strike.
 10 BY MR. THOMAS:
 11 Q. What about this, what about the fact that
 12 it was against regulations? It was, wasn't it?
 13 A. Against what regulations?
 14 Q. Regulations to have a supervisor on site.
 15 A. Yes, but when you doing regulated
 16 asbestos. But when it's not regulated asbestos,
 17 you -- I mean, anybody can do it.
 18 Q. So no supervisor was required for this; is
 19 that correct?
 20 A. No.
 21 Q. Okay.
 22 When did phase two -- phase two begin?
 23 A. After we got the notification.
 24 Q. Okay.

1 From whom did you get that?
 2 A. From who? Who-what?
 3 Q. Who gave you the notification, Department
 4 of Health?
 5 A. John Vadas gave it to me.
 6 Q. Because he got that online?
 7 A. Yes.
 8 Q. Did the Department of Health ever mail
 9 that to you?
 10 A. No.
 11 Q. And when you have the notification and you
 12 claim that you also now had the Ohio contractor's
 13 license, you began work?
 14 A. Yes.
 15 Q. Were you present for that?
 16 A. Yes.
 17 Q. When did that begin? What date? Do you
 18 remember?
 19 A. Nope.
 20 Q. Okay.
 21 And how long did it last?
 22 A. Tne what? The project?
 23 Q. Phase two.
 24 A. Phase two I think eight days. I think

1 eight days.
 2 Q. Okay.
 3 And during those eight days, did Asbestek
 4 employees work every day?
 5 A. No. It's, I think, Wednesday to Sunday.
 6 I think.
 7 Q. They worked Wednesday to Sunday?
 8 A. Yes, or Thursday to Sunday, something like
 9 that.
 10 Q. So five days?
 11 A. I mean, I know we worked that weekend
 12 because we started like Friday or Thursday, one of
 13 these days. Right now, I can't remember exactly
 14 what day we started.
 15 Q. But you worked over one weekend?
 16 A. Yeah, we worked two different weekends.
 17 Q. Okay.
 18 And did you work during the daytime?
 19 A. Yes.
 20 Q. Did you work at night?
 21 A. Nope -- yeah, because we work like
 22 14 hours a day.
 23 Q. Okay.
 24 A. We start like 8:00 to whatever is dark.

1 Q. 8:00 a.m.?
 2 A. Yes.
 3 Q. Until 8:00 p.m.?
 4 A. Yes. Maybe yes.
 5 Q. How about on Saturdays and Sundays, both
 6 days?
 7 A. Almost the same thing.
 8 Q. During the eight days and only the eight
 9 days that your employees were working at the
 10 Cleveland Trencher site, were they working anywhere
 11 else?
 12 A. No.
 13 Q. Were you present for all eight days?
 14 A. Yes.
 15 Q. What happened at the conclusion of the
 16 eighth day? What was done?
 17 A. Ch, everything was -- we used the first
 18 four days to remove pipe insulation.
 19 Q. That's phase one?
 20 A. No. Phase two.
 21 Q. Phase two.
 22 A. Ch, okay. Phase one is the transite and
 23 then we -- I did go -- I did go one day between
 24 phase one and phase two. I did. I remember now I

1 went one day.
 2 Q. You went one day during phase one?
 3 A. No. No. No. I -- yes, phase one. And
 4 then I went second day, one more time in between
 5 both phases.
 6 Q. Okay.
 7 How about during phase two, were you
 8 there?
 9 A. Yes.
 10 Q. For the whole thing?
 11 A. Yes.
 12 Q. Okay.
 13 So you made three visits to Cleveland?
 14 A. Yes. Actually, four, because the phase
 15 one, the middle of phase one and phase two is
 16 second time and we call phase three -- phase one,
 17 phase two, phase three. Because phase one is the
 18 transite, phase two is the pipe insulation and
 19 phase three is the -- how do they call?
 20 Q. Insulation?
 21 A. It's insulation but this the one they
 22 apply on the ceiling.
 23 Q. Okay.
 24 And you -- that's -- we're now calling

1 that phase three?
 2 A. Yes.
 3 Q. So phase three you were there for the
 4 entire time, correct?
 5 A. Yes. Yes.
 6 Q. And what did you do?
 7 A. We make the containment, set up the whole
 8 containment and we power wash everything
 9 to remove -- to remove the insulation.
 10 Q. Okay.
 11 And when the project was completed, what
 12 did you do?
 13 A. I put everything in bags in the dumpster
 14 and then I jump -- I call John Vadas to do a visual
 15 inspection and then after the visual inspection, he
 16 can call John -- Mike Collins and give him the
 17 okay.
 18 Q. Okay.
 19 After you called John Vadas, you packed
 20 stuff up and went back to Indiana, correct?
 21 A. Yes.
 22 Q. What did the laborers do?
 23 A. Something.
 24 Q. And when is the next time that you heard

1 anything about that particular site?
 2 A. When the EPA call me. When they wake me
 3 up.
 4 Q. Okay.
 5 Tell us about that?
 6 A. Oh, it's another thing, between phase one
 7 and phase two -- between phase one and phase two,
 8 you -- you focused now? You know what I'm talking
 9 about, right? Between phase one and phase two, I
 10 went over there because it was a pile of debris
 11 over there and we went to -- I went to clean or
 12 remove it over there, clean it up in the floor.
 13 Then Mike Collins can be -- keep wrecking the part
 14 of the building. Then -- and then I clean up over
 15 there and come over here.
 16 Q. So he was demolishing while you were
 17 remediating?
 18 A. No. He stop it. But between phase one
 19 and phase two, we went over there to do some clean
 20 up on the floor and then we come back -- I come
 21 back. And then I get back when the notification.
 22 Q. Okay.
 23 And when you got the notification, did you
 24 communicate with John Vadas?

1 A. Yes.
 2 Q. Okay.
 3 What was that communication about?
 4 A. I asked him to order some dumpsters and he
 5 gave me the notification he ordered for dumpsters.
 6 Q. Okay.
 7 What was that for?
 8 A. For the waste we going to generate.
 9 Q. Okay.
 10 And then that waste was generated or not?
 11 A. Yes.
 12 Q. Okay.
 13 When you returned to Indiana, did you have
 14 further contact with John Vadas? You said you were
 15 woken in -- you were woken up by EPA's call?
 16 A. Yes.
 17 Q. Okay.
 18 A. They called John Vadas first.
 19 Q. Okay.
 20 A. But for some reason, I was at Safe
 21 Environment when I got the news too. I was in
 22 Safe's office.
 23 Q. Okay.
 24 When you got that call?

1 A. No, I didn't -- they didn't call me -- I
 2 don't know if I -- I can't remember right now if I
 3 told John Vadas about the thing or somebody from
 4 the EPA call him.
 5 Q. Okay.
 6 Did you tell Tony?
 7 A. Right at that moment?
 8 Q. Yes.
 9 A. He almost knew the same time I knew it.
 10 Q. So you were present --
 11 A. No. No. No. Because I was at Safe
 12 Environmental, when I went over there to pick it
 13 up, something, office and the guy, Matt, he told me
 14 the situation in Ohio. He was kind of telling me
 15 what I went to do over there and I didn't know. I
 16 didn't know. Then I went home. When I went home,
 17 I don't -- I -- the only thing I can remember if I
 18 told John Vadas or he already knew it but he find
 19 out and we start -- next day we drove to Cleveland,
 20 Ohio.
 21 Q. Together?
 22 A. Yes.
 23 Q. And what did you do when you got there?
 24 A. We met the local EPA guy and the State of

1 Ohio environment department person.
 2 Q. Okay.
 3 And what did they tell you?
 4 A. A lot of things, a lot of things like they
 5 saying they big contamination we make, we make and
 6 that one of the thing was -- the thing he saw is
 7 one of the -- he point, it's a little piece of
 8 transite like this. He found -- found it in the
 9 ground somewhere and he called that visual
 10 emission. And I asked him do you think this is
 11 releasing the fibers because I don't see any dust
 12 or not? He don't say anything. He ignore me.
 13 That was the guy Mike.
 14 Q. When you were in the office at Safe
 15 Environment and Matt said what did you do over
 16 there in Ohio, what did you tell him?
 17 A. I didn't know. Nothing. I told him
 18 nothing.
 19 Q. What did you say to Tony?
 20 A. I don't think I talked to him. He never
 21 answered the phone again.
 22 Q. You called him again?
 23 A. Yes, I call him and call him.
 24 Q. Why did you call him?

1 A. To see what -- because right at that
 2 moment, I need help from everybody. I was talking
 3 to him how can I handle this.
 4 Q. But he didn't answer? You left him a
 5 message?
 6 A. No. Oh, I think I left a message. I
 7 think.
 8 Q. And in that message you asked him how you
 9 could help?
 10 A. No. I don't know who -- I think I just
 11 left the message I left. It was please call me, I
 12 think.
 13 Q. And did he call you?
 14 A. No.
 15 Q. Did you try and call him back?
 16 A. Yes.
 17 Q. How many times?
 18 A. I don't know.
 19 Q. Once or more than once?
 20 A. Yes, more than once.
 21 Q. Okay.
 22 Did you use your same cell phone to call
 23 him back?
 24 A. Yes.

1 MR. THOMAS: Does anyone need a break?
 2 MR. KRAMER: Yeah, four, five minutes.
 3 THE VIDEOGRAPHER: We're off the record at
 4 2:50 p.m.
 5 (A short break was taken.)
 6 THE VIDEOGRAPHER: This marks the beginning of
 7 tape number three. We're back on the record at
 8 3:03 p.m.
 9 BY MR. THOMAS:
 10 Q. Good afternoon, again, Mr. Amaya.
 11 A. Good afternoon.
 12 Q. As vice-president or project manager, John
 13 Vadas had what primary responsibilities with
 14 Asbestek?
 15 A. We never discussed about responsibilities.
 16 Q. Okay.
 17 Well, what was your understanding of what
 18 you would do in this whole process from start to
 19 finish?
 20 A. On the project? I was thinking the one
 21 going to do phase two and phase -- phase two and
 22 phase three, finish up with phase two and phase
 23 three.
 24 Q. Phase two was the pipes?

1 A. Yes.
 2 Q. So you'd finish that up?
 3 A. And then phase three which is pipe
 4 insulation.
 5 Q. Okay.
 6 And for phase three, if your plan to be
 7 present for the entire thing, correct?
 8 A. For both of them, yes.
 9 Q. Had you ever done a job on your own
 10 outside of Safe Environment --
 11 A. No.
 12 Q. Well, wait until I finish the question.
 13 Had you ever done a job outside of Safe
 14 Environment where the -- where the pay amount would
 15 be \$50,000?
 16 A. Nope.
 17 Q. Okay.
 18 That was a big amount, was it not?
 19 A. The -- yeah.
 20 Q. Prior to --
 21 A. Yeah, but -- it's a big amount but it's
 22 not a lot of money because most is going to labor
 23 and material.
 24 Q. Do you have any idea of what your -- your

1 personal projected profit would be from a job like
 2 this?
 3 A. Job like that, yes, about \$10, \$15,000.
 4 Q. Okay.
 5 And then that would mean that John Vadas
 6 would make about \$10 or \$15,000?
 7 A. No. No. No. \$10 or \$15,000, the whole
 8 thing and then we going to split it.
 9 Q. So out of that \$50,000, you only expected
 10 to make about \$7,500?
 11 A. On that job or different job?
 12 Q. Just Cleveland Trencher.
 13 A. How we going to make --
 14 Q. Let me back up. I'm asking you about the
 15 contract with Nationwide to do the Cleveland
 16 Trencher site.
 17 A. Yes.
 18 Q. That was a \$50,000 job --
 19 A. Yes.
 20 Q. -- correct?
 21 What did you, personally, expect to make
 22 at the time you signed the contract?
 23 A. About \$15, \$20,000.
 24 Q. For you?

