

1 resolve some of the issues so we could start
 2 abatement on the other part of the building. I was
 3 never a part of that at that time.
 4 Q. Was this the old factory that was owned by
 5 this Indian person?
 6 A. Yes.
 7 Q. Okay.
 8 A. I can't remember his name. I can't
 9 remember specifics. But I put together a small
 10 crew. I hand picked these people. And then he
 11 gave me one of his foremen, his top foreman and we
 12 did all the work that was -- that was scheduled
 13 that we had the notifications in to do. And then
 14 we had the Indiana inspectors come out and, again,
 15 watched the project while it was going on and they
 16 liked the way it was going. All good marks.
 17 Q. Okay.
 18 Let's talk about the paperwork for this
 19 job.
 20 Did you have any involvement in
 21 preparation of the paperwork that would be
 22 submitted to the government?
 23 A. No. Dave Dobos was -- basically, did all
 24 of the paperwork. He was the vice-president of

1 Kinsale. He was the project manager there,
 2 estimator. He wore several hats but he brought the
 3 job to me. I was -- my job was just to make sure
 4 no one got hurt and got through it with no
 5 casualties and make some money, you know. But it
 6 was -- it was a pretty difficult job.
 7 Q. You said that he gave a foreman.
 8 Who is he? You said --
 9 A. Oh, Dave Dobos.
 10 Q. Okay.
 11 A. He asked me if I had some people I wanted
 12 to bring, bring in. And I looked at his -- you
 13 know, again, you know, since I -- I know a lot of
 14 workers, they jump around. I looked at his current
 15 lineup of who he had and I picked a few Polish
 16 workers that I knew.
 17 Q. And Dave worked for Kinsale?
 18 A. Yes.
 19 Q. Okay.
 20 So I believe that you said that for
 21 Kinsale, you worked on a number of projects,
 22 correct?
 23 A. Well, a few.
 24 Q. A few?

1 A. Yes. I only remember the big ones.
 2 Q. How many big ones?
 3 A. That one was the biggest. I've done a
 4 couple where it was just me and another guy, you
 5 know.
 6 Q. And that would be a small scale project?
 7 A. Yes, one-day job.
 8 Q. Okay.
 9 A. I did a few of those, one or two, two-day
 10 job. You know, there's a closet in a restaurant in
 11 downtown Chicago. It's got a -- one of the valves
 12 has got to be replaced so we remove an elbow.
 13 Q. Right.
 14 A. It takes less -- it takes more time to
 15 unload the equipment and set it up than it does to
 16 do the work. But all the paperwork for Kinsale was
 17 down in house by their management staff.
 18 Q. For -- I'm sorry. I didn't mean to
 19 interrupt.
 20 A. Yeah. They had a comprehensive management
 21 staff. They just were -- Kinsale was probably one
 22 of the better companies as far as having a lot of
 23 people know what was going on. They were very well
 24 equipped. They were well prepared. They had --

1 everybody had a job and they did just their job.
 2 They didn't -- there wasn't conflicting problems
 3 that you have with some small companies like I had
 4 with Tony's company.
 5 For instance, when it got -- when things
 6 got tight, I was asked to do a lot more and there
 7 was a lot more pressure on me. That's part of the
 8 reason why I left. It was just too much. It got
 9 to -- LVI was the same way. When they started to
 10 move their people in, they were putting more
 11 pressure on the project management that was there
 12 and if we weren't producing and we -- you know, we
 13 were pretty much left in the cold so. Kinsale,
 14 they didn't work like that. They took care of
 15 their crew, their staff. They were very good.
 16 Like that's why I said they -- I remember the big
 17 projects because, of course, they're memorable but,
 18 you know, these one-day things here and there.
 19 They gave the foremen and the upper management that
 20 or anybody just to keep them working, just to give
 21 them a paycheck. They were conscience enough to
 22 care about that.
 23 Q. Okay.
 24 And your position at Kinsale was a project

1 manager?

2 A. No. Foreman.

3 Q. Okay.

4 A. Supervisor, foreman. At the job site, I

5 was hands on.

6 Q. So with respect to paperwork while you

7 were at Kinsale, the management took care of the

8 governmental related paperwork, correct?

9 A. Yes, all the submittals.

10 Q. All the submittals.

11 And you were the foreman?

12 A. Right.

13 Q. So you were in the charge of a labor crew?

14 A. Right.

15 Q. Especially at the big projects, correct?

16 A. Right.

17 Q. And that would also include any of the

18 paperwork that was required for making sure that

19 any worker had the PPE --

20 A. Yeah.

21 Q. -- correct?

22 Which is the personal protective

23 equipment?

24 A. Protective equipment, right.

1 Q. And the time cards?

2 A. Yes.

3 Q. And things of that nature?

4 A. Yes.

5 Q. Safety meetings?

6 A. Yes.

7 Equipment.

8 Q. Equipment log, correct?

9 A. Yes.

10 Q. And that would have been something also

11 that you were in charge of at Safe Environmental?

12 A. Waste. Right. Strain.

13 Q. Waste?

14 A. You know, status close out. Everything

15 that involved -- you know, we did the job now.

16 What -- what did you -- I would get a phone call,

17 you know, tell Jose or whoever was working with me

18 to call the office. That usually means they don't

19 have anything for them or I would send them to the

20 warehouse. They would give foremen that were --

21 they had key foremen they would try to keep

22 working. They would give them warehouse hours so

23 they would go to the warehouse and work just to

24 keep a paycheck.

1 Q. All right.

2 A. Cleaning equipment, things of that nature.

3 Q. Okay.

4 At Kinsale, did you prepare any proposals?

5 A. No.

6 Q. Okay.

7 In any of these particular -- Ill.

8 withdraw that question for a minute.

9 And when did your work with Kinsale come

10 to an end?

11 A. This is in the middle of that LaPorte job

12 with Nationwide Demolition, Mike Collins. It came

13 to a halt. We had a couple of meetings with the

14 mayor and we couldn't get the -- there was -- there

15 was discrepancy on the lots of land. One building

16 was on this lot. Another building that we wanted

17 to start that we had already started was on another

18 lot. And then we were told we weren't supposed to

19 start there. It just got very convoluted and they

20 couldn't -- you know, we left equipment in a lockup

21 area that I used for all of our equipment and

22 supplies. We left that there for probably a couple

23 of months because they couldn't get this worked out

24 with the mayor's office and with everybody

1 involved, the owner. The owner wanted to -- did

2 not want to pay taxes on it, was willing to give

3 the land to the city.

4 Everybody, you know, was trying to work it

5 out but it just didn't seem to -- it was just a

6 battle. I wasn't a part of the battle. I was just

7 waiting for the green light, you know, when could I

8 get to work.

9 Q. Okay.

10 Did you ever get that green light?

11 A. No. Somebody else did, though. It came

12 after I left Kinsale. The foreman that was hand

13 picked by Dave to work with me ran the rest of the

14 job. I'm not sure how it went after that but from

15 what -- what Mike told me, they got through it and

16 they did okay.

17 Q. Okay.

18 And that was the last time that you worked

19 for Kinsale?

20 A. Yes.

21 Q. Okay.

22 And what sort of work did you do after

23 that? By the way, was that 2008?

24 A. Yes.

1 Q. Okay.

2 And what did you do after that for a

3 living?

4 A. Actually, during that, I received a call

5 from Tomas and he told me that he had his own

6 company that he put together and asked me if I'd be

7 interested in doing some work, you know, for him.

8 I said -- I asked him if he had some jobs. He said

9 well, no, not right now but he's working on it. I

10 said, well, you still working for Tony? He says

11 yes, but he's got people. He's got friends in

12 Indianapolis. He's got people he can get -- he

13 made it sound more than it was.

14 Q. Okay.

15 Let's go back a little bit with Tomas

16 Amaya.

17 MR. THOMAS: Are you good? Everyone good?

18 THE WITNESS: I could use a drink if that's all

19 right.

20 MR. KRAMER: Yeah. Let's take five.

21 MR. THOMAS: Take five?

22 THE WITNESS: That would be great.

23 MR. KRAMER: How about it, Louis? You need

24 five, don't you?

1 MR. GILBERT: Yeah, I do.

2 THE VIDEOGRAPHER: We're off the record at

3 11:43 a.m.

4 (A short break was taken.)

5 THE VIDEOGRAPHER: We're back on the record at

6 12:08 p.m.

7 MR. THOMAS: Thank you.

8 BY MR. THOMAS:

9 Q. Good afternoon, John.

10 A. Hello.

11 Q. Right before our short break here, you had

12 mentioned Mr. Amaya and I'd like to ask you a few

13 questions about him, Tomas Amaya, correct?

14 A. Yes.

15 Q. When did you first meet Tomas?

16 A. I met Tomas on the first job site that I

17 was working with Safe Environment. He was at a

18 school that Tony had underway and I met Tony out at

19 the school and Tomas was running an area and I was

20 requested by the on-site project manager to run the

21 other area.

22 Q. Okay.

23 And throughout your career at Safe

24 Environmental, did you have occasion to interact

1 with Tomas Amaya on a number of jobs?

2 A. Yes, we worked -- he was the number one

3 foreman. We worked on quite a few projects. He

4 also had -- they had what's called regular

5 contract -- a standing contract where they would do

6 routine work at the same plant for a year. They

7 would renew it every year. Tomas overseen that

8 most of the time. So in between regular jobs that

9 would pop up, Tomas would go to this place and do

10 whatever needed to be done at that particular

11 project.

12 Q. So you worked with him regularly then --

13 A. Yes.

14 Q. -- on projects?

15 A. Yes. Not -- I worked in the office a lot.

16 I had an office. I had a desk. And my other

17 office was my -- my truck, my mobile office. So I

18 was moving from job to job. And when I wasn't on a

19 job site, I was at the -- at the office talking to

20 somebody about a job.

21 Q. At Safe Environmental?

22 A. Yes.

23 Q. So you had a physical office there,

24 correct, like a desk?

1 A. Yes.

2 Q. All right.

3 And who else had an office at Safe

4 Environmental?

5 A. Let's see, Thomas Chung. He was one of

6 the administrators. Sheila Paganelli at the

7 beginning when she still worked there. Lisa Page,

8 she was the receptionist. And Tony had his office

9 but he rarely used it. He was on the go most of

10 the time or was in the central area which Sheila --

11 or Lisa and I actually shared that big open area

12 was our office. It was a combined office. They

13 eventually did give me my own little office but I

14 didn't like it. I went back out in the central

15 area.

16 Q. Was there a place at Safe Environmental

17 where licenses were kept, contracting licenses?

18 A. I assume one of the filing cabinets. I

19 don't know where they kept all the... I knew where

20 they kept the records for the personnel. That's

21 the only file I ever needed to go to.

22 Q. Because that was what you were in charge

23 of only, right?

24 A. Pretty much, personnel, yes, hiring. Just

1 to see their records, what they were good at,
2 whatever. Yeah, Thomas Chung was — he overseen
3 all the other documents and files. I would have no
4 idea where they were kept.

5 Q. And did Tomas Amaya have an office there?

6 A. No.

7 Q. Do you know how regularly he would show up
8 at the office?

9 A. He'd be there on payday. Just to pick up
10 a check or equipment, to load up equipment or drop
11 off equipment. He did not frequent the office as
12 much as — well, actually, he didn't — as much as
13 any other foreman. I mean, Nick frequented the
14 office about the same. We had a few sub foremen
15 that when more jobs were going on, that they would
16 come to the office and get what they needed, you
17 know. Everybody was responsible for keeping up on
18 their own needs. If they needed something, they
19 didn't bother me with the little things.

20 Q. Did you have a personal relationship with
21 Tomas Amaya?

22 A. He had talked about going into business
23 and this and that but a lot of guys in the business
24 especially when you get up to foreman, you talk

1 about it because, you know, you're privy sometimes
2 to see how much money the contract is bringing in
3 and it all seems to be, you know, worth going into
4 business yourself.

5 Q. What is your assessment about Tomas Amaya
6 when respect to his professional abilities?

7 A. He was a good foreman. He lacked verbal
8 skills. He was not — he was not very good at
9 translations. He didn't understand certain things
10 that were necessary to run a job effectively. He
11 was pretty abusive to the workers and I talked to
12 him about that on a few occasions. He — he was a
13 great guy, he was a nice guy but if he brought
14 somebody in to work, he was especially hard on his
15 own relatives or people that he brought in because
16 he made them feel like, you know, I got you a job
17 and you better work harder than everybody else.
18 And I told him that's not the way things work.
19 These guys are, you know, to be treated fairly,
20 equally.

