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September 4, 2018

Hon. William C. Griesbach  
Chief United States District Judge  
125 South Jefferson Street  
Green Bay, WI 54301

Re: United States v. Van Den Heuvel, Case No. 17-CR-160

Dear Chief Judge Griesbach:

In advance of today's evidentiary hearing in this case, the United States is hereby filing the transcript of the August 11, 2017 evidentiary hearing in *United States v. Van Den Heuvel*, Doc. 159, Case No. 16-CR-64. As discussed at the last status conference, the parties intend to ask the Court to consider the transcript of the August 11, 2017 hearing as part of the record for the September 4, 2018 hearing in this case.

Respectfully submitted,

/s/ Matthew D. Krueger

MATTHEW D. KRUEGER  
United States Attorney

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION

UNITED STATES OF AMERICA,	)	CASE NO: 1:16-CR-00064-WCG-DEJ
	)	
Plaintiff,	)	CRIMINAL
	)	
vs.	)	Green Bay, Wisconsin
	)	
RONALD H. VAN DEN HEUVEL,	)	Friday, August 11, 2017
ET AL,	)	
	)	(9:07 a.m. to 12:05 p.m.)
Defendants.	)	(1:04 p.m. to 4:38 p.m.)

EVIDENTIARY HEARING

BEFORE THE HONORABLE WILLIAM C. GRIESBACH,  
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES: SEE PAGE 2

Court Reporter: Recorded; FTR

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EXCEPTIONAL REPORTING SERVICES, INC

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EXCEPTIONAL REPORTING SERVICES, INC

Green Bay, Wisconsin; Friday, August 11, 2017; 9:07 a.m.

(Call to Order)

**THE COURT:** Please be seated.

**THE CLERK:** The Court calls Case Number 16-CR-64,  
United States of America versus Ronald H. Van Den Heuvel, Kelly  
Yessman Van Den Heuvel for an evidentiary hearing. May I have  
the appearances, please?

**MR. JOHNSON:** Mel Johnson and Matthew Krueger  
representing the United States, Your Honor. Good morning.

**THE COURT:** Good morning.

**MR. LE BELL:** Good morning, Your Honor. Attorney  
Robert LeBell for Mr. Van Den Heuvel. Mr. Van Den Heuvel's in  
Court.

**THE COURT:** Good morning.

**MR. PORTER:** Your Honor, Good morning. Andrew Porter  
and Carrie DeLange on behalf of Kelly Van Den Heuvel who is  
present.

**THE COURT:** All right. Well, good morning, all.  
We're here for an evidentiary hearing on the motions to -- on  
the motion to suppress evidence obtained in the course of the  
warrant. And I understand that the warrant, itself, is  
challenged and then the manner in which it was executed. It's  
challenged on the grounds of the failure to particularly  
describe the things that were sought and then the claim is made  
is that even the -- even with the description given, what was

1 seized exceeds what was allowable under the warrant. That's  
2 what this evidentiary hearing is about, the latter issue?

3 **MR. JOHNSON:** I think so.

4 **MR. LE BELL:** It is --

5 **THE COURT:** Sounds pretty narrow.

6 **MR. LE BELL:** There's a return of property motion too  
7 but that's all part and parcel of this, so.

8 **THE COURT:** Okay. It probably -- you know, the way  
9 we split things is when there's an evidentiary hearing I  
10 typically take it from the Magistrate Judge. But it sounds  
11 like these are so intertwined that maybe all three of those  
12 issues I should handle, the validity of the warrant, the  
13 particularity, the execution of the warrant, as well as the  
14 return of property issue?

15 **MR. LE BELL:** Judge, I can tell you from my  
16 perspective, the non-evidentiary motions are still in the  
17 process of being fully briefed. My brief is due on the 18<sup>th</sup>.  
18 It's a reply brief and that's the non-evidentiary portion. I'm  
19 going to ask for a further extension, but the evidentiary  
20 portion we just agreed that since everybody was up here and  
21 you're here, it might be a better logistic way to do it here.

22 **MR. JOHNSON:** We would not object to you handling all  
23 the issues having to do with the search warrant. Right now  
24 both sides have briefed the validity of the warrant, itself,  
25 but we're still waiting for the reply brief of the Defense.

1 But once those are in, we would not object to you considering  
2 all the warrant related issues. That would seem to make sense.

3 **THE COURT:** All right. That's -- I'll talk to  
4 Magistrate Judge Joseph, but that's my inclination and --

5 **MR. JOHNSON:** Your Honor, I think it's Magistrate  
6 Judge Jones --

7 **THE COURT:** Oh, Jones?

8 **MR. LE BELL:** It is, yeah.

9 **THE COURT:** Okay. I --

10 **MR. LE BELL:** Judge, before we -- I'm sorry.

11 **THE COURT:** Yeah. Go ahead, Mr. LeBell.

12 **MR. LE BELL:** Before we actually get into the depth  
13 of the motion, there are a couple of logistical issues that I  
14 think might bear fruit so that we cannot have to protract this  
15 any longer than necessary.

16 It's my understanding the Government submitted a --  
17 served a brief in anticipation of this evidentiary hearing and  
18 without going into their theories on why the search itself  
19 should be sustained, suffice it to say that one of the things  
20 that they're maintaining is that even if this were a general  
21 search, we would still have to parse out those things that were  
22 covered, as opposed to those things that were not covered by  
23 the scope of the search. At least that's their position. And  
24 what's happened, as you know, in the previous meetings here  
25 we've explained to you the scope of the materials that were



1 seized, they're vast. There's hundreds of thousands of  
2 documents of which the Government has designated from their  
3 perspective only and on an after-the-fact basis, that  
4 approximately 3,200 are what they deemed to be relevant to the  
5 pursuit of the indictment. That having been said, it's  
6 virtually impossible for either Defense lawyer, or anybody, who  
7 didn't -- literally, to be able to go through each item that  
8 was scanned into relativity, the 500,000 or 300,000 documents  
9 or even to go through the 3,200 to say what falls within the  
10 scope or what doesn't fall within the scope.

11           And so, what I think is going to happen perhaps,  
12 depending on how the Court rules, is if you determine that the  
13 search was in some degree in excess of what was allowed in the  
14 warrant itself, it would probably not happen until the time of  
15 trial to when the Government determines what exhibit they're  
16 actually going to see -- use that they seized through the  
17 search warrant that they're going to try to introduce because,  
18 otherwise, we could be here for weeks going through 3,200  
19 documents. And I can imagine that they're not going to try to  
20 introduce 3,200 documents.

21           So that's -- I guess what I'm saying is rather than  
22 having the Defense come forward on an analysis of every single  
23 document that we think is outside of the scope, I think it  
24 ought to be, really, as a practical matter the question of what  
25 the Government's going to use.

1           **THE COURT:** Mr. Johnson?

2           **MR. JOHNSON:** Well, with that in mind, we intend to  
3 introduce testimony from Sara Hager who's the main investigator  
4 in this bank fraud matter. She's from the FDIC. She'll  
5 testify about the materials from the search warrant, which she  
6 reviewed in order to determine whether it -- whether they  
7 really mattered and she will identify those on a discovery  
8 index, which we've provided to the Defense. So those -- at  
9 least that relatively small subset of the much larger amount  
10 that was seized in the search warrant will be identified and if  
11 you would find it helpful, we can submit those pages to you.

12           **MR. PORTER:** Your Honor, if I could just -- from our  
13 perspective, the ask is going to be that you bar the Government  
14 from using any documents in this case, in this trial, that were  
15 seized pursuant to the Brown County search warrants but, at the  
16 very least, if you were not compelled to do that, that we  
17 should have an opportunity to, as Mr. LeBell talks about, go  
18 through, at the very least, sort of a document-by-document  
19 analysis, presumably closer to trial when we have a better  
20 sense from the Government of precisely what it is that they  
21 would intend to introduce. But our ask is going to be that you  
22 flatly prohibit them from using documents that they seized --  
23 that the Government seized.

24           **MR. LE BELL:** If I didn't articulate, that is my --  
25 was my position and the fall -- what I was trying to explain,

1 is the fall-back position is if you determine that it wasn't a  
2 carte blanche exclusion of everything that was seized, then it  
3 had to be a document-by-document analysis of whether it  
4 exceeded the scope and/or whether the Government had some  
5 exception that they were going to rely upon where it's  
6 admissible otherwise.

7 **THE COURT:** How much time do you anticipate you'll  
8 need to present the evidence that you believe bears on these  
9 issues?

10 **MR. JOHNSON:** Well, I think between our witnesses and  
11 the witnesses we anticipate the Defense calling, we expect this  
12 will take at least most of the day.

13 **THE COURT:** Hmmm. Well, let's get going. I'm not in  
14 a position really to -- obviously, you're telling me where you  
15 think we're going to end up and what the issues will be. Let's  
16 just start with the evidentiary matters and then we'll proceed  
17 from there.

18 **MR. LE BELL:** Judge, Counsel and I have discussed  
19 allowing, if the Court approves, calling a Defense Witness out  
20 of order. He has to have a -- be on the road and it's Mr. Phil  
21 Reinhart. And we're also asking to sequester the witnesses.

22 **THE COURT:** Sure. That's fine. You wish to -- and  
23 is there -- I don't think we need opening statements. This  
24 sounds like we're going to concentrate on the presentation of  
25 evidence. We've got Court time today and then we'll deal with

1 the legal arguments later.

2 **MR. JOHNSON:** Your Honor, we don't object to  
3 sequestration. We intend to keep an eye out to make sure none  
4 of our witnesses --

5 **THE COURT:** So your move for sequestration, you want  
6 an order of sequestration of witnesses?

7 **MR. JOHNSON:** We'd be happy with that and we'll keep  
8 an eye out for our witnesses. I assume the Defense will do the  
9 same because we won't necessarily recognize, you know, all the  
10 witnesses that they may call.

11 **THE COURT:** Sure. All right. So witnesses for both  
12 parties then are ordered sequestered from the hearing.  
13 Obviously, the representatives of the parties can be present.  
14 Okay.

15 And then, you're going to call a witness out of  
16 order? Did you want to do that right away, Mr. LeBell?

17 **MR. LE BELL:** Yes, Your Honor.

18 **THE COURT:** Okay. Go ahead.

19 **MR. LE BELL:** Thank you. Your Honor, at this time  
20 the Defense would call Phil Reinhart.

21 **THE COURT:** Mr. Reinhart, please come forward.

22 **MR. PHILIP REINHART, DEFENSE WITNESS, SWORN**

23 **THE CLERK:** Please state and spell your first and  
24 last name for the record.

25 **THE WITNESS:** Philip Reinhart. P-H-I-L-I-P.

1 R-E-I-N-H-A-R-T.

2 **THE COURT:** Thank you, Mr. Reinhart. You may pro --  
3 have a seat there. And, Mr. LeBell, you can proceed.

4 **MR. LE BELL:** Thank you, Your Honor.

5 **DIRECT EXAMINATION**

6 **BY MR. LE BELL:**

7 Q Mr. Reinhart, currently are you residing in the Green Bay  
8 area?

9 A Yes.

10 Q Have you been residing in the Green Bay area, at least as  
11 far back as July of 2015?

12 A Yes.

13 Q Do you know the gentlemen seated to my right, Ron  
14 Van Den Heuvel?

15 A Yes, I do.

16 Q How do you know him?

17 A I work with Ron.

18 Q In July 2<sup>nd</sup> of 2015 and for some period of time prior to  
19 that were you employed by a company owned by Ron Van Den Heuvel  
20 as a majority owner?

21 A Yes.

22 Q In what capacity?

23 A I was Director of Human Resources.

24 Q What were your responsibilities as the Director of Human  
25 Resources and for what company?

1 A The company which -- it was Eco Hub, Wisconsin, and  
2 overall human resources management of hiring employees,  
3 processing their new hire documents. Those types of things.  
4 Involved with plant management, performance reviews or  
5 disciplinary actions, standard human resources information.