1 A. No. No. No. For the company.
 2 Q. Okay.
 3 And would you then pay yourself and pay
 4 John Vadas out of that?
 5 A. Yes.
 6 Q. Okay.
 7 So you expected to receive as a paycheck
 8 personally, Tomas Amaya --
 9 A. From the company.
 10 Q. Right.
 11 -- of about \$7,500 or \$10,000?
 12 A. Yes.
 13 Q. Okay.
 14 For a two week job, correct?
 15 A. Yes.
 16 Q. All right.
 17 Did you ever think it would be wise to be
 18 there for all three phases?
 19 A. Why do we have to -- say it again?
 20 Q. Do you think that it would have been wise
 21 to be there for all three phases?
 22 A. No.
 23 Q. Okay.
 24 A. I never think about it.

1 Q. Why would you have to go at all?
 2 A. At all? What do you mean?
 3 Q. Why would you have to go to this site even
 4 once? What would be the point?
 5 A. For the three phases?
 6 Q. For any phase. Couldn't you have just
 7 stayed back in Indiana.
 8 A. Ch, why I did go over there?
 9 Q. Yes.
 10 A. Ch, because I'm the only one with a
 11 supervisor license.
 12 Q. For phase three?
 13 A. Phase -- yes.
 14 Q. Okay.
 15 But you didn't -- did you have an Ohio
 16 supervisor license?
 17 A. Yes.
 18 Q. Okay.
 19 And that came because of the notification?
 20 A. Yes.
 21 Q. Okay.
 22 Which was falsely submitted with Carlos
 23 Bonilla's name?
 24 A. That's a question you have to ask John

1 Vadas. He false submitted because I didn't submit
 2 the notification.
 3 Q. But if you had submitted the notification,
 4 you would have put Carlos Bonilla's name?
 5 A. Yes. Yes.
 6 Q. So you agree with John Vadas's use of
 7 Carlos Bonilla's name?
 8 A. Yes.
 9 Q. As the site supervisor?
 10 A. Yes.
 11 Q. But instead of Carlos, you went to be the
 12 site supervisor?
 13 A. Yes.
 14 Q. Which was -- which you did not notify the
 15 State of Ohio you would be doing?
 16 A. No.
 17 Q. Okay.
 18 So you would be a supervisor then for
 19 phase two and phase three.
 20 What would John Vadas do for the entire
 21 project? What did you expect him to do?
 22 A. Paperwork and inspection.
 23 Q. And what sort of paperwork?
 24 A. Like the one he did, like contract,

1 notification and any paper we needed.
 2 Q. Okay.
 3 Except you've already testified that you
 4 took care of some of the paperwork, correct?
 5 A. Some, yes.
 6 Q. Okay.
 7 A. And collect money.
 8 Q. How did that go?
 9 A. Send the invoice.
 10 Q. Okay.
 11 Now, you're aware, are you not, that John
 12 Vadas communicated with different parties by fax?
 13 You didn't know he did that?
 14 A. Nope.
 15 Q. Okay.
 16 (Whereupon, Amaya Deposition
 17 Exhibit Nos. 14 & 15 were marked
 18 for identification.)
 19 BY MR. THOMAS:
 20 Q. I'm handing you what I've marked as Amaya
 21 Exhibit 14. Take a look at those documents stapled
 22 together in that exhibit and let me know when
 23 you've had a chance to look them over.
 24 A. Yes, I see this.

1 Q. Have you seen these documents before?
 2 A. I see this, yes.
 3 Q. You're referring to page one?
 4 A. Yes.
 5 Q. Okay. Go ahead and take a look at each
 6 one and let us know.
 7 A. Is this the same or different? Because I
 8 don't know which one I see it. I know I see one.
 9 Q. Well, this exhibit is a series of pages,
 10 correct?
 11 A. Yes.
 12 Q. And do they all appear to be fax cover
 13 sheets?
 14 A. Yes, but all this is from his — he did
 15 everything from his fax from his home.
 16 Q. I understand that. Let's just talk about
 17 the exhibit in general.
 18 The exhibit is a series of faxes, are they
 19 not?
 20 A. Yes.
 21 Q. And did you write any of those faxes?
 22 A. Nope.
 23 Q. Okay.
 24 Who wrote them?

1 A. John Vadas.
 2 Q. Okay.
 3 And is it true that many of them were
 4 written on behalf of Safe Environment — I'm
 5 sorry — that many of them were written on behalf
 6 of Asbestek?
 7 A. Yes.
 8 Q. And did you — did you ever see any of
 9 these?
 10 A. Nope. Maybe one.
 11 Q. Okay.
 12 If I may, do you notice that the first fax
 13 that's dated August 15, 2007 identifies a fax being
 14 submitted to Molly Collins.
 15 She's Nationwide, right?
 16 A. Yes.
 17 Q. From John Vadas?
 18 A. Yes.
 19 Q. And it says from JPV Services.
 20 What's that?
 21 A. He got his own business.
 22 Q. Okay.
 23 A. He's advertising his business there.
 24 Q. So he's advertising his business.

1 And then in bigger letters he puts
 2 Asbestek, correct?
 3 A. Yes.
 4 Q. And then he puts a phone and fax number —
 5 A. Yes.
 6 Q. — of (219)845-3074?
 7 A. Yes.
 8 Q. Okay.
 9 Whose number is that? Is that an Asbestek
 10 office number?
 11 A. I don't know if that because I had a
 12 different number back at the time and I don't know
 13 if that's the number I used to have.
 14 Q. Okay.
 15 On the bottom of this fax, he writes a
 16 letter to Molly, does he not?
 17 A. Yes. Uh-huh.
 18 Q. Then he puts his name in the salutation,
 19 does he not?
 20 A. Yes.
 21 Q. And he put his e-mail address and he's
 22 advertising his own personal website, right?
 23 A. Yes.
 24 Q. And then he puts his phone number again,

1 correct?

2 A. Yes.

3 Q. That's JPV Services.

4 Then he puts his office number?

5 A. Yes.

6 Q. And then at the very bottom, he puts

7 Asbestek's information, correct?

8 A. Yes.

9 Q. Okay.

10 And the date of that first fax on

11 Exhibit 14 is August 15th, right?

12 A. Yes.

13 Q. 2007.

14 The second page is another fax, correct?

15 A. Yes.

16 Q. Looks similar.

17 This one is August 16, 2007, correct?

18 A. Yes.

19 Q. That's also to Molly Collins and also Mike

20 Collins this time, right?

21 A. Yes.

22 Q. August 23, 2007, this is another fax from

23 John also to Molly and Mike with the same –

24 relatively same information, correct?

1 A. Yes.

2 Q. Okay.

3 Then similarly, we have another fax on the

4 fourth page, August 24th?

5 A. Yes.

6 Q. Everything else is the same, correct?

7 A. Yes.

8 Q. Except now unlike the first three faxes,

9 he's removed JPV Services?

10 A. Yes.

11 Q. Do you know why he would have done that on

12 August 24th?

13 A. No.

14 Q. But he keeps Asbestek, doesn't he?

15 A. Yes.

16 Q. All right.

17 Now, we move to August 31st – excuse

18 me – August 31st – August 31, 2007?

19 A. Yes.

20 Q. And we have another fax from John to Molly

21 and Mike, correct?

22 A. Yes.

23 Q. And he's put the JPV Services back on?

24 A. Yes.

1 Q. And now he's added Safe Environment?

2 A. Yes.

3 Q. Okay.

4 Did you tell him to do that?

5 A. Nope.

6 Q. Do you have any idea why he would have

7 done that?

8 A. Nope.

9 Q. He puts a phone under Safe Environment of

10 845-3074.

11 Do you see that?

12 A. Yes.

13 Q. Is that the same number for JPV Services

14 on the first few faxes that we looked at?

15 A. Yes.

16 Q. Okay.

17 So it appears as if he's advertising Safe

18 Environment but really using his phone number and

19 other contact information, right?

20 A. Yes.

21 Q. Including the information for Asbestek?

22 A. Yes.

23 Q. At the very bottom of the page, what does

24 he write?

1 A. Safe Environment.

2 Q. And he puts a number (219)808-1882?

3 A. Yes.

4 Q. Do you recognize that number?

5 A. No.

6 Q. Is that Safe Environment?

7 A. I don't know.

8 Q. Okay.

9 A. I don't remember now.

10 Q. All right.

11 This fax is sent at 8:30 p.m., correct?

12 A. Yes.

13 Q. All right.

14 There's also a fax that he sends on

15 August 31, 2007 that's sent after the previous one

16 and this one does not have the Safe Environment in

17 the cover letter place, does it?

18 A. Yes, I can't see it.

19 Q. And this one is not sent to Nationwide

20 Demolition, is it?

21 A. Mike, I think this is the Ohio.

22 Q. That's to Ohio, right?

23 A. Ohio – EPA Ohio.

24 Q. Okay.

1 So isn't it true that what was being
2 accomplished here was that any communication to
3 Nationwide should have that new Safe Environment
4 label because they had to be convinced --

5 MR. KRAMER: Objection to the form of the
6 question.

7 BY MR. THOMAS:

8 Q. -- that Safe Environment was involved,
9 right?

10 A. Yes.

11 MR. KRAMER: Objection.

12 BY MR. THOMAS:

13 Q. But when communicating with the
14 authorities, you would not want to have Safe
15 Environment because they weren't really involved,
16 right?

17 MR. KRAMER: Objection.

18 THE WITNESS: Not really involved. It's kind
19 of -- it's not really because somehow they got
20 involved.

21 BY MR. THOMAS:

22 Q. But the point is don't raise a flag about
23 it, right?

24 A. Yes.

1 Q. Is that fair to say?

2 So take out Safe Environment when you're
3 talking to the authorities, right?

4 A. Yes.

5 MR. KRAMER: Objection.

6 MR. THOMAS: Okay.

7 BY MR. THOMAS:

8 Q. Then later on that day, there is another
9 fax back -- this is August 31, 2007, this goes to
10 Molly and Mike, correct?

