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14 Representing Safe Environmental

15 Corp.,

16

17

18 ALSO PRESENT:

19 Mr. Rick Lovelace.

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21

22

23

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9 EXHIBITS

10 NUMBER MARKED FOR ID

11 Vadas Deposition Exhibit

12 No. 1 288

13 No. 2 300

14 No. 3 307

15 No. 4 314

16 No. 5 322

17 No. 6 322

18 No. 8 335

19 No. 9 335

20 No. 10 335

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2 NUMBER MARKED FOR ID

3 Vadas Deposition Exhibit

4 A 411

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1 THE VIDEOGRAPHER: My name is Nick Harvey,

2 legal video specialist with McCorkle Court

3 Reporters located at 200 North LaSalle Street,

4 suite 300, Chicago, Illinois, 60601. I'm the

5 camera operator on September 3, 2010, for the

6 videotaping of the deposition of John Vadas being

7 taken at 123 North Wacker Drive, Chicago, Illinois,

8 at the time of 10:09 a.m. in the matter of

9 Nationwide Demolition Services, LLC, plaintiff,

10 versus Asbestek, Inc., et al., defendants, versus

11 Tomas Amaya, et al., third party defendants, filed

12 in the Court of Common Pleas, Richland County,

13 Ohio, General Division, case number 08 CV 2002.

14 Will counsel please identify themselves

15 for the record beginning with plaintiff's counsel.

16 MR. KRAMER: Jeff Kramer, counsel for

17 Nationwide Demolition Services, LLC.

18 MR. THOMAS: Patrick Thomas, counsel for Safe

19 Environmental of Indiana.

20 THE VIDEOGRAPHER: Will the court reporter

21 please identify herself and swear in the witness.

22 (Witness sworn.)

23 THE VIDEOGRAPHER: You may proceed.

24 MR. THOMAS: Thank you.

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1 JOHN VADAS,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 EXAMINATION (Continued)

5 BY MR. THOMAS:

6 Q. Good morning, John.

7 A. Good morning.

8 Q. When we finished last time, we had gone
9 through a series of facsimiles. And I want to
10 change gears a little bit and ask you about the
11 environmental report that you testified about on
12 August 24th.

13 Do you recall that?

14 A. The environmental report? The ten-day
15 notification?

16 Q. No. The -- the environmental report that
17 you would have reviewed in order to assess what
18 kind of work asbestos -- Asbestek would have to
19 have done --

20 A. Okay.

21 Q. -- for remediation.

22 A. The Flynn environmental report?

23 Q. Correct.

24 Do you recall testifying that a portion of

1 the estimate was whited out or the estimate itself
2 was whited out?

3 A. The portion that was faxed to me but
4 the -- the environmental report was a booklet. I
5 was only faxed two pages of that.

6 Q. Okay.

7 (Whereupon, Vadas Deposition

8 Exhibit No. 1 was marked for

9 identification.)

10 BY MR. THOMAS:

11 Q. I'm handing you what I've marked as Vadas
12 No. 1. That's a two-page document. I don't have
13 it stapled --

14 A. Yes.

15 Q. -- at this point.

16 If you could take a look at that and see
17 if you recognize that?

18 A. Yes.

19 Q. Okay.

20 Is that the -- the two-page report that
21 you received?

22 A. Yes, it looks like it is. Yes.

23 Q. Okay.

24 And on page two, there are a number of

1 cost breakdowns with a total figure of
2 approximately \$102,000 for an estimate for the
3 asbestos abatement.

4 Do you see that?

5 A. Yes.

6 Q. Is that the portion that was whited out?

7 A. Yes.

8 Q. Okay.

9 So you were unable to when you received
10 that report review any of the figures; is that
11 correct?

12 A. That's correct.

13 Q. Okay.

14 And is that sort of procedure standard in
15 the business?

16 A. It's been done. It depends on who gets
17 the report but certain parties of the company are
18 privy to the total figures and certain aren't. The
19 foremen run the jobs. It's not their business what
20 the total overall cost of the project is. They may
21 just be given a certain man day number and that may
22 be exaggerated or falsified just so that they get
23 the job done quicker. It's a means to try to
24 get -- get the job done at -- at a better -- a

1 better cost.

2 Q. Okay.

3 In your personal experience, is this the
4 first time that you have ever reviewed a proposal
5 and had the figures whited out?

6 A. Well, this wasn't the proposal -- proposal
7 I reviewed prior to talking to Mike about the job.
8 This came afterwards. I was on-site with Mike
9 looking at the job before I seen this.

10 Q. So is it fair to say that this is a report
11 from Affiliated Environmental Services, correct?

12 A. Yes.

13 Q. And that's dated August 9, 2007?

14 A. Yes. That's, I believe, the date that
15 they took the report, they did it or whatever.

16 Q. Do you remember when you reviewed this
17 report?

18 A. It was within a couple of days after I
19 looked at the site.

20 Q. Okay.

21 Before any work was done, correct?

22 A. Yeah, of course.

23 Q. And before the contract and proposal were
24 prepared --

1 A. Yes.

2 Q. -- correct?

3 A. Yes.

4 Q. Okay.

5 But is it fair that you also reviewed the
6 larger report by Flynn Environmental?

7 A. I eventually got that larger report but
8 that just broke down into specifics total
9 quantities of ACM in -- in this type of material,
10 in this type of material. It was a lot of
11 information that wasn't necessary to put a price on
12 that project.

13 Q. Okay.

14 Do you recall last Tuesday you testified
15 when you were looking at the faxes that you kept
16 asking Nationwide for the report?

17 A. Yes. I -- I -- I did ask Mike in person.
18 He went to his truck and he didn't have it on site.
19 He says he must have left it at the other site or
20 with Chuck. He'll get it to me. And then I also
21 asked Molly for it. And then he did eventually get
22 it to me but I think he had another project going
23 at the same time and he was shifting paperwork
24 between the two.

1 Q. And what report were you referring to when
2 you said that you had kept repeatedly asking them
3 for this report?

4 A. Well, actually, I was asking for this
5 report and he also wanted me to look at a job in
6 Indianapolis and I was asking him for that report
7 as well. I needed, you know, both, you know, to be
8 able to have some idea of what -- what the project
9 manage -- you know, they hired Flynn Environmental
10 to do an environmental survey and I -- I needed
11 information.

12 Q. What I'd like to clarify, however, is that
13 when you were reviewing exhibit -- it was Amaya
14 Exhibit 15 -- 14 -- excuse me -- my recollection is
15 that you said that you kept saying to them we need
16 the report, we need the report and they weren't
17 getting it to you.

18 Are you referring to this report, Vadas
19 No. 1, or a report for another job site?

20 A. This report.

21 Q. Okay.

22 A. Yeah, I needed the report and that's --
23 they did get it to me.

24 Q. Okay.

1 And they got it to you before you were
2 able to prepare the proposal which also became the
3 contract, is that correct?

4 A. They got it to me then or shortly after.
5 I can't remember. I don't recall exactly when it
6 took place because we had pretty much agreed on
7 what I saw was, basically, without going over it
8 and spending two days doing takeoffs and
9 everything. I went by the square footages that he
10 had and -- and he told me what he needed done and
11 I, basically, put together my estimate based on
12 what I was looking at and he told me if -- if it
13 was more or less or anything, any change orders
14 that may come up, he would, obviously, honor that.
15 He wouldn't let me get hurt. He would take care of
16 it.

17 Q. So are you recalling now, if you do, that
18 your proposal which became the contract was
19 prepared prior to receipt of this Affiliated white
20 out report?

21 A. It -- it was either -- it was either prior
22 to or at the -- about the same time. It could have
23 been the same day as a matter of fact before -- I
24 faxed that to Molly because I did fax it to Molly.

1 the contract.

2 Q. Okay.

3 What -- what I'd like to clarify is is it
4 possible that you prepared the proposal prior to
5 having this in your hand or having reviewed Vadas
6 No. 1?

7 A. That's possible but I would not have
8 prepared the ten-day without the report.

9 Q. Okay.

10 But the proposal and the contract, you may
11 have, correct?

12 A. That's possible.

13 Q. All right.

14 And that's Amaya Exhibit 5; is that
15 correct?

16 A. Yes.

17 Q. Okay.

18 And that --

19 A. Well, wait a minute. Wait a minute. This
20 has the exact quantities. I would have had the
21 report. Mike wouldn't have known these off the top
22 of his head.

23 Q. Okay.

24 A. I'm sorry.

1 Q. That's okay.
 2 So when you prepared the proposal, you had
 3 the --
 4 A. Yes.
 5 Q. -- Affiliated in your -- in your
 6 possession?
 7 A. Because it has the exact quantities.
 8 Q. Okay.
 9 A. Mike, there's no way he would have known
 10 that.
 11 Q. Okay.
 12 MR. KRAMER: Referring to Exhibit 1 as
 13 Affiliated?
 14 MR. THOMAS: Right.
 15 THE WITNESS: Right. I think I just got it at
 16 the same time that I was faxing him the proposal
 17 and I needed that to include it in my proposal. I
 18 wanted to be, you know, somewhat specific on what
 19 we're doing.
 20 MR. THOMAS: Okay.
 21 BY MR. THOMAS:
 22 Q. Did Tomas Amaya give you an indication
 23 that insurance -- that his insurance or Asbestek's
 24 insurance would cover this contract?

1 A. We never really talked about his
 2 insurance. He said that he has insurance. I think
 3 he told me that he had a good insurance company and
 4 he was covered. I -- I didn't handle any of the
 5 insurance records.
 6 Q. Did you speak to Mike or Molly or anybody
 7 at Nationwide about insurance?
 8 A. I believe I spoke with Mike and he asked
 9 to be additional insured and I relayed that to
 10 Tomas.
 11 Q. Okay.
 12 Do you know what -- was that prior to the
 13 contract?
 14 A. No. That was probably after. That was
 15 when we were getting all the loose ends tied up,
 16 the paperwork to get the job going.
 17 Q. Okay.
 18 A. We needed this and then they needed that
 19 and we needed -- you know, it kind of went back and
 20 forth.
 21 Q. So your recollection is that the -- that
 22 there was no discussion of insurance prior to
 23 signing the contract?
 24 A. No, I don't believe so.

1 Q. Is it possible?
 2 A. No. No. It was something they brought up
 3 later and, again, this was my part of it. Amaya --
 4 Amaya would have taken care of the insurance. When
 5 he did it, I don't know. But it's something that
 6 came up shortly after the contract.
 7 Q. Okay.
 8 And you recall that, is that correct?
 9 A. Yes, I recall Amaya taking care of the
 10 insurance.
 11 Q. And then you just mentioned -- the last
 12 thing you just mentioned was that you recall Amaya
 13 taking care of the insurance?
 14 A. Yes. He said that he had insurance to
 15 cover it. I said Mike, you know, he's asking, you
 16 know, to be insured. Yeah, he's got insurance.
 17 Now, he has done projects before I met up with him
 18 in Indiana and I think he was trying to get --
 19 yeah, he was in the middle of trying to get his
 20 Illinois license and he had done some projects in
 21 Indiana but I was not with him at that time.
 22 Q. Okay.
 23 So your recollection is that you reviewed
 24 the proposal -- I'm sorry -- you reviewed Vadas

1 No. 1 which is the environmental assessment,
 2 correct, that's the first thing?
 3 A. I -- I reviewed the job site is the first
 4 thing.
 5 Q. Okay. You reviewed -- reviewed the job
 6 site.
 7 Then you had the opportunity to review the
 8 Affiliated Environmental?
 9 A. Right, to get the quantities.
 10 Q. Third thing -- and I'm not saying that
 11 there was no intervene -- intervening things but
 12 just in order of the things that we're mentioning,
 13 reviewed the site --
 14 A. Right.
 15 Q. -- reviewed the environmental proposal --
 16 assessment -- excuse me -- prepared the proposal,
 17 both parties signed it which became the contract
 18 and then insurance was discussed?
 19 A. Probably the next day, yes. At Amaya's
 20 office I believe we talked about it.
 21 Q. Okay.
 22 And you talked about it as a result of
 23 Mike Collins requesting or suggesting or demanding
 24 that insurance be included?

