

1 paperwork, would you have to have a ten-day
 2 notification for a small job?
 3 A. For a small job, yes. Again, a lot of
 4 these -- these questions, Thomas Chung, basically,
 5 he would take care of looking up what was necessary
 6 for that particular type of job and that, you know,
 7 because I would ask him is this -- you know, is
 8 this really necessary, you know? Now, I'm mixing
 9 up a lot of my -- I worked for LVI also for three
 10 years which is one of the biggest environmental
 11 firms in the country.
 12 Q. Was that -- excuse me -- was that after
 13 your work at Safe Environmental?
 14 A. It was before.
 15 Q. Before, okay.
 16 A. Yes. '95, '96, '97, '98, somewhere in
 17 there. I was a project manager with LVI. Now,
 18 project manager is kind of a loose term because at
 19 LVI, I had different responsibilities than I did as
 20 a project manager for Tony.
 21 Q. Can we -- can I ask you about those in a
 22 minute?
 23 A. Yes.
 24 Q. And just finish up with a few questions

1 with respect to small jobs at Safe Environmental.
 2 A. Sure.
 3 Q. I understand that, you know, you're
 4 recalling your experience at a number of different
 5 places.
 6 A. Right.
 7 Q. So if you're not sure about --
 8 A. Right.
 9 Q. -- Safe Environmental, you can say so.
 10 A. Okay.
 11 Q. I'm just asking you some questions in
 12 general with the small jobs at Safe Environmental.
 13 A. Yes. They would -- the small jobs would
 14 require a notification of some sort. Whether or
 15 not I would initiate that or I would ask the
 16 question, it was in my package. If it was there,
 17 good. If it wasn't, I generally didn't question
 18 Thomas's -- you know, he was very good at looking
 19 up the regulations so. If he said it wasn't
 20 necessary, I would go with that.
 21 Q. I understand.
 22 But in any -- in any case, with respect to
 23 your work at Safe Environmental, you were not
 24 responsible for the ten-day notification?

1 A. No.
 2 Q. Okay.
 3 MR. KRAMER: Can I break in? Just try to since
 4 Tomas Amaya is a party and a witness in this, when
 5 you're referring to Thomas Chung who you've been
 6 referring to quite a bit, could you refer to him as
 7 Thomas Chung so that whoever listens to this
 8 doesn't get confused --
 9 THE WITNESS: Okay. Sure.
 10 MR. KRAMER: -- Mr. Vadas? Thank you.
 11 THE WITNESS: No problem.
 12 BY MR. THOMAS:
 13 Q. John, can you tell us a little bit -- you
 14 said you worked as -- at LVI from '95 to '98 and
 15 you were a project manager.
 16 Can you tell us about your duties as a
 17 project manager at LVI?
 18 A. Similar to what I did at Safe but it
 19 was -- it was a bigger operation. It was national.
 20 We had -- at the time, it was LVI/Burdco. Tim
 21 Burden who owned the company had four other
 22 company -- four other companies that he owned and
 23 he was in the process of selling or making some
 24 type of deal, agreement with LVI International who

1 was based in New York City. So when I came on
 2 board, they were Burdco/LVI so they started to
 3 indoctrinate LVI's way of doing things. I didn't
 4 really know Burdco's way of doing things because I
 5 didn't work for Burdco. I was coming in at the
 6 time of the transition. So I was hired as a
 7 foreman for about two weeks and then I went to
 8 project management when they got a big school
 9 package and they had the -- with LVI's extra
 10 bonding and all the money that they had, we were
 11 able to bid a lot -- a lot more projects, a lot --
 12 and bring in more manpower and do more work than
 13 Burdco could handle.
 14 Q. Okay.
 15 And what were your duties as a project
 16 manager?
 17 A. Like I said, they were the same at Safe
 18 except I was more involved with out of state work.
 19 In particular, I was more of a -- like -- we had
 20 one client, W.R. Grace, that I was liaison between
 21 our -- the work that we did and the work that W.R.
 22 Grace -- that we did for W.R. Grace was going
 23 through Gaines and Moore from Connecticut or New
 24 Hampshire who was the project management that was