6 Q Where did you -- at what physical location did you perform  
7 these responsibilities?

8 A As of July 2<sup>nd</sup>?

9 Q Yes.

10 A I was at 2077-B Lawrence Drive, DePere.

11 Q Can you describe generally what that facility is?

12 A Just office buildings, office suites, one-story office  
13 suites.

14 Q All right. Is it divided into two sections or one whole  
15 section?

16 A At that location, it was one building, but there was a  
17 Suite A and a Suite B.

18 Q Did you occupy an independent room or area in that suite?

19 A My office was in Suite B.

20 Q And as a -- as the Director of Human Resources, were you  
21 aware of some of the documents that were filed within that  
22 suite?

23 A Yes.

24 Q Generally, I'm sure you can't remember everything, but  
25 generally, of what did that consist?

1 A In Suite B there were a number of boxes of information  
2 from prior years, along with file cabinets from previous  
3 operations that contained financial records, and personnel  
4 folders, and all the associated things with those folders --  
5 benefits, and disciplinary actions, and vacation requests, et  
6 cetera.

7 Q Were you aware of other documents and items that were  
8 within the suite that weren't generally -- that were not  
9 considered to be human resources documents?

10 A Yes.

11 Q Can you tell me were all these documents in boxes, in  
12 files, or were they out literally from day to day, depending on  
13 what day it was, on people's desks or if you could describe the  
14 circumstances that you observed?

15 A Are you asking me about all the boxes?

16 Q Just generally, how were things stored?

17 A Oh. They were -- there was a center room and there were a  
18 number of bank boxes and tubs filled with, and marked with  
19 information, along with 10 to 15 file cabinets in various  
20 offices and in that general area. Maybe more. I can't  
21 remember the exact number.

22 **MR. LE BELL:** Your Honor, can I approach?

23 **THE COURT:** Yes.

24 //

25 //

1 **BY MR. LE BELL:**

2 Q Mr. Reinhart, I'm showing you what's been marked Exhibit  
3 Number 1001 without the money. Can you please tell me if you  
4 recognize that and if so, what is it?

5 A That's the floor way of the two suites that were  
6 connected.

7 Q Does that document delineate A from B, as far as the parts  
8 of the suite?

9 A Yes.

10 Q Can you -- are you able to identify, just generally, where  
11 your office was?

12 A My office was in Suite B, the office marked "H."

13 Q Would you tell me, as best you can recollect, as of July  
14 2<sup>nd</sup>, 2015, what records would have been kept for employees by  
15 you?

16 A An assorted amount of personnel folders, hiring documents,  
17 disciplinary, OSHA reports, applications, for the employees  
18 that I managed in that facility, for health applications,  
19 dental applications, short-term, long-term disability, those  
20 things. Many of the corporate insurance documents from, I  
21 think Willis was our insurance provider at that time, so  
22 commercial property, those types of things.

23 Q Would they have included things like Worker's Comp.  
24 claims, claims for disability, claims for insurance payouts?

25 A Yes, on a limited basis. I would get copies when claims



1 were made and then in the Patriot facility were a lot of the  
2 original documents.

3 Q In conjunction with hiring an individual for the company,  
4 was there an employee handbook?

5 A Yes. I should have mentioned that. I'm sorry. There  
6 were various versions of the employee handbooks also.

7 Q Of what other items were you aware were just generally  
8 filed in the entire Suite A and B on Lawrence?

9 A There were a number of historic records that Ron had from  
10 many years back and there was a conference room that had a lot  
11 of materials that were used for presentations, drawings, et  
12 cetera, and a majority of the historic financial records were  
13 kept in one office there.

14 Q Do you know approximately, as of the morning of July 2<sup>nd</sup>,  
15 2015, how many file cabinets were in the two suites together?

16 A Ooooo.

17 Q Just give me a ball park.

18 A Forty to fifty, and I'm talking like three-drawer file  
19 cabinets, that type of thing, and a number of vertical, three  
20 to four high. Not the wide file cabinets, but standard file  
21 cabinets.

22 Q Can you approximate, and you may not be able to do this,  
23 but how many boxes containing documents were on premises,  
24 within A and B, as of July 2<sup>nd</sup>, 2015?

25 A It's really an approximation, but 300 to 400 I would

1 guess.

2 Q When you say that there were documents related to  
3 businesses from a long time ago, what period of time are we  
4 talking about, approximately?

5 A Well, there -- Ron had purchased a paper mill in 1997 or  
6 so and so, there were records going back that far. There were  
7 other businesses he's involved with. I can't recall  
8 specifically the years, but there were -- there was  
9 documentation from 1992, '93, '94, all the way up through the  
10 years.

11 Q As part of your operation, did you have any electronic  
12 equipment?

13 A Yes. I had laptop and computer configuration.

14 Q Did that -- was that a personal laptop computer or did  
15 that belong to the corporation?

16 A Corporation.

17 Q Can you tell me whether you had within your suite or,  
18 specifically, your office any personal items that belonged to  
19 you exclusively?

20 A Yeah. I mean besides photos, personal photos, things like  
21 that and my portfolio or briefcase, for lack of a better term,  
22 that had personal items in it.

23 Q Personal items where they consisted of what, as best you  
24 can recollect, as of July 2<sup>nd</sup>, 2015?

25 A I had two checkbooks, various bills, my daughter's student

1 loan, WPS, things like that, business cards I have collected  
2 over the years, those types of items.

3 Q Were you aware based on your observations of whether there  
4 was anything that might be defined as memorabilia that belonged  
5 to Ron on site?

6 A Yes.

7 Q Can you tell me what that is?

8 A There were a number of photos and -- I don't know if it's  
9 memorabilia, but plaques and things from previous things that  
10 he had been involved with.

11 Q Were there any other documents that you recall that  
12 related to business that had -- you know to be closed or no  
13 longer functional that were on scene?

14 A Yes.

15 Q Can you give me an example? Besides the one you already  
16 have?

17 A Oh, Care for All Ages was a company that Ron had, and many  
18 items related to projects. So I don't know if they were  
19 necessarily companies that were owned, per se.

20 Q I want to go back just a moment to try and enumerate the  
21 things that you had on site in conjunction with your HR duties  
22 and ask you if they included the following:

23 Compensation agreements?

24 A Yes. Both digitally and hard copy.

25 Q Federal and State tax forms?

1 A Yes.

2 Q Any kind of disciplinary proceedings?

3 A Yes.

4 Q Any kind of litigation regarding HIPAA issues or inquiries  
5 regarding HIPAA issues?

6 A Related to HIPAA issues, could you define that?

7 Q Well if there was anything where you got a communication  
8 asking for information about an employee that had a HIPAA  
9 consequence?

10 A If you define "HIPAA consequence" like employee  
11 applications for health benefits and those types of things that  
12 ask for dates of birth and Social Security numbers, et cetera,  
13 if that's how you're defining it, yes. That was there.

14 Q Were there blank new hire packets?

15 A Yes.

16 Q And how about health and dental benefit enrollment  
17 packets?

18 A Yes.

19 Q How about 401k blank enrollment packets?

20 A Yes.

21 Q How about past and current company insurance policies and  
22 proposals?

23 A Yes.

24 Q How about job descriptions and pay rates related to  
25 current and past employees?

1 A Yes.

2 Q What about OSHA logs to insure that the company was  
3 compliant with the regulations that were applicable?

4 A Yes.

5 Q How about standard operating procedures and documents  
6 relating for the various businesses?

7 A Yes.

8 Q And what about material safety data sheets for the  
9 operations of the businesses?

10 A Safety manuals which included some safety sheets in them,  
11 yes.

12 Q Some time on July 2<sup>nd</sup>, 2015, did you become aware that a  
13 search warrant was being executed at the Lawrence Avenue  
14 address?

15 A Yes. To the best of my memory, I returned from going to  
16 the post office and approximately 10:30, 10:45 when I pulled  
17 into the lot, the search warrant was active.

18 Q When you arrived at the scene, did you make inquiry about  
19 your specific area and what would be taken or what would not be  
20 taken? And when I talk about "area," I'm talking about your,  
21 part of the suite that you operate?

22 A At that point, I was approached when I -- I was trying to  
23 get out -- when I got out of my car. So, really, at that point  
24 I was trying to determine what was happening.

25 Q Did you have any discussion with any law enforcement

1 official in conjunction with the search that was being executed  
2 about your personal, basically, your personal belongings as  
3 well as your electronic equipment?

4 A Not when I initially was approached, but later in the day  
5 I requested, if I could, retrieve my portfolio.

6 Q I presume, and you can correct me if I'm wrong, you don't  
7 know the specific individual with whom you had that  
8 conversation. Is that correct?

9 A I can't recall, you know, specifically, but there were a  
10 couple of people that I spoke with.

11 Q What was the general nature of the conversation?

12 A The nature of the conversation was that they served a  
13 search warrant --

14 **MR. JOHNSON:** Well, Your Honor, could I ask that we  
15 clarify when this was because Mr. Reinhart has referred to two  
16 different times?

17 **THE COURT:** Sure.

18 **THE WITNESS:** Okay. When I first approached, 10:45  
19 or so, I was approached by a blonde female, Brown County  
20 Sheriff, I believe, and there might have been an FBI person  
21 there. And they asked me to wait for Sergeant Shartner or  
22 Shantner (ph.s.) and they requested my cell phone, took my cell  
23 phone, and told me to stay by the car -- the van. It was a  
24 van.

25 //

1 **BY MR. LE BELL:**

2 Q And subsequently, you had another conversation with one of  
3 the officers? Is that right?

4 A Well, that morning probably between 10:00 and about 11:00,  
5 or 10:45 and 11:30, I was asking if I could talk to my  
6 employees or determine what was occurring and they asked me to  
7 stay separate.

8 Q Did you have any discussion with any officer about your  
9 electronic items, whatever they may be, meaning computer,  
10 phone, that sort of thing?

11 A I did initially when they took the phone. They said  
12 they're seizing it and that was the end of the discussion. And  
13 I asked when it might be returned and they said that would be  
14 determined. And, basically, I was told, you know, we're  
15 seizing everything in the two offices. So, I could only assume  
16 that was my laptop and later in the day, around 4:00, I  
17 requested if I could get my portfolio.

18 Q At any point in time were you told that law enforcement  
19 was going to make a mirror image of the computer hard drives?

20 A No. We did not have that discussion --

21 Q Were you aware --

22 A -- that I can recall.

23 Q -- were you aware, based on your own knowledge, whether  
24 any computer hard drive was made on scene? Excuse me, mirror  
25 image was made of the computer hard drive on scene?

1 A No. At some point, and I can't recall the exact time, I  
2 was made aware that they were taking all the computer equipment  
3 in the two suites.

4 Q Eventually were you allowed to reenter the premises?

5 A Approximately 4:00 is my memory.

6 Q You went into the premises and let me focus in, at this  
7 point in time, on your area where you operated your HR  
8 responsibilities, can you tell me generally -- I can put it  
9 either way -- what was missing or what was left? However you  
10 want to address it.

11 A At that point, and I was only allowed to enter back into  
12 Suite B, which is where my office was, there was an array of  
13 activity going on. So, there were things that were removed and  
14 being loaded in the trucks. In my office I can't recall that I  
15 specifically opened a file cabinet to look if the files were in  
16 there, but I do know I had a table set up and most of those  
17 items had been removed.

18 Q Eventually were you able to once -- let me back up a  
19 minute. I presume, at some point in time, the police officers  
20 left later in the day?