21 Q. Did he change after you advised him?

22 A. Absolutely.

23 Q. Like day and night?

24 A. Oh, yes. Tomas looked up to me. Anything

1 I suggest or say, he was -- he wasn't
2 confrontational.

3 Nick, on the other hand, Nick Carellis,
4 the other foreman, it was sour grapes from the time
5 I set foot in the door. As a matter of fact, he
6 told Sheila that I was prejudiced and had charges
7 of racial bias that I didn't like Mexicans which I
8 was — I had -- my best man at my wedding was
9 Hispanic. It was unfounded.

10 But I asked Thomas about why does Nick got
11 a chip on his shoulder and it was all due to the
12 fact that they brought me in as project management
13 and Nick felt that that was, you know, due him,
14 that he should have got it. Nick was better
15 linguistically but he wasn't the sharpest blade in
16 the box. And I seen some of the things that he did
17 on the job site that I had to correct him, just
18 some really dumb things that — dragging demolition
19 through — through a classroom on a new floor to
20 get it out the window to save a few steps and ruin
21 a whole floor.

22 Q. That was Nick?

23 A. Yes, that was Nick.

24 Q. With respect to Amaya's lacking of verbal

1 skills, that was because of the language barrier?

2 A. Yes.

3 Q. And he was aware of that, wasn't he?

4 A. Yes.

5 Q. Okay.

6 A. A matter of fact, that's — that's why he
7 said what his take on my input for his company, he
8 says, you know, you can talk better to the white
9 guys than I can. You know, you have the — you
10 know, he didn't put it this way but he made it, I
11 have the skills to do that. He says you got the
12 background and you can talk better. I'm not so
13 good with the language so.

14 Q. So he would know that if he communicated
15 to somebody about something critical that there
16 could be a possibility that somebody did not
17 understand him?

18 A. Absolutely, yes.

19 MR. KRAMER: Objection.

20 THE WITNESS: And that did happen on a few
21 occasions.

22 BY MR. THOMAS:

23 Q. Can you tell us about some of those
24 occasions, some of the critical ones?

1 A. Critical, well, he would -- he would say
 2 something -- he wouldn't get the big picture
 3 sometimes. He would -- I would say do you think
 4 your crew can finish this area and he -- before he
 5 would even think about it, he would say yes. He
 6 was a yes man. I'd say now, Tomas, I want you to
 7 think about it a minute. You didn't even really
 8 look at it that well. I mean, I got to know
 9 because if you can't, then we'll put some more
 10 manpower on it now before we get into trouble. But
 11 he was always of the opinion that he was
 12 invincible, his crew was invincible. He would get
 13 the results by force if he had to. He would push
 14 it and sometimes he did. He had these guys working
 15 ten, 12 hours. And I told him that's too much.
 16 You got to give these guys breaks. They got to
 17 take water breaks. There's a lot of -- it's just
 18 common sense. You know, you treat a worker good
 19 and they're going to work better for you.

20 Q. Would he, in addition to going against
 21 common sense, sometimes break regulations with
 22 workers?

23 A. No, I wouldn't say that. He wouldn't put
 24 me in jeopardy by breaking regulations but he may

1 break one without realizing he's breaking one, you
 2 know. Something simple as -- OSHA regulations are
 3 pretty stringent but a lot of guys, they overlook
 4 the unobvious ones like, you know, light, is it lit
 5 enough in this area? I mean, they've got it down
 6 to how many lumens you're supposed to have in a
 7 certain work area. He'll give a guy a flashlight
 8 and send him in a crawl space to go take care of
 9 something. And it's really got to be lit up a
 10 little bit better than that. The flashlight goes
 11 out. He's in a dark space, now what? You know, I
 12 mean, we got confined space entry issues. Things
 13 that he doesn't think about he views as unnecessary
 14 and, you know, a real man doesn't need all that,
 15 you know, or whatever.

16 Q. Did that bother you or worry you at
 17 particular job sites?

18 A. Well, sure.

19 Q. Did you ever report him to your superiors?

20 A. No.

21 Q. Do you know why not?

22 A. There was never an infraction that was
 23 justifiable enough to where I couldn't handle --
 24 you know, I mean, if I did tell him something, he

1 would correct it. He would -- you know, he was --
 2 like I said, he wasn't confrontational.

3 Now, Nick I did report more than once for
 4 violations, basically, simple violations. But
 5 Tomas pretty much after a few words, he would do
 6 what I said.

7 Q. Okay.

8 A. He would not like it but he would do it.

9 Q. Because you were a supervisor and he was a
 10 foreman, right?

11 A. Yes. And he had respect for me also. It
 12 had nothing to do with rank. It was more he
 13 respected my judgment. Nick did not like me. He
 14 would -- if I asked him to pick it up, he would
 15 slow down intentionally and let me know that he's
 16 doing that. And it got to the point where
 17 reporting it did not do any good because they --
 18 that's just the way Nick is, okay. He's just got a
 19 chip on his shoulder so.

20 Q. If --

21 A. I had to put up with it.

22 Q. If you had a situation where Tomas Amaya
 23 was doing something that you felt was inappropriate
 24 like the flashlight in the crawl space or ignoring

1 other OSHA regulations, would you ever accept his
 2 way of doing things or would you sort of tell him
 3 what the right way to do things was?

4 MR. KRAMER: Objection.

5 MR. THOMAS: You can answer it.

6 THE WITNESS: No, I -- I don't accept his way
 7 of doing things. It's -- that's it. You know,
 8 he's going to do it my way. I mean, if it takes
 9 two flashlights, then, you know. We're going to
 10 get to some better understanding of why I'm doing
 11 this if I have to explain to him it's an OSHA
 12 violation. It's not just because it's an OSHA
 13 violation. How would you like to be the guy down
 14 there that has a bad flashlight and you just
 15 crawled 200 yards? Think about putting yourself in
 16 your shoes. Don't ever put yourself -- another man
 17 in a position that you wouldn't yourself put
 18 yourself in. And he says I would do it. I says,
 19 well, then you're a foolish man. I says don't do
 20 that to my crew. I says my responsibility is the
 21 crew and whether or not they get hurt is my
 22 responsibility as well so I don't want them to get
 23 hurt. And, obviously, in a crawl space where it's
 24 pitch black and you're without light, you could

1 yell and guys are instructed to stay, sit still,
2 don't move, we'll get to you in the event of a
3 power outage. That's even if we have string lights
4 set up. It happens but don't panic. We go over
5 this in safety, you know, safety reviews. Every
6 time we have a safety review, these things are
7 brought up.

8 Don't use extension cords that have cuts
9 in them. I see guys using them. I'll grab them,
10 I'll pull them, cut the ends off, throw them away.
11 It's that simple. It's not worth a \$20 extension
12 cord to have somebody electrocuted.

13 Q. What's the most dangerous thing that you
14 saw Tomas Amaya do that required your interference?

15 MR. KRAMER: Objection.

16 THE WITNESS: You know what, Tomas was too good
17 of a foreman. He was a pretty good foreman. I
18 can't really say that he did anything that
19 dangerous. Nick did lack of -- he just wasn't that
20 good.

21 MR. THOMAS: I understand that you have a
22 perspective about Nick but --

23 THE WITNESS: I know. I know you're talking
24 more about Tomas. I would have to say, okay,

1 there's one. He was taking down some transite. He
2 was on a lift. The job was in Gary. In
3 particular, it was thin transite, quarter inch but
4 the sheets weighed enough -- transite is 50 percent
5 cementitious so it's fairly heavy, even the thin
6 stuff. They were taking it down in pieces. Tomas
7 was on one lift and Nick was on the other lift.
8 And I had a floor guy, a guy on the ground. And he
9 was -- any time a piece would break, which it
10 happens, we try to take it down in whole sections
11 but it didn't work that way. They would put it in
12 the lift and bring it down. But when a piece would
13 fall, I had the floor guy go get it. Now, the
14 floor guy went there, Tomas was still removing. I
15 said stop right now. I says you don't go
16 underneath a lift when a man's working because that
17 whole sheet can fall and it can kill you. And,
18 Tomas, you don't work when you know that you have a
19 floor guy. Always check below you. Don't keep
20 working without once in a while looking down and
21 surveying the situation because you could hurt
22 somebody without even knowing it. And he was on
23 one side of the wall and Nick was on the other and
24 they were working against each other and one of

1 them was going to get hurt. I said spread out. I
2 had to separate the two. That's basically -- I
3 told Tomas, he was the one that was trying to
4 impress me and trying to show Nick that he could do
5 it faster. And it wasn't a race. I says you guys
6 spread out, get away from each other and watch your
7 floor man and ground guy or I'll take one of you
8 off. We'll do this a different way. But that was
9 the most serious. Nothing happened but it was one
10 of those it could, it could happen.

11 MR. THOMAS: Okay.

12 BY MR. THOMAS:

13 Q. Now, I think I've asked you this a couple
14 of times but I just want to reask this before I ask
15 a few more questions.

16 Amaya was a foreman --

17 A. Yes.

18 Q. -- under you, correct?

19 A. He was foreman for Safe Environment
20 whether it was under me or Tony. Tony had -- Tony
21 would use just as much -- when Tony came on site,
22 they listened to Tony whether they had instructions
23 from me or not. They would never say, well, John
24 told us to do that.

1 Q. Okay. Fair enough.

2 A. They would say whatever you say, Tony.

3 Q. All right.

4 With respect to his -- excuse me -- with
5 respect to Tomas Amaya's responsibilities as a
6 foreman, what was he responsible for?

7 A. Well, the same thing as all foremen, the
8 crew's -- the crew's safety, production, safety of
9 the equipment, care of the equipment. If you're
10 using a lift, make sure it gets plugged in at the
11 end of the shift. You don't want to start a shift
12 with a dead -- anything that could disrupt or mess
13 the job up.

14 He was responsible also for paperwork,
15 that was another thing that I had. He was not very
16 good at keeping the paperwork. He was a good
17 worker and good at placing people but as far as
18 getting the paperwork filled out, he was not -- he
19 was not very good at it but I would attribute that
20 also to the language, cultural barrier, he being
21 from the Honduras and he wrote -- he wrote very
22 slow. And I don't know what his education level
23 was but he hated paperwork. Most foremen do.

24 Q. Did he make mistakes on paperwork that

1 you'd have to correct?

2 A. No. His paperwork was pretty simple. You

3 write a guy's name down, you have a guy sign in.

4 You put the date. If you get the date wrong, I

5 mean, it's something that I -- I'll catch. I

6 review all the paperwork that's handed in. But no,

7 there's nothing that critical that he could make a

8 mistake that would make or break a job.

9 Q. Did he prepare any paperwork for

10 submission to the government?

11 A. For Safe Environment, no.

12 Q. Okay.

13 Did he do it for somebody else?

14 A. For his own company, yes.

15 Q. Okay.

16 How would you describe the difference

17 between your expertise in these abatement projects

18 and Tomas Amaya's?

19 A. I got a background in electrical

20 mechanical engineering besides audio engineering.

21 I have a reputation in the business for coming up

22 with ideas and ways to get something done safely

23 and save the company money and people knew that in

24 the business which is why I jumped around from

1 company to company and I was, at one time, in

2 demand.

3 Q. And is it fair to say also that in any of

4 these projects, you were a supervisor whereas Tomas

5 was a foreman?

6 A. That's synonymous pretty much. I mean,

7 supervisor, foreman. I don't know what you mean.

8 Q. Well, when you would be at some of the job

9 sites, for example, telling Tomas slow down, don't

10 drop that stuff --

11 A. Right. Right.

12 Q. -- on the worker below you --

13 A. Right.

14 Q. -- he's a foreman and you're a supervisor?

15 A. Yes. I'm spending my time -- I'm a

16 project manager or supervisor, whatever. I'm

17 spending my time at that job so I'm watching the

18 crew work, yeah, but it's my responsibility to

19 point out anything that could make the job more

20 efficient.