11 A. Yes.

12 Q. Now, this is -- this one is hard to read,
13 is it not?

14 A. Yes.

15 Q. It looks like maybe it went through the
16 scanner on the fax machine and got messed up.

17 Do you agree with that?

18 A. Yes.

19 Q. So I'm handing you what I've marked as 15.

20 A. Yes.

21 Q. And is this an actual copy that you
22 provided?

23 A. I never remember providing that

24 information but...

1 Q. But it says Asbestek down here 23?

2 A. Yes, you got it.

3 Q. And take a look at it if you need to, does
4 that look like the official version of the last
5 page of 14?

6 A. Yes.

7 Q. Okay.

8 And on this one, you write or John writes
9 on behalf of Asbestek, we will be using Safe
10 Environment Corporation of Indiana contractor's
11 license?

12 A. Yes.

13 Q. Is that correct?

14 A. Yes.

15 Q. All right.

16 Did you tell Nationwide Demolition at any
17 point that you would be using Carlos Bonilla as the
18 specialist?

19 A. Nope.

20 Q. Why not?

21 A. I don't think I have to tell them after
22 they hire me. I don't think they have to know who
23 I going to use.

24 Q. Okay.

1 Why would you tell them that you were
2 using Safe Environment if you didn't have to tell
3 them about Carlos Bonilla?

4 A. Actually, you see, I never talk to the
5 owner of Nationwide Demolition. Everything was
6 between -- John Vadas was in the middle. I
7 never -- I mean, I talked to him but never -- we
8 never talked about this.

9 Q. But John Vadas only told things to
10 Nationwide and the Ohio Department of Health that
11 you told him to say, correct?

12 A. Yes.

13 Q. Okay.

14 So --

15 A. That's I think. I don't know what else he
16 said. I don't know.

17 Q. Well, but anything that we've seen that --

18 A. When it's related with the license, yes,
19 he told whoever whatever I say, I tell him.

20 Q. Right.

21 And that includes to -- the notification
22 to the Ohio Department of Health?

23 A. Yes.

24 Q. Because he didn't do that on his own, you

1 told him--
 2 A. Yes.
 3 Q. -- Carlos Bonilla?
 4 A. Yes. I gave -- I gave him copy of the
 5 Carlos Bonilla license and copy of Safe
 6 Environmental license.
 7 Q. Okay.
 8 Incidentally, when you worked for Safe --
 9 I'm going back in time now.
 10 When you worked for Safe Environment in
 11 Indiana and Illinois as a supervisor --
 12 A. Yes.
 13 Q. I'm going back to prior to Nationwide
 14 Demolition.
 15 You had, as a supervisor, items that you
 16 carried around, the manual, correct?
 17 A. Yes.
 18 Q. And the book that we've been talking
 19 about?
 20 A. Yes.
 21 Q. And that book has a copy of the -- of Safe
 22 Environmental's license in there, doesn't it?
 23 A. I haven't see it. I haven't see that,
 24 their license.

1 Q. I'm talking about the contractor's
 2 license?
 3 A. No, I haven't seen it.
 4 Q. You never saw that?
 5 A. No. Oh, yes, I seen the one in Minnesota.
 6 Q. Okay.
 7 A. Yes.
 8 Q. And how did you see it?
 9 A. Because they gave it to me when I was over
 10 there.
 11 Q. Okay.
 12 So you had access to Safe Environmental's
 13 contractor's license prior to any work at Cleveland
 14 Trencher?
 15 A. No. The only one -- the only one was in
 16 Ohio -- over there in -- in Minnesota.
 17 Q. But that was in your possession, correct?
 18 A. Yes.
 19 Q. Okay.
 20 And that was the only time that you had
 21 ever seen that license?
 22 A. Yes. The only time I had access to Safe
 23 Environmental license.
 24 Q. Okay.

1 What about access to any of Carlos
 2 Bonilla's records?
 3 A. Never.
 4 Q. You never had access to that?
 5 A. No. Yes. When he go to work with me,
 6 yes, he gave me copy. I have to keep. As a
 7 supervisor, I have to keep a copy of everybody's
 8 paperwork.
 9 Q. Okay.
 10 So at times in the past, prior to doing
 11 any work with Nationwide Demolition at Cleveland
 12 Trencher --
 13 A. Yes.
 14 Q. -- you had access to Safe Environmental's
 15 contractor's license?
 16 A. Not Ohio. Minnesota.
 17 Q. Minnesota?
 18 A. Yes.
 19 Q. Okay.
 20 And Carlos Bonilla's information, correct?
 21 A. Not Ohio, Minnesota.
 22 Q. Okay.
 23 How did you get Carlos Bonilla's
 24 information for Ohio?

1 A. Chris gave it to -- the guy Matt gave it
 2 to me.
 3 Q. So Matt gave you that too?
 4 A. Yes.
 5 Q. Okay.
 6 How did you get permission to get that?
 7 A. I talked to Carlos in person.
 8 Q. And what did you say to him?
 9 A. If he can -- I need -- I explain the
 10 situation, I need to get a notification but I can't
 11 get notification right now until I get my license
 12 and I want to go little bit ahead until I get my
 13 license and then can you let me use your license
 14 just to get a notification.
 15 Q. What did he say?
 16 A. Yes.
 17 Q. Okay.
 18 What do you mean by go a little bit ahead?
 19 A. Yeah, like having the notification
 20 quicker.
 21 Q. Okay.
 22 Did you call anybody at the Department of
 23 Health and ask them if that was --
 24 A. No.

1 Q. Okay.

2 Did you think that that was okay to do?

3 A. Yes.

4 Q. Okay.

5 Did you still think that's okay to do?

6 A. Yes.

7 Q. Okay.

8 So you talked to Carlos Bonilla?

9 A. Yes.

10 Q. Where was he when you talked to him?

11 A. He was working with me.

12 Q. And where was that?

13 A. In Indiana on the project we just talking

14 about, the one on -- Mittal Steel.

15 Q. That's where you were working just prior

16 to --

17 A. Yes.

18 Q. -- being taken off the job there, right?

19 And so you spoke with Carlos and he said

20 yes, you can use my what?

21 A. Yes, my asbestos supervisor license.

22 Q. Anything else?

23 A. No.

24 Q. Okay.

1 Did he give you anything else?

2 A. No.

3 Q. Okay.

4 So he gave you nothing. He just said you

5 could use it, right?

6 A. Yes.

7 Q. Did he tell you how you should go about

8 getting a copy of that license?

9 A. I think, I think he called Chris because

10 he -- yes, I asked him tell Chris to get me

11 permission -- I mean, gave me the copy of the

12 license.

13 Q. Okay.

14 A. Chris is Matt, same person.

15 Q. I understand.

16 And did Carlos do that?

17 A. Yes, he did it because when I -- I talked

18 to Chris, did Carlos call you or Carlos tell you

19 everything? Yes, he told me.

20 Q. And so what did you say to Chris or Matt?

21 A. The same thing I told him. I just talked

22 to Carlos. He call you and yes, he called me,

23 something like that. I can't tell you right now

24 exactly what the conversation was but...

1 Q. And so what did Chris do?

2 A. Make a copy from the file.

3 Q. Of what?

4 A. Of the asbestos supervisor license and

5 gave it to me.

6 Q. Did he give you anything else?

7 A. Nope. I don't -- I don't remember -- I

8 mean, besides the Safe Environmental contractor

9 license.

10 Q. But that was at a different time, right?

11 A. No. Same time.

12 Q. Same time?

13 A. Yes.

14 Q. Okay.

15 So when you went in to talk to Chris about

16 getting the Ohio contractor's license from Tony,

17 you also talked to him about getting Tony -- Carlos

18 Bonilla's documents?

19 A. Yes.

20 Q. And Chris gave you all that stuff?

21 A. Yes.

22 Q. No questions asked?

23 A. Nope.

24 Q. Did he go back and talk to Tony and say

1 that --

2 A. I don't know.

3 Q. -- Tomas Amaya is out front?

4 A. I don't know.

5 Q. Well, did he go in the back room?

6 A. Well, Tony wasn't there.

7 Q. And you know that because you tried to

8 call him on his cell phone and he didn't answer?

9 A. No, he wasn't there. The office is small.

10 You can see it.

11 Q. So he wasn't there?

12 A. Yes.

13 Q. All right.

14 But it was at that time that you went to

15 get the contractor's license that Chris or Matt

16 also gave you Carlos's stuff?

17 A. Yes.

18 Q. Okay.

19 Did Chris ask you what you had going on in

20 Ohio?

21 A. Everybody knew in that office what is

22 going on in Ohio, trying to get a little job over

23 there.

24 Q. Okay.

1 And I don't mean to call into question
 2 semantics but was this a little job or a big job?
 3 A. Compare -- because I -- the reason I call
 4 little job is because maybe a couple months before,
 5 I got done a job for Safe which I was eight months
 6 working over there with a lot of guys. That is a
 7 huge job. Compare it with that, that was a very
 8 little job.
 9 Q. Okay.
 10 But in terms of -- in terms of the fact
 11 that this was the first major job by Asbestos --
 12 A. Oh, yes.
 13 Q. -- that was a big job?
 14 A. Yes.
 15 Q. And in terms of the fact that you were the
 16 president and in charge, that's a big job, right?
 17 A. Yes. Yes.
 18 Q. In fact, you had to do a lot of things for
 19 this job you never had to do for Safe Environment,
 20 right?
 21 A. Yes.
 22 Q. A lot of paperwork --
 23 A. Yes.
 24 Q. -- right?

1 And you did it all, didn't you? In fact,
 2 you did -- you got your Certificate of Existence?
 3 A. Yes.
 4 Q. You got your Certificate of Incorporation?
 5 A. Yes.
 6 Q. You had a proposal and contract with
 7 Nationwide?
 8 A. Yes.
 9 Q. You had actually two notification forms,
 10 one which was not submitted with Tony's information
 11 and then one that was submitted with Vadas's
 12 information, you submitted that to Ohio, right?
 13 A. Yes.
 14 Q. You applied for worker's compensation for
 15 the six or seven employees that you hired?
 16 A. Yes.
 17 Q. You submitted a foreign corporation --
 18 A. Yes.
 19 Q. -- form to Ohio?
 20 You had insurance?
 21 A. Yes.
 22 Q. You had a policy through American Risk,
 23 right?
 24 A. Yes.

1 Q. And then you even got a certificate for
 2 Nationwide?
 3 A. Yes.
 4 Q. Which you never mentioned Safe
 5 Environment, right? Is that correct?
 6 A. Yes.
 7 Q. You had a contract with the waste company?
 8 A. Yes.
 9 Q. Okay.
 10 And you actually filled out a credit form
 11 to ensure that you would get the stuff carried
 12 away, correct?
 13 A. Yes.
 14 Q. So you knew that paperwork was important?
 15 A. Yes.
 16 Q. But you don't have a single document that
 17 identifies your business relationship at Cleveland
 18 Trencher with Safe Environment, correct?
 19 A. No.
 20 Q. Why not?
 21 A. I don't know.
 22 Q. Well, only you can know.
 23 A. I mean, I don't know.
 24 Q. Because it didn't exist, right?