1 hired by W.R. Grace to oversee us. It was like
 2 Ganes and Moore was the air sampling control.
 3 They would watch to make sure that we were
 4 compliant and we would do the job and, basically,
 5 show W.R. Grace how to build containments, how
 6 to -- they were working on a new formula that was
 7 patentable. They did receive a patent after
 8 several -- after several months of working towards
 9 it but that particular project was more of a very
 10 tight relationship where we wanted to keep them
 11 happy because it was a very lucrative contract.

12 Q. Okay.

13 As a project manager at LVI, were you
 14 responsible for paperwork?

15 A. Yes.

16 Q. Okay.

17 And you've given us a comprehensive list
 18 of paperwork that was utilized at Safe
 19 Environmental, some of which you were responsible
 20 for, some of which --

21 A. Right.

22 Q. -- Thomas or Sheila prepared?

23 A. Right. The only difference LVI, we had

24 Lorna. I can't -- Dom I believe was her last

1 name. She was responsible for all the ten-day
 2 notifications and to make sure that everything
 3 was -- all the Is were dotted and Ts were crossed.
 4 She was the office personnel that would make sure
 5 that the ten-day notifications were out on time so
 6 that the job could start on time. A lot of times,
 7 things would get pushed back. We would be
 8 overwhelmed. And we'd have to what's called
 9 renotify and a job would have -- it would have two
 10 sets of papers. It would have a ten day and then
 11 it would have the renotification. We're going to
 12 have to start over because we didn't make it.

13 Q. Okay.

14 A. We weren't ready. So Lorna, it was up to
 15 her to make sure that things got to the post office
 16 and postmarked by that time to make the ten-day
 17 work.

18 Q. Okay.

19 So at LVI, you didn't prepare, like at
 20 Safe Environment, you didn't prepare the government
 21 required paperwork?

22 A. No.

23 Q. Okay.

24 For some of the work that was out of state

1 at LVI, do you know if you were responsible for
 2 preparing any contractor's licenses?

3 A. No, I was not responsible.

4 Q. Do you know what a contractor's license
 5 is?

6 A. Yes.

7 Q. And what's your understanding of what that
 8 is?

9 A. A contractor would have to comply with the
 10 state's -- whatever the state required to do
 11 asbestos abatement or -- and/or demolition work in
 12 that state. They would have to show a reasonable
 13 work history, a list of violations that they may
 14 have incurred, personnel, length of time in the
 15 business. Some states wouldn't grant you a license
 16 based on if you're new, up and coming. You have
 17 to, basically, work in your own backyard for a
 18 while before you can go to another state and get a
 19 contractor's license. That's my understanding.

20 Q. Okay.

21 A. Like I said, where -- in LVI's case, this
 22 is where it came in having licenses in Virginia. I
 23 had to license in Virginia to get the DMA
 24 qualifications so I could work with their

1 proprietary systems. I trained there, got a
 2 certificate issued by W.R. Grace to work with DMA,
 3 a phosphoric acid based substance that would,
 4 basically, destroy the matrix of the asbestos and
 5 render it nonasbestos.

6 Q. Okay.

7 So when LVI did work in different states
 8 and you went as project manager, you would also
 9 have to get your own personal supervisor or
 10 specialist license, right?

11 A. Yes. Well, I would have to get a license.
 12 I would have to be licensed in that state. I would
 13 have to take the test, whatever was required and,
 14 basically, very few states differ. St. Louis
 15 had -- or Missouri had a couple different things.
 16 There -- we would go over the differences more than
 17 the generalities because all the states -- the
 18 general licensing was about the same but some of
 19 the states had certain little idiosyncrasies about
 20 their licensing. We would go over that and then I
 21 would take the test, get the license and do the
 22 work. I've been licensed sometimes just to work
 23 for a week.