21 A I had spoken with one of the officers there and they  
22 agreed to call my wife's cell phone, which I had then gone and  
23 gotten during the day and that they would call me when I could  
24 lock the office.

25 Q Did you, in fact, lock the office?



1 A At approximately 7:00 p.m. that night.

2 Q Once the officers were fully out of the two areas, the two  
3 suites, did you attempt to conduct some form of inventory to  
4 determine what it was that you still had, if anything, which  
5 related to your HR responsibilities?

6 A I did not that evening. When I was there, Ron's brother,  
7 David Van Den Heuvel was there also and we just walked through  
8 both suites, but there was no inventory done that evening.

9 Q Subsequently, on a later date, did you attempt to do an  
10 inventory to do an inventory to see what was gone?

11 A On Saturday we went -- I went back with the help of some  
12 others.

13 Q What were your findings?

14 A Almost all information in the two suites were gone and  
15 there was a lot of garbage and trash, cakes, things, you know,  
16 on the floor. All pictures were on the floor, that kind of  
17 thing.

18 Q With respect to the items that we discussed earlier in  
19 your testimony, would it be correct to say that all those items  
20 were taken?

21 A Yes.

22 **MR. JOHNSON:** Your Honor, I'll object or ask that  
23 that be clarified. He referred to so many things.

24 **THE COURT:** Uh-huh.

25 **MR. LE BELL:** I mean I can go through them. When I

1 talked about --

2 **THE COURT:** I think --

3 **MR. LE BELL:** -- sorry.

4 **THE COURT:** -- it might be easier, just have -- I  
5 mean he said everything was taken. If you want to cross-  
6 examine him on it, fine.

7 **MR. JOHNSON:** Fair enough. Fair enough.

8 **THE COURT:** Go ahead.

9 **BY MR. LE BELL:**

10 Q Mr. Reinhart, I'm going to show you an exhibit.

11 **(Pause)**

12 Mr. Reinhart, I'm showing you now what's been marked  
13 as Exhibit 102 -- I'm sorry, 1002. Tell me, if you -- take a  
14 look at that, there's multiple photographs.

15 A Okay.

16 Q Do you recognize what these photographs are?

17 A Well, I recognize the location.

18 Q And are you able to determine whether you've seen that  
19 depiction --

20 **THE COURT:** We're not picking up your question,  
21 Mr. LeBell.

22 **MR. LE BELL:** I'm sorry?

23 **THE COURT:** We're not picking your question.

24 **MR. LE BELL:** Oh, I'm sorry.

25 //

1 **BY MR. LE BELL:**

2 Q Are you able to determine whether you had previously seen  
3 the scene that are depicted on those various photographs?

4 A I can't say that I was around when this material was  
5 there. When I returned, there were trucks out front and  
6 pallets, and things being loaded. But as these pictures are  
7 shown, I was not there at that time.

8 Q You would agree, would you not, that those photographs  
9 depict various pallets containing what appears to be shrunk-  
10 wrapped materials, I think that's the term, in front of the  
11 Lawrence Avenue suites?

12 A Correct. Both A and B.

13 Q I want to show you what's been marked as Exhibit 1003.

14 A. What is 1003? I'm sorry.

15 Q It's the big packet.

16 A This?

17 Q That's it.

18 A I don't know if I need to go through all of it. I'm  
19 familiar with the photos.

20 Q All right. And what are those photos? Again, the first  
21 page is just a cover sheet. Second page, again, is -- I  
22 believe, what has been previously been marked as Exhibit 1001.  
23 And the third page, is simply a series of photograph  
24 identifications. But thereafter, there are photographs. What  
25 do those photographs generally depict?

1 A The offices in the, I guess you would call it the, general  
2 areas that both suites contained.

3 Q Do those photographs accurately portray how the two  
4 different suites appeared after the search warrant was  
5 completed?

6 A Yes.

7 Q Do they accurately reflect some of the suite -- the  
8 entrances to the suite, as well as the individual offices  
9 themselves?

10 A Yes. I'd have to identify where the entrance photos were,  
11 but yes.

12 Q Mr. Reinhart, let me also ask you this question. You said  
13 that the next Saturday you reentered the premises and you  
14 attempted to do an inventory. Were there items besides HR  
15 items and things that we've already discussed that you  
16 determined were no longer present, which had been present to  
17 your knowledge, as of July 2<sup>nd</sup>, 2015, in the morning before the  
18 warrant began?

19 A Yes. Mr. LeBell, I could -- or Attorney LeBell, if I  
20 could clarify. I didn't attempt to take an inventory, but I  
21 walked through like both suites --

22 Q Right.

23 A -- and I knew where things were filed or placed previous  
24 to that time, inside wall units, and various file cabinets, and  
25 the boxes that were stacked upon each other in the areas.

1 Q Can you give me, first, a generalized overview of what it  
2 was that you determined was no longer present that had  
3 previously been present prior to the beginning of the search  
4 warrant execution?

5 A I can give you a general, you know --

6 Q Let's start there.

7 A -- 300,000 documents, so.

8 Q Right.

9 A But, you know, there were binders with corporate  
10 information or projects and PowerPoints, and historic  
11 information in fireproof cabinets and regular cabinets.

12 Q Let's stop for a minute.

13 A Okay.

14 Q Before we get away from this. You say "fireproof"  
15 cabinets. Can you describe for me what "fireproof" cabinets  
16 were on scene prior to the search warrant execution?

17 A I believe my recollection is there were three in Suite A,  
18 near where Ron worked. And there were two in the general area  
19 of Suite B.

20 Q Were those fireproof cabinets there at the time you came  
21 back on Saturday? Were they gone?

22 A I believe they were gone. I -- well, I -- it's hard to  
23 recall specifically, but I think the two fireproof cabinets  
24 were still in Suite B, but they were empty.

25 Q Can you tell me based on your knowledge, your own

1 independent knowledge, what was in there? And if you can tell  
2 me if they related specifically to operations of businesses  
3 that were no longer in operation or businesses that had been  
4 closed and/or projects that never came to fruition?

5 **MR. JOHNSON:** Well, Your Honor, I'll object unless  
6 there's some foundation laid for how Mr. Reinhart, who was a  
7 human resources person, would know that.

8 **MR. LE BELL:** I just asked him on his personal  
9 knowledge.

10 **MR. JOHNSON:** Well --

11 **THE COURT:** Overruled.

12 **THE WITNESS:** I was aware that anything that would be  
13 filed by Ron or staff or other people that were life insurance  
14 policies, car titles, private medical information or, you know,  
15 those items. And I believe there were things like bond --  
16 previous bond documents, originals, things like that of  
17 operations were kept in those cabinets.

18 **BY MR. LE BELL:**

19 Q Did those items relate to ongoing projects or things that  
20 were vintage?

21 A I don't know if I could answer that. Clearly, there may  
22 be, there may not have been. I don't know.

23 Q Can you tell me whether there were any items that you  
24 believe were present as of July 2<sup>nd</sup>, 2015, that were missing  
25 that related to corporate structures that were no longer

1 functional or had been disbanded?

2 A I'm aware many of those boxes containing old company and  
3 old -- former companies that ran -- Ron owned or ran were  
4 stored there, yes.

5 Q By way of example?

6 A The easiest one that comes to mind is Care for All Ages,  
7 the Oconto Falls Tissue information. There was a company,  
8 Nature's Way Tissue that was converting operations that no  
9 longer existed. So those are three that I can recall off the  
10 top of my head.

11 Q When you say "no longer existed," you mean no longer  
12 existed as of July 2<sup>nd</sup>. Is that correct? They were not in  
13 existence.

14 A They weren't operating.

15 Q Right. And to your knowledge, those documents related to  
16 those three things that you described, those were missing when  
17 you went --

18 A Yes.

19 Q -- back through? Can you tell me whether -- what the  
20 condition was, if you in fact observed it, of the hard drives -  
21 - I shouldn't say hard drives -- of the main frame computers,  
22 the actual hard documents for which the computers were  
23 operating from?

24 A When I returned, alls I saw were the cabinets or the  
25 covers over various pieces of computer equipment. I can't tell

1 you specifically, but later learned from our IT consulting  
2 company that, I believe, the hard drives were removed.

3 Q Do you recall whether or not, prior to July 2<sup>nd</sup>, 2015,  
4 there were black fold-over expandable files within the suite?

5 A Yes.

6 Q What were in those files, if you know?

7 A It's difficult to remember specifically, but I remember  
8 quite a few related to the S -- the Oconto Falls Tissue ST  
9 Paper closing and documents along those lines.

10 Q Were those gone at the time that you returned to the  
11 suite?

12 A Yes.

13 Q Were you present at the time -- by the way, did you have a  
14 conversation with any police officer about the scope of what  
15 the law enforcement agents would be doing and, specifically,  
16 what the scope is of items that they would be taking?

17 A I don't -- my conversations with those officers at that  
18 time was what are we going to do and how are we going to  
19 operate? What do I tell my employees? It was along those  
20 lines. Not necessarily specific to the scope or what the  
21 search warrant said because I didn't really know that.

22 Q At any point in time, did one of the officers indicate to  
23 you that they would -- "they" meaning cumulatively, would be  
24 taking all electronic and paper files in both suites?

25 A I believe, to the best of my memory, it was at 4:00 when I



1 went back to my -- they allowed me to go back to my office.

2 Q And did you have a conversation with an officer where that  
3 person indicated that?

4 A That's when I had the discussion about what's going to be  
5 left and how are we going to operate, along those lines. So I  
6 don't know if I'm answering your question --

7 Q All right. Is that --

8 A -- exactly as asked.

9 Q -- is that the substance of what the officer indicated to  
10 you?

11 A Yes.

12 Q In another conversation, perhaps, with the same officer,  
13 was there ever a remark made to the effect that there'll be  
14 nothing left for your employees to do when we're done.  
15 Companies do not recover when we are done?

16 A Yes. That occurred in my office at approximately 4:00  
17 when I was returned my portfolio. There were two or three  
18 people around me and, again, I was trying to understand what  
19 was occurring. Obviously, I had never been through anything  
20 like this and didn't understand the ramification.

21 Q In August of 2016 items were returned by the Brown  
22 County -- by Brown County to the Lawrence Avenue and those  
23 items related to the search. Did you participate in assessing  
24 what was returned, as opposed to what was not returned?

25 A Not at that point. I assisted the next day by moving the

1 remaining filing cabinets back into the office with the  
2 assistance of one other person.

3 Q And on that next occasion, after you -- those things were  
4 moved back into the suite itself, did you in any way, shape, or  
5 form participate in a rudimentary or a detailed form of  
6 inventorying to see what it was that was returned?

7 A My memory is my participation would have been a month or  
8 two later as things were being restacked and organized.

9 Q On that occasion, what did you do?

10 A I was probably over at the office just trying to determine  
11 if any of my employee-related records could be found in the  
12 mass of returned materials.

13 Q Were they returned?

14 A Not that I could discover.

15 Q What about the, as an example, again specifically, the  
16 Oconto Fall -- Falls' paperwork that was defunct or finished.  
17 Were you able to determine whether those items had been  
18 returned?

19 A I did not look specifically for that or can say that I was  
20 trying to determine that.

21 Q Are there specific items, to the best of your  
22 recollection, that you determined were not returned which had,  
23 in fact, been taken?

24 A I'm sorry, could that be said again?

25 Q Yeah. Are there any things that you specifically recall,

1 in other words, that you made a mental note of -- I realize  
2 we're talking about hundreds of thousands of documents, but  
3 specifically that you made a mental note of that you observed  
4 had not been returned, which had been present private -- prior  
5 to the search?

6 A At that point, my concern was the personal office items  
7 that I had related to employee files, OSHA logs, et cetera.  
8 All those were gone.

9 Q Your own personal computer -- or I'm sorry, the computer  
10 that was taken from your office had, I presume, personnel  
11 matters on it? Is that right, and personal information?