1 A. How you know?
 2 Q. Well, you know that paperwork is
 3 important?
 4 A. Yes.
 5 Q. You know that there are --
 6 A. What paperwork are you talking about?
 7 Q. Any paper.
 8 A. Yeah, but what? I mean, a contract
 9 between Asbestos and Safe or what are you talking
 10 about?
 11 Q. A thank you note, anything in writing that
 12 shows that you had any agreement with Safe
 13 Environmental to use their license?
 14 A. No, I didn't have any -- anything in
 15 writing.
 16 Q. Did you ever think to get something in
 17 writing?
 18 A. Nope.
 19 Q. Yet you knew that as a president of an
 20 asbestos remediation company --
 21 A. Yes.
 22 Q. -- that there are laws that have to be
 23 followed?
 24 A. Yes.

- 1 Q. And that there are forms to fill out?
- 2 A. Yes.
- 3 Q. Multiple forms?
- 4 A. Yes.
- 5 Q. For regulation, insurance, worker's comp,
- 6 contracts and everything else?
- 7 A. Yes.
- 8 Q. Yet, you have no written documentation
- 9 with respect to Safe Environment; is that correct?
- 10 A. No.
- 11 Q. Do you have any written documentation with
- 12 respect to Carlos Bonilla?
- 13 A. Nope.
- 14 Q. Okay.
- 15 And you have admitted to us that you put
- 16 Carlos Bonilla's name in the notification form just
- 17 to put a name in that would pass check, correct?
- 18 A. Yes.
- 19 Q. And it didn't matter whether or not Carlos
- 20 Bonilla had anything to do with the work, correct?
- 21 A. He don't going to do the work. It's just
- 22 a -- it's a requirement.
- 23 Q. You could have put any person's name in
- 24 the country who had a license, correct?

- 1 A. Yes.
- 2 Q. Because you're saying --
- 3 A. As long as he authorized me.
- 4 Q. Where is that authorization?
- 5 A. It's verbal authorization.
- 6 Q. Just like your agreement to get a license
- 7 from Safe Environment, verbal, right?
- 8 A. Yes.
- 9 Q. Okay.
- 10 And that verbal communication with Safe
- 11 Environment has very little follow up in itself,
- 12 doesn't it?
- 13 A. Yes.
- 14 Q. What -- right?
- 15 Okay.
- 16 Whether it's with Anthony Paganelli or
- 17 Carlos Bonilla?
- 18 A. Yes.
- 19 Q. In fact, the only thing that you have is
- 20 that Chris gave you both Bonilla's and Safe
- 21 Environment's licenses?
- 22 A. Yes.
- 23 Q. At the same time?
- 24 A. Yes.

- 1 Q. In a two-minute meeting?
- 2 A. Yes.
- 3 Q. Based upon --
- 4 A. In front of Stacy.
- 5 Q. In front of Stacy based on two quick
- 6 conversation that you had?
- 7 A. With Tony Paganelli, yes.
- 8 Q. With no consideration? Do you know that
- 9 what means?
- 10 A. No.
- 11 Q. Did -- was there any exchange to get these
- 12 documents either from Safe Environment or Carlos
- 13 Bonilla? Did you give them anything?
- 14 A. No.
- 15 Q. You gave them no money?
- 16 A. Nope.
- 17 Q. You made no promises to them?
- 18 A. Nope.
- 19 Q. Okay.
- 20 In fact, you offered nothing in exchange
- 21 for getting these documents; is that correct?
- 22 A. Yes.
- 23 Q. Okay.
- 24

- 1 (Whereupon, Amaya Deposition
- 2 Exhibit No. 16 was marked for
- 3 identification.)
- 4 BY MR. THOMAS:
- 5 Q. I'm going to hand you Exhibit Amaya 16.
- 6 That's three pages. If you take a moment to look
- 7 at those things.
- 8 A. Just one is copy of Carlos Bonilla's
- 9 certificate. The other one is a copy of the Carlos
- 10 Bonilla license.
- 11 Q. What kind of license?
- 12 A. Asbestos supervisor license.
- 13 Q. Okay.
- 14 A. And the other one is a copy of Safe
- 15 Environmental contractor license.
- 16 Q. Okay.
- 17 And these are the three documents that
- 18 you're testifying were given to you when you went
- 19 and saw Matt --
- 20 A. Yes.
- 21 Q. -- during phase one?
- 22 A. Phase two.
- 23 Q. During phase two?
- 24 A. No. No. No. Between phase two and phase

1 one.
 2 Q. Okay.
 3 And when you received these documents,
 4 what did you do with them?
 5 A. I took it right away to John Vadas.
 6 Q. Okay.
 7 Did you give him any instructions?
 8 A. Nope.
 9 Q. Would he know what to do with them?
 10 A. Yes.
 11 Q. How would he know that?
 12 A. Because he been in business for long -- a
 13 lot of years.
 14 Q. So he would receive a fax from you with an
 15 asbestos supervisor refresher and an asbestos
 16 supervisor card for Carlos Borilla and he would
 17 know what to do with it?
 18 A. Yes, because he knew it.
 19 Q. What would he do with it?
 20 A. Make the notification.
 21 Q. He'd slip that in line eight, right, to
 22 let the Ohio know that this specialist --
 23 A. Yes.
 24 Q. -- who was your friend --

1 A. Yes.
 2 Q. -- would be giving you the ability to do
 3 work even, though, he wouldn't be present?
 4 A. Yes.
 5 Q. Okay.
 6 And what would -- what would John Vadas
 7 know what to do with the Safe Environment
 8 contractor license?
 9 A. Put the number in the notification and
 10 submit it.
 11 Q. Okay.
 12 And when he filled out the notification,
 13 why wouldn't he put Safe Environmental's phone
 14 number along with the name?
 15 A. I think that's a question you have to ask
 16 him.
 17 Q. So you didn't follow up with him on any of
 18 that, correct?
 19 A. No.
 20 Q. You recently pled guilty to a felony in
 21 Cuyahoga County?
 22 A. No. Misdemeanor.
 23 Q. What did you plead guilty to in Cuyahoga
 24 County?

1 A. Why? Why? Was that the question? Is
 2 that what the question is?
 3 Q. What did you plead guilty to?
 4 A. Contamination.
 5 Q. Okay.
 6 What was your understanding of that
 7 charge? What was the violation?
 8 A. Contamination, removal of asbestos
 9 unpreparedly (sic) way.
 10 Q. And that was at the Cleveland Trencher
 11 site?
 12 A. Yes.
 13 Q. And what was the disposition of that case?
 14 What did the judge have you do as a result?
 15 A. I had to pay \$3,000 -- \$3,500 personally
 16 and \$10,000 as a corporation.
 17 Q. Through Asbestek, right?
 18 A. Yes.
 19 Q. And that was on a program through your
 20 probation officer, right?
 21 A. Yes.
 22 Q. So are you still paying that off?
 23 A. I don't pay anything because I don't make
 24 any money.

1 Q. So have they violated you? Had you paid
 2 it all off?
 3 A. No. I have a year to pay the whole thing.
 4 Q. I see.
 5 A. But I don't -- I didn't pay anything yet
 6 because I don't have money.
 7 Q. Did you not plead guilty as well to an
 8 unclassified felony? Do you recall that?
 9 A. No.
 10 Q. You believe it was just one charge?
 11 A. Yes. As a corporation, it got a felony.
 12 Q. Okay.
 13 A. As a person, misdemeanor.
 14 MR. THOMAS: Okay. All right.
 15 I think that concludes my questions. So
 16 at this point, I'll turn it over to the other
 17 attorneys. Louis, did you have any questions?
 18 MR. GILBERT: Just a couple.
 19 MR. THOMAS: Okay. Do you want to start first?
 20 MR. GILBERT: Sure.
 21 EXAMINATION
 22 BY MR. GILBERT:
 23 Q. Hi, Mr. Amaya. How are you?
 24 A. Good. How are you?

1 Q. Good. I'm in Ohio. Just a few quick
2 questions.
3 Prior to the onset of this litigation, did
4 you ever have any contact with the owner of the
5 Cleveland Trencher site?
6 A. Never.
7 Q. Prior to this litigation, did you know who
8 the owner was?
9 A. Say that again? I can't-- I don't know.
10 Q. Did you know when you were doing the work
11 there at the Cleveland Trencher site, did you know
12 who the owner was?
13 A. No.
14 Q. Did you or anyone else from Asbestek try
15 to contact the owner at any time?
16 A. No. I don't know. I don't think John
17 Vadas did it.
18 Q. But you didn't?
19 A. No.
20 Q. And do you know if they ever tried to
21 contact you?
22 A. No.
23 Q. Or anyone else --
24 A. No.

1 Q. --with Asbestek?
2 A. No.
3 MR. GILBERT: That's all the questions I have.
4 THE WITNESS: Okay.
5 MR. KRAMER: I'll have some questions but I'm
6 going to be about 30 minutes. Do you want to take
7 a short break or a short recess before I start?
8 We'll wrap this up.
9 THE WITNESS: No problem. I'm fine.
10 MR. KRAMER: You're okay?
11 THE WITNESS: I want to go home.
12 MR. KRAMER: I think everybody probably would
13 like to.
14 Again, ask me to clarify anything that you
15 don't understand, all right?
16 THE WITNESS: Yes.
17 EXAMINATION
18 BY MR. KRAMER:
19 Q. So you have been in the asbestos
20 remediation business as your profession for how
21 many years now?
22 A. As a supervisor or as a laborer?
23 Q. Both.
24 A. Both. I started in 1994.

1 Q. All right.
2 So 16 years?
3 A. Yes.
4 Q. And as a supervisor, how many years?
5 A. Since 2001.
6 Q. So eight or nine years?
7 A. Yes.
8 Q. Every year since you took your initial
9 40 hours of basic training which was 32 hours of
10 laborer training, how to do asbestos remediation,
11 plus eight more hours for initial certification as
12 supervisor, you have taken eight-hour refresher
13 courses to continue your supervisor certification
14 every year since then, correct?
15 A. Yes, eight hours.
16 Q. Right.
17 A. Yes.
18 Q. And you've had to submit a fee every year
19 to renew that certification of you think \$200 to
20 \$250, something in there?
21 A. Yes.
22 Q. I'd like you to clarify are there two
23 different classes of -- well, first of all, you're
24 familiar with the term ACM or --

1 A. Asbestos material containing.
2 Q. It stands for asbestos containing
3 material?
4 A. Yes.
5 Q. And are there two classes of ACM or
6 asbestos containing material as far as a remediator
7 is concerned?
8 A. Yes.
9 Q. Is the first class what we call nonfriable
10 asbestos containing material?
11 A. Yes.
12 Q. And we've heard some use of the term
13 transite?
14 A. Yes.
15 Q. Is that --
16 A. Nonfriable.
17 Q. Okay.
18 Does it require any licensure or --
19 A. It depends--
20 Q. --licensed supervisor to remove--
21 A. It depends the site.
22 Q. So let's limit ourselves to Ohio.
23 Does it require a license to remove
24 nonfriable ACM?