21 Q. Were you doing labor, physical labor?

22 A. It depends. If the job was falling

23 behind, yes, sure.

24 Q. Okay.

1 A. If the job fell behind, I had to get in

2 there and do what I could. Sometimes Tony would

3 come by that job in particular that we were just

4 talking about where Tony came by and pulled Tomas

5 off and needed to take him somewhere else. And

6 Tony would do this all the time to me.

7 Q. Okay.

8 A. And I would tell him that you're killing

9 my crew. I'm already short, shorthanded and now I

10 had to stay there the rest of the shift and we put

11 in an 18-hour day that day.

12 Q. Okay.

13 When in your career did you receive

14 training from anybody as to how to fill out a

15 ten-day notification?

16 A. Well, there's instructions that go along

17 with ten-day notifications, pretty much just follow

18 the instructions. I don't believe anybody ever sat

19 down and showed me how to fill out a ten-day

20 notification. LVI probably would have been my

21 first experience getting the specifics to Lorna but

22 she still would fill out the ten-day notification.

23 She would ask -- you know, I got to the point where

24 I -- instead of asking me the questions, I just

1 gave her the answers that I knew she was going to

2 ask me.

3 Q. Okay.

4 So you never received formal training in

5 filling out a ten-day, right?

6 A. No.

7 Q. Have -- had -- have you ever filled out a

8 ten-day notification?

9 A. Yes.

10 Q. And when did you do that?

11 A. I did that for Tomas on the project in

12 Cleveland in Euclid.

13 Q. Okay.

14 Other than this project in Euclid, did you

15 ever fill out a ten-day notification?

16 A. No.

17 Q. Okay.

18 What sort of things are required for a

19 ten-day notification? What sort of information do

20 you have to put on that form?

21 A. Well, the main -- some of the main things

22 is the duration, the start dates, when you

23 anticipate the job to complete, the foreman that's

24 going to be in charge of the project.

1 Q. Is that the specialist?

2 A. Yes.

3 Q. Okay.

4 Can we call that specialist for purposes
5 of this?

6 A. Sure.

7 Q. Okay.

8 A. Sure. The address of the building that's
9 under abatement, the category of material that's to
10 be removed, whether it's RACM, friable, nonfriable
11 the linear footage, square footage, cubic meters,
12 whatever, the amount that was anticipated to be
13 generated. We would go off the takeoffs. You
14 know, it would be so many linear feet of pipe.
15 They would ask the address, name and address of the
16 owner of the building, the age of the building,
17 number of floors, square footage of the property,
18 the particulars that were -- you know, the address.
19 Like I said, the zone. If it's in Chicago, is it
20 Cook County? Cook County had different
21 requirements except the City of Chicago was exempt
22 from Cook County EPA rules and regs. Anything else
23 in Cook County was subject to an additional ten-day
24 notification so you're making can out a ten-day

1 notification to the IDPH plus you're making one out
2 to the EPA Cook County and paying a fee as well
3 depending upon -- it's usually a \$1,100 -- it was
4 then. I don't know if it's gone up since. But in
5 my day when we were doing it, it was \$1,100 you pay
6 Cook County to remove floor tile.

7 Q. Okay.

8 Did the ten-day notification also have a
9 spot where you would indicate who the contractor
10 doing the abatement was?

11 A. Yes. Oh, yes, the contractor, the name
12 and address of the contractor. The purpose,
13 renovation, demolition. Again, I'm thinking back
14 because this is something that -- a lot of stuff is
15 obvious. You know, the information that they
16 wanted was just, basically, so they could send
17 somebody out there to investigate the job and make
18 sure, you know, it's going smooth so.

19 Q. For the contractor, you said the name and
20 address.

21 Would you also need a license?

22 A. Absolutely.

23 Q. Okay.

24 A. Yes. The license number also of the

1 foreman that you might have picked, I believe that
2 was on there as well and the contractor's license
3 is -- I think it was a 500 number, 500-something.

4 Q. Okay. Let me ask you a few questions.

5 about the second thing you mentioned, the
6 specialist that we're going to call that you would
7 put on this -- the thing.

8 What was the -- what was the purpose for
9 having to put that down, that information down?

10 A. The purpose?

11 Q. Yes.

12 A. Well, it was a required -- a requirement
13 before you could proceed. If you did not have this
14 ten-day notification in place and an inspector came
15 on site, he'd want to see a copy of the ten-day
16 notification, you're in violation.

17 Q. Well, let me -- let me back up a little
18 bit.

19 One of the first things that you a
20 mentioned about the ten-day notification was the
21 start date?

22 A. Yes.

23 Q. And the end date, right?

24 A. Right.

1 Q. When you were filling out the
2 notification, you would fill out the start date
3 that you believe the project to begin, right?

4 A. Right.

5 Q. So if the planned start date was, for
6 example, January 1st, you would write January 1st?

7 A. Right.

8 Q. Okay.

9 If you planned on putting the start
10 date -- I'm sorry. If the planned start date was
11 January 1st, would you write February 1st?

12 A. No. That's called a revision. As much as
13 we'd like to go with the start date, January 1st,
14 that ten-day wait period, sometimes something would
15 come up, we can't get the lift, we can't get this,
16 the manpower, we're going to have to put in a
17 revision.

18 Q. I understand about revisions. And
19 actually, I'm not contemplating those right now but
20 for my question, if the start date is
21 January 1st --

22 A. Right.

23 Q. -- and there are no issues, would you
24 write any other date other than January 1st?

1 A. No. You write the date that you intend to
 2 start.
 3 Q. Okay.
 4 Because that would be something that would
 5 be true about —
 6 A. Right.
 7 Q. — the work, right?
 8 A. Right. Yes. Everybody's on board with
 9 this start date, yes.
 10 Q. Okay.
 11 With respect to the specialist, my
 12 question is the same, would you put a specialist in
 13 the ten-day notification that wasn't going to be on
 14 the job?
 15 A. No, but it happens. That particular job,
 16 Carlos Bonilla —
 17 Q. I'm not asking you about that yet.
 18 A. All right.
 19 Q. I just want to know in general.
 20 A. I know where you're going, though.
 21 Q. I'm sure you might but I'd like you to
 22 answer the questions.
 23 With respect to the specialist, what do
 24 you think is intended by filling that information

1 out?
 2 A. You put a foreman's name that you think is
 3 going to be available.
 4 Q. Okay.
 5 A. And I stress that you think is going to be
 6 available. It doesn't necessarily happen.
 7 Q. Okay.
 8 If it doesn't happen, do you file a new
 9 ten-day notification?
 10 A. Not required.
 11 Q. Okay.
 12 But all that — so what you're saying is
 13 all that's required is putting down a foreman that
 14 you think is going to be available, right?
 15 A. Right, but as long as you have a foreman
 16 that's -- that's licensed and has all the
 17 credentials on site, you're okay.
 18 Q. Well, certainly, they have to be licensed
 19 or it's not going to be accepted, right?
 20 A. Right.
 21 Q. So we agree that that's a necessity?
 22 A. Right.
 23 Q. But you're telling us it's also a
 24 necessity that at the time you fill out that form

1 you think that that specialist is going to be part
 2 of the job?
 3 A. Yes — well, you would like that — yes,
 4 you hope that foreman is going to be available and
 5 you think that foreman is going to be available and
 6 that's how you fill it out.
 7 Q. Well, when a person is filling out a
 8 ten-day notification and they indicate who the
 9 specialist is, are they making a representation to
 10 the Department of Health that that person is likely
 11 going to be there?
 12 A. Yes.
 13 Q. Okay.
 14 Are they making a representation that that
 15 person has nothing to do with the job site?
 16 A. No. They're —
 17 Q. Okay.
 18 A. They're putting down the name of the
 19 person that they intend to run that job.
 20 Q. Okay.
 21 And what does that mean, run that job?
 22 A. Supervise the project, that's familiar
 23 with the project.
 24 Q. And does supervise mean be on site?

1 A. Yes, absolutely, the on-site supervisor.
 2 Q. You couldn't run that site from across
 3 state lines by phone, right?
 4 A. No.
 5 Q. Okay.
 6 What about the contractor that is put down
 7 in that ten-day notification. I should ask you a
 8 question, I suppose.
 9 When you list a contractor or when one
 10 lists a contractor on the ten-day notification,
 11 what is the purpose for listing that contractor?
 12 A. To let the environmental — EPA and all
 13 the authorities know that this is the contractor
 14 that is doing the work.
 15 Q. Okay.
 16 Now, tell us what that means, doing the
 17 work?
 18 A. Well, the work that's described in the
 19 ten-day notification. If it's asbestos abatement
 20 and it's in regards to demolition, then it's
 21 demolition work. If it's asbestos abatement that's
 22 selective, then it's selective demolition work. If
 23 it's whole building demolition work, then it's
 24 asbestos abatement in its entirety until it's

1 completed so that the building can be demolished.

2 Q. Well, you've, I think, effectively
3 described what is required for any particular job
4 but what I'd like to know from you is what that
5 means with respect to the contractor in doing the
6 work.

7 Does the contractor, for example, show up
8 on the site?

9 A. The contractor is supposed to show up on
10 site.

11 Q. Okay.

12 A. He's -- he has the -- he's -- he is
13 contracted. He has an obligation to show up on
14 site.

15 Q. Okay.

16 What happens if the contractor violates
17 that obligation and does not show up on site?

18 A. Then I put in -- personally, I go after a
19 change order for the time lost. I look into the
20 reasons that it did not take place. I pull the
21 crew. We cease and desist any work. And I let
22 them know that now we have to look at the fact that
23 we may have to renegotiate the contract as well as
24 the ten-day notification.

1 Q. Okay.

2 And if the specialist, now back to number
3 two, the second point you gave me about what is
4 required in a ten-day notification, if a specialist
5 doesn't show up, you don't have to do a change
6 order; is that correct?

7 A. Right. That's pretty much our business
8 is -- as long as we have somebody that represents
9 or the abatement contractor has somebody that
10 represents their company and he's -- in the
11 abatement contractor's eyes, all the foremen are
12 equal. It's the project managers that make the
13 distinction between who's a better foreman than the
14 other guy.

15 Q. Where did you learn this protocol that if
16 a specialist listed on the ten-day doesn't show up,
17 that no change order is required but if the
18 contractor listed on the ten-day notification
19 doesn't show up, then a change order is required?
20 Where did you learn that?

21 A. Change order or renotification?

22 Q. Renotification.

23 Is that -- I just used your term.

24 Is change order a renotification?

1 A. Change order is about money. A change
2 order is we -- somebody didn't show up and we just
3 lost a bunch of money because we can't proceed,
4 especially if we had in the contract that the
5 contractor that we're doing the work for was going
6 to supply this or that or whatever and, you know,
7 we don't have scaffolds, we don't have this, we
8 don't have that. It happens. Scaffolding doesn't
9 show up.

10 Q. I'm sorry. I misunderstood you.

11 So you said that if the contractor listed
12 on the ten-day notification doesn't show up, then
13 you do a change order?

14 A. No. I didn't -- well, a change order,
15 yes. I would first find out -- I mean, it might be
16 something that was beyond his control. I would
17 contact him as soon as possible.

18 Q. Who is him, the contractor?

19 A. The contractor.

20 Q. Okay.

21 A. To find out what happened.

22 Q. Okay.

23 A. Something -- it could be something as
24 simple as my crew got into an accident or a flat

1 tire, any number of some simple, you know, we'll be
2 there in a few hours, we'll be there tomorrow, I'm
3 sorry, whatever, something that doesn't require any
4 action or it could be something we got tied up on
5 another job, we couldn't break away or -- you know,
6 it's not my problem. You're contracted to be here.
7 Now we have to talk about how much money I'm losing
8 because I have crew that I'm paying.

9 Q. Okay.

10 If you -- have you ever had a situation
11 other than the Euclid, Ohio, thing because we'll
12 talk about that shortly.

13 Have you ever had a situation where the
14 contractor listed in the ten-day notification did
15 not show up and after your efforts to find out why
16 concluded that that contractor would not be showing
17 up? Did you ever have that experience?

18 A. No.

19 Q. Okay.

20 THE VIDEOGRAPHER: We have five minutes
21 remaining on the tape.

22 BY MR. THOMAS:

23 Q. If you had had that experience and you had
24 to get a new contractor, would you have to submit a

1 renotification?