12 A Correct.

13 Q Was that computer ever returned to you?

14 A I believe at some point the laptop was returned. Yes.

15 Q Do you know when?

16 A I don't remember specifically and my assumption would be  
17 some time after all the boxes and cabinets came back. I  
18 believe our IT person picked up a number of computers.

19 Q But we're talking about the next year. Is that correct?

20 **MR. JOHNSON:** Well, Your Honor, I'll object to a  
21 leading question since Mr. Reinhart has said he can't really  
22 remember.

23 **THE COURT:** Sustained.

24 //

25 //

1 **BY MR. LE BELL:**

2 Q Mr. Reinhart, what I'm saying to you is, was it -- let's  
3 assume for the purpose of discussion, that the evidence is  
4 going to demonstrate that the materials were returned sometime  
5 in August of 2016. Did you get the computer, to the best of  
6 your knowledge, before or after that --

7 A I'm sorry, I can't recall specifically if the --

8 **THE COURT:** You don't need a specific recollection --

9 **MR. LE BELL:** Right.

10 **THE COURT:** -- is my understanding. Can you just  
11 ballpark in relation to the search warrant?

12 **THE WITNESS:** I believe that's when it occurred, yes.

13 **THE COURT:** When?

14 **THE WITNESS:** In August of '16 when the other  
15 materials were returned.

16 **THE COURT:** It was about a year later?

17 **THE WITNESS:** I believe so. Yes.

18 **THE COURT:** Thank you.

19 **MR. LE BELL:** Thank you. I have no further  
20 questions.

21 **THE COURT:** Mr. Krueger or Mr. Johnson?

22 **MR. JOHNSON:** I have some cross-examination for  
23 Mr. Reinhart.

24 //

25 //

**CROSS EXAMINATION****BY MR. JOHNSON:**

Q Mr. Reinhart, is it correct to say you presently work for a company called RTS?

A Yes. Reclamation Technology Systems.

Q And that's the successor of Green Box, correct?

A How do you define "successor?" It's a new company.

Q All right. Well, is it accurate to say that back in July of 2015 you worked for a sort of group of companies of Ron Van Den Heuvel's which included Green Box?

A Yes.

Q And then, sometime after that, Green Box declared bankruptcy?

A Correct.

Q And at that time was -- well, did Mr. Van Den Heuvel then give up his association with Green Box?

A In what time frame?

Q After the bankruptcy was declared?

A I believe that occurred in April of '16.

Q And then did -- RTS was formed by other people that had been associated with Green Box?

A It had been associated with it.

Q And is RTS attempting to carry on with the industrial process that Green Box was attempting to establish?

**MR. LE BELL:** I object. It has no relevance to the

1 issue before the Court.

2 **THE COURT:** Overruled. Go ahead.

3 **THE WITNESS:** Yes. We are trying to continue the  
4 project.

5 **BY MR. JOHNSON:**

6 Q All right. Now, RTS though is not located on Lawrence  
7 Drive. Am I correct?

8 A No. I am at 2107 American Boulevard in DePere.

9 Q All right. And that's the location where Patriot Tissue  
10 is also located?

11 A Yes. It's converting operations.

12 Q Okay. And then your office now is on American Boulevard?

13 A Yes, sir.

14 Q Does Ron Van Den Heuvel still owe you money?

15 **MR. LE BELL:** Judge, I --

16 **THE WITNESS:** Is that --

17 **MR. LE BELL:** If I could, I'm going to object. I  
18 just don't see the relevance in --

19 **THE COURT:** Mr. Johnson, what's the relevance?

20 **MR. JOHNSON:** Well, I would say that the questions I  
21 intend to ask Mr. Reinhart show a possible motive or bias on  
22 his part in testifying.

23 **THE COURT:** Overruled.

24 **MR. JOHNSON:** Thank you.

25 //

1 **BY MR. JOHNSON:**

2 Q Does Mr. Van Den Heuvel still owe you money?

3 **MR. PORTER:** Objection to form.

4 **THE WITNESS:** Yeah, my --

5 **THE COURT:** Just a minute --

6 **THE WITNESS:** My --

7 **THE COURT:** Just a minute. Wait until I rule on the  
8 objection before you answer.

9 **THE WITNESS:** Sorry.

10 **MR. PORTER:** I mean, that's the classic do you still  
11 beat your wife? I mean --

12 **THE COURT:** Does he owe you money is -- does he owe  
13 you any money --

14 **MR. JOHNSON:** Okay. We'll delete the word "still."

15 **BY MR. JOHNSON:**

16 Q Does Mr. Van Den Heuvel owe you money?

17 A I have legal counsel here and I'm trying to understand. I  
18 thought I was talking about my affidavit for the evidentiary  
19 hearing?

20 **THE COURT:** Look --

21 **THE WITNESS:** I don't know if I --

22 **THE COURT:** -- is this a -- you know, you want to  
23 consult with legal counsel before you answer a question about  
24 whether Mr. Van Den Heuvel owes you money?

25 **THE WITNESS:** I have never been through this. I

1 don't know. Sorry, Judge.

2 **THE COURT:** Okay. Let's take a recess. Let him  
3 consult with his attorney. And I take it, Mr. Nelson, you are  
4 here as Mr. Reinhart's --

5 **MR. NELSON:** Yes, Your Honor.

6 **THE COURT:** Okay. Let's take just a short break or...

7 **(Recess taken from 9:55 a.m. to 10:10 a.m.; parties**  
8 **present)**

9 **THE COURT:** All right, have you had a chance to  
10 consult with your attorney, Mr. Reinhart?

11 **THE WITNESS:** Yes, sir.

12 **THE COURT:** All right, go ahead, then, Mr. Johnson,  
13 you may proceed.

14 **MR. JOHNSON:** Thank you, Your Honor.

15 **CROSS EXAMINATION (CONTINUED)**

16 **BY MR. JOHNSON:**

17 Q I think before the break I had asked you does  
18 Mr. Van Den Heuvel owe you money?

19 A Yes.

20 Q Is that about \$180,000?

21 A Yes.

22 Q And is that back wages?

23 A Yes.

24 Q Is that from your time working with Green Box?

25 A The time before Green Box and during Green Box.



1 Q And, of course, you still hope that Mr. Van Den Heuvel  
2 will pay you the money he owes you, don't you?

3 A Yes.

4 Q Now, referring to July 2nd, 2015, you said you worked --  
5 "I have an office in Suite B at Lawrence Drive," but you were  
6 not there when the searchers arrived, correct?

7 A Yes.

8 Q I think you said you were coming back from the post office  
9 at about 10:30 to 10:45?

10 A Yes, sir.

11 Q And when you got there, the searchers were already there?

12 A Yes.

13 Q You were not allowed to enter the building?

14 A No.

15 Q And did you stay there until about noon that day?

16 A Yes.

17 Q And the entire time, from 10:30 to 10:45 to noon, you were  
18 outside the building; is that correct?

19 A Yes.

20 Q And at that point around noon, did you leave and go home?

21 A I went home or I went over to the converting facility. I  
22 think during those next few hours, I visited both.

23 Q Okay. So at least you left the Lawrence Drive location?

24 A Yes, sir.

25 Q All right. Did the other employees do that as well?

1 Well, maybe I should back up. Were the other  
2 employees at Lawrence Drive also told to leave the building  
3 during the search?

4 A Yes. Everyone was out in the parking lot.

5 Q And did they also leave while the search was going on?

6 A To the best of my memory, yes.

7 Q And you didn't come back, I think you said, until about  
8 4:00 p.m., correct?

9 A Yes.

10 Q And was the search still going on at that time?

11 A Yes, I observed people, you know, removing things.

12 Q And you asked to go back to your office and retrieve a  
13 personal, I think you used the word "portfolio" from your  
14 office?

15 A Yes.

16 Q And so you were allowed into the building for that  
17 purpose, weren't you?

18 A In the Suite B.

19 Q Yes. And you walked back to your office in Suite B?

20 A Yes.

21 Q Would it be accurate to say you couldn't really see much  
22 of what was going on in the other offices?

23 A Correct.

24 Q And was that due to sort of the configuration of the  
25 offices? In other words, it just was difficult for you to

1 really observe what was in there unless you walked into those  
2 offices?

3 A Yes. There's a wall that was five feet outside of my  
4 office that went the entire length of the hallway.

5 Q And then after that you left and went home?

6 A After 4:00, I believe I went back to Patriot for a while.

7 Q All right. And you didn't return to Lawrence until about  
8 7:00 p.m., I think you said; is that right?

9 A Yes.

10 Q Now, you were the director of human resources for -- for  
11 Mr. Van Den Heuvel's companies, correct?

12 A Yes.

13 Q I say Mr. Van Den Heuvel's companies because it was more  
14 than Green Box; am I right? In other words, I can't remember  
15 the terminology you used, but you had responsibilities that  
16 went beyond Green Box to other entities operated by  
17 Mr. Van Den Heuvel?

18 A Yeah, at the time there was Patriot Tissue, which was  
19 converting. There was an Eco facility, which was pulping, but  
20 all the employees were held in a company called Green Box  
21 Wisconsin at that time. So not knowing the correct financial,  
22 you know, so I really consider myself the HR director of Green  
23 Box Wisconsin.

24 Q All right, which included other entities?

25 A Yeah.

1 Q The ones you've talked about?

2 A Yes.

3 Q Patriot or Eco Fibre. But your responsibility for all  
4 those entities was personnel matters?

5 A Predominantly, yes.

6 Q You were not responsible for any research and development  
7 for Green Box, were you?

8 A No.

9 Q And you were not responsible for setting up any industrial  
10 processes for Green Box, were you?

11 A No.

12 Q You were not responsible for obtaining funding for Green  
13 Box, were you?

14 A No.

15 Q So any files on those things were not your responsibility,  
16 were they?

17 A Correct.

18 Q And you seldom worked with those files?

19 A Correct.

20 Q And so you didn't really know if any of those files were  
21 labeled accurately, did you?

22 A I would say in Suite B, that a number of those were filed  
23 accurately, but 100 percent, no, I cannot say that, that I knew  
24 all the contents.

25 Q And to the extent that there were some containers, either

1 you referred to bins or boxes or file cabinets -- to the extent  
2 that records in those types of containers were moved, except  
3 for your own HR files, you couldn't really be sure what was in  
4 them, could you?

5 A Not more than a general understanding that I might have  
6 opened them at -- time and again.

7 Q Now, you testified that an officer said to you that  
8 companies did not -- it was words to the effect of -- and  
9 correct me if I'm misstating this -- said words to the effect  
10 that companies would not recover from a search like this,  
11 correct?

12 A Yes.

13 Q You can't identify who you say said that, can you?

14 A In my memory, it was a female blonde officer from the  
15 Brown County Sheriff Department. That's the best of my  
16 recollection.

17 Q Thank you.

18 **MR. JOHNSON:** I have no other questions, Your Honor.  
19 Thank you, Mr. Reinhart.

20 **THE COURT:** Any redirect? Or any follow-up,  
21 Mr. Porter?

22 **MR. LE BELL:** Just one question I neglected to ask  
23 you.

24 **THE COURT:** Oh, wait a minute, let's go back to  
25 Mr. Porter first.

1           **MR. PORTER:** Just a couple, if I may.

2           **THE COURT:** You may.

3                           **CROSS EXAMINATION**

4           **BY MR. PORTER:**

5           Q     You had asked about -- or you had been asked about  
6 multiple companies, and you considered yourself to be an  
7 employee legally of Green Box Wisconsin?

8           A     Yes.

9           Q     Okay. I believe you had testified that there were a  
10 number of employees at the 2077 facility on July 2nd of 2015?