- 1 A. No.
- 2 Q. So I could do that or our court reporter
- 3 could do that, anybody is allowed to –
- 4 A. Yes.
- 5 Q. And what is this nonfriable? What's the
- 6 difference between it and the friable type of
- 7 asbestos containing material?
- 8 A. The difference is the nonfriable, you – I
- 9 mean, you can break it with you hands, the
- 10 nonfriable and the friable, you can pulverize with
- 11 your hands.
- 12 Q. Okay.
- 13 A. Create fibers.
- 14 Q. So is there a greater risk with one of
- 15 airborne asbestos contamination than with the other
- 16 type?
- 17 A. Yes. Asbestos is asbestos.
- 18 Q. All right.
- 19 Transite is what type?
- 20 A. Nonfriable.
- 21 Q. All right.
- 22 So when you were removing transite at the
- 23 Cleveland Trencher property –
- 24 A. Yes.

- 1 Q. – that was the first phase of the
- 2 project, correct?
- 3 A. Yes. Yes.
- 4 Q. And that did not require a licensed
- 5 supervisor at will?
- 6 A. No. No.
- 7 Q. It didn't require licensed personnel at
- 8 all, did it?
- 9 A. No.
- 10 Q. And Mr. Vadas actually was the person in
- 11 charge of that phase one nonfriable ACM removal at
- 12 Cleveland Trencher, correct?
- 13 A. Yes.
- 14 Q. Phase two and phase three, you said phase
- 15 two concerned pipe insulation?
- 16 A. Yes.
- 17 Q. Is that friable or nonfriable?
- 18 A. It's friable.
- 19 Q. All right.
- 20 Because it's easily pulverized –
- 21 A. Yes.
- 22 Q. – and born – airborne?
- 23 A. Yes.
- 24 Q. Did you supervise all of phase two?

- 1 A. Yes.
- 2 Q. At Cleveland Trencher?
- 3 A. Yes.
- 4 Q. Phase three was spray on insulation in a
- 5 curing room –
- 6 A. Yes.
- 7 Q. – at the Cleveland Trencher, is that
- 8 correct?
- 9 A. Yes.
- 10 Q. Is that friable or nonfriable?
- 11 A. It is friable.
- 12 Q. So that, again, required a licensed
- 13 supervisor –
- 14 A. Yes.
- 15 Q. – be on site?
- 16 A. Yes.
- 17 Q. And you supervised all of that phase three
- 18 spray on insulation removal?
- 19 A. Yes.
- 20 Q. At Cleveland Trencher site?
- 21 A. Yes.
- 22 Q. So wherever a licensed supervisor was
- 23 required at Cleveland Trencher, you were the
- 24 licensed supervisor?

- 1 A. Yes.
- 2 Q. Now, at the time that you were acting as
- 3 licensed supervisor for the removal of the friable
- 4 ACM at the Cleveland Trencher site which you
- 5 described as phases two and three of that project?
- 6 A. Yes.
- 7 Q. Were you licensed in Ohio as an asbestos
- 8 supervisor?
- 9 A. Yes.
- 10 Q. All right.
- 11 But you had just gotten that license as
- 12 I –
- 13 A. Yes.
- 14 Q. – understand it?
- 15 And you did not have the license yet at
- 16 the time that the ten-day notification was sent to
- 17 the State of Ohio for that second and third phase?
- 18 A. No.
- 19 Q. You had applied for the license?
- 20 A. Yes.
- 21 Q. But had not yet received it?
- 22 A. No.
- 23 Q. So you had no Ohio license number to put
- 24 on the ten-day notification for your own name?

1 A. No.

2 Q. So you secured permission from a co-worker

3 named Carlos Bonilla in Indiana to use his Ohio

4 abatement supervisor license on that notification?

5 A. Yes.

6 Q. Did you tell him at the time that you had

7 applied for your Ohio license and would have it

8 before that work was done?

9 A. Yes.

10 Q. And on that, he agreed to allow you to use

11 his name for the notification?

12 A. Yes.

13 Q. And that is not unusual in the business,

14 to use one person's license so long as -- and you

15 can use another one on the project so long as that

16 person is properly licensed?

17 A. Yes.

18 Q. And you were properly licensed as an

19 abatement supervisor by the State of Ohio at the

20 time you supervised phases two and three?

21 A. Yes.

22 Q. All right.

23 So you had a card in your possession just

24 like --

1 A. Yes.

2 Q. -- the one that was copied from Carlos

3 Bonilla that was submitted with the ten-day

4 notification, correct?

5 A. Yes.

6 Q. All right. Thank you.

7 Now, when asbestos containing material,

8 friable asbestos containing material is released on

9 a job site, that does carry the potential for

10 criminal penalty?

11 A. Yes.

12 Q. That's criminally wrong under the

13 environmental protection laws of the United States,

14 correct?

15 A. Yes.

16 Q. And as the contractor, you faced those

17 charges where your company and you, personally, as

18 the head of the company --

19 A. Yes.

20 Q. -- are held liable, correct?

21 A. Yes.

22 Q. Because Safe Environment Corp.'s license

23 was used on the project, if they assumed

24 responsibility, could Mr. Paganelli have also been

1 charged if he admitted giving you permission to use

2 their license and operate under it?

3 A. I don't know the law.

4 Q. Okay.

5 But at any rate, do you know why he has

6 taken the position that he never gave you

7 permission to use the license?

8 A. I think one is money and one he's afraid

9 to get charges like me. I think.

10 Q. All right.

11 Now, it took you almost a year to get the

12 charge resolved, is that correct?

13 A. Three, two years or more.

14 Q. Two years.

15 And you had to hire counsel to do that?

16 A. Yes.

17 Q. And your business closed down, correct?

18 A. Yes.

19 Q. I want to go through these -- this time

20 frame for your visits to the site and the time that

21 you contacted Mr. Paganelli.

22 First of all, before the Cleveland

23 Trencher project, before that contract was even --

24 proposal was even signed --

1 A. Yes.

2 Q. -- you were working pretty steadily for

3 Safe Environment Corp. --

4 A. Yes.

5 Q. -- correct?

6 A. Yes.

7 Q. And how long before -- the contract with

8 the Cleveland Trencher -- for the Cleveland

9 Trencher project was in August, early August,

10 wasn't it?

11 A. Yes.

12 Q. Of 2007.

13 How long before that did Mr. Lovelace come

14 back to work for Safe Environment Corp.?

15 A. You mean how long is that? Three or four

16 months, I think.

17 Q. Okay.

18 You alluded earlier to things changed when

19 Mr. Lovelace came back.

20 What things changed? What did you -- were

21 you concerned about?

22 A. I was kind of the -- part of the main

23 supervisors, two or three main supervisors.

24 Q. Right.

1 A. When Mr. Lovelace come to Safe
 2 Environmental, he brought his own supervisors, like
 3 supervisor come with him and start put the old
 4 supervisors on the side and give more opportunity
 5 for his supervisors and that's the reason I decide
 6 to open my company because I didn't see any future
 7 in that company and outside is...
 8 Q. Did you know why, what purpose
 9 Mr. Lovelace had in coming back? Was he buying the
 10 company from Mr. Paganelli?
 11 A. I think that's -- he's buying the company.
 12 I think.
 13 Q. Now, you had been working for
 14 Mr. Paganelli and developed a very close -- what
 15 you described as a close personal friendship and
 16 relationship with him since 2000 or 2001?
 17 A. Yes.
 18 Q. This relationship was close enough that
 19 after work, you and Mr. Paganelli would sometimes
 20 go to dinner together, correct?
 21 A. Before that, before 2000 and two -- two --
 22 1996, 1998, we been working together with another
 23 company.
 24 Q. Now, you're 46 years old now, right?

1 A. Who me?
 2 Q. Yes.
 3 A. No. 40 -- 43 will be.
 4 Q. 43, okay. I'm sorry.
 5 Are you and Mr. Paganelli close in age?
 6 A. Yes.
 7 Q. All right.
 8 So did you consider yourself to be almost
 9 like his right hand?
 10 A. Yes.
 11 Q. His best supervisor?
 12 A. Yes.
 13 Q. And he could call you on a weekend, at
 14 night, any time?
 15 A. Any time, yes.
 16 Q. And he could always count on you going out
 17 and getting the job done?
 18 A. Yes.
 19 Q. And no complaints about the job?
 20 A. Yes.
 21 Q. Now, you were working on Mittal Steel
 22 until -- really into the start of this Cleveland
 23 Trencher project, weren't you?
 24 A. Yes.

1 Q. And the Mittal Steel plant is in Indiana?
 2 A. Yes.
 3 Q. And what city in Indiana?
 4 A. I think it's East Chicago.
 5 Q. And you never know how long a project's
 6 going to last generally when you start a project
 7 although --
 8 A. It was estimated for three weeks.
 9 Q. Okay.
 10 John Vadas tells you that he has a project
 11 in Cleveland?
 12 A. Yes.
 13 Q. That would -- from a friend of his who
 14 owned a demolition company?
 15 A. Yes.
 16 Q. And that turned out to be Mike Collins --
 17 A. Yes.
 18 Q. -- and his company Nationwide Demolition,
 19 correct?
 20 A. Yes.
 21 Q. And -- and at the time that he estimated
 22 the job and came up with a proposal that it was
 23 going to be \$50,000 for this project, removal of
 24 friable and nonfriable asbestos containing

1 materials from the Cleveland Trencher property, you
 2 had never seen the property, correct?
 3 A. No.
 4 Q. Mr. Vadas had apparently seen it and
 5 estimated the job and told you about it?
 6 A. Yes.
 7 Q. Did he tell you that the property had been
 8 abandoned for a long period of time?
 9 A. Yes.
 10 Q. Did he tell you there was vandalism,
 11 evidence of vandalism on the property?
 12 A. Yes.
 13 Q. But he told you -- how long did he
 14 estimate the friable portion was going to take at
 15 that time, two or three days?
 16 A. It's about -- each -- phase one, one week,
 17 phase two, one week and phase three, one week.
 18 With less guys but then more guys went too.
 19 Q. All right.
 20 And the first phase would be nonfriable,
 21 the transite removal?
 22 A. Yes.
 23 Q. That required no licensure?
 24 A. Yes.

1 Q. So at the time the contract was signed, he
2 took care of that because it didn't require a
3 license and because you were still busy at Mittal
4 Steel; is that correct?

5 A. Yes.

6 Q. Now, was it during the completion of the
7 phase one transite removal that Mr. Vadas informed
8 you that Mr. Collins or his company's asbestos
9 hazard license in Ohio had expired, had not been
10 renewed and you needed -- you needed to get a
11 license from somewhere else or was it after phase
12 one was completed?

13 A. I can't remember right now it was in the
14 middle of phase one or before phase one. I can't
15 remember right now.

16 Q. All right.

17 Was it before Carlos Bonilla's -- you had
18 your discussion with Carlos Bonilla at Mittal Steel
19 about --

20 A. Yes, it was before.

21 Q. So you knew you needed a contractor's
22 license?

23 A. Yes.

24 Q. In addition to you, personally, would need

1 an Ohio asbestos hazard supervisor license?