2 A. Yes. The job's — it's done before it
3 starts.

4 Q. Okay.

5 So now having clarified my
6 misunderstanding of change order versus
7 renotification, I will ask you to clarify if I have
8 this correct.

9 If a specialist listed in the ten-day
10 notification does not show up, you are not required
11 to prepare a renotification. You may go forward
12 with any licensed specialist?

13 A. That's my understanding based on past
14 experiences with several companies. If happens all
15 the time.

16 Q. Okay.

17 And the second question is that if a
18 contractor listed on the ten-day notification does
19 not show up and you learn that they are not going
20 to show up at any point to complete the work, then
21 you do have to file a renotification with a new
22 contractor?

23 A. Or with the same contractor but we may
24 have to renegotiate our terms.

1 Q. Okay.

2 But a new notification or renotification
3 would be correct?

4 A. Yes.

5 Q. Required, correct?

6 A. Yes, from my understanding of how this is
7 done with ten-day notifications.

8 Q. And so from my understanding of what you
9 have described, the contractor has to do the work,
10 correct? Is that correct — yes?

11 A. Well, yes. Yes.

12 Q. Okay.

13 What you've described as actually
14 physically showing up to the site, correct?

15 A. Sure. Yes.

16 Q. Okay.

17 But if they don't physically show up to
18 the site, you now have a situation where the
19 contractor listed on the ten-day notification is
20 not present, correct?

21 A. Right.

22 Q. And then you would be required to pull the
23 crew, correct? Yes?

24 A. Yes.

1 Q. Okay.

2 And cease and desist, yes?

3 A. Yes.

4 Q. Okay.

5 And renegotiate with either that
6 contractor or a new one, correct?

7 A. Yes.

8 Q. And file a brand new or a renotification,
9 correct?

10 A. Yes, or there's an alternative.

11 Q. What's the alternative?

12 A. You can get creative and see if there's
13 anything that you can do with the crew that's
14 already there in lieu of the work that you had
15 intended to do with the contractor showing up
16 because you based your work plan on that contractor
17 being there. Let's say you get a hold of him and
18 he says he's going to be there. Well, in the
19 meantime, this is what we're going to do, okay.
20 I'm going to go over the area with the my — with
21 the foremen and we're going to —

22 Q. Can I pause you right there because —

23 A. I understand.

24 Q. — I'm concerned about the five minutes.

1 MR. THOMAS: Is this a good point to take a
2 break?

3 THE VIDEOGRAPHER: This marks the end of tape
4 number one. We're off the record at 12:48 p.m.

5 (A short break was taken.)

6 THE VIDEOGRAPHER: This marks the beginning of
7 tape number two. We're back on the record at
8 1:42 p.m.

9 MR. THOMAS: Thank you.

10 BY MR. THOMAS:

11 Q. Good afternoon, John.

12 A. Good afternoon.

13 Q. Before our lunch break, I had posed you a
14 series of questions about the meaning of both a
15 specialist and a contractor on the requirements of
16 the 10-day notification and you had indicated that
17 with respect to the specialist, if the specialist
18 listed on the ten-day notification, which you
19 indicated was a person who would be present at the
20 site, in fact, did not show up at the site, that
21 you would make arrangements to have another
22 specialist there but that no renotification would
23 be required to the State; is that correct?

24 A. That's my understanding, yes.

1 Q. But that if the contractor listed on that
2 ten-day notification did not show up, you would
3 execute a change order which would be to pull the
4 crew, cease and desist, possibly renegotiate with
5 either a new contractor or the same contractor but
6 in any case, if that contractor did not show up at
7 that time identified by the ten-day notification,
8 you would have to file a new notification or a
9 renotification, correct?

10 A. That's correct if the contractor is
11 scheduled to be there. Now, the demolition
12 contractor doesn't necessarily have to be there on
13 day one. If the contract reads that he does, in
14 this particular case, he did because I needed -- we
15 needed to borrow some of their equipment. It was
16 part of the deal. So he didn't show up until later
17 that day but he did show up eventually with some
18 equipment. But no, it's not always true that the
19 contractor listed via -- the special -- the
20 specialist and the abatement contractor have to
21 fulfill their obligation and be there on day one.
22 The other listed contractor does not necessarily
23 have to be there. It's to his advantage to be
24 there but he doesn't have to be there unless it's

1 part of the contract.

2 Q. I apologize for a possible
3 misunderstanding there. Before lunch, what I was
4 asking you about was the licensed contractor for
5 asbestos removal, not the demolition contractor.

6 A. Oh, okay. Yes. The licensed contractor
7 for asbestos has to be there.

8 Q. Okay.

9 And you had described their having to be
10 there as being physically present and doing work,
11 correct?

12 A. Yes.

13 Q. Okay.

14 And who would have to be there, is it
15 the --

16 A. At least the foreman and one laborer with
17 a working foreman. That's the minimum crew.

18 Q. Okay.

19 You then said that there's an alternative
20 to following that protocol, that you could get
21 creative with the crew that was present and then we
22 took a break for lunch.

23 And I'd like to ask you now about ways
24 that you can get creative?

1 A. Well, let's say that, like I said, the
2 minimum crew showed up and you don't have the ten
3 guys that you're going to get for manpower from
4 some other source and you just have your foreman or
5 whatever. Well, then, you know, you start walking
6 around thinking about what can I stage, how can I
7 stage the equipment. You revise your plans a
8 little bit. You do -- you make do with what you
9 have. You don't have your full crew so you can't
10 go full out with your plan but you make up for it
11 the next day then.

12 Q. Well -- and I think maybe I'm
13 misunderstanding you and I want to clarify.

14 If the contractor -- if the asbestos
15 contractor does not -- who is listed on the ten-day
16 notification does not show up --

17 A. Right.

18 Q. -- you can't go forward, correct?

19 A. No. You have to have the asbestos
20 contractor there.

21 Q. Okay.

22 Did I misunderstand you that you said if
23 they didn't show up that you could get creative?

24 A. Yes, because you still can do some work if

1 you have a foreman and one soup -- one worker. If
2 the entire crew didn't show up on the asbestos --
3 you know, I thought you were talking about the
4 demolition contractor in the first place.

5 But if you're talking about the asbestos
6 contractor, if there's at least one representative
7 as a supervisor from the company and he has all the
8 paperwork and everything to get started, he has to
9 get started that day. It's required. It's not --
10 so let's say you had ten guys that were supposed to
11 show up and only one guy showed up, he may not be
12 able to carry on the plan that was designed but he
13 could still do some things, make some calls to find
14 out what happened to the crew and -- definitely,
15 that's the first order of business. But the
16 abatement contractor, if you do not have a crew at
17 all, if I was to show up as a foreman by myself and
18 there was misunderstanding and nobody showed up,
19 I'd have to redo the ten-day notification.

20 Q. Okay.

21 So if nobody showed up, there are no
22 alternatives?

23 A. There are no alternatives.

24 Q. Okay. All right.

1 So you stated that Tomas Amaya contacted
 2 you sometime in 2006 after you had finished at DEM?
 3 A. Actually, I was on a – I was on a site
 4 for Kinsale.
 5 Q. Kinsale?
 6 A. Yes.
 7 Q. Okay.
 8 A. Yes. A matter of fact, it was the
 9 LaGrange job that we were just going over. We
 10 couldn't do any more work because of legal issues
 11 and all that. And I was there with the
 12 superintendent from Kinsale and one other foreman
 13 and –
 14 MR. KRAMER: Mr. Vadas, you said LaGrange. Do
 15 you mean LaPorte? Did you mean –
 16 THE WITNESS: LaPorte, yes, I'm sorry. Thank
 17 you. It was LaPorte. It was a – it was a
 18 demolition job. Mike Collins was the demolition
 19 contractor, Nationwide. He wasn't there that day.
 20 BY MR. THOMAS:
 21 Q. Who wasn't there?
 22 A. Mike Collins.
 23 Q. Okay.
 24 A. He had no reason to be there because he –

1 he had nothing to demo. There was no work for him
 2 until we got to the second part of that and it was
 3 being held up because of legalities. I don't know
 4 what those are specifically but that was the last I
 5 had anything to do with that project. And Tomas
 6 just happened to call. He didn't even know I was
 7 working for Kinsale or where I was but he just
 8 happened to call that day. I just remember being
 9 there and talking to the other foreman and asking
 10 if he knew Tomas and he had – he had worked with
 11 Tomas. A lot of – a lot of us guys, you know,
 12 know each other. We've been in the business so
 13 long we've run from company to company. You go
 14 where the work is.
 15 Q. Okay.
 16 And when Tomas called, did you have a
 17 conversation with him?
 18 A. Yes, I did.
 19 Q. And what was that about?
 20 A. He said that he was, you know, slowly, you
 21 know, putting together some equipment. He had some
 22 equipment that he had accumulated. And he was
 23 purchasing – he had purchased a storefront and was
 24 starting to set up his own abatement company and

1 asked me if I was interested in doing some work for
 2 him. He said he would like to hire me as an
 3 estimator and but he didn't have any money to pay
 4 me. So I said, well, so far, it's not sounding too
 5 good, Tomas, but, you know, I might be able to see
 6 what I can do and see if I can find you some work.
 7 You know, maybe.
 8 I've done this in the past. I've given
 9 Tony Paganelli and Sheila Paganelli references from
 10 other jobs. People would call me up and say I need
 11 this done. And since I don't have the contractor's
 12 license, I can't do it so I would pitch that to a
 13 friend or another company and they would give me a
 14 percentage. So, basically, I was going to, you
 15 know, try to pitch Tomas some work.
 16 Q. Okay.
 17 Were you able to do that?
 18 A. Yes, that's how the Euclid job started.
 19 Q. All right.
 20 And when did that occur?
 21 A. It was in the summer. It was hot.
 22 Q. Was that 2007?
 23 A. Yes.
 24 Q. Okay.

1 Had you talked to Tomas Amaya again after
 2 that phone conversation?
 3 A. No.
 4 Q. Okay.
 5 So what happened in the summer of 2007?
 6 A. He gave me his address and –
 7 Q. Who is he?
 8 A. Tomas gave me his address and told me – I
 9 was surprised to find out how close he was living.
 10 He was living in Hammond, the part of Hammond that
 11 we call Hessville and not too far from me which
 12 I – I was not aware of, that he was living so
 13 close. So I – he asked if I would, you know, like
 14 to come by and talk. So I came by and we talked a
 15 little bit.
 16 Q. Was this after you had a potential job?
 17 A. No.
 18 Q. No?
 19 A. No. I had not – I didn't talk with Mike
 20 Collins yet.
 21 Q. Okay.
 22 But this is in the summer that you had
 23 another conversation with Amaya?
 24 A. Right. Right. So I went to his office.

1 He had a little office upstairs of the storefront
2 that his wife was running downstairs selling goods,
3 just keeping busy. I went up to his office. And I
4 was just brainstorming with him and telling him,
5 you know, what I think he could do. He had an
6 Indiana license already in place. And I says you
7 know what, I know a contractor I just got off a
8 site with and let me give him a call and see if
9 he's got any work in Indiana.

10 So right there, I called Mike Collins and
11 I told him I was working with a new guy and I was
12 thinking about doing some work. Do you have
13 anything in Indiana and he said absolutely, in
14 Indianapolis. I said that would be great. He says
15 but you guys got a Wisconsin -- an Ohio license? I
16 says -- I asked Tomas, I said do you have an Ohio
17 license? He says no, but my brother's got a
18 license. Carlos is licensed in Ohio. He told me
19 of several people that he worked with is licensed
20 to work in Ohio. I said, well, do you have a
21 contractor's license? He says no.

22 Then I asked Mike a little bit further. I
23 says what's involved? He says transite, friable
24 asbestos, spray on and pipe lagging. And I says,

1 well, let me look into the regulations. I believe
2 if they treat transite the same, we can start the
3 transite. Let me set up a date where I can come
4 take a look at it and see what you got. I think I
5 went the very next day, as a matter of fact, to
6 Euclid.

7 Q. Okay.

8 You said a moment ago Carlos was Tomas's
9 brother?

10 A. No. His brother was Juan, Juan Amaya. He
11 was also the job site foreman.

12 Q. You recall at that meeting, however, Tomas
13 saying something about Juan and Carlos?

14 A. I remember him saying that he had licensed
15 workers and he can get licensed workers in -- it's
16 like a manpower for asbestos abatement workers.