1 A. Mike just says you're going to include me
2 as additional insured. I says, yeah, that's
3 typical procedure. I relayed that to Tomas and he
4 said he would take care of it. That's the way I
5 see it.

6 Q. And I appreciate that. What I'm trying to
7 clarify is the timing of that.

8 Was that discussion about the insurance --

9 A. I don't recall. That was --

10 Q. Okay.

11 A. That was almost --

12 Q. Okay.

13 A. -- three years ago.

14 Q. All right.

15 When you mentioned then to Tomas about the
16 insurance, do you know what steps he took with
17 respect to that?

18 A. I imagine he got his -- called his
19 insurance company and got them insured, put them --
20 added them as additional insured, whatever he had
21 to do.

22 Q. Did you handle any of that in terms of
23 forwarding verbally or by fax or in any way
24 insurance information to --

1 A. No.

2 Q. -- Nationwide?

3 A. No.

4 Q. Okay.

5 So after the conversation that you had
6 with Amaya about insurance based on what Mike
7 Collins requested --

8 A. Right.

9 Q. -- you never had anything further to do
10 with insurance; is that correct?

11 A. That's correct.

12 Q. All right.

13 (Whereupon, Vadas Deposition

14 Exhibit No. 2 was marked for

15 identification.)

16 BY MR. THOMAS:

17 Q. I'm handing you Vadas Exhibit 2.

18 If you do, do you recognize that insurance
19 form?

20 A. Acord Insurance, yes, it's something that
21 a lot of -- certificate of liability. A lot of
22 Chicago-based companies use this insurance company.

23 Q. Okay.

24 Have you seen that form before, that

1 particular form?

2 A. Yeah, I believe I have. Yeah.

3 Q. Do you know when you would have seen that?

4 A. In Amaya's office.

5 Q. Okay.

6 A. Yes.

7 Q. And I'm handing you Exhibit Amaya 11.

8 Do you know if you've seen that particular
9 form before?

10 A. They look the same to me. Oh, Minnesota.

11 I don't remember seeing this one. I don't recall
12 seeing this one because it's in Minnesota.

13 Q. Okay.

14 A. I -- well, the question, what do we need a
15 Minnesota coverage for?

16 Q. Well, I'm not sure that that's the
17 question as much as the -- the Exhibit Vadas 2 you
18 recall having seen in his office as some sort of
19 insurance form for Asbestek, correct?

20 A. Right.

21 Q. And then --

22 A. And the fact it's Illinois Department of
23 Public Health certificate holder: Certificate
24 holder Illinois Department of Public Health which,

1 you know, I've -- I've seen that.

2 Q. Okay.

3 This particular Exhibit 11, if we don't
4 focus on Minnesota which is -- which is an insurer
5 and I don't want you to be thrown off by that, this
6 is a certificate of liability dated 8-17-07.

7 Do you see that?

8 A. Yes.

9 Q. And that is the day after the contract,
10 correct?

11 A. Yes.

12 Q. Okay.

13 And then this Amaya 11 names Nationwide
14 Demolition as an additional insured, correct?

15 A. Okay. Yeah.

16 Q. All right.

17 A. That could have been the one I seen then.

18 Q. So you think you -- maybe you did see
19 this?

20 A. It could be because I said it was the next
21 day so.

22 Q. Do you know if you personally handled
23 anything with respect to this form, either
24 obtaining the insurance or giving or forwarding or

1 providing this to Nationwide?

2 A. No, I don't believe so.

3 Q. Okay.

4 So you think Amaya took care of that?

5 A. Yes, I believe he did.

6 Q. Okay. Okay. Okay. Just put that there.

7 If we look back at Exhibit 14 --

8 MR. KRAMER: Amaya 14?

9 BY MR. THOMAS:

10 Q. Amaya 14, which is this packet of

11 facsimiles, and we look at the second to last

12 one -- and this one is sent by you was your

13 testimony to Mike and Molly regarding the fact that

14 you will be using -- or Asbestos will be using Safe

15 Environment Corporation of Indiana contractor's

16 license?

17 A. Yes.

18 Q. This is, again, on August 31st and we've

19 talked about that date in -- on the prior date that

20 we met. And I believe that your testimony was that

21 this was the day that Amaya informed you that you

22 would officially be using Safe Environment, Safe

23 Environment's license, right?

24 A. Right.

1 Q. And so you forwarded that information to

2 Mike and Molly; is that correct?

3 A. That's correct.

4 Q. Okay.

5 Did they make any comment back to you

6 about your statement that you'll be using Safe

7 Environment?

8 A. No. I don't think they -- it mattered as

9 long as it was a valid license. And I said I've

10 worked for Tony in the past and as far as I know,

11 it's -- it's a valid license. I looked at the

12 license. It looked good to me.

13 Q. What I mean is when you forwarded the

14 information to Nationwide and said we will be using

15 Safe Environment's license --

16 A. Right.

17 Q. -- did you also in addition to this fax

18 have a conversation with Mike or Molly about using

19 Safe Environment's license?

20 A. No, I don't think so. I think we had one

21 prior to that. I said if we -- we put in for our

22 Ohio license. I don't know how long that's going to

23 take. Some states are longer than others.

24 Hopefully, we'll get it quickly but if we don't,

1 Tomas has a good relationship with the owner of

2 Safe and they do hold an Ohio license. And it may

3 be possible and as it turned out, it was possible,

4 to use their license.

5 Q. Okay.

6 So you -- you made a representation to

7 them on a prior date that -- that Safe

8 Environment --

9 A. I believe so, yeah, I talked to Mike about

10 it. I don't think it was -- it was just out in the

11 field.

12 Q. And what did Mike say when -- when you

13 told him on a -- on a prior date in the field that

14 you would be using Safe's --

15 A. He said, well, as long as you can get it

16 going, whatever, you know, whatever it takes. If

17 you can get your license, that's great. If you can

18 get someone else's, that's fine. However you want

19 to run it.

20 Q. Did he ever ask for any proof of your

21 relationship with Safe Environment?

22 A. He never asked but I gave him proof of it

23 anyway.

24 Q. What did you give him?

1 A. I gave him a business -- I gave him a

2 business card that showed that I was a project

3 manager for Safe a few years ago and I said that

4 I've run projects for Tony in the past and I've --

5 I've used his license. I know of one particular

6 job where he let another contractor use his license

7 and I oversaw that project.

8 Q. Why did you tell Mike that?

9 A. So he would feel a little bit more

10 confident about using somebody else's license.

11 Q. Would it not have been a better situation

12 to just have him call Safe Environment directly and

13 confirm with them instead of kind of going through

14 the back door?

15 A. Well, I don't know what he would consider

16 what would be better or not. I can't speak for

17 Mike Collins.

18 Q. Can you speak for yourself?

19 A. I handed him a card with their number on

20 it. Surely, he could have called. He had every

21 opportunity. I handed him a card just like I'm

22 handing you right now. Here, I worked for Safe --

23 I've worked for Safe Environment in the past.

24

1 (Whereupon, Vadas Deposition
2 Exhibit No. 3 was marked for
3 identification.)

4 BY MR. THOMAS:

5 Q. Well, here, let me show you Vadas 3.

6 Is that it?

7 A. Yes, that's what I faxed him. Look, I --
8 I also -- this is what I faxed to Molly. I handed
9 him a card out in the field.

10 Q. When you handed him that card, were you
11 representing that you were an employee of Safe
12 Environment?

13 A. No. I was letting him know that we had
14 worked together before. He knew I wasn't employed
15 by -- well, he knew -- we were in the middle of a
16 project at LaPorte with Kinsale. I was working
17 for -- if anybody, I was working for Kinsale at the
18 time and that project at Kinsale came to a halt
19 because of legal problems with the town of LaPorte
20 and with the owner of the property so we were on
21 standby. I was laid off. I had nothing going. So
22 when Tomas called me, I said I'm free.

23 Q. I understand that. We've talked about
24 that part.

1 But what I want to know is why are you
2 giving Mike Collins a card of yours with Safe
3 Environment's information that's five years expired
4 as some sort of proof? Why is that necessary?

5 A. If he wanted to call Safe for verification
6 of the license, he could have called Safe. It --
7 whatever he wanted to do with it, that would give
8 him a little bit more confidence in the fact that
9 we had a valid license. That's why I did it.

10 Q. Did you ever -- did you ever encourage him
11 to call Safe Environment?

12 A. No. I mean, I handed him a license -- or
13 a card and I said, you know, this -- this is -- I
14 used to work for Tony. It's a good corporation.
15 Tomas and some of the guys still work with -- with
16 Safe as far as I know and they're starting their
17 own company. I believe it's -- it's also known by
18 Tony that they're -- they're moonlighting, they're
19 doing work on the side.

20 Q. Did you ever call Safe Environment and
21 have them call Mike directly as a means of having
22 all this effort to verify use of the license
23 accomplished? Did you ever take the simple step of
24 calling up Safe Environment and saying will you

1 please call Mike and tell him that you've given us
2 authority to use your license?

3 A. No, I don't believe that was --

4 Q. As an alternative to getting an old card
5 that was no longer valid with information trying to
6 describe your former relationship and a fax saying
7 we will be using their license, instead of
8 accomplishing -- instead of taking all those steps,
9 did you ever consider making a quick phone call to
10 Safe Environment and saying will you call
11 Nationwide and confirm your authority? Did you
12 ever do that?

13 A. No, I never did that but --

14 Q. Okay.

15 A. --there's a lot of ways to get to the
16 same means.

17 Q. Well, I agree. I mean --

18 A. This is just one way that I -- I took.
19 Whether it was, you know, more prudent to do it the
20 other way, I don't know.

21 Q. Okay.

22 Well --

23 A. This -- this was my way of doing it.

24 Q. Well, was your way of doing it a result of

1 the fact that you were committing fraud?

2 MR. KRAMER: Object.

3 THE WITNESS: Of course not.

4 BY MR. THOMAS:

5 Q. Well, then describe to us, if you will,
6 why you would take all these backdoor approaches to
7 telling Mike Collins --

8 A. Well, you're calling it backdoor
9 approaches. I don't consider them backdoor
10 approaches at all. I didn't have to give him a
11 card at all. I didn't have to do any of that.

12 Q. Okay.

13 A. He didn't ask for it and I didn't have to
14 give it to him.

15 There's a lot of things that I do that are
16 overkill but I do it for the client's consideration
17 and for -- for whoever I'm working for. I mean,
18 for -- if I'm working for a school, I may give them
19 more information than they need. My wife can run
20 my jobs. I go home and tell her all about what I'm
21 doing. She can go there the next day and run the
22 damn job. I'm very thorough when it comes to
23 giving a lot of information.