2 A. Yes.

3 Q. You applied for the Ohio supervisor's
4 license but while you were waiting on that, you
5 secured Mr. Bonilla's permission to use his license
6 for the ten-day advanced notification form?

7 A. Yes.

8 Q. Was that before or after you spoke to
9 Mr. Paganelli about using Safe Environment's Ohio
10 license as a contractor license?

11 A. It was after.

12 Q. So you were still working at Mittal Steel
13 when you called Mr. Paganelli?

14 A. I don't know. I can't remember where I
15 was working right at that moment but it was after I
16 talked to --

17 Q. When you called Mr. Paganelli, you called
18 him on his cell phone?

19 A. Yes.

20 Q. And was it during the day or was it in the
21 evening?

22 A. I'm not sure but I think it was in the
23 evening -- yes, in the evening -- no, not
24 nighttime. Like afternoon, I think.

1 Q. Afternoon?

2 A. Yes.

3 Q. And you asked him for a personal meeting
4 if I understand your testimony?

5 A. Yes.

6 Q. You wanted to meet him in person to ask
7 this favor?

8 A. Yes.

9 Q. And you expected you would pay him for use
10 of the license?

11 A. Yes.

12 Q. So we go through this conversation. He
13 answered the phone and he knows you very well and
14 you ask him Mr. Paganelli, I need a favor. I need
15 to be able to use your license for a project -- a
16 project I'm on in Cleveland?

17 A. Yes.

18 Q. Did he already know about the project in
19 Cleveland?

20 A. No, I don't think so.

21 Q. All right.

22 Did Mr. Lovelace know about the project in
23 Cleveland at that point?

24 A. Before the notification -- before the

1 license?

2 Q. Yes.

3 A. No.

4 Q. So how did you describe the project in
5 Cleveland that you wanted the license for to
6 Mr. Paganelli, tell me as best you can recall?

7 A. Like I just said, little job.

8 Q. Little job.

9 Did you say how many days or --

10 A. No.

11 Q. Did you tell him why you needed it?

12 A. Yes. I explain to him I need to get -- I
13 need to get a notification because I need to get
14 this, like I say again, little job done.

15 Q. Did he ask you how big a job it was?

16 A. No.

17 Q. Did he ask you how long you'd need it for?

18 A. No.

19 Q. Did you -- what, if anything, did you say
20 about paying him for the license?

21 A. Can -- do you want me charge me anything?
22 He said no but like I said.

23 Q. So did he -- did he say yes, you can have
24 the license before you asked him what you want for

1 it?

2 A. Yes.

3 Q. And then when he said yes, what were your

4 words? Did you say -- how did you express?

5 A. Ch, thank you.

6 Q. But how did you express the thing about

7 payment, what were your words?

8 A. No. You going to charge me anything for

9 this? He said no.

10 Q. Did he say it was a favor?

11 A. No, he don't mention it's a favor.

12 Q. He just said no?

13 A. Yes.

14 Q. And then he directed you to go get the

15 license at the office?

16 A. He -- I'm not sure but I think -- I'm not

17 sure but I think he told me go -- go to the office

18 and ask -- ask him -- ask them to give it to you.

19 Q. Now, how often were you in the Safe

20 Environmental office during those times, was it

21 twice a week, five times a week, every day to check

22 in?

23 A. No. No. Maybe twice a month. Maybe.

24 Q. And sometimes it was just to pick up your

1 paycheck?

2 A. Not even that because I used to have

3 direct deposit. Sometimes we have to drop the

4 book.

5 Q. So your job log?

6 A. Yes.

7 Q. The project log?

8 A. Yes.

9 Q. You'd drop it off at the office?

10 A. Yes.

11 Q. But you, although you may have been

12 familiar with some of the people who worked

13 there --

14 A. Yes.

15 Q. -- you weren't a regular in the office

16 talking to the employees --

17 A. Yes.

18 Q. -- or the secretaries, were you?

19 A. Yes.

20 Q. You were or were not?

21 A. Yes, I do -- I did.

22 Q. Okay.

23 You knew them by name or --

24 A. Yes.

1 Q. And they knew you?

2 A. Yes.

3 Q. In the office, would you come up to a

4 counter? Was there a counter that separated you

5 from the rest of employees or were you able to go

6 to their desk?

7 A. Yes, they have a -- they have a kind of

8 desk.

9 Q. A desk or a counter?

10 A. No. Desk.

11 Q. Could you walk up to anybody's desk in

12 that office?

13 A. Yes. Yes.

14 Q. All right.

15 And how long was it after he told you to

16 go get the license that you went to see Matt or

17 Chris?

18 A. I don't know it was the first or the next

19 day. I can't remember now.

20 Q. All right.

21 Did Mr. Paganelli tell you that he would

22 clear it with his secretary, you should ask his

23 secretary for the license?

24 A. No.

1 Q. So you just went in with the approval?

2 A. Yes.

3 Q. Announced the approval?

4 A. Yes.

5 Q. Did Matt or Chris as he's called --

6 A. Yes.

7 Q. -- did he make a phone call to check that

8 or did he trust you on that?

9 A. He trust me.

10 Q. How long had he worked for Mr. Paganelli

11 there?

12 A. Maybe a year.

13 Q. So apparently he knew that you and

14 Mr. Paganelli were close?

15 A. Yes.

16 Q. Apparently, he trusted your word on the

17 license?

18 A. Yes.

19 Q. He gave -- made you a Xerox copy of the

20 Ohio license?

21 A. Yes.

22 Q. And did he make you a Xerox copy of Carlos

23 Bonilla's license?

24 A. Yes.

1 Q. Did you tell him you had spoken with
2 Carlos?
3 A. Yes.
4 Q. Did you tell him Carlos gave you
5 permission?
6 A. I think Carlos call him. I can't remember
7 but I think Carlos call him and...
8 Q. All right.
9 Did you tell him what you were going to
10 use them for, ten-day notification --
11 A. Yes.
12 Q. -- in Cleveland?
13 A. Yes.
14 Q. How did you get the copy of the
15 certificate and the copy of Mr. Bonilla's Ohio
16 hazard supervisor card to Mr. Vadas?
17 A. I know I gave it to him but I can't
18 remember how I did it.
19 Q. Well, would it have been on a trip to
20 Cleveland if he was there supervising?
21 A. No. No. No. I think I call him to the
22 office and he went to my office and I gave it to
23 him. I think.
24 Q. So the workers that were working on phase

1 one, transite removal, Mr. Vadas didn't really need
2 to be there full time to supervise them, did he?
3 A. No.
4 Q. Because that was not a regulated, licensed
5 activity, correct?
6 A. No.
7 Q. So Mr. Vadas was spending some of his time
8 back here -- back in Hammond, Indiana?
9 A. Yes.
10 Q. And did he come to see you at your office
11 then to pick up the license or did you ever travel
12 to his place?
13 A. No. That was days -- days -- like after
14 we got the phase one completed, it was maybe two,
15 three days later all this thing.
16 Q. It was very quick after phase one, wasn't
17 it?
18 A. Yes, but it wasn't right in the -- when we
19 were doing the work on phase one, no. It was after
20 that.
21 Q. Okay. All right.
22 And how many days after you submitted this
23 ten-day notification for the phase two and phase
24 three work did you get your -- did you receive your

1 actual Chio -- Ohio abatement supervise license?
2 A. Before -- before the notification --
3 between the notification.
4 Q. Okay.
5 Between -- during that ten-day period?
6 A. Yes.
7 Q. Now, at the time that you reached this
8 contract agreement, apparently, it was Mr. Vadas
9 who was communicating with Mr. Collins?
10 A. Yes.
11 Q. Would it have been Mr. Vadas that -- that
12 informed you that Mike Collins wouldn't give you
13 the project unless he was included on your
14 insurance for your work? How did you find out that
15 you needed to include Nationwide Demolition as an
16 additional insured on your policy?
17 A. Ch, I think -- I'm not sure but I think
18 nobody asked me. I did it to make sure he -- if he
19 knows we got insurance, I think, but I don't
20 know --
21 Q. You testified earlier that he asked you
22 for a certificate?
23 A. I don't know if he asked me. I can't
24 remember if he asked me or I did it but I think he

1 asking.
2 Q. All right.
3 Did Safe Environment Corp. have its own
4 asbestos hazard abatement policy?
5 A. Yes. They have to have it.
6 Q. All right.
7 So anybody in this business has their own
8 policy?
9 A. Yes.
10 Q. But Mike Collins was a demolition
11 contractor and didn't have a license anymore so he
12 wouldn't have had that policy in your view?
13 A. No.
14 Q. So you included him as additional insured
15 either because he insisted upon it or because it
16 was your idea?
17 A. No. Because we doing work for him.
18 Q. All right.
19 Is that customary then that the --
20 A. Yes.
21 Q. When you work for another contractor on a
22 job that --
23 A. We provide the certification insurance.
24 Q. Okay.

1 Like if you go to work for Mittal Steel,
 2 you have to include Mittal Steel as an additional
 3 insured --
 4 A. Yes.
 5 Q. -- under asbestos hazard abatement --
 6 A. Yes.
 7 Q. -- insurance?
 8 A. Yes.
 9 Q. And if you go to work for Nationwide
 10 Demolition --
 11 A. The same thing.
 12 Q. -- you have to include --
 13 A. Yes.
 14 Q. So that's pretty standard?
 15 A. Yes.
 16 Q. All right.
 17 But you were aware Safe Environment Corp.
 18 has its own asbestos hazard abatement insurance?
 19 A. Yes.
 20 Q. So you didn't feel it was necessary to
 21 include them on your policy?
 22 A. No.
 23 Q. It would have been redundant?
 24 A. Yes.

1 Q. You're kind of hurt that Mr. Paganelli
 2 went ahead and said he never gave you permission,
 3 aren't you?
 4 A. What the question?
 5 Q. I said your feelings are a little bit hurt
 6 that Mr. Paganelli --
 7 A. Two things because he was my friend and I
 8 feel bad why he did it and I feel sorry too because
 9 all this situation.
 10 Q. All right.
 11 But if Mr. Paganelli told you to go get
 12 the certificate at the office after giving you
 13 permission to use it, then there's no question that
 14 he understood that you -- understood you when you
 15 asked him if you could use his Ohio license for
 16 the --
 17 A. Yes, that's what I think. That what I
 18 think because --
 19 Q. You were just trying to protect him when
 20 you said you couldn't be certain that he
 21 understood, weren't you?
 22 A. No, it's not that because it's hard
 23 because I can't see it right now all of you got
 24 difficult to understand me. How about five -- just

1 think about it, four years ago.
 2 Q. Do you know Mr. Paganelli's wife?
 3 A. Yes.
 4 Q. Is her name Sheila?
 5 A. Yes.
 6 Q. And is she the president of Angel
 7 Abatement?
 8 A. Yes.
 9 Q. Is that an asbestos abatement company that
 10 she and her husband now run?
 11 A. Yes.
 12 Q. In Hammond, Indiana?
 13 A. Yes. I don't know he run but...
 14 Q. But she runs one?
 15 A. Yes.
 16 Q. And that didn't exist before he sold Safe
 17 Environment Corp., did it?
 18 A. No. They got that company two, three
 19 years before that.
 20 Q. Okay.
 21 So they started that one up and sold Safe
 22 Environment Corp. to Mr. Lovelace, correct?
 23 A. Yes.
 24 Q. All right.