17 There was a hall down in Indianapolis where he
18 could get workers and he had picked workers out of
19 there before that worked Indianapolis area and
20 because Indianapolis and, you know, so close to the
21 Ohio border there that they also had Ohio licenses.

22 Q. And you're talking about a specialist
23 license, correct, like a supervisor?

24 A. Talking about any kind of license,

1 workers.

2 Q. I mean, when you were having this
3 conversation with Tomas when you -- when he
4 mentioned Juan and Carlos --

5 A. Yes.

6 Q. -- that was with respect to a specialist
7 license?

8 A. Right.

9 Q. Not a contractor's license, right?

10 A. Right. Right.

11 Q. You're aware, are you not, that in
12 Indiana, no specialist is required for the ten-day
13 notification?

14 A. No, I'm not. I -- I -- I don't remember
15 ever filling out an Indiana notification.

16 Q. Okay.

17 Would you be surprised to learn that Ohio
18 was one of the very few states that requires a
19 specialist?

20 A. Doesn't Illinois?

21 Q. I don't know.

22 Do you know?

23 A. I don't know. I've never filled one of
24 those out either.

1 Q. Okay.

2 What -- what is it about that conversation
3 that you recall bringing up the idea that a
4 specialist would be required in Ohio? Did someone
5 mention that?

6 A. Oh, we needed -- well, I told him we
7 needed a -- I couldn't run it. He says I don't
8 want you to run it. I just want you to do the
9 paperwork, get the dumpsters set up, whatever you
10 have to do. We started looking through the phone
11 book and looking on the computer to see if we
12 can -- you know, for hauling companies and things
13 of that nature just to see what it -- basically,
14 what we're talking about for costs, overhead. I
15 told Mike I would call him back after we did some
16 research and I did.

17 And we did some research and I wasn't
18 looking -- I wasn't talking to Tomas about the
19 specialist for the purpose of the notification. I
20 was talking to him about a foreman to run the crew.
21 I was more concerned about that part of it. I said
22 you're going to need somebody because he was
23 working for Tony at the time, Tony Paganelli, Safe
24 Environment. So he said he couldn't stay there, he

1 couldn't be up there but his brother Juan or Carlos
 2 might be able to do it. I said, well, okay, either
 3 one would be great.
 4 Q. At this initial meeting, was your
 5 understanding that you and he would partner
 6 together and do this work under Asbestek?
 7 A. Yes.
 8 Q. Okay.
 9 A. That's — that was the name of the
 10 company. That's what he wanted to call his
 11 company.
 12 Q. At that time, did you make any plans to
 13 involve anybody else?
 14 A. No.
 15 Q. Okay.
 16 So you didn't have a discussion that you
 17 would also include Safe Environmental?
 18 A. No. As a matter of fact, I — I asked him
 19 if — if Tony knew what he was doing, if he was
 20 keeping this on the QT, if he was doing this
 21 moonlighting or how he was, you know, handling this
 22 because I didn't know what he was — you know,
 23 because he told me he was still working. He says
 24 no, Tony knows about it.

1 Q. Okay.
 2 A. I said he knows about what?
 3 Q. And that was — this was at that first
 4 meeting, right?
 5 A. Yeah. Tony just knew that he was — that
 6 he had started — was starting to put together a
 7 company.
 8 Q. Okay.
 9 A. He didn't know anything about this job in
 10 particular because it was just starting to form.
 11 Q. So at that first meeting in the summer
 12 when it was hot, you talked about needing a
 13 specialist, somebody with an Ohio's license?
 14 A. Right.
 15 Q. To be a foreman?
 16 A. Right.
 17 Q. Okay.
 18 Or a supervisor, right?
 19 A. Yeah.
 20 Q. Okay.
 21 And you also talked about needing a waste
 22 company?
 23 A. Yes.
 24 Q. Okay.

1 And you also talked about needing a
 2 contractor's license, right?
 3 A. Right.
 4 Q. Okay.
 5 You had said earlier this morning that
 6 when you worked for — what was the 1990s company,
 7 has an L in it?
 8 A. LVI.
 9 Q. LVI and other places, that when you would
 10 go to different states to do work, that the
 11 secretary or somebody in the office would just set
 12 up the paperwork?
 13 A. Right.
 14 Q. Send you to that state to take a test and
 15 you'd all of a sudden become licensed to be a
 16 foreman in that state?
 17 A. Yes, whenever the license would issue,
 18 right.
 19 Q. Okay.
 20 Did you think about doing that for the
 21 Ohio job?
 22 A. Yes. As a matter of fact, I put — I put
 23 together the paperwork for Tomas to get his license
 24 and I was going to put myself and he says don't

1 bother. It's not worth it because I already was
 2 licensed in Indiana and Illinois and I could handle
 3 the Indiana and Illinois work. He says, you know,
 4 this is probably the only job we would do in Ohio,
 5 if any, you know, because I told him that Mike had
 6 a lot of work going in Indiana that he wanted to do
 7 but this Cleveland job or Euclid job was holding
 8 him up and he needed to get this out of the way
 9 first. It had something to do with the owners of
 10 the building wanted this out of the way so they
 11 could proceed on to the other properties.
 12 Q. This was all discussed at that first
 13 meeting, correct?
 14 A. Yes.
 15 Q. Okay.
 16 And for these next few questions, I'd like
 17 to limit things to that first meeting.
 18 You said that you had begun to put the
 19 paperwork together for Tomas to be a specialist?
 20 A. Yes. I just downloaded the required
 21 application for a specialist license and had him —
 22 questioned him, asked him — I filled it out for
 23 him, basically.
 24 Q. Okay.

1 And you submitted that to State of Ohio?

2 A. Yes.

3 Q. Okay.

4 And what became of that? Did you put your

5 name on that form?

6 A. No. It was Tomas's form. I had him sign

7 it. It was just as if he filled it out.

8 Q. Okay.

9 And who submitted that to the State? Did

10 you?

11 A. No, he did.

12 Q. Okay.

13 How do you know he did?

14 A. Because I'm sure he wanted to get a

15 license. He had to fill out a check. It had to go

16 along with one of his company checks. So I didn't

17 see him write it or actually physically mail it but

18 he wouldn't have had me go to all that trouble if

19 he didn't intend on getting a license. I don't

20 know for a fact that he did but I believe he did

21 get the license later. I don't know how long it

22 took but it usually takes ten days to two weeks,

23 something like that.

24 Q. Okay.

1 A. They got to -- you know, you have to send

2 a copy of your certification, your refresher

3 course, your last refresher. Some states require

4 all refreshers from the initial all the way

5 through. I told him just to be on the safe side,

6 give them all of your copies of all your

7 refreshers, period.

8 Q. So just to clarify, this was for Ohio that

9 you filled this form out for him to become a

10 specialist, correct?

11 A. Yes.

12 Q. Okay.

13 And you filled it out and he signed it?

14 A. Yes.

15 Q. And to the best of your knowledge, he

16 submitted it?

17 A. Yes.

18 Q. Okay.

19 Did you ever learn from him -- did he ever

20 tell you I did or I didn't submit it?

21 A. No, he never told me.

22 Q. So you don't have any knowledge today that

23 he did or did not submit it?

24 A. I have no idea.

1 Q. Okay.

2 He never told you I am not licensed or I

3 did not submit it?

4 A. No.

5 Q. Okay.

6 I'm going to ask you about an exhibit that

7 we've already marked. Before I do that, I'm going

8 to ask you a few more questions about your

9 preparation for the work.

10 What about the contractor's license? So

11 we've covered the specialist license that you

12 talked about at the meeting, the initial meeting.

13 Did you also talk about the contractor's

14 license?

15 A. The demolition contractor's license?

16 Q. No. The asbestos abatement contractor's

17 license for Ohio because that would be required,

18 right?

19 A. Yes. I said we should get the ball

20 rolling and get that into --

21 Q. Okay.

22 Did you do that?

23 A. Yes.

24 Q. How did you do that?

1 A. Downloaded a copy of the required form,

2 answered the questions that we could answer. I

3 think there was some things on there that we didn't

4 have. I remember there was some reason that we

5 couldn't fill it out that day but we -- we tried to

6 fill it out and get it -- get it off. That was a

7 priority.

8 Q. Okay.

9 Did it get filled out and gotten off?

10 A. Yes. Yes, I believe it did. I believe he

11 did get the Ohio license eventually.

12 Q. So he got the Ohio contractor's license

13 for Asbestek?

14 A. Yes. It would have been under his company

15 name.

16 Q. Okay.

17 When did he get that?

18 A. I don't know.

19 Q. Do you know if he got it?

20 A. No, I don't but I do know that he said

21 don't worry about it. I can get Tony Paganelli's

22 license if we need to.

23 Q. He said that at this original meeting?

24 A. Yes.

1 Q. So did he mention getting Tony's license
2 before or after you downloaded and filled out all
3 the forms?

4 A. It was after because we were in the middle
5 of -- I was there for a few hours. It was -- I was
6 already filling forms out.

7 Q. For the -- for the asbestos abatement
8 contractor's license in Ohio, correct?

9 A. Yes.

10 Q. Okay.

11 A. It was a matter of -- I told him, I says,
12 Tomas, this is what -- you know, let me go look at
13 the job. I don't know what it's going to take but,
14 you know, we may end up having some dead time
15 between removing the transits and starting the
16 friable because we can't even put in for the
17 friable ten day until you obtain the license. It's
18 not like we could put in the ten-day while we're
19 waiting for the license.

20 Q. Excuse me, what does that mean, put in?

21 A. Request permission to proceed on the
22 ten-day notification.

23 Q. So you're -- so you're saying you can't --
24 you can't submit the ten-day until you have the

1 contractor's license, right?

2 A. Right.

3 Q. Because that's a requirement?

4 A. Right.

5 Q. That's what we've been talking about,
6 right?

7 A. Right. They ask for your license number
8 on the ten-day.

9 Q. Okay.

10 So you knew it was a priority to get that
11 contractor's license, correct?

12 A. Yes.

13 Q. You downloaded the forms?

14 A. Yes.

15 Q. You filled out what you could?

16 A. Right.

17 Q. And you submitted it?

18 A. Right.

19 Q. Who submitted it, you or Tomas or both of
20 you?

21 A. Tomas.

22 Q. Okay. Excuse me.

23 How do you know that he submitted it?

24 A. I think I seen a file folder. I told him

1 he's got to go to the post office and get it
2 registered and keep the green tag that comes with
3 the registration to show that he submitted it. I
4 believe I seen that. Not that same day but I
5 remember seeing it that week.

6 Q. Okay.

7 But you're telling us now that despite all
8 that effort that he stated don't worry about it
9 anyway, I can get Tony to give us a license?

10 A. No. He said if we can't -- if this is
11 held up because -- you never know how long it's
12 going to take. Sometimes even just to get a
13 personal license to do asbestos abatement, it could
14 take three, four weeks. You never know. And we
15 were dealing with something that we -- Ohio. I
16 said, I've never worked in Ohio. I have no idea,
17 Tomas, what this is going to take. He said, well,
18 don't worry about it. If we don't get it in time,
19 we can use -- Tony does have an Ohio license.

20 Q. What did you say when he said that?

21 A. I said, well, that's fine. You sure that
22 he's got no problem with you using it? He says no,
23 no problem.

24 Q. He already knew that?

1 A. Yes.

2 Q. Do you know how he knew that?

3 A. No, but I assume that he probably had the
4 same information I did. I've used Tony's Indiana
5 license on a job with another -- with Tony's
6 ex-estimator who was running a job in Indiana,
7 Hammond as a matter of fact, and Tony asked me to
8 oversee it because he was going to let Fred Schmidt
9 use his license.

10 Q. So you're telling us about an unrelated
11 event in the past where you know Tony to have
12 offered a person named Fred Schmidt the Safe
13 Environment asbestos contractor license?