24 Q. Did you ever think it would be very

1 thorough to actually call Safe Environment and --
2 and send them a copy of the ten-day notification?

3 A. At that particular time, I wasn't talking
4 with Tony directly as friends or anything because
5 he had, basically, let me go and replaced my job in
6 a roundabout way and I come to find out that, you
7 know, I was replaced by Rick Lovelace. I was a
8 little miffed with that and a little surprised that
9 he didn't -- he didn't -- he didn't man up and just
10 tell me that, you know, he wants to hire Rick
11 Lovelace and he's letting me go. That's not how it
12 happened.

13 Q. Okay.

14 So you had some problems with Tony, didn't
15 you?

16 A. Well, I had that problem particularly, you
17 know, but that problem had nothing to do with
18 Amaya's relationship with Tony. I wasn't going to
19 jeopardize Amaya's position with Tony at all. I
20 wouldn't -- I wouldn't do that.

21 Q. So at the time that you were representing
22 to Mike Collins that Tony had given Amaya
23 authority, you were having actually personal
24 problems with Tony?

1 A. Oh, no. The personal problems were, if
2 anything, a one -- a one-day occurrence. I found
3 out that Rick was working there. Tony never even
4 knew that I -- I knew that he had hired Rick at
5 that -- at that point. Probably didn't care and --
6 I mean, he -- it's his company. He can do what he
7 wants but I felt that he could have done it a
8 better way. That was just my opinion. He probably
9 would run into me later at a walk through and not
10 think twice of it.

11 Q. Do you think you could have done it a
12 better way at this time by calling Tony to confirm
13 that you were using Safe Environmental's license?

14 A. I think that would have been up to Tomas
15 Amaya.

16 Q. Okay.

17 So all the steps that you were taking with
18 respect to Safe Environment were up to Tomas Amaya,
19 correct?

20 A. Well, this was his company now. Remember,
21 I did not sign or make any agreement with Tomas
22 be a part of his company. This was a trial basis.
23 I was doing him a favor using my expertise in the
24 business of what I know about the paperwork end

1 because he knew I was his boss at one time working
2 for Tony and he felt I had better communication
3 skills. I spoke English better. I can communicate
4 better with -- with anybody involved on the site
5 and he gave me that parameter to go ahead. But all
6 of the decisions would go through him. This was
7 his company.

8 I made sure that he was aware of that and
9 even the -- I wouldn't even send forth that
10 contract without Amaya going out there and looking
11 at it himself. Now, I want you to feel
12 comfortable. Go out there. We went out there
13 together. Do you feel comfortable that you can do
14 this with these numbers? And he looked at it and
15 he said yes, he feels comfortable he can do that.
16 I says you sure you can manage? I asked him all
17 the pertinent questions. I says now, this is
18 important. And he said he can man it, he feels
19 comfortable. That's all I could do.

20 Q. Who's he?

21 A. Tomas Amaya, Asbestek.

22 Q. What was your legal relationship with
23 Tomas Amaya at this time?

24 A. There was no legal relationship.

1 Q. What was your business relationship?

2 A. There -- the business relationship, I was
3 doing -- a friend of his, I was doing him a favor.
4 If anything, this would have turned into a finder's
5 fee at worst case. Best case, it would have turned
6 into probably a not very profitable job but we
7 would have been getting our foot in the door with
8 another contractor and possibly could have worked
9 further jobs in the future and we would have worked
10 out some type of arrangement and possibly some
11 future relationship as -- as a company. But it
12 wasn't -- it was unfolding where I was being
13 inundated with too much of the responsibility, too
14 much of the paperwork and he was off running too
15 many other jobs or doing too many other jobs for
16 Tony that I come to find out.

17 Q. So was your relationship business with
18 Tomas?

19 A. Well, at the time we were doing business,
20 this was business, yes.

21 Q. Okay.

22 (Whereupon, Vadas Deposition
23 Exhibit No. 4 was marked for
24 identification.)

1 BY MR. THOMAS:
 2 Q. I'm going to hand you Exhibit Vadas 4.
 3 Take a look at that.
 4 A. Did you want me to comment on this?
 5 Q. Well, just tell me if you recognize it?
 6 A. Yes.
 7 Q. Okay.
 8 And this is a -- what is it?
 9 A. Well, it's a -- it's a facsimile to the
 10 Ohio EPA. I talked with Ms. Sharon McDuffy. I
 11 spoke with her in lieu of Mr. Mike Sanec who I had
 12 spoke to previously. This was something that I
 13 would do -- it's a long transit back and forth. I
 14 would make notes. Mark Needham I spoke with. I
 15 spoke with Jeff Gerdes.
 16 Q. I appreciate that but what is this
 17 document?
 18 A. That document?
 19 Q. It's a facsimile, is it not?
 20 A. Well, yes.
 21 Q. And that -- you're sending to the Ohio
 22 EPA?
 23 A. Yes.
 24 Q. With a cover page?

1 A. Yes.
 2 Q. And two attached pages?
 3 A. Yes.
 4 Q. What are you sending?
 5 A. A revised notification.
 6 Q. Okay.
 7 What's the date of the notification?
 8 A. It was completed on -- oh, no. Let me
 9 see. The date of the notification was revised --
 10 sorry. Some of these you can hardly write in the
 11 space. Where are my glasses?
 12 MR. KRAMER: Why don't you just read him the
 13 date?
 14 THE WITNESS: I might have left them on the
 15 table. All right. I'll just try to give this a
 16 shot here. Scheduled dates -- no. Dates of
 17 asbestos, 9-4, complete 10-21. Revised.
 18 BY MR. THOMAS:
 19 Q. Why don't you take a look at page two at
 20 the bottom and see where you signed it and see what
 21 that date is?
 22 A. 8-31.
 23 Q. Okay.
 24 And what date did you fax that to the

1 government?
 2 A. 8-31.
 3 Q. Okay.
 4 That's August 31st, right?
 5 A. Yes.
 6 Q. That's the date that all the other
 7 facsimiles to Mike Collins from you indicate that
 8 you'll be using Safe Environment, correct?
 9 A. Yes.
 10 Q. Okay.
 11 And that's -- that's the date that you
 12 received information from Tomas Amaya that you
 13 would be using Safe Environment's license, correct?
 14 A. Yes.
 15 Q. And that's the date that you received
 16 Carlos Bonilla's information that you would be
 17 using Safe Environment and him as a specialist,
 18 correct?
 19 A. Yes.
 20 Q. Why didn't you tell the government you
 21 were using Safe Environment on August 31st in your
 22 ten-day notification?
 23 A. I believe I did. I -- I told them in a
 24 revision that I was using --

1 Q. Well, this is the revision, correct? I
 2 understand that you brought a lot of papers with
 3 you today but I want -- I want you to look at this
 4 exhibit, Vadas 4, okay?
 5 A. Well, I've got a revision too that shows
 6 I -- I -- I put Tomas Amaya.
 7 Q. Well, I just want to talk about this one.
 8 This is from the EPA?
 9 A. Yes.
 10 Q. This is a fax to you to the EPA.
 11 I want you to show me where on this
 12 notification you indicate that Safe Environment's
 13 license will be used by Asbestek?
 14 A. They don't ask for his license.
 15 Q. What do they ask for?
 16 A. This is EPA. They have different -- all
 17 they're asking for, EPA is concerned about the
 18 waste stream.
 19 Q. All right. Let me see if I can point
 20 something out to you on here.
 21 In section five, it says asbestos removal
 22 contractor?
 23 A. Right.
 24 Q. And you put Asbestek, Incorporated,

1 license number pending in Ohio?
 2 A. Pending, right.
 3 Q. Right.
 4 Why didn't you put Safe Environment with
 5 their license number since you were using Safe
 6 Environment?
 7 A. Because at that time, we were waiting for
 8 the -- for Tomas's license I believe.
 9 Q. Okay.
 10 Well, what's the date of this facsimile?
 11 A. August 31st.
 12 Q. Okay.
 13 And what's the date that you had authority
 14 from Tomas Amaya to use -- Amaya to use Safe
 15 Environment's license?
 16 A. August 31st, that's one of the dates I
 17 got. August 31st. Okay. My revision to the Ohio
 18 Department of Public Health was on September 17th.
 19 Q. Yes. I just want you to focus -- I know
 20 you brought papers with you but I want you to focus
 21 on this exhibit that the EPA produced as part of
 22 this litigation, not the paper that you have, okay?
 23 A. Okay.
 24 Q. Why didn't you indicate Safe Environment

1 on this August 31st notification to the government?
 2 A. This is at 10:38 in the morning. I might
 3 not have known about it at that time.
 4 Q. Okay.
 5 Once you knew about it, did you send a
 6 second revision?
 7 A. No.
 8 Q. Why not?
 9 A. I don't remember. Probably because I was
 10 so busy trying to get the other paperwork together.
 11 I was overwhelmed with paperwork and manpower and
 12 trying to get this job going.
 13 Q. What other paperwork would be more
 14 important than the notification to the government?
 15 A. The notification to the government, the
 16 Department of Public Health.
 17 Q. Okay.
 18 Well, the EPA produced all the documents
 19 to us in this litigation that they have with
 20 respect to your notifications and there are two
 21 notifications that you sent, one on August 23rd and
 22 then this revision that you identify in the fax
 23 where you put revision one of ten-day notification
 24 of --

1 A. Right.
 2 Q. -- 8-20-07.
 3 So you knew about revisions, right?
 4 A. I knew about revisions.
 5 Q. Okay.
 6 Where's the second revision that you
 7 submitted to the government once you realized you
 8 were using Safe Environment's license?
 9 A. Right here.
 10 Q. Where's the one that was sent to the U.S.
 11 government? I'm sorry. To the State of Ohio?
 12 A. Right here.
 13 Q. Okay. Let's see what you have.
 14 Where's the fax date?
 15 A. Well, right at the top, you can see that
 16 they received it. That's not to be -- I don't
 17 write in that space. That's the confirmation that
 18 they received it.
 19 Q. Where's your proof that this was sent?
 20 A. You can call them and reference these
 21 numbers and they'll let you know that they received
 22 this.
 23 Q. Okay.
 24 May I have this?

1 A. Sure.
 2 Q. This was sent to the government? Shall we
 3 mark this an exhibit?
 4 MR. KRAMER: Why don't we make a copy so you
 5 don't take his original document.
 6 THE WITNESS: Well, I -- yes, I probably don't
 7 have a --
 8 MR. KRAMER: We'll make a copy and mark it.
 9 BY MR. THOMAS:
 10 Q. Was this sent to the government?
 11 A. Yes.
 12 MR. THOMAS: Okay. Can we take a break?
 13 MR. KRAMER: Sure.
 14 THE VIDEOGRAPHER: We're off the record at
 15 10:45 a.m.
 16 (A short break was taken.)
 17 THE VIDEOGRAPHER: We're back on the record at
 18 10:47 a.m.
 19 (Whereupon, Vadas Deposition
 20 Exhibit Nos. 5 & 6 were marked
 21 for identification.)
 22 MR. THOMAS: Okay.
 23 BY MR. THOMAS:
 24 Q. We've marked a form that you brought to

1 this deposition as Vadas 6.