1 Do you know if Mr. Paganelli's working in
 2 or affiliated with Angel Abatement?
 3 A. No.
 4 Q. Have you ever done any work for Angel
 5 Abatement?
 6 A. Yes.
 7 Q. Recently?
 8 A. Before.
 9 Q. Before what?
 10 A. Before this thing. When I was working for
 11 Safe, I work for -- sometimes for Angel and
 12 sometimes for Safe.
 13 Q. Okay.
 14 And do they share the same street address
 15 as Safe Environment Corp.?
 16 A. They used to have the same office and same
 17 warehouse.
 18 Q. Is that still true? Do you know?
 19 A. I don't know. I don't know now. No, I
 20 don't think so because she got an office somewhere
 21 else.
 22 Q. If you didn't think you had
 23 Mr. Paganelli's approval or you didn't think he
 24 understood you, you never would have taken his

1 license, would you?
 2 A. Ch, no. No. No.
 3 Q. So at the time, you certainly were
 4 certain, comfortable --
 5 A. I was 100 percent he told me.
 6 Q. -- that he gave you permission to use it,
 7 right?
 8 A. Yes.
 9 Q. And you're just kind of making excuses for
 10 him now, aren't you, when you're saying maybe he
 11 didn't understand?
 12 A. It was over the phone because -- the way I
 13 see it, he signed affidavit and he signed affidavit
 14 because maybe I think he didn't understand
 15 100 percent I told him. I ask him, I mean.
 16 Q. Well, I can certainly understand
 17 protecting a friend.
 18 MR. THOMAS: Is that a question? Objection to
 19 that statement.
 20 MR. KRAMER: All right. You can -- you can
 21 remove that.
 22 Just a moment. Let me check my notes.
 23 BY MR. KRAMER:
 24 Q. How many times have you talked to John

1 Vadas since the Cleveland Trencher closed?
 2 A. After?
 3 Q. Yes.
 4 A. After the EPA, we did the EP -- the walk
 5 through with the EPA, I think just one time, yeah,
 6 one time and then he sent me an e-mail he don't
 7 want me to call him anymore. He want me -- if I
 8 want any communication with him, it's better to
 9 e-mail him back anything.
 10 Q. All right.
 11 Did you become aware after that that he
 12 said that he was never affiliated with Asbestek,
 13 Inc. in any way, shape or form?
 14 A. Yes.
 15 Q. Is that truthful on his part?
 16 A. No.
 17 Q. Have you had any contact with him in the
 18 last year say?
 19 A. No.
 20 Q. Are you aware that you have the right to
 21 be here and observe him at his deposition tomorrow
 22 at 10:00 a.m.?
 23 A. No.
 24 Q. Well, you have that right if you want to.

1 A. Okay.
 2 Q. Even though you're not represented by
 3 counsel but you're a party in this and you have the
 4 right to sit here and watch him as he answers
 5 questions, all right?
 6 A. Okay.
 7 Q. I want you to know that.
 8 So the only reason that you never had
 9 Mr. Amaya (sic), if I understand your testimony
 10 correctly, actually apply for the Ohio asbestos
 11 abatement contractor's license was because
 12 Mr. Paganelli had told you for this project, it was
 13 okay to use Safe Environment Corp.'s?
 14 A. Yes.
 15 Q. And if you had not received permission to
 16 use that license and if Mr. Collins was in such a
 17 hurry that you -- he had to find someone else to
 18 finish the project, you would have already earned
 19 probably \$35,000 of the \$50,000, wouldn't you?
 20 A. Yes. I prefer too, have a lawsuit, from
 21 civilian lawsuit to go to jail.
 22 Q. So you would have walked away from the
 23 project?
 24 A. Yes, I do. If I don't have the license,

1 he have to sell the job to somebody else. I walk
 2 away even if I have to lose money.
 3 Q. So I'm clear, when you finished phase two
 4 and phase three, you did tell Mr. Vadas you can
 5 tell Mr. Collins -- that he can proceed with the
 6 demolition?
 7 A. I told him go and inspect the whole
 8 building and after you inspect the whole building,
 9 if something miss over there, we can go back and
 10 clean. If not, give him the okay and that he did.
 11 Q. All right.
 12 Now, the appearance of the Cleveland
 13 Trencher site, did you see evidence of vandalism
 14 and intruders and scavenging when you went there?
 15 A. I saw people pulling copper wires.
 16 Q. So there were scavengers stealing copper
 17 from the site?
 18 A. Yes. And I saw piles of asbestos on the
 19 floor before we got there.
 20 Q. Would that have been pipe insulation?
 21 A. Yes, pipe insulation.
 22 Q. Did you find any evidence that there had
 23 been copper pipes in the building?
 24 A. Yes. See pipe cut and piles. It looked

1 like somebody cut the pipe, move it somewhere and
 2 strip the pipe over there and left it.
 3 Q. So there was already friable asbestos –
 4 A. Ch, yes.
 5 Q. – contamination in the site –
 6 A. Yes.
 7 Q. – when you got there to start your work?
 8 A. Yes.
 9 Q. And if you can describe it, what room or
 10 rooms of the factory site did you find these piles
 11 of pipe insulation, friable asbestos material?
 12 A. I can't remember right now but if you got
 13 access to the inspection report, they have some –
 14 John Vadas gave me some pictures of the piles.
 15 They covered the piles with asbestos caution tape
 16 and they put some signs, about three or four piles,
 17 the ones they see it and some others, they don't
 18 see it.
 19 Q. So when you got to the site to do phase
 20 two and phase three, were these piles already
 21 covered and marked?
 22 A. Yes.
 23 Q. All right.
 24 And that was Vadas's crew who had done

1 that?
 2 A. No. It was the – the – whoever made the
 3 inspection report.
 4 Q. All right.
 5 The site assessment –
 6 A. Yes.
 7 Q. – off which you guys drew your contract?
 8 A. Yes.
 9 MR. KRAMER: Okay. All right. Thank you for
 10 clearing that up.
 11 Mr. Amaya, thank you, I think that's all
 12 the questions I have. Thank you for your
 13 testimony.
 14 MR. THOMAS: I have a couple follow-up
 15 questions.
 16 FURTHER EXAMINATION
 17 BY MR. THOMAS:
 18 Q. These piles of friable asbestos that were
 19 there when Asbestek arrived, you said that those
 20 were identified in the inspection report?
 21 A. Yes.
 22 Q. When did you first read that report?
 23 A. I never see it but if they cover –
 24 because John Vadas told me some piles over there.

1 are in the report. I never see the inspection
 2 report. He has the inspection report and he's the
 3 one told me.
 4 Q. What – what else did he tell you about
 5 the inspection report?
 6 A. Just about those piles, the first thing we
 7 have to take care of as soon as we get there.
 8 Q. Okay.
 9 Anything else?
 10 A. No.
 11 Q. Did he tell you what the cost estimate for
 12 remediation of Cleveland Trencher was?
 13 A. He charged \$50 and something thousand.
 14 Q. Pardon me?
 15 A. He charge – I mean, he put the proposal
 16 for 50 and – \$51 or something like that.
 17 Q. \$51,000?
 18 A. Yes.
 19 Q. That wasn't \$100,000?
 20 A. No.
 21 Q. So your understanding of the inspection
 22 report was that the proposed cost for
 23 remediation – remediation of the site was \$51,000?
 24 A. No. I haven't seen the inspection report.

1 Q. Well, what did John Vadas tell you was...
 2 A. He told me it's about \$50,000, \$50
 3 something thousand.
 4 Q. Did you ever ask to see that report?
 5 A. Yes, but – well, no. No.
 6 Q. Weren't you curious as to what it said
 7 before you entered into the contract?
 8 A. Yes, I was curious.
 9 Q. But you never made –
 10 A. For some reason, I did – I forgot to ask
 11 him.
 12 Q. Do you know what reason it is that you
 13 forgot to ask?
 14 A. No.
 15 Q. Would it have been –
 16 A. Maybe because I was too busy thinking.
 17 Q. Thinking about what?
 18 A. About that, the project there.
 19 Q. About the what?
 20 A. The project, the Ohio job. Maybe I was
 21 too busy thinking about that.
 22 Q. What's the word?
 23 A. Project.
 24 MR. KRAMER: Project.

1 THE WITNESS: Project. You see how hard it is
2 to understand my English.

3 MR. THOMAS: It wasn't bad. A little work and
4 I think we can get it.

5 BY MR. THOMAS:

6 Q. So it was hard for you to understand — or
7 it was hard for you to focus on getting the
8 inspection report because you were busy thinking
9 about the project that —

10 A. That — that — thinking about the
11 laborers, thinking about the how going to get the
12 job done because it's a plan how to go and plan how
13 to get the job done.

14 Q. Did Asbestek, Incorporated, file taxes in
15 2007?

16 A. Yes.

17 Q. And you did personally as well; is that
18 correct?

19 A. Yes, I did but as a person and corporation
20 because it was a corporation C.

21 Q. I see.

22 So it's one form with schedule C, correct?

23 A. Yes.

24 Q. I'm going to make a request that you

1 produce those documents.

2 A. Yes. No problem.

3 Q. Okay.

4 I have a follow-up question for you on
5 Exhibit — Exhibits 6 and 7 that we discussed, this
6 notification form. And I asked you this before but
7 I just want to make sure that I understand what
8 your answer is about —

9 A. Yes.

10 Q. — the specialist.

11 What do you think the reason that the
12 Department of Public Health wants that information
13 for is? Why do you think they want that
14 information?

15 A. Oh, that information, to contact whoever
16 submit the notification.

17 Q. I don't mean the contact person in line

18 14. I don't mean that. I mean line eight, the
19 remediation supervisor specialist.

20 A. Yes.

21 Q. Why does the Department of Public Health
22 want that information?

23 MR. KRAMER: Object to form.

24 THE WITNESS: It has to be — I mean, without a

1 supervisor — I think the way is because you don't
2 have a person with a supervisor license, you won't
3 be able to perform any work.

4 BY MR. THOMAS:

5 Q. So it's fair to say that the supervisor
6 should be at the site?

7 A. The supervisor is in the notification?

8 Q. Right.

9 A. If it's fair for you, maybe. But anybody
10 can — I mean, can submit the notification with
11 anybody's name and then send somebody else. Let's
12 say if I submit a notification and the supervisor
13 dies, I wouldn't be able to do the job because he
14 died?