14 A. Yep.

15 Q. To use in what state?

16 A. Indiana.

17 Q. Who was Fred Schmidt?

18 A. He was Tony's ex-estimator.

19 Q. And did Fred go ahead and do this job with
20 Tony's license?

21 A. Yes, he did.

22 Q. Okay.

23 A. And Tony made sure that I was on site so
24 that Fred wouldn't do anything to get in trouble or

1 put his license in jeopardy.
 2 Q. Did you go on site?
 3 A. Yep.
 4 Q. Did you get paid?
 5 A. Yes. I got paid no matter what I did,
 6 whether I was -- I was a weekly. It was the same
 7 situation for -- with Tony that I had with LVI. I
 8 got paid 40 hours a week whether I worked 50 or 60,
 9 it didn't matter. I got paid 40 hours a week.
 10 Q. Was Fred doing this work for Safe
 11 Environment?
 12 A. No. Fred was doing this work for Fred.
 13 Fred was using -- as a matter of fact, he had I
 14 think his own people but they had licenses. They
 15 were -- we were inspected and everything went off
 16 fairly well.
 17 Q. How much money did Fred give Tony?
 18 A. I don't know. That was between Fred and
 19 Tony. That wasn't my business.
 20 Q. Did they have a contract?
 21 A. No.
 22 Q. How do you know they didn't?
 23 A. Well, it wasn't in my paperwork. If they
 24 had a contract, it was -- it was between them or it

1 was verbal. I mean, I just -- I found out the next
 2 day after the job started that Fred was working
 3 under Tony's license. I thought it was Tony's job
 4 and Fred was just running it. And then Tony told
 5 me, he says you got to go out there and watch it
 6 because Fred is using my license. So that's when I
 7 got a little nervous. I says you sure you want to
 8 do that and he says just make sure he doesn't get
 9 in trouble. So when I got there, I had him redo
 10 some things.
 11 Q. In this particular job that Fred Schmidt
 12 had, Fred was using his own workers, correct?
 13 A. Well, he was using abatement workers that
 14 we've used for Safe but we weren't using them at
 15 that particular time but Fred was paying them.
 16 Q. Okay.
 17 A. It was Fred's payroll.
 18 Q. Fred's payroll.
 19 Tell us about the paperwork you had that
 20 Tony gave to you to oversee that site?
 21 A. I didn't get any paperwork except just the
 22 brief summary of the job description.
 23 Q. Who gave that to you?
 24 A. Lisa.

1 Q. So Safe Environment gave you a job
 2 description?
 3 A. Pretty much, yes.
 4 Q. What did Fred give you?
 5 A. Fred was there working like a worker.
 6 Q. Okay.
 7 Not like a boss?
 8 A. No.
 9 Q. Okay.
 10 Are you sure that this was not a Safe
 11 Environment job?
 12 A. Well, based on what Tony told me,
 13 that's -- I thought it was a Safe Environment job
 14 until he told me Fred's working under my license.
 15 That's --
 16 Q. Did Tony tell you specifically that this
 17 was not a Safe Environment job?
 18 A. Yes.
 19 Q. He said this is not a Safe Environment
 20 job?
 21 A. Yes, because he said he's using my
 22 license. If -- I told him regulatory was already
 23 out there. They're not happy with a couple of
 24 things but I've rectified those things and we're

1 back on track. But I had to have the crew come
 2 back and do a reclean so Tony was not too happy
 3 about that.
 4 Q. But nevertheless, whatever Tony told you
 5 which you claim was this was not a Safe job, Tony
 6 was, in fact, paying you to supervise it, correct?
 7 A. He was paying me to protect his license.
 8 That's the way he put it.
 9 Q. Okay.
 10 A. Don't let Fred put my license in jeopardy.
 11 Q. When you worked on job -- on the job that
 12 Fred was working, did you act like a supervisor?
 13 A. No, because Fred was doing -- I didn't
 14 tell Fred I want you to do this or do that,
 15 whatever. Fred was doing what Fred does and then
 16 he was directing the crew.
 17 Q. What did you do when you were there?
 18 A. I prepped the truck. Prepped meaning I
 19 lined the truck with poly because it's required if
 20 you're going to use the truck for equipment and for
 21 waste, it has to be -- it has to be sealed. It has
 22 to be plasticized so that -- and segregated from
 23 the equipment. Fred did not have that. So I said,
 24 Fred, you're already in violation. I said I'm

1 going to take care of this out here for you but,
 2 you know, don't do stupid stuff like this again. I
 3 said, you know, I'm not going to tell Tony but you
 4 can be in violation for this.
 5 Q. Is it fair to say that you instructed and
 6 assisted Fred the same way that you instructed and
 7 assisted Tomas Amaya on certain jobs?
 8 MR. KRAMER: Objection.
 9 THE WITNESS: No. Tomas was better -- was a
 10 much better foreman than Fred.
 11 MR. THOMAS: I understand that.
 12 BY MR. THOMAS:
 13 Q. But the question was is it fair to say
 14 that you gave kind of your experienced advice to
 15 each the same?
 16 MR. KRAMER: Objection.
 17 THE WITNESS: No. Well, yes, I always put my
 18 advice in whether I was asked for it or not, you
 19 know. I -- yeah, I know what you're saying. With
 20 Tomas, I told him, you know, what he could be
 21 doing. I mean, you know, when the guys -- they
 22 were a little overzealous when they got there and
 23 the scaffolds weren't there. They were looking
 24 around for ladders, make shift stuff to get on the

1 roof and start working. And I said, you know, have
 2 them put suits on, things of that nature. Then
 3 Tomas instructed them in Spanish because most of
 4 them did not speak English.
 5 BY MR. THOMAS:
 6 Q. John, are you denying that on the Fred
 7 Schmidt job that you acted as a supervisor?
 8 A. Oh, no. I acted as a supervisor.
 9 Q. Okay.
 10 A. I usually act as a supervisor. But not to
 11 Fred. I mean, nobody can tell Fred anything
 12 anyway. He was that kind of stubborn guy.
 13 Q. Regardless of Fred, you acted as a
 14 supervisor at that site, correct?
 15 A. Yes, because I was questioned as one by
 16 the authorities.
 17 Q. And you were paid by Safe Environment for
 18 that work, correct?
 19 A. At that time, yes.
 20 Q. Well, at some other time, were you not?
 21 A. Well, yes. When I worked with Tomas, I
 22 wasn't by paid by anyone.
 23 Q. I understand that.
 24 But when you did the Fred job, you were

1 paid by Safe Environment, correct?
 2 A. Yes. Yes.
 3 Q. And you worked at the Fred Schmidt job,
 4 correct?
 5 A. Yes.
 6 Q. All right.
 7 A. I drove the truck there.
 8 Q. Who paid the laborers at the Fred Schmidt
 9 job?
 10 A. Don't know.
 11 Q. Okay.
 12 Is it possible that Safe Environment cut
 13 the checks?
 14 A. I don't -- it's possible but...
 15 Q. Okay.
 16 So what is your total reason that you
 17 conclude that the Fred Schmidt job was a situation
 18 where Tony Paganelli simply offered his license for
 19 use?
 20 A. Because he said protect my license. I'm
 21 letting Fred work on it.
 22 Q. Okay.
 23 So other than that statement, you would
 24 not have drawn any conclusion that this was a

1 situation where Tony was just giving a license,
 2 correct?
 3 A. Right.
 4 Q. Because you worked as a supervisor, you
 5 got paid --
 6 A. Right.
 7 Q. -- and for all you know, Tony was paying
 8 the workers?
 9 A. Right, but --
 10 Q. And Fred, right?
 11 A. Right, but I wasn't given any paperwork to
 12 run the job.
 13 Q. Okay.
 14 But you don't normally cut checks anyway,
 15 right?
 16 A. No.
 17 Q. So you wouldn't have known on this
 18 particular job anything different in terms of
 19 paychecks, right?
 20 A. No. I would have no idea.
 21 Q. All right.
 22 Did you have a chance to see the contract
 23 between Fred Schmidt and the person he was doing
 24 the work for?

1 A. No, not at all.
 2 Q. So the only thing you can tell us about
 3 that job is that because Tony said I'm giving my
 4 license that you're drawing a conclusion that that
 5 was a situation where Tony offered Safe
 6 Environment's asbestos contractor's license,
 7 correct?

8 MR. KRAMER: Objection.

9 BY MR. THOMAS:

10 Q. Is that true?

11 A. The only -- well, it's the only thing that
 12 I know of. I mean, he might have done it in the
 13 past. He made it sound like he and Fred worked
 14 together like this. But what I would -- could not
 15 understand at that time is why he would do it
 16 because --

17 Q. Well, you're not -- if I may interject --
 18 what you've already testified about is that other
 19 than that statement to you, you have no reason to
 20 think that he, in fact, did what you're telling us
 21 he did, right?

22 A. Yes.

23 Q. And you don't know of any other situation
 24 where Tony -- and I'm not talking about Cleveland

1 Trencher right now because that's, obviously, why
 2 we're here.

3 But other than that Fred Schmidt and other
 4 than Cleveland Trencher, do you know of any other
 5 situation where Tony gave a license to a private
 6 entity and said use it?

7 A. No.

8 Q. Okay.

9 Nevertheless, at that first meeting that
 10 you had in the summer of 2007 when you were talking
 11 with Tomas Amaya and after you had filled out all
 12 the paperwork for the contractor's license, you
 13 were not surprised to hear Tomas Amaya say don't
 14 worry, I'll get Tony's license, right?

15 A. I -- yeah. The way he worded it was like
 16 don't worry. We got it covered. Tony has a
 17 license -- Tony has an Ohio license.

18 Q. Okay. All right.

19 So the next day then, you went to Euclid,
 20 Ohio, correct?

21 A. Within the next day or two. I forget. It
 22 was soon. I know it was like -- I had to make
 23 plans quick.

24 Q. Okay.

1 And what did you do when you got out to
 2 the Cleveland Trencher site?

3 A. I met with Mike Collins.

4 Q. And did what?

5 A. Went over the scope of work, took
 6 pictures, talked about what his intent was in
 7 Indianapolis. He gave me the address in
 8 Indianapolis because I told him my son was going to
 9 Ball State. I go through Indy taking him to school
 10 and I could check it out when I take him back to
 11 school which was not, you know, too far. It was --
 12 I think this was in August or close to him going
 13 back. So he gave me the address to Indianapolis.

14 Then we walked the site. I told him some
 15 of the problems that I seen on the site especially
 16 regarding the -- the transite was in poor shape. I
 17 took pictures of preexisting, of cracked transite
 18 all over the place. You're talking about a place
 19 that was overgrown, 20 years of overgrowth trees
 20 growing through buildings and a lot of the transite
 21 was cracked from issues like that. A lot of
 22 vandalism. A lot of -- a lot of things were -- you
 23 could see there's pipe lagging laying on the
 24 ground, asbestos pipe lagging and up above, no

1 pipe. So the copper pipe or something was gone.

2 Q. What would you say the general condition
 3 of the place was?

4 A. Dangerous.

5 Q. Dangerous.

6 Dangerous by comparison to other sites
 7 that you've had experience with, correct?

8 A. Anybody -- any place that's been exposed
 9 to the elements like that for the length of time.
 10 It was no -- it was no more dangerous than
 11 LaPorte --

12 Q. Okay.

13 A. -- in that regard.

14 Q. By the way, that Fred Schmidt job, was
 15 that a two-day job, a one-day job, what was that?

16 A. It was two days.

17 Q. How many workers?

18 A. Two. Well, plus Fred.

19 Q. So -- including you?

20 A. Plus me.

21 Q. So four people?

22 A. Yes. My work was like two hours. I put
 23 about two hours of labor, manual work and an hour
 24 of talking with the authorities.