2 And this is a ten-day notification that
3 you claim that you filled out, is that correct?

4 A. Yes.

5 Q. And you filled that out on 9-17, that's
6 September 17, 2007?

7 A. Yes.

8 Q. Okay.

9 And you've indicated that this is revision
10 number two, is that correct?

11 A. Yes.

12 Q. Okay.

13 And you would be required to submit a
14 check in the amount of \$85 for this?

15 A. Yes.

16 Q. Did you do that?

17 A. I don't remember. I don't recall to tell
18 you the truth. Tomas wrote all the checks. So
19 whether or not it was written or drafted, I don't
20 remember.

21 Q. So Tomas wrote the checks, correct?

22 A. He wrote the checks.

23 Q. And what kind of checks were those, were
24 those Asbestek checks?

1 A. I believe so.

2 Q. Okay.

3 Did you ever see them?

4 A. Nope.

5 Q. Okay.

6 So you prepared this form and he wrote the
7 check?

8 A. I don't know that he didn't use his --
9 that he didn't give them a credit card number, if
10 that wasn't an option because he was using his
11 credit card a lot. So I don't know. I don't
12 recall.

13 Q. Now, who -- so who filled this form out,
14 this Vadas No. 6?

15 A. I did.

16 Q. Okay.

17 And you filled this out as
18 nonencapsulation, is that correct?

19 A. I don't see where you see that, I guess.

20 Q. Number five.

21 A. I filled it out as removal.

22 Q. Okay. Right.

23 So you -- it was not encapsulation,
24 correct?

1 A. That's correct.

2 Q. Okay.

3 Is encapsulation when you put up the
4 containment areas?

5 A. No. No. Encapsulation is a form of --
6 it's -- it's an alternative to abatement actually,
7 enclosure, encapsulation. It's more of a repair
8 than a -- than a -- an abatement situation.

9 If you're going to encapsulate something,
10 you would -- you would use something to repair a
11 boiler. Rather than abate the whole boiler or
12 abate part of it, you would encapsulate, use
13 bridging encapsulation or use something thick, use
14 something to keep the -- the asbestos intact and
15 from becoming friable, from becoming air --
16 airborne. You wouldn't necessarily remove it. You
17 would encapsulate it.

18 That's not what we were there to do,
19 encapsulate or enclose or renovate. We were --
20 this was a demolition job and we were there for
21 removal.

22 Q. Okay.

23 You -- you filled the form out, though,
24 correct?

1 A. Yes.

2 Q. And you filled it out on September 17,
3 2007?

4 A. Yes.

5 Q. And you indicated that the abatement date
6 would start on September 21, 2007?

7 A. Yes.

8 Q. Did that ever begin?

9 A. As far as I know, it did, yes.

10 Q. Okay.

11 Who authorized you to fill out this form?

12 A. Who authorized? Tomas Amaya.

13 Q. Okay.

14 When did he authorize you to fill out this
15 form?

16 A. When it became necessary.

17 Q. When did it become necessary?

18 A. It became necessary when we were changing
19 the contact person to Tony Paganelli because I had
20 mistakenly made the original notification out using
21 my name as contact person because that's how I
22 thought it should be done and I was mistaken.

23 Q. Why didn't you tell us about that mistake
24 last Tuesday?

1 A. I didn't catch that until -- I didn't even
2 know I -- I -- I filled these out until I went back
3 on site and found out that I can PDF write into the
4 thing. Again, this was three years ago. I had no
5 documentation until I went -- this is 1 percent of
6 my documentation at my office, 1 percent.

7 Q. What date was it that you realized you
8 made a mistake in the original notification?

9 A. What date was it that I -- last week.

10 Q. Well, what date was it in 2007 --

11 A. Oh, you mean when I did this?

12 Q. Yes.

13 A. Prompted me to do the second revision?

14 Q. Yes.

15 A. Well, I've got -- I've got -- my first
16 draft here, I was putting Gary Thomas as the
17 abatement contractor.

18 Q. You didn't know what you were doing, did
19 you?

20 A. Well, no, I'm not going to say I didn't
21 know what I was doing. I was -- I was answering
22 the questions. And when I had a question, I would
23 call Mark Needham or Jeff Gerdes or like you had
24 the cover page there, somebody from the EPA or

1 somebody from the Department of Public Health and
2 ask them and one person would give me one answer
3 and another person would give me another. Well,
4 don't worry about it. Just add -- just put it --
5 throw another revision at us, okay.

6 Q. When you -- when you filled out Vadas
7 Exhibit 4 on August 31st and sent that to the EPA
8 and indicated that the Asbestek contractor was
9 Asbestek and you put that the license was pending
10 in Ohio --

11 A. Yes.

12 Q. -- and then later that day, maybe one hour
13 later, you found out that you were using Safe
14 Environment, why didn't you fill this form out
15 again and send revision two at that time to the
16 State of Ohio?

17 MR. KRAMER: Objection.

18 THE WITNESS: I don't remember why. I have no
19 recollection of why I did or did not.

20 MR. THOMAS: Okay.

21 THE WITNESS: Maybe I did and you just don't
22 have a copy of it. I don't have a copy of it
23 either so -- I don't even have that copy. So,
24 again, there was a paper trail that I'm not sure

1 what happened to some of these documents just as
2 I'm sure that you don't -- you didn't have a
3 document that I had.

4 BY MR. THOMAS:

5 Q. So your testimony now is that the next
6 revision after this -- which you would admit is an
7 error, correct, that's an error?

8 A. This was not an error. The Ohio
9 Department of Public Health was an error.

10 Q. Okay.

11 A. That was --

12 Q. When did you correct the Ohio Department
13 of Public Health form?

14 A. On the 17th.

15 Q. Is that what this is --

16 A. Yes.

17 Q. -- Vadas 6? Okay.

18 A. Yes.

19 Q. So you filled this out, is that correct?

20 A. Yes.

21 Q. And how did you get it to the Ohio
22 Department of Health?

23 A. Any revisions can be faxed. The first one
24 has to be notified by registered mail only. That's

1 how they would accept it,

2 Q. Well, how did you submit this one?

3 A. I faxed.

4 Q. Okay.

5 Where is your copy of the fax submitted
6 piece in all your documents?

7 A. I couldn't find it.

8 Q. Okay.

9 Do you have any reason to explain why the
10 EPA doesn't have it?

11 A. I might have just faxed --

12 MR. KRAMER: Object to the form of the
13 question. This is Ohio Department of Health. This
14 is not Ohio EPA.

15 BY MR. THOMAS:

16 Q. Do you have any reason to explain why the
17 Ohio Department of Health would not have this form?

18 A. I have no -- I imagine that's something
19 that they probably throw out or they would have a
20 ton of these but --

21 Q. So you think they lost it?

22 A. No, I don't know if they lost it. I don't
23 know if they even keep them. I think they keep
24 the -- the --

1 Q. Well, they kept this one, right, the one
2 that you sent on August 31st, right?
3 MR. KRAMER: Objection.
4 THE WITNESS: Well, apparently somebody did,
5 yeah.
6 BY MR. THOMAS:
7 Q. But you don't think they kept this one?
8 A. I don't know. I don't know how they run
9 their office. I have no idea.
10 Q. When you faxed this, did you use a cover
11 sheet?
12 A. I might not. I might have just sent it
13 straight like that. They told me just fax it.
14 Q. Okay.
15 Where did you fax the \$85 check?
16 A. You can't fax a check.
17 Q. Okay.
18 Well, how did you get the payment along
19 with this?
20 A. Like I said, Tomas may have used his
21 credit card.
22 Q. How would Tomas know to use his credit
23 card?
24 A. How — he would call them up and ask them

1 if he can use his credit card.
2 Q. Do you know if did that?
3 A. I don't know —
4 Q. Okay.
5 A. — no. I don't know if he sent them a
6 check, credit card. He handled all the financial.
7 This whole job was financed by his credit card and
8 whatever money he had in the bank and whatever
9 money he was making from Safe Environment at the
10 time.
11 Q. Okay.
12 So as far as you know, if Tomas never
13 followed up with the credit card or any sort of
14 payment, this was not accepted, correct?
15 A. I think we would have heard something if
16 he had not sent a payment.
17 Q. Did you ever follow up to see if they
18 received it?
19 A. No.
20 Q. Did you ever follow up to see if they
21 received the payment?
22 A. No. That's not typical for any company to
23 follow up. If they didn't receive it, I mean, they
24 would probably have called me or called Tomas since

1 he's the one that makes out the checks. And he
2 gave me no cause to believe he didn't send that
3 check.
4 Q. Did you fill this form out last week?
5 A. No, of course not.
6 Q. Handing you Vadas 5, what is Vadas 5?
7 A. It's a — the original document to the EPA
8 of Ohio. Yeah, it's the one that this revision
9 replaced.
10 Q. Okay.
11 And that one, we have your records that
12 you faxed that, correct?
13 A. I don't see a cover sheet.
14 Q. Well, does it have your fax information at
15 the top?
16 A. Yes.
17 Q. Okay.
18 Then we also, going back to Vadas 4, we
19 have your first revision on August 31st, correct?
20 And that has your fax information, correct?
21 A. Yes.
22 Q. And we have the EPA receipt of that,
23 correct? Do you see that?
24 A. Oh, yes.

1 Q. Okay.
2 But we have no record either from you or
3 from the EPA that this form that you brought today
4 dated September 17th with Paganelli's information
5 was received or sent, correct? We have no record
6 of that, do we?
7 A. Well, just the — I — I did not put these
8 numbers in at the top. I don't even know what they
9 mean.
10 Q. Who put those numbers in?
11 A. I have no idea.
12 Q. Why would you have that form with somebody
13 else's numbers in your possession?
14 A. I — I imagine that they put these numbers
15 in.
16 Q. Did they send that to you?
17 A. They might have.
18 Q. Well, did they?
19 A. I don't know. I don't — they — they
20 might have sent it to Tomas's office.
21 Q. And then Tomas gave that to you after
22 September 17th?
23 A. I don't remember. This was three years
24 ago.

1 Q. Well, how do you explain those received
2 numbers at the top if you don't recall having any
3 prior interaction with this department after that
4 form was submitted?

5 A. I did have prior interaction. That was
6 the second revision.

7 Q. I'm sorry. Subsequent interaction.

8 A. I did have subsequent. I had a third
9 revision.

10 Q. You have a third revision with you?

11 A. Yes.

12 Q. Let me see that.

13 A. The third revision indicates Tomas Amaya
14 as the --

15 THE VIDEOGRAPHER: We're off the record at
16 10:59 a.m.

17 (A short break was taken.)

18 THE VIDEOGRAPHER: We're back on the record at
19 11:04 a.m.

20 (Whereupon, Vadas Deposition
21 Exhibit Nos. 8, 9, 10, 11, 12,
22 12A & 13 were marked for
23 identification.)
24

1 BY MR. THOMAS:

2 Q. John, prior to the break, you handed me
3 two documents that I'm marking Exhibits Vadas 8 and
4 9 and your indication was that you had additional
5 revisions that you submitted to the Ohio Department
6 of Health; is that correct?

7 A. That's correct.

8 Q. Okay.

9 That's what I've marked as Vadas 8 -- I'm
10 sorry. Let's start with Vadas 9.

11 That's a revision; is that correct?

12 A. Yes.

13 Q. What's the --

14 A. It's a rough -- rough draft to the
15 revision.

16 Q. And what's the date of that?

17 A. 9-21-07.

18 Q. Did you submit that?

19 A. If I wrote it, I submitted it but I may
20 not have submitted this particular one because it's
21 not typed in.

22 Q. Okay.

23 And that's the reason that you think maybe
24 you didn't submit it is because it's not typed,

1 correct?