15 Q. So your — your position is that with
16 respect to this specialist, as long as you put
17 somebody in there —

18 A. Yes, with the legal license.

19 Q. That anybody else can go and supervise
20 that site?

21 A. With supervisor license.

22 Q. And you do not have to update the
23 Department of Public Health?

24 A. No. I never see it before.

1 Q. What do you think that the rule is on
2 this?

3 A. I don't know. I don't know.

4 Q. Okay.

5 Have you ever looked into that?

6 A. No.

7 Q. Okay.

8 With respect to the contractor's license
9 in item seven —

10 A. Yes.

11 Q. — all that information, is your
12 conclusion that you just gave us about the
13 information in line eight the same as line seven?

14 A. Yes.

15 Q. So as long as you put any licensed
16 contractor in there, if that licensed contractor
17 dissolved or goes bankrupt or loses their
18 license —

19 A. Yes.

20 Q. — okay, then you can continue your work
21 as long as you have another contractor, correct?

22 A. What the question again? I'm sorry.

23 Q. Let's go back to the answer that you gave
24 me for —

1 A. Yes.

2 Q. — this line eight.

3 A. Yes.

4 Q. You testified just now --

5 A. Yes.

6 Q. — that you can put any specialist name in

7 there --

8 A. Yes.

9 Q. — but that specialist does not have to be

10 at the job?

11 A. No.

12 Q. Right?

13 A. No — yes.

14 Q. That's your conclusion, right?

15 A. Yes. Yes.

16 Q. And you gave an analogy that perhaps that

17 person could die and how could you do the job.

18 A. Yes. Yes.

19 Q. And that's your reasoning?

20 A. Yes.

21 Q. I want to ask you about section seven, if

22 the same analysis applies.

23 A. Yes. Yes.

24 Q. And you listed in this particular example

1 Safe Environment Corporation, correct?

2 A. Yes.

3 Q. Does Safe Environment Corporation have to

4 have anything to do with that site?

5 A. I mean — I can't understand it because —

6 Q. I'll clarify.

7 A. I think this was one question and this is

8 another question.

9 Q. That's right. I'm asking you to compare

10 them. Let's go back to eight.

11 Your answer was that Carlos Bonilla does

12 not have to be at the site?

13 A. No.

14 Q. His name is just there to satisfy this

15 requirement?

16 A. Yes.

17 Q. Okay.

18 And your position is Carlos Bonilla could

19 move to California —

20 A. Yes.

21 Q. — he never has to be involved in the

22 Cleveland Trencher site?

23 A. Yes.

24 Q. I'm asking you if you have that same

1 conclusion about number seven, the contractor.

2 A. If say disappear, that's the question?

3 For certain reason, I put Safe over here and then

4 Safe disappear.

5 Q. Right.

6 A. I wouldn't be able to do the work.

7 Q. Why is seven different from eight?

8 MR. KRAMER: Objection.

9 BY MR. THOMAS:

10 Q. Why is it your conclusion about the need

11 to have Carlos different than it is for the need to

12 have Safe Environment on site?

13 A. On site? No. Because — I mean, I can

14 revise notification or make another notification

15 and put a new contractor over here. But if Safe

16 disappear or by the time I put the notification and

17 the same time a week later, Safe Environmental

18 license expired, I wouldn't be able to do work.

19 Q. Let me ask the question another way.

20 You testified that with respect to line

21 eight, that is the specialist or the supervisor —

22 A. Yes.

23 Q. — that you may put somebody in that spot

24 on that application —

1 A. Yes.

2 Q. — but that person doesn't have to show up

3 at the site or have anything to do with it, right?

4 A. Yes. Yes.

5 Q. Am I correct?

6 A. Yes.

7 Q. Okay.

8 I mean, now that's your interpretation?

9 A. Yes.

10 Q. With respect to item seven —

11 A. Yes.

12 Q. — the contractor's license —

13 A. Yes.

14 Q. — does that contractor have to have

15 anything to do with the project?

16 A. It's a tricky question because if they

17 apply for the notification, they have to be there.

18 Q. But they didn't apply, you did, right?

19 A. Yes.

20 Q. So this question is from that perspective.

21 A. Yes.

22 Q. You applied for the notification?

23 A. Yes.

24 Q. Using their information?

1 A. Yes.

2 Q. Using Safe Environment's information?

3 A. Yes.

4 Q. Does safe Environment have to show up at

5 the job site?

6 A. You have to show up -- actually, I don't

7 know.

8 Q. Well, what do you think?

9 A. I don't know. I don't know.

10 Q. Could it be that they don't?

11 A. Maybe they have to show up. Maybe. I

12 don't know.

13 Q. Did they show up in this case?

14 A. No.

15 Q. Okay.

16 A. They didn't show up.

17 Q. Did you ask them to show up?

18 A. No.

19 Q. Did you use their equipment?

20 A. No.

21 Q. Did you use their paychecks?

22 A. No.

23 Q. Did they pay anyone for this job?

24 A. No.

1 Q. Did they pay you?

2 A. No.

3 Q. So if the job had worked out well, they

4 would never have to have done anything for this

5 project, right?

6 A. No.

7 Q. So Safe Environment is as expendable as

8 Carlos Bonilla, correct?

9 MR. KRAMER: Objection.

10 BY MR. THOMAS:

11 Q. Correct?

12 A. Yes.

13 Q. So, essentially, they had nothing to do

14 with the site, right?

15 A. Safe?

16 Q. Right.

17 A. Or Carlos?

18 Q. Safe.

19 A. Safe, yes.

20 Q. What -- and what did they have?

21 A. If I use -- if I use -- if I use their

22 license, they had to do.

23 Q. Okay.

24 A. Because if they don't let -- if they don't

1 let me use the license, I don't -- I don't risk

2 myself in this situation. Because do you think

3 I -- I did this because want to -- I mean, I want

4 to be in problems?

5 Q. Did you?

6 A. No. No.

7 Q. What about Carlos Bonilla?

8 A. What about him?

9 Q. He has a license there.

10 A. Yes.

11 Q. Okay.

12 If you don't have his name there, you

13 can't do the site, can you?

14 A. No. If I don't -- with the notification.

15 Q. Same thing with Safe Environment, correct?

16 It's all about the notification, right?

17 A. No. No, it's something different because

18 if they -- they authorize to -- to file a

19 notification under their license, it's different.

20 It's like big.

21 Q. I'm not asking you if they authorized. We

22 talked about that.

23 I'm asking you about their --

24 A. Yes. Yes. Yes. You're right. You're

1 right. Yes. If they didn't do any work -- they

2 don't supposed to be involved in this but the

3 reason they got involved is because they authorized

4 the license.

5 Q. Only?

6 A. Yes.

7 Q. And in no other way did they have anything

8 to do --

9 A. No, nothing else. Just authorize the

10 license.

11 MR. THOMAS: Okay. Okay. That concludes my

12 questions. Louis, do you have anything else?

13 MR. GILBERT: Nothing else. Thank you.

14 MR. KRAMER: No further questions. Thank you,

15 Mr. Amaya.

16 THE WITNESS: Now my turn with you?

17 MR. CHOW: I'm not a party.

18 MR. THOMAS: Mr. Amaya, having had your

19 deposition taken under the laws of Ohio, you have

20 the option to review the transcript to make sure

21 that the court reporter took down everything that

22 you said correctly, okay, which means that you have

23 the opportunity to read it once it's transcribed.

24 If you decide that some answers that you gave were

1 recorded incorrectly, then you can indicate so and
2 a correction copy will be maintained along with the
3 original. It's not about changing your answers to
4 get a better answer or something else. It's about
5 whether or not it was taken down accurately.

6 MR. KRAMER: Excuse me, Mr. Amaya, you also
7 have the opportunity under Ohio law to actually
8 change some answers by writing what you think the
9 answer more accurately or correctly would be on a
10 separate sheet of paper. Now, that doesn't
11 eliminate the answer you gave here that the court
12 reporter takes down. But it means that your
13 corrected answer and your prior answer can be read
14 to a judge or jury.

15 And given the language problems that you
16 know you admit and the court reporter is only too
17 aware of, I would recommend that you reserve that
18 right to make sure that your testimony is what you
19 intended it to be. If you need advice, you may
20 want to consult your own counsel. But certainly,
21 you have the opportunity to review for accuracy to
22 make what changes you need on a separate sheet of
23 paper referencing the page and say this answer
24 should be this or I think the court reporter didn't

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1 correctly take down what I said here, it should be
2 this. Then you sign that and you return that page
3 to the court reporter and she'll give you an
4 envelope for that purpose and that way, your
5 deposition when – you know, when your testimony is
6 used, you want to make sure it's your testimony,
7 that there's no mistake or nothing you could have
8 explained more better if you weren't nervous or if
9 you weren't confused about the question or
10 whatever. I'd recommend that you reserve your
11 right and you read the deposition and make whatever
12 changes are necessary.

13 THE WITNESS: Okay.

14 MR. THOMAS: The rest of that was that you can
15 waive that.

16 MR. KRAMER: But you don't want to waive that,
17 do you?

18 MR. THOMAS: And then – I don't think we can
19 advise you. You have to make your own decision on
20 that. So anyway, it's being video recorded as
21 well.

22 THE WITNESS: Reserve.

23 THE VIDEOGRAPHER: This concludes the
24 deposition. We're off the record at 4:38 p.m.

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1 IN THE COURT OF COMMON PLEAS
2 RICHLAND COUNTY, OHIO
3 GENERAL DIVISION

4
5 NATIONWIDE DEMOLITION SERVICES,)
6 Plaintiff,)
7 vs.)No. 2008 CV 2002
8 ASBESTEK, INC., et al.,)
9 Defendants.)
10

11 This is to certify that I have read the
12 transcript of my deposition taken in the
13 above-entitled cause by LIZA MARIE REGAN, Certified
14 Shorthand Reporter, on August 23, 2010, and that
15 the foregoing transcript accurately states the
16 questions asked and the answers given by me as they
17 now appear.

18 _____
19 TOMAS AMAYA

20 SUBSCRIBED AND SWORN TO

21 before me this _____ day
22 of _____ 2010.

23 _____
24 Notary Public

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1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)

4 I, Liza Marie Regan, a notary public within and
5 for the County of Cook and State of Illinois, do
6 hereby certify that heretofore, to-wit, on the 23rd
7 day of August, 2010, personally appeared before me,
8 at 123 North Wacker Drive, Suite 1800, Chicago,
9 Illinois, TOMAS AMAYA, in a cause now pending and
10 undetermined in the Court of Common Pleas, Richland
11 County, Ohio, General Division wherein NATIONWIDE
12 DEMOLITION SERVICES, LLC is the Plaintiff, and
13 ASBESTEK, INC., et al. are the Defendants.

14 I further certify that the said witness was
15 first duly sworn to testify the truth, the whole
16 truth and nothing but the truth in the cause
17 aforesaid; that the testimony then given by said
18 witness was reported stenographically by me in the
19 presence of the said witness, and afterwards
20 reduced to typewriting by Computer-Aided
21 Transcription, and the foregoing is a true and
22 correct transcript of the testimony so given by
23 said witness as aforesaid.

24 I further certify that the signature to the

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