24 Q. Fair enough.

1 But it would be your responsibility and
 2 not Lorna's at LVI to get your own specialist
 3 license since that was you?
 4 A. No. She would set it up.
 5 Q. Okay.
 6 So she --
 7 A. She would set up everything that was
 8 necessary for me to do this license. The senior
 9 project manager, we had five or six project --
 10 well, five project managers at the time I was there
 11 and one senior project manager that made sure that
 12 all that was done and Lorna would work on that.
 13 John is going out of town. He needs this. He
 14 needs this. He needs this. And so then she would
 15 give me a list of things. You got to go there to
 16 get this, here to take a test, here -- you know,
 17 basically, they want you to do your medical. They
 18 may want me to do an EMT type thing. I'd have to
 19 do rescue. Sometimes I'd have to do a HAZMAT,
 20 HAZWOPER, I had to do that with W.R. Grace in
 21 particular because we were working with chemicals
 22 so I had to take HAZWOPER course which...
 23 Q. Okay.
 24 A. Whatever's required.

1 Q. Okay.
 2 A. That was, basically, given to me and I was
 3 told where to go and I did the job.
 4 Q. Okay.
 5 Why did you separate with LVI?
 6 A. They -- like I said, Tim Burden who owned
 7 Burdco/LVI was going through the transition. And
 8 LVI had -- was taking full control. Their
 9 estimator at the time -- they had a job go terribly
 10 bad on them. They lost a lot of money and a lot
 11 of -- there was a lot of finger pointing and a lot
 12 of people were -- there were a couple of people
 13 that were fired, just -- and LVI would bring in --
 14 they started to bring in their own people to
 15 replace Burdco's people. And it was either sink or
 16 swim. And if you weren't, you know, top class or,
 17 you know, you didn't have a real good reason to
 18 stay, they would replace you and I didn't have a
 19 real good reason. It's not that my work suffered
 20 but they started with the higher salary people
 21 first and the estimator left and the -- a lot of
 22 the upper management started to leave. And then
 23 the branch manager was asked to leave who was my
 24 boss, my direct boss. And once that happened, it

1 just started to go downhill.
 2 It got to the point where a lot of the
 3 people that I would count on were no longer
 4 available and people that I would talk to, they
 5 were -- they would either leave, form their own
 6 company, leave, go to another company. Lorna was
 7 another one that left. At least a dozen people
 8 left prior to me. And I held out as long as I
 9 could and then I took one of my lead men and I told
 10 him I have -- I can get us in at another company.
 11 Q. Okay.
 12 A. Let's go.
 13 Q. Is that about the time that you went to
 14 Villa?
 15 A. No. Villa was before that.
 16 Q. Okay.
 17 A. I think I might -- yeah, Villa was before
 18 that. I've worked for so many companies.
 19 Q. I understand.
 20 A. It's hard to -- I mean, we're talking a
 21 lot of companies, a lot of changes. And, you know,
 22 I've crossed paths with a lot of these people. I
 23 would run into them years later at another company.
 24 Q. Okay.

1 A. Sometimes we would be in different --
 2 I'd -- they'd be my boss and, you know, I'd be
 3 working for them.
 4 Q. Okay.
 5 A. Such as the case with Tony.
 6 Q. Okay.
 7 And that's Tony Chung?
 8 A. Tony Paganelli.
 9 Q. Tony Paganelli.
 10 A. At -- when I first met him, he was working
 11 for me. I was his boss. Then it comes to pass he
 12 owned his own company, he was backed by John Guira
 13 and he hired me so I had to look up to him. I was
 14 his underling, basically.
 15 Q. Okay.
 16 A. I was an hourly. Pretty much for all
 17 these jobs, I was paid hourly even though a lot of
 18 them required salary pay to make things -- the
 19 transitions easier because things moved so quickly,
 20 I agreed with LVI to keep my hourly rate as long as
 21 I was guaranteed 40 hours a week which I was.
 22 Q. Okay. Thank you.
 23 Now, going ahead in time to Safe
 24 Environmental, you started there in about 2002 or

1 2003?