11          A     Yes.

12          Q     Approximately how many were there?

13          A     Reception, one, two, three, four, five -- six or seven  
14 employees.

15          Q     Were there other individuals?

16          A     There were two other individuals.

17          Q     And who were they?

18          A     One was Jerry McGowan, who was -- ran an IT consulting  
19 company and did some work for us for the company as a 1099; and  
20 the other was a woman by the name of Jess, I can't recall her  
21 last name, but she was the fiancé to Aaron Nelson, who worked  
22 for us, and she would use the empty office space one or two  
23 days a week, and then she flew to wherever her projects were  
24 ongoing. I believe she's an engineer by trade.

25          Q     So all told, other than you, there were nine other

1 individuals, the best of your memory, at the facility on July  
2 2nd of 2015?

3 A Yes.

4 Q You had also mentioned Patriot and Eco as two facilities  
5 that sort of operated under the umbrella of Green Box at the  
6 time?

7 A Yes.

8 Q Ballpark, how many employees in July of 2015 were there at  
9 Patriot?

10 A Forty.

11 Q Ballpark, how many employees were there that were employed  
12 by Eco?

13 A Four to five.

14 Q Any other companies that had employees that were -- that  
15 you oversaw in July of 2015?

16 A There -- there was a forklift driver that worked in the  
17 Parkview warehouse that unloaded and loaded trailers for  
18 tenants in there that we, the company, was paid revenue for his  
19 time, but he was actually an employee at -- of the converting  
20 operations.

21 Q Okay. So regardless of who the actual employer was, you  
22 considered yourself to be an HR director of over 50 employees?

23 A Yes.

24 **MR. PORTER:** That's all I have. Thank you, Your  
25 Honor.

1           **THE COURT:** Thank you. Go ahead, Mr. LeBell.

2           **MR. LE BELL:** Just a couple questions.

3                           **REDIRECT EXAMINATION**

4           **BY MR. LE BELL:**

5           Q     Mr. Reinhart, in addition to the individuals that you just  
6           enumerated that were part of the suite operations, there was  
7           also an individual who ran a law office; is that correct?

8           A     Yes. I'm sorry, you're absolutely right.

9           Q     And that person's name --

10          A     Ty Willihnganz.

11          Q     And lastly, you indicated that you returned sometime  
12          around 4:00 o'clock, and you were allowed back in the suite and  
13          you went to your personal portfolio. Were there items that had  
14          been previously been in there that you were not -- that you did  
15          not obtain, in other words, that had been removed?

16          A     No, they removed it in front of me when they -- before  
17          they gave me back the portfolio.

18          Q     So they took all those personal items that you talked  
19          about?

20          A     Yes.

21          Q     Thank you.

22                   **MR. LE BELL:** I have nothing further.

23                   **MR. JOHNSON:** Could I just ask one more question,  
24          Your Honor?

25                   **THE COURT:** Yes.



1           **MR. JOHNSON:** I forgot to ask it earlier, I'm sorry.

2                           **RECROSS EXAMINATION**

3           **BY MR. JOHNSON:**

4           Q     You referred to a number of photographs that Mr. LeBell  
5           showed you in Exhibits 1002 and 1003. Do you know who took  
6           those photographs?

7           A     I don't know specifically who took those.

8                       **MR. JOHNSON:** Thank you. No other questions, Your  
9           Honor.

10               **THE COURT:** You can step down, Mr. Reinhart, you're  
11           free to go.

12                       **THE WITNESS:** Thank you. Do I --

13                       **THE COURT:** Just leave everything there.

14

15                       Take nothing with you.

16                       **(Witness stepped down)**

17                       **MR. LE BELL:** Your Honor, before I forget, I am  
18           moving into evidence Exhibits 1001 through 1003.

19                       **THE COURT:** 1001 through 1000?

20                       **MR. LE BELL:** Three, I believe.

21                       **MR. JOHNSON:** We don't object.

22                       **THE COURT:** They're received.

23                       **(Defendant's Exhibits Numbers 1001 through 1003 were**  
24           **received in evidence)**

25           //

1           **THE COURT:** Okay, now we're back to the Government,  
2 then, Mr. Johnson, Mr. Krueger.

3           **MR. JOHNSON:** Yes, Your Honor. For our first  
4 witness, we would call Sara Hager.

5           **THE COURT:** Okay, Sara Hager.

6           **THE CLERK:** Raise your right hand.

7           **SARA HAGER, GOVERNMENT'S WITNESS, SWORN**

8           **THE CLERK:** State and spell your name for the record.

9           **THE WITNESS:** Sara Hager, it's H-a-g-e-r.

10          **THE COURT:** And is your first name a-h or a?

11          **THE WITNESS:** S-a-r-a.

12          **THE COURT:** Just S-a-r-a, okay, thank you.

13                           **DIRECT EXAMINATION**

14   **BY MR. JOHNSON:**

15   Q     All right, Ms. Hager, can you tell us what your occupation  
16 is?

17   A     I'm special agent with the Federal Deposit Insurance  
18 Corporation.

19   Q     And as a special agent with the FDIC, are you responsible  
20 for criminal investigations?

21   A     Yes.

22   Q     When did you begin your employment with the FDIC?

23   A     I first -- my first employment was in July of 2010.

24   Q     And what position did you begin with?

25   A     I was an investigations specialist with the Division of

1 Risk Management Supervision.

2 Q What is the Division of Risk Management Supervision?

3 A It is the division that examines banks for safety and  
4 soundness.

5 Q And would it be accurate to say that those types of  
6 investigations are administrative investigations, not  
7 necessarily criminal?

8 A Yes.

9 Q How long did you stay with the FDIC at that time?

10 A I was investigations specialist until May of 2013.

11 Q What happened then?

12 A I took a position with the Federal Reserve Board, Office  
13 of Inspector General.

14 Q And what type of responsibilities did you have in that  
15 position?

16 A I was a special agent, so I was doing criminal  
17 investigations.

18 Q And how long did you remain with the Federal Reserve  
19 Board?

20 A I was there until April of 2014.

21 Q What did you do at that time?

22 A I took a position as a special agent back with the Federal  
23 Deposit Insurance Corporation.

24 Q And so I take it that term "special agent" goes along with  
25 the concept of criminal investigations?

1 A Yes.

2 Q All right. Now, are you familiar with the indictment in  
3 this case?

4 A Yes.

5 Q Can you generally characterize for us what type of counts  
6 are alleged in that indictment?

7 A Bank fraud, it is the allegation of using nominee loans,  
8 straw borrowers.

9 Q And at least the first part of the indictment, is it  
10 accurate to say there was an original indictment and then a  
11 superseding indictment which added counts?

12 A Yes.

13 Q Okay. Let me first just ask you about the original  
14 indictment. What was alleged to be the victim bank in those  
15 counts?

16 A Horicon Bank.

17 Q Are you familiar with the evidence regarding alleged fraud  
18 against Horicon Bank?

19 A Yes.

20 Q Why?

21 A There was a subpoena issued in July of --

22 Q Well, before we get into details, are you familiar with it  
23 because you investigated it?

24 A Yes.

25 Q All right, thank you. When did your investigation begin?

1 A I first became aware of the allegations when I started  
2 with the FDIC in July of 2010.

3 Q Okay. And how did any allegations regarding Horicon Bank  
4 come to the attention of the FDIC? Did Horicon Bank refer it  
5 to your agency?

6 A Yes.

7 Q And who did the initial investigation?

8 A I did.

9 Q And what did you do to initially investigate those  
10 allegations?

11 A I reviewed loan files, deposit accounts, and also  
12 interviewed bank personnel.

13 Q And where did you get those loan files and accounts?

14 A From Horicon Bank.

15 Q Okay. Through what means?

16 A I went to the bank and photocopied them myself.

17 Q Okay. They cooperated with you in providing those  
18 records?

19 A Yes.

20 Q Did you have to use any sort of subpoena?

21 A No.

22 Q Okay. And you said that you interviewed some of the bank  
23 personnel involved?

24 A Yes.

25 Q Did you in -- did you interview anyone else at that time?

1 A Yes, I interviewed Steve Peters.

2 Q And what was Mr. Peters' alleged role in this case?

3 A That he was one of the straw borrowers.

4 Q Now, was any decision made by the FDIC by about October  
5 5th of 2011?

6 A Yes.

7 Q What decision was made at that time?

8 A The legal division decided to pursue with a bank  
9 prohibition for the loan officer Paul Piikkila.

10 Q Okay. What was -- if you can just summarize it in a  
11 sentence or two, what was Mr. Piikkila's alleged role in this  
12 alleged bank fraud?

13 A There -- the allegation was that he facilitated  
14 originating loans to several straw borrowers, but the loan  
15 proceeds went to Mr. Van Den Heuvel.

16 Q All right. Is that Ron Van Den Heuvel?

17 A Yes.

18 Q Do you see that person in the courtroom today?

19 A Yes.

20 Q Can you tell us where he's sitting and what he's wearing?

21 A At the second table on the left, wearing a black suit.

22 Q Is it your left or his left?

23 A My left.

24 Q Okay.

25 **MR. JOHNSON:** Your Honor, I'd ask that the record

1 reflect the identification of Mr. Van Den Heuvel.

2 **THE COURT:** And the record will so reflect.

3 **MR. LE BELL:** Judge also, this whole line of  
4 questioning I presume is being admitted by way of background,  
5 not for the truth of the matter as asserted; is that correct?

6 **THE COURT:** Sure.

7 **MR. JOHNSON:** That's true. It's really just to  
8 explain the process which led to the discovery of evidence  
9 which is being relied upon.

10 **THE COURT:** Uh-huh.

11 **BY MR. JOHNSON:**

12 Q I'm going to show you something which has been marked as  
13 Exhibit 13. Please look at that for a moment. Can you tell  
14 us, Ms. Hager, what Exhibit 13 is?

15 A This is what is referred to as a 15-day letter. This was  
16 sent by the legal division to Mr. Piikkila, notifying him of  
17 the discovery of the alleged straw loans and stating that they  
18 were considering going ahead with the prohibition order.

19 Q What is the date on that letter?

20 A October 5th, 2011.

21 Q I think you may have said this, but just let me clarify,  
22 does this letter propose possible sanctions against  
23 Mr. Piikkila based on these allegations?

24 A Yes.

25 Q And again, within a sentence or two, what are the

1 allegations against Mr. Piikkila based on?

2 A That he was originating loans at Horicon Bank through  
3 straw borrowers, and this letter lists out all of the straw  
4 borrowers, but ultimately that the loan proceeds went for the  
5 benefit of Ron Van Den Heuvel.

6 **MR. JOHNSON:** Your Honor, I'd ask that Exhibit 13 be  
7 admitted.

8 **THE COURT:** Any objection?

9 **MR. LE BELL:** No.

10 **THE COURT:** Okay, 13 is received.

11 **MR. JOHNSON:** Thank you.

12 **(Government's Exhibit Number 13 was received in evidence)**

13 **BY MR. JOHNSON:**

14 Q Now, is it accurate to say that this letter lists a  
15 series of loans which were alleged to be involved in this  
16 fraud?

17 A Yes.

18 Q How does that list of loans compare to the list of loans  
19 alleged in the original indictment in this case?

20 A They're identical.

21 Q Is it also accurate to say that this letter generally  
22 describes allegations about why the loans were improperly  
23 granted?

24 A Yes.

25 Q How do those allegations compare to the allegations in the



1 original indictment in this case?

2 A It's identical.

3 Q Who are the three defendants in the pending case here?

4 A Ron Van Den Heuvel, Kelly Van Den Heuvel and Paul  
5 Piikkila.

6 Q Are they all noted for their involvement in this letter?

7 A Yes.

8 Q After this letter, what happened?

9 A After this letter, Mr. Piikkila issued a response to the  
10 allegations, and in January of 2012, the FDIC notified him that  
11 they were going to be pursuing prohibition charges.