2 A. I may have -- you know, I may have been in
3 a hurry to get this out and I submitted it but I
4 did revise -- revise lines eight and 12, line eight
5 being the -- Tomas Amaya just received his asbestos
6 supervisor's license so I revised that line to read
7 Tomas Amaya was the supervisor of the site and line
8 12 was the -- the dates of abatement -- set up,
9 abatement and completion.

10 Q. By the way, did Carlos Bonilla ever show
11 up on site?

12 A. I couldn't answer that because they ran at
13 night. He might have -- I didn't see the payroll.
14 I don't know that he worked there ever.

15 Q. Do you have any idea who was working
16 there?

17 A. I know Juan Amaya was working there.
18 That's the only one I can definitely -- that I
19 knew.

20 Q. Did you ever think to discuss with Tomas
21 Amaya the problem with having putting -- having put
22 Carlos Bonilla's name down when Carlos was not
23 there?

24 A. I think he had intended Carlos to be there

1 but something came up where he was needed at
2 another job.

3 Q. Okay.

4 A. And that -- again, this is typical.

5 Q. Typical of Bonilla or --

6 A. Typical of asbestos abatement companies to
7 switch out foremen.

8 Q. So was this form submitted or not? Do you
9 know?

10 A. If I drafted it, it was submitted one way
11 or another. I wouldn't have done all that work for
12 nothing. And it had to be done. I know project
13 completed -- a matter of fact, how I know I
14 submitted -- well, we can get to the next one where
15 I said project completed. I wouldn't have known to
16 put that there had I not called the EPA to find out
17 how to close the project out in Ohio.

18 Q. Did you submit this project completed
19 form?

20 A. Yes, I did.

21 Q. Did you send it by mail or fax?

22 A. Again, probably by fax because it was a
23 revision and they considered -- because I was
24 revising line 12 because we did not complete on the

1 day I said I was going to complete on the third
2 revision.

3 Q. Going back to Vadas's, you did not put
4 these pieces of information at the top, is that
5 correct?

6 A. No, I don't — that's correct. I don't
7 know where they came from.

8 Q. Okay.
9 Anything else that you submitted that the
10 government did not give us?

11 A. No. The only other party that I dealt
12 with was the waste hauler and, you know, this is a
13 typical copy of a waste-hauling manifest, I —
14 that was part of my job or part of what I did for
15 Tomas was look for landfills that would accept
16 waste.

17 Q. I appreciate that. Let me rephrase the
18 question.
19 Is there any other document pertaining to
20 putting down Safe Environment's information that
21 you submitted that we don't have?

22 A. No.

23 Q. Okay.
24 Each time you submitted a form with

1 Paganelli's information and Safe Environment's
2 license number, did you contact Tomas Amaya to
3 confirm that it was okay to do that?

4 A. Yeah. He was kept apprised of all the —
5 Q. Okay.

6 A. — actions at that — yes, absolutely.
7 Q. And each time, did he confirm that it was
8 acceptable and authorized?

9 A. Yes. I wouldn't do it, yeah.
10 Q. Did you ever think to cc Safe Environment
11 on any of these forms to keep them apprised of the
12 use of their license?

13 A. No. At the time, that was Tomas Amaya's,
14 you know, job if he was going to carbon copy them.
15 That would have been totally up to him.

16 Q. Did you send these forms to Tomas Amaya
17 first so that he would have that option?

18 A. Sometimes it may not have been possible.
19 They had to go out quickly.

20 Q. Okay.
21 A. The job was under a lot of pressure and we
22 were being rushed to get it in and to get the work
23 done. So I had to get these forms out as quickly
24 as possible. Every time something changed, I had

1 to — I had to put a change in. Again, I tried to
2 keep up with all the people involved, Secretary of
3 State, Mark Needham from the Ohio Department of
4 Public Health. I talked with him several times.
5 Jeff Gerdes. Again, I had several conversations
6 with all the authorities in the Department of
7 Public Health and EPA. And I was asking what I
8 need to do to complete this job and that's how I
9 know I did fax the last form because they said just
10 put project completed at the top of the revision.

11 Q. In all this time that you were sending
12 fax — faxes to Nationwide and to the governmental
13 authorities at the Department of Health and the EPA
14 and all the phone calls trying to get assistance,
15 did you ever place a single call to Safe
16 Environment Company about anything?

17 A. No.

18 Q. Did you ever fax them anything?

19 A. No.

20 Q. Okay.
21 Handing you Vadas Exhibit 10, what is
22 Vadas 10?

23 A. Cleveland Division of Air Quality, Mike
24 Samec, fax cover sheet, notice of violation former

1 Cleveland Trencher.

2 Q. That goes with that. It's two pages.
3 We'll staple it.

4 What's the purpose of that facsimile in
5 November?

6 A. Okay. At the time this was going on,
7 especially when we went over the site — I can give
8 you the long version or I can give you the short
9 version. Long version is probably going to be more
10 accurate.

11 Q. Well, let me ask you a question and see if
12 you can just give a short answer to it. You
13 indicate in here — this is page two of Exhibit 10,
14 you indicate I am not employed by as Asbestek now,
15 was not employed by them during this project nor do
16 I have any final — financial interest or
17 association with Asbestek, Inc., or Tomas Amaya.

18 Is that true, yes or no?

19 A. Well, it's true to the point where what do
20 you consider being employed? I was never paid.
21 What do you consider a business relationship? We
22 never come to any agreement and when we started to
23 work out agreements, they were not acceptable. And
24 when he started talking about cleaning up the site

1 and I tried to explain to him that was not in his
 2 domain, he was not allowed to clean that site up;
 3 because they're saying that you used -- that you
 4 were not allowed to use Safe's license so you can't
 5 clean it up and he's saying no, they're going to
 6 let me clean it up. They're going to help me clean
 7 it up. And then I received a call from
 8 Mr. Lovelace from Safe Environment and then he told
 9 me straight out that -- he says we're not going to
 10 admit to letting them use the license. We're going
 11 to dodge that bullet is what he said exactly.
 12 Because he says I know what happened out there and
 13 there's no way we're going to -- to let Tomas or
 14 to -- to cover for Tomas. We're not going to say
 15 that we helped in any way with this project.
 16 Q. When did Mr. Lovelace say that to you on
 17 the phone?
 18 A. This was the day after the job was
 19 stopped. I got a call from Mr. Lovelace the day
 20 after Mike Collins was stopped from working by the
 21 EPA.
 22 Q. When prior to the last five minutes in the
 23 past have you ever told anyone about that
 24 conversation with Rick Lovelace?

1 A. I told Tomas the very next day.
 2 Q. Did you tell any -- anyone at the EPA?
 3 A. Did I tell anyone at the EPA? No.
 4 Q. Did you tell your attorney?
 5 A. I didn't have an attorney.
 6 Q. Did you tell anyone at Nationwide about
 7 that?
 8 A. I told someone -- well, I -- I talked to
 9 friends in the business. Now, I've been in this
 10 business over 20 years.
 11 Q. I appreciate that. I just want the know
 12 if prior to today you in writing anywhere
 13 communicated that call from Rick Lovelace to you
 14 that you're telling us about today?
 15 A. In writing anywhere? No, but I verbally
 16 did transmit that -- or -- or talk to people and
 17 received advice from other people, owners of
 18 companies that have my respect and that respect me.
 19 Q. Did you ever tell any government authority
 20 involved in the situation at Cleveland Trencher
 21 about that conversation with Rick Lovelace?
 22 A. He would deny it. No, I didn't tell
 23 anybody that conversation. It -- it seemed like a
 24 pointless thing to tell anybody that he's going to

1 deny anyway.
 2 Q. You wrote on page two of Vadas 10 any
 3 future correspondence regarding this matter should
 4 be taken up with Tomas Amaya, the owner of
 5 Asbestek, Incorporated, and Michael Collins, the
 6 owner of Nationwide Demolition.
 7 You wrote that, correct?
 8 A. Right.
 9 Q. Why didn't you tell them to take anything
 10 up with Safe Environmental?
 11 A. Because the contract was between Tomas
 12 Amaya and Nationwide.
 13 Q. What about the contract between Safe
 14 Environment and Asbestek that you've told us about?
 15 A. I just forgot to include them.
 16 Q. How?
 17 A. I didn't include them.
 18 Q. Despite that conversation with Rick two
 19 months earlier, that never crossed your mind to
 20 indicate to the government about the association
 21 with Safe Environment?
 22 A. No, it didn't. I did have conversations
 23 with other owners of companies in Chicago and --
 24 Q. Who?

1 A. Dave Montgomery, DEM Services. Geoff
 2 Kelly.
 3 Q. Hold on.
 4 Dave Montgomery?
 5 A. Yes, DEM Services.
 6 Q. Okay.
 7 They're in Chicago?
 8 A. Yep.
 9 Q. Who else?
 10 A. Geoff Kelly.
 11 Q. Where's Jeff?
 12 A. He's Envirocon.
 13 Q. How do you spell that?
 14 A. He's in -- he's in Chicago.
 15 Q. How do you spell that, please?
 16 A. G-E-O-F-F, Kelly, K-E-L-L-Y. Envirocon,
 17 E-V-I-R-O-C-O-N (sic).
 18 Q. When did you tell Dave Montgomery about
 19 the conversation with Rick?
 20 A. The day after.
 21 Q. What did Dave say?
 22 A. Dave says are -- are -- were you working
 23 with Tomas at the time? Were you employed by his
 24 company? I says no. Did you ever receive a

1 paycheck? No. He says then you're legally not
 2 responsible for what took place. You were just
 3 helping him out. You were, you know, basically,
 4 looking to try to get something together. I says
 5 yes, basically.

6 Q. Will Dave remember that conversation if we
 7 ask him about it?

8 A. He might.

9 Q. He might not?

10 A. He might, yes.

11 Q. Okay.

12 Does that mean he might not?

13 A. Yes, I think if you called him up, he'd
 14 remember talking to me about it I'm sure.

15 Q. How about Geoff Kelly, when did you speak
 16 to him about the conversation with Rick?

17 A. It was shortly after that.

18 Q. And what did you tell Geoff?

19 A. Something along similar lines, that I was
 20 working with Tomas Amaya on this project.
 21 Basically, what -- the client that I met through
 22 Kinsale. It started to go bad. He started to put
 23 more demands on me, started asking to do more
 24 work in --

1 Q. Did you -- but did you tell Geoff about
 2 the conversation with Rick?

3 A. I told him how it laid out, yes,
 4 basically.

5 Q. Well, did you tell him what -- what Rick
 6 said to you about not taking any responsibility for
 7 what happened?

8 A. Yes.

9 Q. What did Geoff say to you?

10 A. He says it's not surprising for them to
 11 distance themselves.

12 Q. Okay.

13 And he said that when, in about October
 14 of 2007?

15 A. Yes. But I've -- I've talked with -- with
 16 Geoff since then. I did a project for Geoff last
 17 year. He asked me how things were going and I go
 18 they're still sending me letters and -- or letters
 19 and legal -- legal things regarding that case. I
 20 really don't know what's going on.