1 Q. So you were -- you were only on that job
2 for three hours?
3 A. I was on that job for three hours when it
4 started and I contacted the workers that went back
5 to Chicago and brought them back on site after the
6 inspection to do the reclean. Went up in the --
7 did my own inspection and come to find that what
8 they thought was asbestos was actually the backing
9 of fiberglass insulation that had paper backing and
10 I pointed it out to the Indiana authority.
11 Q. If that job had been done right, it was a
12 three-day job or two-day job?
13 A. It was scheduled to be a two-day job.
14 Q. Okay.
15 A. It was scheduled also to be demoed by the
16 company that works with Tony and John Guira,
17 Jeff -- I can't think of the name of the --
18 Q. Okay.
19 So John Guira actually had a hand in the
20 demolition on that job as did Tony? So they were
21 the demolition contractors at that Fred Schmidt
22 site?
23 A. Somebody demoed it, yes. It would have
24 been -- I didn't see it firsthand. I didn't --

1 again, I had no -- no paperwork.
2 Q. Well, you just said that it was Tony and
3 John.
4 I mean, they are Safe Environment, are
5 they not?
6 A. Well, yes.
7 Q. So now you're telling us that even though
8 Fred was working on his own that we come to find
9 that Safe Environment actually was involved a
10 little bit more in-depth in that particular site,
11 correct?
12 A. I guess with the demolition --
13 Q. Okay.
14 A. -- because -- yes. It was scheduled to be
15 demoed and sites of that nature usually, they don't
16 go over it with a fine toothed comb like they
17 were -- when it's going to be demoed that quickly.
18 Q. But nevertheless, Safe Environment was the
19 demolition company?
20 A. No. The sister company to Safe
21 Environment owned by -- yes, paid by John Guira's
22 workers, yes.
23 Q. Okay.
24 A. Yes. They had their own name. I can't --

1 I can't think of it offhand.
2 Q. Okay.
3 When you were touring the Cleveland
4 Trencher site with Mike Collins, did he hand you
5 the proposal that you are normally accustomed to
6 getting when you review a site?
7 A. No.
8 Q. Okay.
9 Did Mike Collins show you any sort of
10 professional assessment of that site?
11 A. No.
12 Q. Did you ask him if he had any prior
13 assessment done?
14 A. Yes.
15 Q. And what he did say?
16 A. He would fax it to me.
17 Q. He said he had one?
18 A. He said yes, he had a company come out
19 there and he would have Molly, his wife, fax it to
20 me.
21 Q. Did she do that?
22 A. Yes, she did.
23 Q. Okay.
24 And what did you receive?

1 A. Two pages. Basically, showed the
2 takeoffs, the linear footage of the trans -- of the
3 pipe, pipe insulation and the square footage of the
4 transite.
5 Q. Would that proposal then also become the
6 contract?
7 A. No.
8 Q. No.
9 Who prepared that proposal that was faxed
10 to you by Ms. Collins?
11 A. A company that they hired in Ohio. I
12 can't remember their name. High -- I don't recall.
13 Q. Was it Flynn?
14 A. Yes, that's it.
15 Q. And that was a two-page report?
16 A. The -- what she faxed me was two pages,
17 yes.
18 Q. Did she also send you Flynn's estimate of
19 what would be required to adequately abate this
20 site?
21 A. It was whited out.
22 Q. She whited it out?
23 A. Yes.
24 Q. Did you ask her what that amount was?

1 A. No.

2 Q. Why not?

3 A. Because I was asked if I could do it for X
4 amount of dollars which was at the time Mike said,
5 he asked me if I could do it for \$50,000. I said
6 now, Mike, I don't know, first of all. You're
7 asking me to give you a number here, a price on
8 something that I haven't even thought about. I
9 says I have — you know, I started to break it
10 down. I says I have lifts to rent. I have to put
11 up the crew in a motel. I've got per diem. So he
12 started knocking those numbers down by I'll bring
13 you some lifts. I'll put the guys up. I'll pay
14 for the per diem.

15 Q. Knocking which numbers down?

16 A. Well, my rental. I wouldn't have to rent
17 lifts. He had purchased a lift which would have
18 helped me not have to incur that cost. So,
19 obviously, if I don't have to spend money, the
20 price of what it's going to cost us to do the work
21 is going to come down. I said I don't know what —
22 this is a nonunion company that Tomas was running
23 and I had no idea what he was paying his guys.

24 Q. Did you ever ask him?

1 A. No. That was his business. And a matter
2 of fact, I think one of his — the foreman was his
3 brother and I think there was a cousin involved too
4 so. They seemed to be happy with what they were
5 getting paid plus I think they were working for
6 Tony on the side anyway. So they were making quite
7 a bit of money.

8 Q. Okay.

9 So had you ever in your many years of
10 experience doing this kind of work received a site
11 estimate or assessment that had anything whited
12 out?

13 A. Oh, sure.

14 Q. What kind of things have been whited out?

15 A. Numbers.

16 Q. What kind of numbers?

17 A. Total value of the estimate. Sometimes
18 foremen are not privy to that and to make — make
19 things simpler for the abatement contract — the
20 abatement contractor, the specialist company, they
21 just white out the contract value. It's not the
22 business of the foreman. It's the business of the
23 project manager.

24 Q. Which is you in this case, right?

1 A. Well, it was Tomas but I filled out the
2 paperwork again for him just like I did for all of
3 his licenses and things. It was just easier for me
4 to fill it out than for him to try to —

5 Q. Well, you were the project manager for
6 this Cleveland Trencher site, right?

7 A. I — yes. I put together the contract for
8 him in a form where he —

9 Q. Well, would you — would you call yourself
10 the project manager or not?

11 A. No, because they didn't run the project
12 the way I would have managed it.

13 Q. Hold on one second.

14 At the beginning of this job, did you
15 refer to yourself or think of yourself as the
16 project manager?

17 A. I thought I was going to be the project
18 manager, yes.

19 Q. Were you ever the project manager?

20 A. During the transite removal I was.

21 Q. Okay.

22 Well, that's a project manager, right?

23 A. Yes.

24 Q. All right.

1 So you were the project manager during the
2 abatement, correct?

3 A. During part of the abatement.

4 Q. During part of the abatement, okay.

5 And you just testified that it would be
6 advantageous for a project manager to have those
7 values, right? Is that correct?

8 A. Well, advantageous for the estimator to
9 have the values of — the value that I was given
10 verbally was \$50,000.

11 Q. Okay. I understand that. You told us
12 about the \$50,000.

13 A. Now, Molly, when she faxed it, she goes
14 the amounts have been whited out. She had already
15 told me before she faxed this.

16 Q. Did you ask her to put those amounts back
17 in — in the fact that that would assist you in
18 understanding the nature of this project?

19 A. No, because they included the whole
20 building, the whole site and Mike had told me at
21 the site that he was not going to tear down the
22 brick building which had the offices and the
23 basement and — it would have impacted the site a
24 lot. So the numbers wouldn't have matched what he

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

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

7 A. Right.

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

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

13 Q. Right.

14 A. -- they assessed the whole big picture.

15 Q. Okay.

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

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

20 Q. Okay.

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

23 A. Right.

24 Q. And the friable and nonfriable asbestos?

1 A. Right.

2 Q. But not the demolition, right?

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

4 Q. Right.

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

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

8 Q. Yes. What part of that assessment which

9 included both forms of asbestos and barrels of

10 hazardous materials would not be of interest to

11 you?

12 A. Well, the barrels because we weren't

13 licensed to be a HAZMAT team and do any HAZMAT work

14 and I had no interest in getting involved with

15 HAZMAT or any underground storage tanks.

16 Q. I appreciate that.

17 The assessment that was faxed to you --

18 A. Yes.

19 Q. -- okay, dealt with three things, both

20 forms of asbestos, that's two?

21 A. Yes.

22 Q. And the barrels, correct?

23 A. Yes.

24 Q. And it had a projected cost for dealing

1 with those three things, correct?

2 A. Yes.

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

4 A. Yes.

5 Q. And it's your testimony that it was

6 convenient for you to have that whited out,

7 correct?

8 A. It didn't matter because -- whether it was

9 whited out or not. It included things that we were

10 not going to do.

11 Q. Which things?

12 A. The barrels, the other building.

13 Q. What other building?

14 A. Well, the main brick building that was the

15 offices to the factory. The factory was several

16 buildings adjacent to the brick building which held

17 all the offices and it was loaded with a lot of old

18 furniture and the basement was flooded and...

19 Q. But that wasn't part of the Flynn report,

20 was it?

21 A. I'm assuming it was because when they do a

22 report, they do -- they do a thorough. I don't

23 know, I mean.

24 Q. So do you misunderstand my question when I

1 said what was the purpose of the Flynn report and I

2 asked you if it had to do with asbestos removal and

3 you said yes. And then I asked you if it had to do

4 with the contaminated contents of the barrels, the

5 hazardous potential contents of the barrels and you

6 said yes.

7 And then my question was what else did

8 that report have to do with? Did it discuss

9 anything else?

10 A. I don't recall.

11 Q. Okay.

12 So it's quite possible that that report

13 did not talk about the adjacent office building and

14 the ceilings and the furniture, correct?

15 A. Yes.

16 MR. KRAMER: Objection.

17 BY MR. THOMAS:

18 Q. In which case, it would have been

19 advantageous to a person in your experience to have

20 seen that assessment before it was whited out,

21 correct?

22 A. No. I would have asked her if I thought

23 it was going to be advantageous. She would have

24 told me. It didn't matter because I was going

1 to -- I was going to try to base our price on the
 2 \$50,000 and see if we could work this out because
 3 he was offering me in conjunction with this project
 4 another project that I went to look at in
 5 Indianapolis.
 6 Q. Okay.
 7 So you -- you received this proposal by
 8 fax, correct?
 9 A. Yes.
 10 Q. So you were back in Indiana?
 11 A. Yes.
 12 Q. So that Mike or Molly did not give you
 13 that proposal when you were on site, correct?
 14 A. No.
 15 Q. Okay.
 16 So when you received that proposal, what
 17 did you do -- I'm sorry -- the assessment, what did
 18 you do?
 19 A. I called -- I think I called up Mike and I
 20 told him let me put together -- let me talk to
 21 Tomas, which I did the next day, let me talk to
 22 Tomas and put together a proposal and see what we
 23 could do.
 24 Q. Okay.

1 And you talked to Tomas the next day,
 2 correct?
 3 A. Yes.
 4 Q. And what did you talk to him about?
 5 A. I showed him some pictures that I took.
 6 We went over it. I explained the friable areas
 7 that had the spray on. I says this looks to be one
 8 of the more difficult areas. I told him that most
 9 of the transite looked -- it wasn't the big sheets.
 10 They were small overlapping sheets. They could be
 11 easily taken down with a torch or the bolts were --
 12 they were not -- they were ferrous. They weren't
 13 stainless steel so they're easily knocked out with
 14 a -- just with a chipper or anything. It's a very
 15 easy removal.
 16 Q. So you went over the physical -- some of
 17 the physical details, correct?
 18 A. Right.
 19 Q. Did you go -- when you did this with him
 20 where you showed him the pictures and went over
 21 these things and gave him your assessment, you went
 22 and found him at a job site?
 23 A. No. We were talking in his office.
 24 Q. Okay.

1 Was he not doing abatement work at the
 2 time?
 3 A. I think he was working nights.
 4 Q. He was working nights, okay.
 5 So you saw him in his office?
 6 A. Yes.
 7 Q. Where he was during the days, correct,
 8 because he was preparing for this Cleveland
 9 Trencher thing, correct?
 10 A. Yes.
 11 Q. In fact, he was not even at Safe
 12 Environment at this time?
 13 A. (Indicating.)
 14 Q. When did he finish Safe Environment? That
 15 was actually before your meeting, was it not, that
 16 he was finished at Safe Environment?
 17 A. What do you mean, finished working for
 18 them?
 19 Q. Yes.
 20 A. No. I think he was still working for them
 21 as an employee but I don't know that for a fact but
 22 he --
 23 Q. Okay.
 24 A. He alluded to the fact that, you know,

1 he -- you know, he and some of the other guys -- I
 2 said why can't you work on this day or on Saturday
 3 or whatever and he says they got a job going with
 4 Tony.
 5 Q. Okay.
 6 A. So either all or some of the guys were
 7 working. Who, I don't know. I don't know if he
 8 had made Tony aware of this other project or not.
 9 Q. Okay.
 10 When you spoke to Tomas, did you ask him
 11 about the status of the contractor's license that
 12 you filled out for him?
 13 A. No.
 14 Q. Do you know why you didn't?
 15 A. Probably because I was focusing now on the
 16 project. I just assumed that that was something
 17 we'd have to wait for.
 18 Q. But you assumed that it been turned in?
 19 A. Well, yeah, sure. You know, same thing
 20 with his personal license.
 21 Q. Okay.
 22 And he never -- just to ask you, he never
 23 told you that he didn't turn in that contractor's
 24 license, correct?