12 Q In other words, they were saying that they were going to  
13 follow through with the sanctions they had said they might  
14 impose in the letter we just talked about?

15 A Yes.

16 Q All right. Now, up to this point, I think you said your  
17 responsibilities were -- constituted an administrative  
18 investigation. Was that true up to this point? It was an  
19 administrative investigation?

20 A Correct.

21 Q Did the investigation ever become criminal?

22 A Yes, it did.

23 Q When was that?

24 A In February of 2013.

25 Q And how was it that it became criminal?

1 A I referred it to the Office of Inspector General.

2 Q And were you a criminal investigator at that time?

3 A No.

4 Q Plus, I think you said earlier that you were -- I'm not  
5 sure when you made these plans, but you were at least close to  
6 leaving the FDIC, which you did in May of 2013, correct?

7 A Correct.

8 Q Do you know who the criminal investigation was assigned  
9 to?

10 A Special Agent Estevan Santana.

11 Q And he was with the OIG of the FDIC?

12 A Correct.

13 Q Okay. Do you know what steps Mr. Santana took to  
14 investigate the case?

15 A He presented it to the U.S. Attorney's Office.

16 Q Well, let me just ask you, do you know what steps he took?

17 A What steps Mr. -- yes.

18 Q How do you know that?

19 A Through investigation agent notes.

20 Q That's -- you reviewed his file?

21 A Yes.

22 Q How did you have occasion to later review his file?

23 A I was later assigned to the case when I returned to the  
24 FDIC.

25 Q Okay. That was -- I think you testified that was in April

1 of 2014?

2 A Correct.

3 Q Okay. And without going into gory details, can you just  
4 kind of generally tell us what sort of steps Mr. Santana took  
5 to investigate these allegations?

6 A Yes.

7 **MR. PORTER:** Your Honor, I'm going to object to this.  
8 This is hearsay. We could -- if this were relevant to this  
9 proceeding, we could have Agent Santana here, I suppose, but to  
10 have Agent Hager testifying about steps that Mr. Santana did or  
11 did not take, I think is inappropriate.

12 **MR. JOHNSON:** Well, Your Honor, first of all, the  
13 hearsay objection doesn't really apply because it's a pretrial  
14 hearing, and the rules of evidence don't necessarily apply.  
15 But also, similar to what I think Mr. LeBell mentioned earlier,  
16 we're not offering it to prove the truth of anything, we're  
17 just offering it to prove the steps that were taken in advance  
18 of the search, which is relevant to determining the extent to  
19 which the search affects this criminal case.

20 **THE COURT:** And --

21 **MR. PORTER:** Well, Judge, she can testify about what  
22 steps she took, but I can't cross Agent Santana.

23 **THE COURT:** No, you don't have to, but the evidence  
24 is admissible. Really what's at issue here is the conduct of  
25 law enforcement. She's law enforcement, and what she relied on

1 is part of -- it's admissible for that purpose, regardless of  
2 whether it's true. If you think somehow Officer Santana has  
3 something to offer, subpoena him, but I don't see any reason  
4 why we would bring him here just to recount his office notes,  
5 which this witness said she reviewed and relied on. Overruled.

6 **MR. JOHNSON:** Thank you, Your Honor.

7 **BY MR. JOHNSON:**

8 Q I had asked you to at least generally summarize what sort  
9 of steps the file review of Mr. Santana had taken.

10 A He reviewed the administrative case file and presented the  
11 case to the U.S. Attorney's Office that accepted it for  
12 prosecution, and he also issued a subpoena -- he requested a  
13 subpoena be issued to Horicon Bank.

14 Q I'd like to show you what's been marked as Exhibit 20.  
15 Please take a look at that, if you would. I'll give you a  
16 moment to page through that. It has a number of pages.

17 **(Witness looking at exhibit)**

18 Q Can you tell us what Exhibit 20 is, please?

19 A It is a compilation of subpoenas issued for the case.

20 Q All right. That includes subpoenas you and other agents  
21 participated in obtaining the issuance of?

22 A Yes.

23 **MR. JOHNSON:** Your Honor, I would ask that Exhibit 20  
24 be admitted

25 **MR. SPEAKER:** No objection.

1           **THE COURT:** Twenty is received then.

2           **MR. JOHNSON:** Thank you.

3           **(Government's Exhibit Number 20 was received in evidence)**

4           **BY MR. JOHNSON:**

5           Q     Now, let me ask you about the very first page there. Can  
6           you tell us what that is a subpoena for? Again, I know it's  
7           somewhat detailed. If you could just kind of generally  
8           describe what it was.

9           A     It was a subpoena issued to Horicon Bank on July 29th,  
10          2013. And some of the items requested are loan files, board  
11          minutes, audits, personnel information.

12          Q     A variety of texts of records from Horicon Bank?

13          A     Correct.

14          Q     And you said that you earlier obtained records from  
15          Horicon Bank. Did this go beyond what you had already  
16          obtained?

17          A     It's pretty similar to what was obtained in the  
18          administrative investigation.

19          Q     Was this just an attempt to make sure you had all the  
20          records?

21          A     Yes.

22                   **MR. PORTER:** Objection, foundation.

23                   **THE COURT:** Overruled.

24                   **MR. JOHNSON:** Thank you.

25          //

1 **BY MR. JOHNSON:**

2 Q Now, are you aware of whether a summary was obtained from  
3 any official at Horicon Bank at least summarizing the bank's  
4 position on what had happened in this case?

5 A Yes.

6 Q I'm going to show you a document marked as Exhibit 19, and  
7 I'd ask you to tell us what that is, please.

8 A This is a letter from Executive Vice President Chief  
9 Credit Officer Alan Schwab to myself, dated February 13, 2013.

10 Q And can you just generally tell us what this is, what the  
11 letter covers?

12 A It covers the subject loans that were investigated in the  
13 administrative investigation.

14 **MR. JOHNSON:** Thank you. Your Honor, I would ask  
15 that Exhibit 19 be admitted.

16 **THE COURT:** Any objection?

17 **MR. PORTER:** No objection.

18 **MR. JOHNSON:** Now, have you --

19 **THE COURT:** It is received.

20 **MR. JOHNSON:** Oh, thank you. I'm sorry.

21 **(Government's Exhibit Number 19 was received in evidence)**

22 **BY MR. JOHNSON:**

23 Q Have you read this summary by Mr. Schwab?

24 A Yes.

25 Q Does it list a series of loans that he comments upon?

1 A Yes.

2 Q How do those loans compare to the loans which are in the  
3 Horicon Bank portion of the indictment in this case?

4 A They are identical.

5 Q And you mentioned that the three defendants in this case  
6 are Ron Van Den Heuvel, Kelly Van Den Heuvel and Paul Piikkila.  
7 Are any or all of them mentioned in this summary by Mr. Schwab?

8 A Yes.

9 Q Which?

10 A All of them.

11 Q Thank you. Now, you said that by April of 2014, you had  
12 returned to the FDIC as a special agent. Did you become re-  
13 involved in this case?

14 A Yes.

15 Q How was that?

16 A My supervisor assigned it to me when I started.

17 Q And what happened to Special Agent Santana, why was he no  
18 longer going to work on this?

19 A He had transferred to the Dallas office.

20 Q Thank you. Now, you mentioned that Special Agent Santana  
21 had referred the matter to the U.S. Attorney's Office?

22 A Correct.

23 Q Which branch of the U.S. Attorney's Office was this  
24 referred to?

25 A Green Bay.

1 Q And do you know what AUSA, assistant U.S. attorney, this  
2 was assigned to in Green Bay?

3 A AUSA Humble.

4 Q And to your knowledge, after you got reassigned to this  
5 case as a special agent, did Mr. Humble participate in any  
6 investigative steps?

7 A We had a meeting in December of '14.

8 Q Okay. What was the purpose of the meeting?

9 A For me to meet Prosecutor Humble and also the other agents  
10 assigned to the case and review where we were going to go with  
11 it.

12 Q Did anything happen on or about April 15th of 2015?

13 A April 15th, yes, we proffered Paul Piikkila.

14 Q When you say "proffered," what do you mean by that?

15 A We interviewed him.

16 Q And what was the subject of the interview of Mr. Piikkila?

17 A His conduct at Horicon Bank.

18 Q Covered these allegations?

19 A Yes.

20 Q Were you there?

21 A Yes.

22 Q And did the responsibility within the U.S. Attorney's  
23 Office for this case remain in Green Bay?

24 A At that point it was, yes.

25 Q Did that ever change?



1 A Yes, it did.

2 Q Approximately when?

3 A That was in October of '15.

4 Q And did much happen between April and October of 2015?

5 A In addition to -- after the interview of Mr. Piikkila, I  
6 spoke to AUSA Humble in June of '15 and discussed additional  
7 investigative steps including interviewing straw borrowers, and  
8 then I also spoke with Brown County DA Lasee to verify that  
9 interviewing straw borrowers wouldn't interfere with their  
10 investigation.

11 Q Okay. And other than meeting in June, did much happen  
12 between you and Mr. Humble?

13 A No.

14 Q And when the case got reassigned to the Milwaukee office  
15 of the U.S. Attorney's Office, who was assigned to it at that  
16 time?

17 A Yourself, Mel Johnson, and Matt Krueger.

18 Q All right. Now, at that point, how far along in your  
19 investigation did you feel you had gone?

20 A The majority of the documents were already obtained  
21 through Horicon Bank.

22 Q What, if any, significant steps did you still have to  
23 take?

24 A I still had to interview the straw borrowers and issue  
25 additional follow-up subpoenas to trace loan proceeds to other

1 financial institutions.

2 Q Do you know a woman named Mary Shartner who used to work  
3 with the Brown County Sheriff's Office?

4 A Yes.

5 Q Did you ever meet with Mary Shartner?

6 A Yes.

7 Q Was that before or after July 2nd, 2015?

8 A It was before.

9 Q And was anyone else with you at that meeting?

10 A Yes, it was AUSA Humble, FBI -- an FBI agent, an IRS  
11 agent, and local law enforcement, including DA Lasee.

12 Q All right. And at that time did you provide them with an  
13 outline of your case involving Horicon Bank?

14 A Yes.

15 Q Did they provide you with any evidence of bank fraud at  
16 that meeting?

17 A No.

18 Q Did they tell you that they intended to execute a search  
19 warrant at Mr. Van Den Heuvel's offices and house?

20 A Not at that time.

21 Q Did you discuss with them that they should search for any  
22 evidence relevant to your case?

23 A No.

24 Q Now, there was a search that happened on July 2nd of 2015,  
25 or I should say a series of related searches. Did you

1 participate in any of those searches?

2 A No.

3 Q After that date, July 2nd, 2015, did you do further  
4 investigation?

5 A Yes.

6 Q What additional steps did you take?

7 A I interviewed bank personnel, straw borrowers, and issued  
8 several additional subpoenas.

9 Q Which straw borrowers did you interview?

10 A William Bane, Steve Peters, Julie Gumban.

11 Q And you said you interviewed bank officials. Did you also  
12 re-interview Paul Piikkila?

13 A Yes.

14 Q In talking with these individuals you've named, Peters,  
15 Bane, Gumban, Piikkila, did you obtain any additional records  
16 from them?

17 A Yes.

18 Q You mentioned that you wanted to obtain the records from  
19 other banks. Can you generally explain to us how you learned  
20 about those other banks?

21 A In reviewing the Horicon Bank loan files, I was tracing  
22 the money to determine where the loan proceeds went. Some were  
23 kept internal at Horicon Bank, but some were sent to additional  
24 financial institutions.

25 Q All right. So what was the point of then obtaining

1 records from those additional financial institutions?