21 Q. You have no idea?

22 A. I have no idea? Well, I know what's going
 23 on now. You're taking my deposition.

24 Q. Okay.

1 Let me show you Exhibit 12, Vadas 12,
 2 what's that?

3 A. That's a \$65 payment to the Treasury of
 4 Ohio Safe -- from remitter, Safe Environment
 5 Corporation.

6 Q. Who got that check?

7 A. I can't read who signed it.

8 Q. Who's the person who went to Harris Bank
 9 and obtained that check?

10 A. I think this was Tomas but, again, I don't
 11 know who signed this check. I don't know who got
 12 this check.

13 Q. Could it have been you?

14 A. No.

15 Q. Did you ever handle any financial
 16 documents, checks or credit card, anything at all
 17 with respect to this Nationwide project?

18 A. Well, yeah. I was, basically, using
 19 Tomas's credit card --

20 Q. Okay.

21 A. -- to finance my gas and expenses but
 22 that's all it, basically, financed.

23 Q. Did you ever get an official check like
 24 this one?

1 A. I had purchased some equipment through one
 2 of my -- I had a contract -- or a -- I had
 3 purchased some equipment that we used and supplies
 4 and he owed me some money for that and I think he
 5 paid me back for that.

6 Q. What will Harris Bank tell us about that
 7 official check, about who -- who purchased it?

8 MR. KRAMER: Objection.

9 THE WITNESS: I don't know. Who purchased it?
 10 I have no idea. It wasn't me.

11 MR. THOMAS: Okay.

12 BY MR. THOMAS:

13 Q. It wasn't you?

14 A. No.

15 Q. So if it wasn't you, who would it have
 16 been?

17 MR. KRAMER: Objection.

18 THE WITNESS: I don't know. I can't speculate
 19 on who this would have been.

20 BY MR. THOMAS:

21 Q. Well, is there another possibility other
 22 than Tomas Amaya?

23 A. Well, it's remitter, Safe Environment. It
 24 could have been Tony.

1 Q. Okay.

2 Do you know that -- whether or not Tony

3 writes checks from Safe Environment for

4 applications or does he go to Harris Bank and get

5 money orders?

6 A. I have no idea.

7 Q. Okay.

8 A. All I know is that Tony does work with

9 Tomas. Tomas was his number one guy and --

10 Q. Well, you know that -- you know that Tomas

11 works with Tony on the Cleveland Trencher project

12 because Tomas told you that, correct?

13 A. Well, he worked for Tony for years prior

14 to that.

15 Q. As you did but you know that Tomas got

16 authority to use the license for Cleveland Trencher

17 because Tomas told you, right?

18 A. That's correct.

19 Q. You don't have any personal knowledge of

20 that, correct?

21 A. No, I -- but I don't have anything to

22 doubt it either. I don't have any reason to doubt

23 it because I know Tony felt Tomas was a good

24 foreman and was using his crew, basically, and

1 probably had a lot of faith in me to get this job

2 done.

3 Q. I asked you once before if you would be

4 surprised to learn that Tomas Amaya testified that

5 it's possible that Tony did not hear him when he

6 requested use of the license.

7 MR. KRAMER: Objection, misstates.

8 THE WITNESS: You asked me that before? I have

9 no idea what --

10 BY MR. THOMAS:

11 Q. Do you recall me asking you that?

12 A. No, I don't.

13 Q. Then I'll ask you now.

14 Would you be surprised to learn that Tomas

15 Amaya testified in his deposition that it's

16 possible that Tony did not hear him or understand

17 him when he requested use of Safe Environment's

18 license?

19 MR. KRAMER: Objection.

20 THE WITNESS: I never heard anything about

21 that.

22 MR. THOMAS: Okay.

23 BY MR. THOMAS:

24 Q. Would you be surprised by that statement?

1 A. Yes, actually.

2 Q. Handing you Exhibit Vadas 11, what is

3 that, please?

4 A. Asbestek, it's a run down of a percentage

5 of work done day by day bringing the part one of

6 the job to conclusion. And it's an invoice for

7 \$30,000 to Michael Collins, Nationwide Demolition

8 to be paid to Asbestek, Incorporated.

9 Q. And you submitted that, did you not, that

10 bill?

11 A. Yes, I did.

12 Q. And it's your testimony that you didn't

13 expect to get one penny of that amount?

14 A. No. He was -- I believe that Tomas was

15 given a check.

16 Q. I understand that.

17 My question is when you submitted that

18 bill, you were not submitting that in order to

19 obtain any moneys for yourself personally, correct?

20 A. Well, no. I was -- I was hoping I would

21 get a percentage of this but we never came to an

22 agreement.

23 Q. What percent were you hoping for?

24 A. At this point, I was hoping for at least

1 10 percent.

2 Q. Which would have been \$3,000 for that?

3 A. Right.

4 Q. Okay.

5 Do you recall testifying last Tuesday that

6 you never went in this with the idea that you would

7 get any money at all? Do you recall that

8 statement?

9 A. I went in there with the -- no. No. I

10 went in there with the idea that we -- it was not a

11 money maker, that we were going to break even on

12 this.

13 Q. So that's your testimony today, that it

14 would be a break even situation?

15 A. Right, because this -- this amount that we

16 were asking for probably costs almost as much to

17 perform that work but I don't know what he was

18 paying the workers so I can't speculate on exactly

19 what it -- what his costs were.

20 Q. Well, you must have had some idea of what

21 sort of profit you personally, John Vadas, were

22 looking for when you entered into this contract and

23 worked, correct?

24 A. Yeah. I would have been happy -- again,

1 as -- 10 percent as a finder's fee and 10 percent
2 for doing part of the paperwork and then helping
3 him get started. But I did find him the contract
4 and I did help him get started.

5 Q. Would you have been fine with zero?

6 A. Well, would I have been fine? Not -- not
7 really but that's pretty much where it ended up.

8 It's to my recollection that he was paid
9 by Mike Collins but I believe the check bounced.
10 It wasn't for \$30,000. And Mike did make it good
11 but it was after Tomas had a lot of checks drawn on
12 his bank account to pay the workers so he incurred
13 a lot of overdrafts. That's what he told me.

14 Q. This is Exhibit Vadas 12A, take a look at
15 that, please. Let us know when you've had a chance
16 to review it.

17 Do you recognize that?

18 A. Yes. Can I finish, please?

19 Okay. This is something I believe Tomas
20 asked me to put together because he was upset at
21 the time that he had a check bounce and seeing this
22 happen and --

23 Q. That's a fax, is it not -- or I mean, an
24 e-mail?

1 A. This is an e-mail, yes.

2 Q. Sent by you?

3 A. Yes.

4 Q. Okay.

5 What's the date of that e-mail?

6 A. October 17th.

7 Q. And you're describing the unfortunate
8 situation at the Cleveland Trencher site, are you
9 not?

10 A. Yes, but in reviewing the Flynn documents
11 later, those drums were actually on the report.

12 Q. Where in there do you make any indication
13 about Safe Environment's involvement in the
14 Cleveland Trencher project?

15 A. I don't.

16 Q. Sorry?

17 A. I don't.

18 Q. Handing you Vadas Exhibit 13. Take a look
19 at that.

20 A. Right, I was -- just at the beginning
21 I'll tell you I was distancing myself from Tomas
22 Amaya who was determined to try to be his own legal
23 counsel, take care of the Cleveland Trencher plant
24 himself and have me do -- he wanted me to answer

1 all the complaints that the EPA had against him and
2 I told him that was not possible. I'm not a
3 lawyer. You need to contact an attorney. And I
4 was distancing myself, obviously, from what I seen
5 as to be criminal charges that were going to be
6 brought against somebody.

7 Q. Why did you know that at that time?

8 A. That's what they were saying at the site.
9 They were being very adamant about the -- that's
10 where the long version comes in. They dragged us
11 around that site picking up every piece the size of
12 a dime and holding it up and saying look at this,
13 do you know what this is? A piece of transite.

14 Q. Where in that facsimile do you indicate
15 anything about Safe Environment?

16 A. I don't. This -- this fax was to Tomas
17 Amaya. It wasn't to Safe Environment.

18 Q. Did you ever send a fax to Safe
19 Environment?

20 A. No.

21 Q. Okay.

22 Last Tuesday, I asked you a question about
23 August 31, 2007 and that question was what was
24 significant about August 31, 2007 that you were

1 sending multiple faxes to multiple people and you
2 had said you didn't know. And then you said that
3 was the day that you got authority from Tomas Amaya
4 to use safe Environment's license.

5 Do you recall that?

6 A. Yes.

7 Q. Okay.

8 When on August 31, 2007 with the
9 approximately eight documents that you separately
10 faxed to the government and Nationwide did you ever
11 tell the government that Asbestek was using Safe
12 Environment's license?

13 A. I don't recall ever saying that except
14 with the fact in -- in the notification where it
15 points out that they were using it. I didn't think
16 I had to repeat myself over something that was a
17 one-time notification.

18 Q. And yet, you come today equipped with
19 multiple revisions?

20 A. Right, because there was changes made
21 that -- again, you know, when I was here last week,
22 I didn't have a paper in my hand. I mean, you're
23 asking me a lot of questions that I couldn't answer
24 so now I'm trying to answer them with as much

1 material as I can gather and there's probably still
2 more that I have not found yet.

3 Q. So you came back today with three or four
4 revisions of the ten-day notification --

5 A. Right.

6 Q. -- that you knew to be important and yet,
7 your testimony is that you never sent a revision to
8 the Ohio Department of Public Health on August 31st
9 regarding Safe Environment's license, correct?

10 A. I don't remember sending one, no.

11 Q. Okay.

12 A. But I may have. Again, I -- I'm usually
13 pretty thorough. Tomas might have had it in his
14 file. I don't necessarily keep all the documents.
15 but I started a file for Tomas. He did have the
16 original -- the green attachment that you get from
17 a registered letter. I told him to put that along
18 with the envelope that shows that you sent -- a
19 copy of the envelope that shows that you sent this
20 to the EPA and the Ohio Department of Public
21 Health.

22 Q. Looking once again at Exhibit 4 that you
23 send out August 31st at 10:30 in the morning where
24 you indicate the contractor to be Asbestek --

1 A. Yes.

2 Q. -- with the license pending --

3 A. Yes.

4 Q. -- did you ever on August 31st or
5 September 1st send a revision of this form
6 indicating Safe Environment's license?

7 A. You'll have to say that over again.
8 I'm --

9 Q. Okay.

10 A. I'm not following you.

11 Q. At 10:30 on August 31, 2007 you submitted
12 a three-page facsimile to the Ohio EPA?

13 A. Yes.

14 Q. Indicating that the contractor for the
15 Cleveland Trencher site was Asbestek --

16 A. Yes.

17 Q. -- correct?

18 A. Yes.

19 Q. Later that day, you received authorization
20 from Tomas Amaya to use Safe Environment's license,
21 correct?

22 A. Right.

23 Q. Okay.

24 When after you received that authorization

1 on August 31st did you send the second revision
2 indicating the change to the Ohio EPA?