1 A. No.

2 Q. Okay.

3 A. We focused on whether or not it could be
4 done for \$50,000. And as it turned out, during the
5 first part of that project, we ran into more
6 material than the estimate showed or that the
7 takeoff, the Flynn report, it showed so many square
8 feet. I did some measuring and there was some
9 double layers. There was some hidden, interior
10 walls that were not -- that were not addressed or
11 whatever. They were -- they were hidden. But I
12 asked for a change order right off the bat because
13 it wasn't -- that \$50,000 wasn't enough. So the
14 proposal that I gave was -- pretty much it covered,
15 you know, we're going to do this based upon --

16 Q. Oh, I'll ask you about the proposal in a
17 minute. I just was interested in that conversation
18 with Tomas.

19 So you know that you cannot in Ohio do an
20 abatement project without a contractor's license,
21 correct?

22 A. Well, yeah.

23 Q. But instead of focusing on that when you
24 spoke to him after your visit and talking about

1 that, you said you only focused on the price,
2 right?

3 A. We focused on whether or not the price was
4 doable because -- I mean, Mike was open -- I mean,
5 if it wasn't doable, he wanted to know how much and
6 that's what I was trying to find out.

7 Q. Is it fair to say, John, that you were
8 going to get that project done with or without a
9 valid contractor's license?

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

11 Q. Okay.

12 And yet, you did not ask Tomas about the
13 license at that second meeting, correct?

14 A. No, not within a few days. There was no
15 way he would have ever gotten a license in a few
16 days.

17 Q. No.

18 But you never just followed up to see if
19 he actually put in the mail by certified mail all
20 this paperwork you filled out, right?

21 A. No, but I believe I did see the green
22 registration that you get when you send registered
23 mail.

24 Q. Okay.

1 So you had seen that to know that he
2 actually took care of it from that standpoint?

3 A. Yes.

4 Q. Okay.

5 Tomas Amaya testified in his deposition
6 that he gave you the responsibility of getting the
7 contractor's license, gave you the materials and
8 told you you were in charge of obtaining that.

9 Did that happen?

10 A. No.

11 Q. Okay. Okay.

12 After you had that conversation with Tomas
13 Amaya, did you then prepare the proposal?

14 A. Yes.

15 Q. Okay.

16 And what did you do with that proposal?
17 Did you show it to Tomas Amaya?

18 A. Yes.

19 Q. What did he say about the proposal?

20 A. We could do it.

21 Q. Okay.

22 And did he make any corrections to it?

23 A. No.

24 Q. Okay.

1 And once he gave his verbal assent, what
2 did you do with that proposal?

3 A. Forwarded it to the attention of Mike and
4 Molly via fax and mail. I believe I sent both out.

5 Q. Okay.

6 And that would also have been the
7 contract, correct?

8 A. Yes.

9 Q. Okay.

10 I have Amaya Exhibit 5 we've called it.
11 And is that the proposal and the contract?

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

13 MR. THOMAS: Can he answer the question and
14 then yes?

15 MR. KRAMER: Sure.

16 THE WITNESS: Yes, this is the proposal and
17 this is Mike's signature so we could -- yes, this
18 is it and -- yes.

19 BY MR. THOMAS:

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

21 A. Yes, it is.

22 Q. And that is the contract with Nationwide
23 Demolition, correct?

24 A. Yes, it is.

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

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

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

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

10 Q. Okay.

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

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

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

17 A. He should.

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

20 A. They should.

21 MR. KRAMER: Objection.

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

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

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

3 BY MR. THOMAS:

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

6 A. Yes.

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

8 A. Yes.

9 Q. And you dated it?

10 A. Yes.

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

13 A. From Tomas.

14 Q. Okay.

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

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

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

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

4 BY MR. THOMAS:

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

7 A. Yes, I did.

8 Q. Did you write --

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

13 Q. I understand that.

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

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

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

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

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

11 A. No.

12 Q. Okay.

13 A. No.

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

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

18 (A short break was taken.)

19 THE VIDEOGRAPHER: Back on the record at
20 2:58 p.m.

21 BY MR. THOMAS:

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

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

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

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

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

1 Q. Get it in writing, right?

2 A. Get it in writing.

3 Q. Get it in writing.

4 A. But, again, it's – it's – it's a

5 starting point. Things change. Negotiations start

6 at that point.

7 Q. What were your duties as a project manager

8 for Asbestek?

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

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

11 basically, for expenses. Set up demolition – or

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

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

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

15 nonfriable as opposed to the friable, the sized

16 dumpsters. Everything to do with managing the

17 waste flow and that was – and signing the manifest

18 before they left, inspecting them and signing them

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

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

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

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

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

24 this period?

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

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

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

4 about five times and I stayed there once at a

5 motel.

6 Q. Why did you come back at all?

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

8 on that Indianapolis project, trying to get some

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

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

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

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

13 impact the work so.

14 Q. How much time were you spending on this

15 Indiana project from the time that you first had

16 that meeting in Tomas's office until Cleveland

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

18 the Indiana project?

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

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

21 basically.

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

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

24 be a high pressure job, right?

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

2 pressure?

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

4 things done.

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

6 too.

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

8 concerned about the pressure?

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

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

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

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

13 not the same thing as supplying water. In his

14 mind, it was.

15 Q. This is Mike Collins?

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

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

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

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

20 water so.

21 Q. Given your history with Mike Collins and

22 your knowledge that he would want to do something

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

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

1 not have been prudent for you to stay in Cleveland

2 from the inception and just get to work on this

3 thing?

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

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

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

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

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

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

10 what?

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

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

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

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

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

16 advantageous and did go there is when they had a

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

18 the machines broke down. I found a rental place

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

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

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

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

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

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

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

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

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

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

1 charge of, correct?

2 A. Yes.

3 Q. Would that worker log shift from Juan to

4 somebody else when phase two started or would he

5 maintain that?

6 A. It could have shifted to Tomas.

7 Q. Okay.

8 Do you know who it was supposed to shift

9 to if at all?

10 A. Whoever's in charge. If Tomas was there

11 in charge of the friable, then it was Tomas. But

12 under the circumstances, a lot of foremen, myself

13 included, have done project logs after the fact.

14 You get busy. You know, you write down little

15 notes but then you fill in the blanks later and you

16 do a more comprehensive log later.

17 Q. When you -- when you and Tomas met earlier

18 in the summer to discuss this whole project, you

19 knew he was not a licensed specialist in Ohio,

20 correct?

21 A. No, I didn't.

22 Q. You didn't testify that he didn't -- that

23 he wasn't a licensed specialist in Ohio?

24 A. Before we got together?

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

2 A. Oh, yeah. That's why we went and got him

3 a, you know, license and stuff. Yeah, I knew he

4 didn't have an Ohio license.

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

6 license.

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

8 license.

9 Q. So you filed that paperwork out for him

10 and submitted it, correct?

11 A. I filed it out. He said he was going to

12 get it submitted.

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

14 that.

15 That was the contractor license, right,

16 for Asbestek --

17 A. For Asbestek.

18 Q. -- to perform contracting work?

19 A. Right.

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

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

22 Q. And that's what he was supposed to put in

23 that green certified form and submit which you saw?

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

1 yes, the notifications as well. We did a courtesy

2 notification for the friable -- or the nonfriable

3 but I didn't see him mail anything. I just seen

4 the receipt.

5 Q. Okay.

6 What -- you testified before that you

7 cannot fill out the ten-day notification until you

8 have the asbestos contractor's license, correct?

9 A. Right.

10 Q. Okay.

11 So you filled out the asbestos

12 contractor's license for Asbestek --

13 A. Right.

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

15 A. Right.

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

17 A. Yes.

18 Q. And you saw the green certified piece?

19 A. Right.

20 Q. And you assumed he mailed it?

21 A. Right.

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

23 A. Right.

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

1 that license?

2 A. Right.

3 Q. At any time?

4 A. No.

5 Q. Never told you that?

6 A. Never told me that.

7 Q. Now, at that meeting in 2007, you also

8 discussed needing a specialist or a supervisor on

9 site, correct?

10 A. Right.

11 Q. And that's when Juan's name came up and

12 Carlos Bonilla's came up?

13 A. Right.

14 Q. Okay.

15 But you helped Tomas fill out a separate

16 application for him to become a specialist,

17 correct?

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

19 Q. Okay.

20 And who mailed that?

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

22 mail anything.

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

24 A. No.

1 Q. Did you tell him or remind him make sure
2 you send in that application so that you can become
3 a specialist?
4 A. I didn't think I had to. No, I didn't.
5 Q. Okay.
6 And is that why you've just told us prior
7 to those review questions that the worker log
8 supervisor would shift from Juan to Tomas?
9 A. No. I knew -- I knew Tomas was going to
10 be there for the second part, for the -- you know,
11 I told him it would be in his best interest to
12 watch that closely.
13 Q. So you told him it would in his best
14 interest to watch phase two closely?
15 A. Yeah.
16 Q. But you never told him that -- to make
17 sure he had a specialist license in order to do
18 that?
19 A. Well, he would have to have -- have that
20 to do that so I assumed at that point he had his
21 license.
22 Q. Okay.
23 And did he ever tell you he didn't?
24 A. No.

1 Q. Okay.
2 So that's the worker's log.
3 What about safety forms, were any safety
4 forms as the job was progressing be -- be required?
5 A. There -- you know, again, that's an
6 in-house thing. Some companies do them daily,
7 Some companies do them weekly.
8 Q. How did Asbestek do them?
9 A. Per job. At the beginning of the job, mid
10 week, when situations changed, that was -- that's
11 right, there's another time I went up there. They
12 got rained heavily and I brought a bunch of rain
13 suits and stuff up there. They were getting
14 pounded.
15 Q. Were those in-house forms done for
16 Cleveland Trencher, safety forms, at all?
17 A. I don't know.
18 Q. Did you do any?
19 A. No.
20 Q. Okay.
21 Do you know if Tomas did any?
22 A. No, I don't.
23 Q. Did you ask Tomas if he were doing any?
24 A. No.

1 Q. Did he ask you if you were doing them?
2 A. No.
3 Q. Is it fair to say that as partners for
4 this job, you two ignored safety forms?
5 A. Well, no, because it's -- again, that's an
6 in-house thing. His foreman should have been doing
7 the safety --
8 Q. Foreman should have doing it.
9 So Juan would have been in charge of that?
10 A. Yes.
11 Q. And did you ever check up with Juan to see
12 if he were doing that?
13 A. No, but when I was on site, they were
14 wearing their safety equipment. You know, they
15 made sure that they had their harnesses on when
16 they were in the lifts.
17 Q. Okay.
18 And do you know if anybody filled out any
19 forms to make sure about that PPE thing that you're
20 an expert in, to find out if people had their --
21 were taking care of things properly? Did you fill
22 out any forms for that?
23 A. Did I fill out forms? No.
24 Q. Did you ever check with Juan to see if he

1 were taking care of this other than your visual
2 knowledge that they were wearing the equipment?
3 A. No.
4 Q. What about -- I'm asking you questions
5 about paperwork and how the paperwork was being
6 divided up between you and Tomas Amaya. I've asked
7 you about the worker log, okay. You said that Juan
8 took care of that and that your understanding is
9 that when phase two occurred, Tomas would take over
10 that.
11 Am I correct?
12 A. He -- well, he should take over. Whether
13 he would or not, he might have felt that it was
14 beneath him and his brother should continue to do
15 the logs. I don't know how --
16 Q. Okay.
17 A. I mean, that's --
18 Q. But you don't have any personal knowledge
19 of that?
20 A. No, I have no personal knowledge of that.
21 Q. And you have no personal knowledge of
22 safety forms that were or not -- that were or were
23 not filled out?
24 A. No, I have no personal knowledge.

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

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

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

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

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

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

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

20 Q. That's phase one?

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

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

3 A. Yes.

4 Q. So you filled that out?

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

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

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

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

17 A. Yes.

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

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

24 Q. What application would you have put that

1 on? Do you know?

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

4 Q. Okay.

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

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

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

13 A. Yes.

14 Q. All right.

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

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

21 Q. Miscommunication between whom?

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

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

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

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

17 A. It actually started towards the – yes,
18 completing phase one.

19 Q. Okay.

20 A. Yes. It was –

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

24 A. Right.