2 A. Yes.

3 Q. Or so?

4 A. Yes.

5 Q. That's what your memory is?

6 A. Yes.

7 Q. And then you said that you worked there
8 until about 2005?

9 A. I think so. Yes. Yes, I think so.

10 Q. And why was it you separated from Safe
11 Environmental?

12 A. Safe Environmental, John Guira at the time
13 felt he was not getting the return on his
14 investment that he wanted. He thought he could do
15 better using his money in other endeavors. Tony
16 wasn't real clear on what John was going to do but
17 he insisted, you know, that he could make it work
18 and that Sheila was going to form her company and
19 that between the two companies, we could make a go
20 of it. By we, I mean, Tony. And Tony and I just
21 didn't -- I didn't see it happening because Tony
22 didn't have the means without John Guira's money.

23 So I tried to stay as long as I could. He
24 tried to pal up with some people out of state,

1 another big company, Door and Associates. And
2 after a couple of meetings, we bid on the Cook
3 County Hospital project which was an enormous
4 project, just way over our heads, way out of our
5 league. Not that we couldn't do it. It would have
6 taken a lot to do it. But we would have had -- we
7 tried to -- we did bid the job. I put together a
8 package, what I -- what I thought was reasonable
9 and we bid the asbestos portion of that package
10 with Door being the demo contractor. And I even
11 attended the opening of the bids but we didn't get
12 the project. There was a lot of -- Door was the
13 low bidder on the demolition part of it and for
14 some reason, they did not do the math correctly
15 and -- just to make a long story short, they didn't
16 get the job. They were upset about it. I didn't
17 know what happened after that but there was a lot
18 of bad feelings. I don't think Tony and Door ever
19 did anything after that.

20 Q. Okay.

21 Is that about the time that you left Safe
22 Environmental?

23 A. Yes. When I -- things started to get bad
24 out in the field. We were -- Tony was working with

1 another friend who had a company. I can't
2 remember -- John. I don't remember his name. I'm
3 sorry. But another abatement owner was a friend of
4 Tony's who also was a project manager and did air
5 sampling and all that. And he was getting Tony
6 jobs here and there but they were only four and
7 five men jobs, you know, one and two weeks. I
8 pretty much dropped down to a foreman and then a
9 laborer and it got to the point where I was just
10 wasting my time. I didn't see -- I didn't see it
11 going anywhere quickly.

12 Q. Okay.

13 So what did you do?

14 A. I started to look for other work.

15 Q. Okay.

16 And did -- were you successful?

17 A. Not initially but I did manage to find
18 some work here and there.

19 Q. And this is about 2005?

20 A. Yes. I'd have to say that, about 2005,
21 yes.

22 Q. Okay.

23 Tell us -- tell us a little bit about what
24 kind of things you did after that?

1 A. Well, I had -- I was -- I was working out
2 of my garage making some -- making my flange units
3 and some of the companies that bought my flange
4 units liked my website, my design and all that and
5 they asked me to develop websites so I started
6 doing that for some of the companies.

7 Q. Okay.

8 A. At the time, ACI. I did ACI, Valor, DEM,
9 several companies.

10 Q. So you still had some contact with these
11 abatement companies but your work now shifted more
12 to like an IT or web based things?

13 A. Right.

14 Q. Okay.

15 And so you weren't doing -- you weren't
16 doing any labor and you weren't doing any
17 supervise --

18 A. No. I was working like just hustling work
19 just like an outside contractor.

20 Q. Okay.

21 A. They asked me how come your website, you
22 know, doing so good on the search engine and I
23 said, well, you could pay me and I'll show you. I
24 was pretty good at positioning.