2 A To identify who benefited from the loan proceeds.

3 Q Now, referring you back to Exhibit 20, which you said was  
4 a stack of subpoenas that were used, I think you'll find  
5 they're generally in chronological order. If you look at --  
6 there's a series of grand jury subpoenas, dated January 28th of  
7 2016 through March 9th of 2016. Do you see those subpoenas?

8 A Yes.

9 Q What were those subpoenas for and how do they relate to  
10 the investigative steps you just described to us?

11 A These were the financial institutions that I was following  
12 up on to determine the benefit of the loan proceeds.

13 Q Thank you. Now, your desire to interview potential straw  
14 borrowers and other witnesses, was that based on information  
15 you had before July 2nd of 2015?

16 A Yes.

17 Q Was it based in any way on materials you obtained through  
18 the -- that you obtained as a result of the execution of search  
19 warrants on that date?

20 A No.

21 Q Did you rely on materials obtained as a result of those  
22 searches in questioning those witnesses?

23 A One, I used some e-mails in the second interview of  
24 Mr. Piikkila.

25 Q And was that -- were there other instances in which you

1 used information from the search warrant to interview any of  
2 these other people?

3 A No.

4 Q So that was an exception?

5 A Right.

6 Q You asked Mr. Piikkila about these e-mails. Did that lead  
7 to any new information?

8 A No.

9 Q Did you, after the search, review materials which had been  
10 seized July 2nd, 2015, in these searches?

11 A Yes.

12 Q Approximately when did you review them?

13 A My initial review was in November of that year.

14 Q And approximately how many pages of material did you  
15 review at that time?

16 A Approximately 800.

17 Q And how were these 800 pages of material brought to your  
18 attention?

19 A Sergeant Mary Shartner had set them aside.

20 Q And when you went through those approximately 800 pages,  
21 did you attempt to eliminate any of them?

22 A At that point I copied everything.

23 Q But as you reviewed them later, did you eliminate some of  
24 those pages as being something you didn't need to review?

25 A Yes.

1 Q What was that based on?

2 A Reviewing them, there were lots of duplicates of e-mails  
3 that didn't need to be included because they were already --  
4 you only needed one copy.

5 Q All right. So after you did that process, approximately  
6 how many pages were left?

7 A About 500.

8 Q Now, was any of that material you already had obtained  
9 earlier in your investigation?

10 A There were some loan, like, promissory notes that weren't  
11 included.

12 Q Okay. Did -- well, was the point of reviewing this  
13 material to see what was new and significant?

14 A Yes.

15 Q I want to show you what's been marked as Exhibit 18.  
16 Let's take a look at this. Can you tell us what Exhibit 18 is,  
17 Ms. Hager?

18 A It is a discovery index for materials from the search  
19 warrants.

20 Q Okay. Now, it says at the top, "Excerpt of Van Den Heuvel  
21 Discovery Index"; is that right?

22 A Yes.

23 Q Would it be accurate to say this is a part of a much  
24 larger discovery index that was provided to the defense in this  
25 case?

1 A Correct.

2 Q Now, how does the material listed on this excerpt compare  
3 to the material that you saw from the search warrant?

4 A It's identical.

5 Q Okay. So it covers everything that you saw that was taken  
6 from the search warrant?

7 A Yes.

8 MR. JOHNSON: Your Honor, I would ask that Exhibit 18  
9 be admitted.

10 THE COURT: Any objection?

11 MR. PORTER: No.

12 THE COURT: Received.

13 MR. JOHNSON: Thank you.

14 (Government's Exhibit Number 18 was received in evidence)

15 BY MR. JOHNSON:

16 Q On page two, there's a section entitled, "Search Warrant  
17 Documents Folder." Do you see that?

18 A Yes.

19 Q What is listed in that section?

20 A That was the initial scan that I did in November.

21 Q So that was the -- what you've referred to as  
22 approximately 800 pages --

23 A Correct.

24 Q -- that you reviewed?

25 A Yes.

1 Q Okay. Now, when -- there's a lot of other stuff on here.  
2 When did you next see materials from the search warrants?

3 A In June of 2016.

4 Q And how was it that you saw additional materials at that  
5 time?

6 A The FBI was conducting an operation to review the  
7 additional relevant documents for their case.

8 Q Okay. And when you say, "their case," was the FBI only  
9 focusing on your Horicon loan bank fraud case?

10 A No.

11 Q Is it accurate to say they were investigating a different  
12 investment fraud case involving allegations about  
13 Mr. Van Den Heuvel?

14 A Correct.

15 Q Okay. And you said you saw additional material at that  
16 time. Approximately what was the volume of that material?

17 A Of what was produced or overall?

18 Q The material you saw in June of 2016.

19 A What was taken for the Horicon was about 3200 pages.

20 Q And did that include the 500 you had already set aside, or  
21 was that in addition to the 500?

22 A That was including.

23 Q Okay. Now, looking at Exhibit 18 here, is the 3200 pages  
24 that you saw in June of 2016 listed there?

25 A Yes.



1 Q Where is it listed, if you can tell us?

2 A It is listed as FDIC 1 through FDIC 19/12.

3 Q All right, so that's basically all the material -- okay,  
4 you've -- you've told us, thank you.

5 You said that the 500 pages was included in the 3200.  
6 Where is that -- is that 9 -- is the 500 pages listed in one of  
7 these numbers, 1 through 19?

8 A It is the numbers 19-1 through 19-12.

9 Q Thank you.

10 A Now, this additional material from the search warrant, are  
11 you able to state whether this is material you could have  
12 obtained separately if you hadn't seen it as a result of the  
13 search warrant?

14 A Yes.

15 **MR. LE BELL:** I object. By what means? And it calls  
16 for incredible speculation whether she was able to obtain it.  
17 If you're asking if those are the sort of things she would  
18 obtain by subpoena, that might be one thing, but she's --  
19 you're asking for --

20 **MR. JOHNSON:** All right. I intend to ask how she  
21 would have obtained these things.

22 **THE COURT:** Okay. Why don't you go into the detail?  
23 I think Mr. LeBell's objection is to the overall conclusion  
24 that you would have intended.

25 //

1 **BY MR. JOHNSON:**

2 Q All right. Did you have steps you could have taken in  
3 your investigation to have obtained this material that you saw  
4 as a result of the search warrant?

5 A Yes.

6 Q What steps could you have taken?

7 A Could have issued additional subpoenas to the business and  
8 also we could have conducted a search warrant.

9 Q Are those steps you've taken in other similar cases?

10 A Yes.

11 Q So what would be your answer to my original question, that  
12 is, whether this is the material you saw from the search  
13 warrant is material that you could have obtained separately?

14 **MR. LE BELL:** Again, I -- they are items which she  
15 could have attempted to obtain. There's a conclusion in the  
16 question that she could have obtained them. There's a  
17 difference. It may be subtle but --

18 **THE COURT:** You know, I'll let her opinion in as law  
19 enforcement. We'll see where it goes. You're certainly free  
20 to challenge it, but that's kind of the issue under inevitable  
21 discovery, and I recognize that she's giving an opinion. It's  
22 not a factual evidence -- piece of evidence.

23 **BY MR. JOHNSON:**

24 Q Go ahead, please.

25 A Yes, I could have issued additional subpoenas and

1 conducted a search warrant.

2 Q Looking back at it now, if you hadn't seen the search  
3 warrant materials, would you have taken these steps?

4 A Yes.

5 Q Now, the indictment also contains allegations of bank  
6 fraud, and these were allegations raised in the superseding  
7 indictment in this case as to loans fraudulently obtained,  
8 according to the indictment, by Mr. Van Den Heuvel through  
9 someone identified in the indictment as PH. Are you familiar  
10 with those allegations?

11 A Yes.

12 Q After the July 2nd, 2015 search, did you have a chance to  
13 read a copy of the affidavit prepared by Mary Shartner which  
14 led to the issuance of the search warrants?

15 A Yes.

16 Q And did that affidavit contain any information about these  
17 loans to PH?

18 A Yes.

19 Q And in what form was this information?

20 A It was an affidavit that he -- that titles had been  
21 transferred, car titles had been transferred.

22 Q I'm not asking you what the information was. Was it in  
23 the form of witness statements?

24 A Yes. Sorry

25 Q Who were the witnesses?

1 A Steve Huntington and Guy Locascio.

2 Q I'm going to show you what has been marked as Exhibits 14  
3 and 15. Please take a look at these for a minute.

4 Can you tell us what Exhibits 14 and 15 are, please?

5 A Exhibit 14 is a statement from Guy Locascio and Exhibit  
6 15 is a statement from Steve Huntington.

7 Q All right. Without going into much detail, is it accurate  
8 to say that Mr. Locascio and Mr. Huntington are people that  
9 stated that they worked with Ron Van Den Heuvel?

10 A Yes.

11 Q Did they state that they had an awareness of actions by  
12 him which fit with what Mr. Van Den Heuvel was indicted for  
13 regarding loans to PH?

14 A Yes.

15 **MR. JOHNSON:** Your Honor, I'll ask that Exhibits 14  
16 and 15 be admitted.

17 **THE COURT:** Any objection?

18 **MR. SPEAKER:** No.

19 **MR. JOHNSON:** All right.

20 **THE COURT:** They're received.

21 **MR. JOHNSON:** Thank you.

22 **(Government's Exhibits Numbers 14 and 15 were received in**  
23 **evidence)**

24 **BY MR. JOHNSON:**

25 Q In a few sentences, can you just explain to us what the

1 allegations were that were made by Mr. Locascio and  
2 Mr. Huntington?

3 A That two Cadillac Escalade titles had been transferred  
4 into his name.

5 **MR. PORTER:** Judge, I'm sorry to interrupt, I'm going  
6 to object because it's not clear to me -- I object on  
7 foundation grounds. It's not clear to me that Agent Hager  
8 participated in these interviews, which I think is the relevant  
9 issue.

10 **THE COURT:** I think the relevant issue is whether she  
11 saw the statements, isn't it?

12 **MR. PORTER:** Well, perhaps that's it, but neither of  
13 our views is being expressed in this, so I think we need some  
14 foundation in terms of when and how she was aware of these  
15 statements before she characterizes it.

16 **THE COURT:** I -- maybe I misunderstood, but I  
17 thought we already established that she had these statements,  
18 she reviewed them.

19 **MR. JOHNSON:** Well, maybe I can clarify it a little  
20 bit more.

21 **THE COURT:** Go ahead.

22 **BY MR. JOHNSON:**

23 Q You stated, Ms. Hager, that you had read Mary Shartner's  
24 affidavit, which recounted these statements, correct?

25 A Correct.

1 Q Did you eventually obtain copies of the reports of the  
2 statements themselves?

3 A Yes.

4 Q All right. Did you review those reports?

5 A Yes.

6 **MR. JOHNSON:** All right, then, Your Honor, I would  
7 ask --

8 **THE COURT:** And by "those reports," you mean Exhibits  
9 14 and 15?

10 **THE WITNESS:** Yes.

11 **MR. JOHNSON:** Yeah, thank you.

12 **BY MR. JOHNSON:**

13 Q So in general, can you describe for us what Mr. Huntington  
14 and Mr. Locascio alleged about these loans through PH?

15 **MR. PORTER:** I'm going to continue to object because  
16 whether she reviewed them, the operative fact is when did she  
17 do that, and there hasn't been testimony about that, as far as  
18 I understand, yet.

19 **THE COURT:** Mr. Johnson?

20 **BY MR. JOHNSON:**

21 Q Can you tell us approximately when you obtained this  
22 information?

23 A I read the search warrant affidavit after it happened,  
24 after the search warrant was executed. And I can't recall when  
25 I got these statements and reviewed them.

1 Q Approximately how soon after July 2nd, 2015, did you  
2 review Ms. Shartner's affidavit?

3 A It was shortly after the execution.

4 **THE COURT:** Shortly?