3 A. It should be in your pile of papers there.

4 Q. Did you do that on August 31st?

5 A. August 20th -- I'm sorry. Again, it's
6 dated August 31st.

7 Q. Right.

8 This is an -- this is an August 31st fax,
9 three pages, that you sent to the Ohio EPA,
10 correct?

11 A. Yes.

12 Q. And you -- you're sending them a revision
13 of the ten-day notification that you sent on
14 August 20th, correct?

15 A. Yes.

16 Q. Okay.

17 Which was handwritten, correct? That's
18 Exhibit 5, right?

19 A. This first revision I don't think was,
20 Oh, to the EPA, yes.

21 Q. Okay.

22 Later in the day on August 31st, you --
23 you have testified multiple times that you received
24 authority from Tomas Amaya to use Safe

1 Environment's license, correct?

2 A. Yes.

3 Q. When on August 31st after Tomas gave you
4 that authority did you send another revision with
5 the correct information in section five?

6 A. I don't remember.

7 Q. You don't remember or you didn't do it?

8 A. I don't remember when I sent it. I
9 believe I would have done it. If I sent one, I
10 would have sent the other.

11 Q. Okay.

12 And just to recap, you brought with us
13 today a second revision?

14 A. Yes.

15 Q. Dated September 17th with Safe
16 Environment's information on that form, correct?

17 A. That's correct.

18 Q. Okay.

19 So your testimony is that actually 17 days
20 after you received notification from Tomas Amaya
21 that you decided you would update the EPA?

22 A. No.

23 Q. No?

24 A. That's 17 days after that the -- we were

1 getting into the friable phase. At that point,
 2 no — I can't remember if it was because it was the
 3 nonfriable or if there was another reason why I had
 4 to have that one out that — at that time.
 5 Q. Well, regardless of the reason — and
 6 let's just clarify this before I finish here.
 7 You have a ten-day notification sent to
 8 the EPA on August 31st where you indicate that the
 9 contractor is Asbestek, correct?
 10 A. Yes.
 11 Q. And then later on that day, you receive
 12 notification from Tomas Amaya that you will be
 13 using Safe Environment and Carlos Bonilla in order
 14 to —
 15 A. Right.
 16 Q. — complete the job?
 17 A. Right. Right.
 18 Q. But you don't submit that updated
 19 information until, according to you today,
 20 September 17th, is that correct?
 21 A. That's correct.
 22 MR. KRAMER: Objection.
 23 BY MR. THOMAS:
 24 Q. Why did you wait — why didn't you notify

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1 the EPA in any of the communications that you had
 2 with them either verbally or in writing after this
 3 incorrect —
 4 A. I believe —
 5 Q. — document that Safe Environment's
 6 license would be employed by Asbestek?
 7 A. I believe I did verbally talk with them
 8 and told them that we were waiting on our license.
 9 In the meantime, we're going to use Safe
 10 Environment's license which I have a copy of here.
 11 Q. Who did you tell that to at the EPA?
 12 A. I think I was talking with Mark Needham
 13 but it could have been the day that I talked with
 14 Sharon McDuffy because I was working with —
 15 talking with both of them. Actually, there's three
 16 of them. Jeff Gerdes too. I don't remember. It
 17 was quite a while ago.
 18 Q. Isn't it fair to say that the reason that
 19 there's no —
 20 A. Here we go.
 21 Q. — documentation to the Ohio EPA on the
 22 31st regarding Safe Environment is because — is
 23 because you fraudulently used Safe Environment's
 24 license?

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1 A. No, that is not fair to say that. I
 2 didn't — I've never done anything fraudulent in my
 3 life.
 4 MR. THOMAS: I have no further questions.
 5 MR. KRAMER: All right. I do have questions
 6 but I think we should take a five or ten-minute
 7 break before I start.
 8 THE VIDEOGRAPHER: We're going off the record
 9 at 11:37 a.m.
 10 (A short break was taken.)
 11 THE VIDEOGRAPHER: We're going back on the
 12 record at 11:48 a.m.
 13 MR. KRAMER: It's almost afternoon but it's
 14 still morning so good morning, Mr. Vadas. My name
 15 is Jeff Kramer.
 16 THE WITNESS: Good morning.
 17 MR. KRAMER: And you know I represent
 18 Nationwide Demolition Services.
 19 THE WITNESS: Yes, I do.
 20 MR. KRAMER: I have a few questions I'd like to
 21 ask you. Some of them you may have been asked
 22 earlier but I want to take things in my order and
 23 would appreciate your cooperation in answering them
 24 again —

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1 THE WITNESS: Fine.
 2 MR. KRAMER: — as best you can.
 3 THE WITNESS: Yes, sir.
 4 EXAMINATION
 5 BY MR. KRAMER:
 6 Q. The first thing I'd like to do is clarify
 7 some things about asbestos abatement.
 8 First of all, if we refer to asbestos
 9 containing material in the way the industry does,
 10 can we refer to it by the initials ACM for asbestos
 11 containing material?
 12 A. We can but if it's regulated, that would
 13 indicate friable. If it's not regulated, you could
 14 refer to transite as ACM. Anything —
 15 Q. Okay.
 16 A. — that contains more than 1 percent, you
 17 can refer to as ACM.
 18 Q. All right.
 19 A. But —
 20 Q. And that's the next distinction. I may
 21 refer to for shorthand asbestos containing material
 22 as ACM.
 23 A. Yes.
 24 Q. Now, to my understanding, would you agree

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1 as far as government entities are concerned, they
 2 classify ACM or asbestos containing materials in
 3 two broad classifications, one of which is
 4 unregulated because it's not deemed greatly
 5 hazardous to human health and the other one as
 6 regulated because it is deemed to be easily
 7 airborne, easily ingested and, therefore, a
 8 hazardous to human health that the government has
 9 regulated?

10 A. Yes.

11 Q. And continues to regulate?

12 A. Yes.

13 Q. Now, those two types, two broad classes of
 14 ACM are referred to, to my understanding, as
 15 nonfriable asbestos containing material which is
 16 the unregulated type; is that correct?

17 A. Yes.

18 Q. And friable asbestos containing material
 19 which is the regulated dangerous type?

20 A. Yes.

21 Q. If we were to describe related -- relative
 22 to say the Cleveland Trencher site the nonfriable
 23 asbestos containing material, would that be
 24 something called transite?

1 A. Yes.

2 Q. And am I correct that transite is a
 3 ceiling tile of -- like used in a dropped ceiling?

4 A. It's used mostly on -- on walls, exterior
 5 walls, panels. It could divide rooms from other
 6 rooms. It's -- it's 50 percent cement, 50 percent
 7 asbestos, chrysotile probably, but it's -- because
 8 it's bound by asbestos, it's very unlikely to
 9 become airborne.

10 Q. You mean bound by cement?

11 A. Yes.

12 Q. Cementitious material?

13 A. Cementitious, right.

14 And it can be used as -- it's used on
 15 roofing panels. On heating or cooling towers they
 16 would use it as roofing panels, of course.

17 Q. So any time that we refer to transite,
 18 we're referring to -- or transite removal, we're
 19 referring to unregulated asbestos --

20 A. Yes.

21 Q. -- materials?

22 A. Yes, we are.

23 Q. And when we say unregulated, does that
 24 mean that you need no license or special training

1 to be permitted in the state of Ohio to remove
 2 nonfriable ACM?

3 A. That's -- that's true. No notification
 4 necessary. I checked with -- just in case. Some
 5 states may have different laws but in Ohio, no, no,
 6 there is no notification necessary and you could
 7 use any worker you want.

8 Q. All right.

9 Now, the other type, the friable asbestos
 10 containing material, friable ACM, on the Cleveland
 11 Trencher site, were there two types of what would
 12 be described as friable ACM?

13 A. Yes.

14 Q. And that would be the regulated type?

15 A. Yes.

16 Q. Would those -- what would those have been?
 17 How would you describe those two types?

18 A. One -- one is called TSI or thermal
 19 systems insulation which, basically, covers
 20 boiler -- covers boilers, pipe, pipe lagging. It
 21 takes the shape of the pipe. It's -- it can be
 22 made out of cardboard, mag block, a composition of
 23 magnesium, calcium and asbestos. Cardboard sprayed
 24 insulation which is sprayed with asbestos. It's

1 usually high content. And in the second type of
 2 threatening, regulated asbestos material, it's
 3 called spray on fireproofing which is sprayed right
 4 onto the substrate of a metal deck and/or
 5 structural beams.

6 Q. All right.

7 Now, the spray on insulation at the
 8 Cleveland Trencher site, was there a specific area
 9 where there was -- was there only one specific --

10 A. Yeah.

11 Q. -- area or room where there was spray on
 12 insulation?

13 A. Yes. There was -- it looked to be like a
 14 tool room or something of that nature that had --
 15 even though it was enclosed in the building itself,
 16 it had its own little roof --

17 Q. Right.

18 A. -- like, you know -- because guys -- it
 19 looked like to keep it warm.

20 Q. Now, this was a sprawling factory site
 21 covering actually a couple of acres at least?

22 A. Yeah, it was huge.

23 Q. And numerous buildings on the site,
 24 including an office building that stretched across

1 the road frontage of the site pretty much?

2 A. Right.

3 Q. And then numerous factory buildings for

4 different parts of the factory behind that?

5 A. Right.

6 Q. And one of these would have been what

7 you're describing as the only metal building of a

8 series of buildings, some of them metal, some

9 others?

10 A. Right.

11 Q. But there was only one building that had

12 this spray on friable asbestos coating?

13 A. Right, and it was like a building inside a

14 building.

15 Q. All right.

16 So the rest of the friable asbestos

17 containing material was pipe insulation

18 effectively?

19 A. Right, Right.

20 Q. And --

21 A. A lot of that pipe insulation was on the

22 ground in certain areas just piled up.

23 Q. Do you have any reason why -- did you

24 observe any reason why it would be that way, why it

1 was on the ground?

2 A. Yes. Typically, on abandoned sites like

3 that, people will come in that have an intent to --

4 to steal the copper pipe or look for any type of

5 copper or brass, will rip the lagging off and take

6 the pipe. That's why we found a lot of areas that

7 had no pipe, just the -- sometimes we found areas

8 that had no pipe or insulation because they threw

9 it or they threw -- it was up in the rafters or it

10 was in the crawl spaces or who knows where they put

11 it.

12 Q. Did you observe this before submitting the

13 proposal to Nationwide Demolition --

14 A. Yes.

15 Q. -- in your first site -- site visit --

16 A. Yes.

17 Q. -- to evaluate the site?

18 A. Yes.

19 Q. All right.

20 Now, we described -- so we're talking

21 about two classes of asbestos containing material

22 or ACM, one of which is unregulated nonfriable ACM?

23 A. Right.

24 Q. The other is two types of friable

1 regulated ACM?

2 A. Right.

3 Q. So this project was actually submitted as

4 a two-phase project?

5 A. Right.

6 Q. The first phase involved removing of what

7 kind of asbestos containing material?

8 A. The transit paneling.

9 Q. The nonfriable?

10 A. Nonfriable.

11 Q. So that didn't require an Ohio abatement

12 contractor's license --

13 A. No.

14 Q. -- at all, did it?

15 A. No.

16 Q. It didn't require Ohio abatement hazard

17 supervisor license at all, did it?

18 A. No.

19 Q. So it was only when you got ready to start

20 phase two which was removal of the two types -- and

21 I believe Mr. Amaya testified he called it three

22 phases because he considered the two types of

23 friable asbestos --

24 A. Right.

1 Q. -- as each a separate phase?

2 A. Yes. It's just the way that he wanted to

3 run it, yeah.