1 Q. Okay.
2 After your work at Safe Environmental,
3 when is the next time that you did any work
4 involving hazardous materials or asbestos removal?

5 A. Kinsale Contracting which is an offshoot
6 of Colfax.

7 Q. If I may just ask you, that's

8 K-I-N-S-A-L-E?

9 A. Yes.

10 Q. Okay.

11 A. Kinsale Contracting Group.

12 Q. Okay.

13 When did you start work for them?

14 A. I've known — Kinsale was one of the — as
15 Colfax, Bob Duermit, the owner of Kinsale, was one
16 of the first contractors to buy one of my flanges
17 and give it a try. I've known Bob since I started
18 asbestos abatement and got to be pretty good
19 friends with him. And I told him I was, you know,
20 looking for some work and he says good, he's got a
21 job in Indiana and he needs somebody to do it.

22 So I ran the first job that they ever ran
23 in Indiana and this was at St. Margaret's south
24 campus in Dyer. And it was, basically, an under —

1 under — under the facility, there was a crawl
2 space and they were trenching it out — I mean, Tom
3 and — Tom and Blank, the contractors there that
4 were doing all the rehab work, they were refurbishing
5 the whole hospital. They were trenching out the —
6 underneath the radiology unit and they wanted
7 someone to — some of the guys ran into some
8 asbestos from years gone by when they used to just
9 repair a valve and just drop the asbestos. So it
10 was mixed in with the dirt. So it was reported,
11 the workers wouldn't go down there until it was
12 abated.

13 So Dave — the project manager, Dave
14 Dobos, the project manager from Kinsale called me
15 up and asked me if I'd be interested. I said yeah,
16 I'm available and I took that job. It went well.
17 We got it cleaned up. Indiana came and inspected
18 the job a couple of times. And I heard from Bob
19 later they got a recommendation as doing a very
20 good job for their first time in Indiana.

21 Q. Okay.

22 How long did that project last?

23 A. That was about four, five weeks, somewhere
24 in that vicinity. It wasn't — it wasn't major

1 abatement. It was, basically, clean up everything
2 that was laying around or, you know, it was a go
3 through it and clean it up.

4 Q. Okay.

5 And what year was that?

6 A. I'm going to have to say 2006. I could
7 verify these things later. I'm sorry I came so
8 unprepared on these dates but I — I've been —
9 well, my son just went back to school this past
10 weekend and it's been crazy, this whole last week.

11 And as far as the time line, that was the
12 first job that I did with Kinsale. The next time I
13 worked for Kinsale was with Mike Collins and that
14 was a large scale project and, again, they called
15 me to do this job.

16 Q. So Kinsale called you about another
17 project, this was going to be a large scale
18 project?

19 A. Yes.

20 Q. And that would be with Mike Collins, the
21 demolition person?

22 A. Yep.

23 Q. And is that the first time you met Mike?

24 A. Yep.

1 Q. Okay.

2 And do you recall when this project was,
3 what year that was?

4 A. Well, I've been off work since 2008. It
5 had to be around 2006, 2007.

6 Q. Okay.

7 And tell us about this project?

8 A. This is in LaPorte, Indiana. It was an
9 old — old factory. Actually, it was a couple of
10 places but the last place it was was an old factory
11 that made parts for cars. Before that, it was — I
12 forgot what they called it but it was a large scale
13 project that had transite siding, it had friable
14 asbestos, it had a separate boiler room area that
15 was adjacent to the building. It was a separate
16 building, though. They subdivided it. They wanted
17 to do this in sections.

18 It was — it was a pretty complicated
19 project because they were having trouble with the
20 town of LaPorte trying to get, I guess, the owner
21 of the building owned — owed LaPorte a lot of back
22 taxes, a lot of money and he was in — in India,
23 the country, out of the country and he eventually
24 made his way back to the United States and tried to

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 – I'll

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 2006?

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 petty 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. Well 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 Loma 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. It 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 transite 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?