4 Q. But if we just refer to it as two phases,

5 nonfriable and then removal of friable, these were

6 to be done at two separate times --

7 A. Right.

8 Q. -- on this project?

9 A. Right.

10 Q. And the second phase is the only one that

11 required the special ten-day notifications to the

12 Ohio EPA and then also to the Ohio Department of

13 Health, correct?

14 A. That's correct.

15 Q. And that phase, that second phase of the

16 work, the regulated work of removing friable ACM,

17 is the only phase that required an Ohio licensed

18 asbestos abatement hazard supervisor?

19 A. Yes.

20 Q. All right.

21 Now, we also talked about some forms that

22 we -- I think the ten-day advanced notification to

23 the Ohio Department of Health in block five,

24 item five at the top of the page talks -- asks you

1 to fill in an X in the block by the type of
 2 abatement involving at least 50 linear feet or
 3 50 square feet?
 4 A. Yes.
 5 Q. I assume that's of asbestos containing
 6 material?
 7 A. Yes.
 8 Q. And you X'd the block removal and said
 9 this was a removal project because it was part of
 10 demolition?
 11 A. Right. So it's 100 percent removal.
 12 Q. All right.
 13 The encapsulation block was not checked
 14 but an encapsulation project, if I understood your
 15 testimony, is a project where you're leaving the
 16 asbestos containing materials present at the site
 17 but you have to coat them so they don't present a
 18 danger, so they couldn't be easily -- become
 19 airborne?
 20 A. That would be a bridging encapsulation
 21 which is a very thick, heavy coating.
 22 Q. Okay.
 23 A. Now, there's another type of encapsulate
 24 called a surfactant type encapsulate. It's thin

1 and it's used after every abatement project. So
 2 encapsulation does -- abatement does include
 3 encapsulation.
 4 Q. So for the abatement project at Cleveland
 5 Trencher, although you call it a removal type of
 6 abatement project --
 7 A. Yes. Yes.
 8 Q. -- you were encapsulating --
 9 A. Yes.
 10 Q. -- the ACM --
 11 A. Yes.
 12 Q. -- as part of the removal?
 13 A. Yes. We have to encapsulate, that's true.
 14 Q. And all of the material, all of the ACM
 15 removed from Cleveland Trencher project by Asbestek
 16 and its personnel to your observation was
 17 encapsulated --
 18 A. Right.
 19 Q. -- for removal?
 20 A. Yes.
 21 Q. Thank you for clarifying that.
 22 A. Okay.
 23 Q. Now, you met with, as I understand it,
 24 Mike Collins, the owner, the principal of his

1 demolition -- small demolition company, Nationwide
 2 Demolition?
 3 A. Yes.
 4 Q. You knew him from the project the prior
 5 year involving Kinsale Contracting?
 6 A. Yes.
 7 Q. And he approached you about maybe doing
 8 some work on this Cleveland Trencher project and
 9 then doing some other work in the future?
 10 A. Yes, he did.
 11 Q. He asked you if you knew abatement
 12 contractors?
 13 A. Yes, he did.
 14 Q. And that's what -- you contacted Tomas
 15 Amaya who you knew was starting up a new company?
 16 A. Right.
 17 Q. And said would you be interested in doing
 18 this Cleveland Trencher project. It's a \$50,000
 19 project. There may not be any profit in it but it
 20 may lead to further work?
 21 A. Yes, that's true.
 22 Q. And Mr. Amaya was interested?
 23 A. Yes, he was.
 24 Q. And did he ask you if you would assist him

1 in that project?
 2 A. He asked me if I would do the paperwork
 3 and eventually do the estimating.
 4 Q. All right.
 5 And did he meet you before the time the
 6 proposal was completed at the site or was that
 7 after the proposal had been signed?
 8 A. Did he meet with me?
 9 Q. Yes.
 10 A. Before --
 11 Q. At the Trencher site.
 12 A. Oh, he met with me before, way before.
 13 the propose -- before -- before the proposal was
 14 signed. He had to look at the site. I mean, he
 15 wasn't just going to jump in blind.
 16 Q. All right.
 17 So the two of you went through the site?
 18 A. Yes.
 19 Q. Looked at the types -- the --
 20 A. The three of us.
 21 Q. Pipe insulation, the friable pipe
 22 insulation that was scattered all over the --
 23 A. Right.
 24 Q. -- the ground?

1 A. Right.

2 Q. The spray on insulation in that one steel

3 building within a building?

4 A. Yes.

5 Q. And the transite panels in various areas

6 of the building?

7 A. I'd like to point out something too. That

8 steel building, the day I saw it with Mike, was

9 intact. In other words, it was -- there was no

10 damage done. The day that we went to look at it

11 with Tomas Amaya and Mike, there was damage done to

12 one side like a side had been ripped like some -- I

13 believe it was aluminum that it was sprayed on

14 which aluminum holds some value. I don't know how

15 much but -- I don't know if it's worth even trying

16 to rip it off the walls with asbestos all over it

17 but somebody tried.

18 So somebody had -- you know, Mike pointed

19 out somebody had broke it and tried to steal the

20 aluminum. So for what it's worth, it knocked a lot

21 of asbestos on the ground and all over it loosened

22 up everything from above on the ceiling and knocked

23 it down to the machines and things that were in

24 that room.

1 Q. And that's the friable type?

2 A. Yes.

3 Q. That's the spray on that's regulated?

4 A. Right. Right. It made a big mess.

5 Q. All right.

6 Now, this site is located up on the

7 shore -- the shore of Lake Erie almost, it's --

8 A. Right.

9 Q. -- right off St. Claire Avenue which --

10 A. Right.

11 Q. -- you can view Lake Erie from --

12 A. Just about, right.

13 Q. -- the driveway, can't you?

14 A. It's right on -- yeah, it's right on the

15 tracks on St. Claire.

16 Q. It's just -- yes, it's just -- the

17 tracks -- the train tracks, multiple train tracks

18 separate it from -- from lake shore, don't they?

19 A. Pretty much, yes.

20 Q. All right.

21 And it's a several acre site and it has a

22 driveway?

23 A. Uh-huh.

24 Q. It helps if you answer yes instead of

1 uh-huh because --

2 A. Yes. Yeah. I understand.

3 Q. -- it's hard for the reporter to take it

4 down.

5 A. Yes. I'm sorry. Yes.

6 Q. All right.

7 And the driveway was secured with a

8 chain-link fence, correct?

9 A. It was -- there was a lock and a chain on

10 the fence, yes.

11 Q. But was the site actually secured from

12 trespassers or scavengers --

13 A. No.

14 Q. -- at that time?

15 A. No, it was not.

16 Q. Why not?

17 A. Because I found a door that I just opened

18 and walked right in.

19 Q. Is that in the office building --

20 A. Yes.

21 Q. -- next to the driveway?

22 A. Yes, it was.

23 Q. And does that office building lead into

24 the factory right through?

1 A. Yes, it does.

2 Q. So there was no limitation on access of

3 scavengers or intruders getting into the property

4 because the chain-link fence and the lock on the

5 chain-link fence could be bypassed in that fashion?

6 A. Absolutely, yes.

7 Q. All right.

8 Did you find any evidence of people having

9 been present other than the pipes missing?

10 A. All kinds. We found -- we found -- not to

11 get too gross but we found human excrement in

12 drawers, file cabinets. We found bedding. Bums

13 were -- we found empty bottles and -- of liquor and

14 beer and it smelled horrid. It was -- it was just

15 a mess.

16 Q. So it was obvious to you at the time you

17 first saw this site that the factory had been

18 closed for some time and not effectively closed to

19 the public from access?

20 A. No. No. Whoever was in charge of

21 security didn't care and, obviously, a lot of

22 people got in there when they wanted to at any

23 time.

24 Q. Did you see evidence of scavenging of more

1 than just copper pipe from throughout the plant?

2 A. Sure. Wires. You could look and see a

3 lot of broken -- I know a lot about electrical

4 work. So could you see a lot of broken -- what --

5 they're called the insulation bars. And back then,

6 they used -- they used a series of materials but it

7 was broken so that they could pull the wires. They

8 didn't bother unscrewing nuts and bolts. They just

9 break them with a hammer and pull the wires.

10 Q. And why would they pull the wires?

11 A. They're copper.

12 Q. To sell the copper?

13 A. Yes.

14 Q. To take the copper and sell it?

15 A. The copper wires, that's one way to get

16 them out. You get -- you go to the box. You try

17 to find places where you can cut and then you hit

18 the box and pull it.

19 Q. All right.

20 Now, before we move on to other areas --

21 and I know you've gone over this in other parts but

22 I'd like this deposition to be concise and

23 organized for my purposes with you as a witness.

24 Can you give me a chronological history of

1 your background and experience in the asbestos

2 removal industry?

3 A. Well, I started out in asbestos

4 approximately 1985, '85 with Colfax Corporation. I

5 soon went from Colfax Corporation to Asbestos

6 Control where I worked in the research and

7 development department. I later -- they dissolved

8 the research and development and I later went out

9 in the field as a supervisor. From there, I

10 went --

11 Q. Is that a supervisor for asbestos removal

12 and remediation?

13 A. For asbestos, yes. Supervisor for

14 asbestos removal.

15 Q. And how long were you engaged with Colfax

16 in those capacities?

17 A. Colfax, I was engaged about a year. ACI,

18 approximately two to three years. But ACI, I -- I

19 had left and came back. I -- I worked for ACI on

20 at least three different occasions. And it was not

21 typical to leave the site under good conditions.

22 They have no work for you, well, I understand. I'm

23 going to go check around and then you get hired

24 somewhere else but then they call you up are you

1 available? And you go back.

2 Q. All right.

3 A. That was how the business ran. So I

4 worked for ACI three times, three separate

5 occasions until they went out of business.

6 They had some very bad luck one year.

7 They had a fire, they had a death. They had two

8 fires, actually. They just -- they couldn't no

9 longer sustain business.

10 Q. All right.

11 And your work at ACI was largely as a

12 removal supervisor?

13 A. Yes.

14 Q. Were you licensed at that time to do that?

15 A. Yes. I've been -- I've held a license for

16 over 20 years. This is the first year I did not

17 get a license but I still have a certificate. I

18 still took the course thinking I might work this

19 year but my health has deteriorated terribly and

20 I -- I thought it would be foolish to even try. I

21 can't keep up as a supervisor or a worker.

22 Supervisors typically when things -- when

23 things go bad or get very difficult, they have to

24 throw in and work just as hard, if not harder, than

1 the workers and sometimes put in a lot of hours and

2 my health would not permit me to do that and --

3 Q. I noticed you appeared here -- you're

4 using a cane, a walker?

5 A. Yes. I have -- I have a chronic back

6 condition. I have two bad knees. I have bipolar.

7 I've been treated for bipolar disease for about six

8 years now. I've got a bag full of pills I carry

9 around for asthma. I have asthma. I have three

10 different pills I take for blood pressure. I have

11 hypertension, high blood pressure.

12 I even got a note from my doctor for you

13 not to upset me no more. It's something that I

14 just happened to have a doctor's appointment last

15 week and I told him I got pretty upset and he says

16 watch your blood pressure because it can -- it can

17 go up quickly and it did.

18 Q. So for health reasons, you, basically,

19 have had to retire from what's been your livelihood

20 since what, 1987 I believe you said?

21 A. Yes. 1985, actually.

22 Q. 1985?

23 A. Yes.

24 Q. Take us through the rest of your