5 **THE WITNESS:** Well, I should say when it was unsealed, I  
6 found it that way, definitely. I'm not sure when, the exact  
7 date.

8 **BY MR. JOHNSON:**

9 Q Can you give us your best estimate?

10 A I would say late summer.

11 Q Of 2015?

12 A Yes.

13 Q What was your understanding of the allegations made by  
14 Mr. Locascio and Mr. Huntington about these loans?

15 A That some car titles had been transferred to his name that  
16 were -- the title -- the cars were actually belonging to a  
17 business, and that the -- with the intent of getting loans.

18 Q Loans for whom?

19 A For Patrick Hoffman.

20 Q Well, were they ultimately for --

21 A For --

22 Q -- the benefit of Patrick Hoffman?

23 A No, they were for the benefit of Ron Van Den Heuvel.

24 Q Thank you. So you were aware of --

25 **THE COURT:** I'm confused, car titles transferred to

1 whose name?

2           **THE WITNESS:** From a business to Patrick Hoffman's  
3 name.

4 **BY MR. JOHNSON:**

5 Q     Were these businesses owned and operated by  
6 Mr. Van Den Heuvel?

7 A     Yes.

8 Q     So you were aware of these allegations from the affidavit,  
9 at least, regardless of what was seized?

10 A    Right.

11 Q    Now, do you know a man named Brian Dewe, who's a special  
12 agent with the FBI?

13 A    Yes.

14 Q    Did Special Agent Dewe take any steps regarding these PH  
15 allegations?

16 A    Yes.

17 Q    What did he do?

18 A    He issued several subpoenas and also conducted several  
19 witness interviews.

20 Q    And who did he interview initially?

21 A    Patrick Hoffman and Dana Bald.

22 Q    Is Patrick Hoffman PH?

23 A    Yes.

24 Q    All right. And what did Mr. Hoffman say about the  
25 allegations?



1           **MR. PORTER:** Objection to foundation. And Agent  
2 Dewe, I believe the Government is going to call, so I would  
3 object to foundation of this witness testifying about his  
4 investigation.

5           **MR. JOHNSON:** Well, Your Honor, again, it's not to  
6 prove the truth of it. It's to prove what she knew and what  
7 caused her to take additional investigative steps.

8           **THE COURT:** For that purpose, Mr. Porter, is there  
9 any objection if that's what it's being offered for?

10          **MR. PORTER:** I would continue to object to the form  
11 of the question. The question of what -- what steps did -- I  
12 mean, I don't want to do Mr. Johnson's examination --

13          **THE COURT:** Right.

14          **MR. PORTER:** -- but the question what did Agent Dewe  
15 do is, perhaps, interesting, but I think kind of irrelevant  
16 unless we understand how she knows that.

17 **BY MR. JOHNSON:**

18 Q       Well, you referred to the -- to Agent Dewe interviewing  
19 Patrick Hoffman.

20 A       Yes.

21 Q       Did you eventually obtain a copy of the report that  
22 Special Agent Dewe did of that interview?

23 A       Yes.

24 Q       And generally speaking, what did Mr. Hoffman say,  
25 according to that report, to Agent Dewe about those

1 allegations?

2 A That the car titles had been transferred into his name and  
3 that Mr. Van Den Heuvel instructed him to try to get loans,  
4 using them as collateral.

5 Q All right. Did Mr. Hoffman identify the financial  
6 institutions involved?

7 A He identified Pioneer Credit Union, Community First Credit  
8 Union, and Nicolet.

9 Q And did you and Special Agent Dewe then proceed to take  
10 further investigative steps based on what Mr. Hoffman had said?

11 A Yes.

12 Q What steps were taken?

13 A We conducted additional interviews and issued several  
14 subpoenas.

15 Q Interviews of whom?

16 A Nicolet Bank personnel Dana Bald, Cindy Jelinek of -- I  
17 have to check which institution she was with. She was with  
18 Community First Credit Union. And Dana Collins of Capital  
19 Credit Union that was formerly Pioneer Credit Union. They have  
20 merged.

21 Q All right. Did you interview any of Mr. Van Den Heuvel's  
22 employees?

23 A Yes.

24 Q All right. I -- you may have said this already, but did  
25 you use any subpoenas to try to obtain additional information?

1 A Yes.

2 Q From whom did you attempt to obtain additional information  
3 via subpoenas?

4 A From those three credit unions, along with BLC Community  
5 Bank. Or I'm sorry, two credit unions, Community First,  
6 Capital Credit Union, BLC Community Bank, and Nicolet National  
7 Bank.

8 Q Are those subpoenas in Exhibit 20?

9 A Yes.

10 Q Can you give us the dates of those subpoenas, just to  
11 clarify, since there's a stack in there?

12 A It was -- BLC Community Bank was June 28th, 2016, Capital  
13 Credit Union was July 12, 2016, and the two other subpoenas,  
14 although I'm not seeing them in this stack --

15 Q Well, there's a subpoena in the stack dated August 1st of  
16 2016 to Baylake Bank, and the subpoena request pertains to  
17 loans submitted by Patrick Hoffman. Do you see that?

18 A Yes.

19 Q Does that relate to this case as well?

20 A Yes.

21 Q Now, did you also obtain records from the Division of  
22 Motor Vehicles?

23 A Yes.

24 Q Just to check on what happened to the titles?

25 A Yes.

1 Q Now, I think we already mentioned that a superseding  
2 indictment contains bank fraud allegations relating to these  
3 Patrick Hoffman loans. The evidence which was the basis for  
4 presenting those indictments -- or those counts, was that  
5 dependent upon things found in the July 2nd, 2015 searches?

6 A Well, we had previously known about.

7 **THE COURT:** 2016, did you say, or '15.

8 **MR. JOHNSON:** If I said 2016, I misspoke. I was  
9 referring to 2015.

10 **THE WITNESS:** Okay. In addition to the search  
11 warrant affidavit and the interviews that were conducted, there  
12 was a search of the auto loan transfers in relativity.

13 **BY MR. JOHNSON:**

14 Q Okay. If the search had never happened, the July 2nd,  
15 2015 search, would you have taken any different steps to  
16 investigate these allegations?

17 **MR. PORTER:** Objection to form.

18 **THE COURT:** Overruled. You may answer.

19 **THE WITNESS:** We would have done substantially the  
20 same steps.

21 **MR. JOHNSON:** Thank you. I have no other questions,  
22 Your Honor.

23 **THE COURT:** Mr. LeBell?

24 **MR. LE BELL:** I think I'll defer to Mr. Porter, at  
25 least at the beginning.

1                   **THE COURT:** Mr. Porter. Okay.

2                   **CROSS EXAMINATION**

3 **BY MR. PORTER:**

4 Q       Ms. Hager -- may I approach?

5                   **THE COURT:** You may. Keep in mind we --

6                   **(Counsel approached)**

7 Q       Can I just gather just for a minute, I want to make sure  
8 I've got the same exhibits --

9 A       Sure.

10 Q       -- that you have in front of you.

11 A       Sure.

12                   **THE COURT:** Mr. Porter, just let me remind you we're  
13 on the recording system. You have a good voice. So it  
14 carries, and we'll let you know if we can't to the extent you  
15 can --

16                   **MR. PORTER:** Okay, thank you. Yeah, I'll try to keep  
17 my voice up.

18                   **THE COURT:** Thank you.

19 **BY MR. PORTER:**

20 Q       Now, Ms. Hager, the Exhibits 14 and 15, and I will  
21 re-approach to give those to you, but these are -- these are  
22 interviews of Mr. Locascio and Mr. Huntington, correct?

23 A       Yes.

24 Q       Okay. Let me -- and these -- you did not prepare these  
25 interview summaries, correct?

1 A No.

2 Q And you did not participate in those interviews, correct?

3 A Correct.

4 Q Do you know who participated in those interviews?

5 A Mary Shartner.

6 Q Do you know that or are you -- are you just reading that  
7 from -- are you surmising that from reading that from the  
8 exhibits?

9 A At the end of the exhibits, it notes the deputy -- this is  
10 in the statement, Deputy Sergeant Mary Shartner, and that is in  
11 both Exhibit 14 and 15. So she witnessed and signed it.

12 Q Okay. But other than looking at the exhibits, you don't  
13 know who participated in those interviews other than  
14 Ms. Shartner and Mr. Locascio, correct?

15 A Correct.

16 Q Okay. You did not participate?

17 A No, I did not.

18 Q And Exhibit 15 also indicates that it is witnessed by --  
19 by Sergeant Shartner, and it appears as if it's signed by  
20 Mr. Huntington; is that correct?

21 A Yes.

22 Q You did not participate in that interview either?

23 A No.

24 Q You weren't aware of allegations that -- any allegations  
25 that Mr. Locascio, if I'm saying that correctly, made as of

1 April 27th of 2015; is that right?

2 A Correct.

3 Q You weren't aware of any allegations that Mr. Huntington  
4 had made as of April 23rd of 2015, correct?

5 A Right.

6 Q The first you -- that you learned of the allegations that  
7 only culminated in the superseding indictment was after you  
8 reviewed Sergeant Shartner's search warrant affidavit, correct?

9 A Yes.

10 Q And when did you receive Exhibit 14?

11 A I can't recall when I received it.

12 Q Was it after July 2nd, 2015?

13 A Yes.

14 Q Was it -- was it before or after the superseding  
15 indictment in this case?

16 A It was before.

17 Q Do you remember what year it was?

18 A I can't recall. I would --

19 Q Was it before the initial indictment in this case?

20 A I believe so.

21 Q How did you come to obtain Exhibit 14?

22 A The FBI had taken over the securities investigation and  
23 statements were turned over, and I was assisting in that  
24 investigation.

25 Q But how did you -- how did you obtain this particular

1 witness statement?

2 A They were -- all the witness statements were turned over  
3 to the U.S. Attorney's Office.

4 Q Is it your understanding that all of the witness  
5 statements were turned over from Brown County representatives  
6 to the U.S. Attorney's Office?

7 A That's my understanding.

8 Q And then at some point thereafter, you received this and  
9 other witness statements directly from the U.S. Attorney's  
10 Office?

11 A Yes.

12 Q It is -- is your answer the same as to Exhibit 15 in terms  
13 of how you obtained Exhibit 15?

14 A Yes.

15 Q Okay. Did you ever have any conversation or conversations  
16 with law enforcement personnel from Brown County? And when I  
17 say, "from Brown County," I mean -- because you've mentioned  
18 District Attorney Lasee, Sergeant Shartner, and so when I say,  
19 "Brown County," I want to include anyone, prosecutors, agents,  
20 officers. Did you ever have any conversations with anyone from  
21 Brown County concerning Guy Locascio?

22 A I don't recall any.

23 Q Did you ever have any conversations with anyone from Brown  
24 County concerning Steven Huntington?

25 A I don't recall any.



1 Q Do you know if other law enforcement officers had  
2 conversations with any representatives from Brown County about  
3 Guy Locascio?

4 A I'm -- I can't say if other federal agents had  
5 conversations.

6 Q Would you expect Agent Dewe or his colleagues to have had  
7 conversations with representatives from Brown County about Guy  
8 Locascio?

9 **MR. JOHNSON:** Well, I'll object, Your Honor, on  
10 relevance as to what she'd expect. She's not aware of whether  
11 they did.

12 **THE COURT:** I'm not sure of the relevance either,  
13 Mr. Porter.

14 **MR. PORTER:** Well, the relevance is development of  
15 this particular matter from the Brown County investigation, and  
16 so there were a lot of questions on direct about sort of  
17 pattern and practice, and I'm asking her pattern -- her  
18 understanding of the FBI's pattern and practice as it relates  
19 to this investigation.

20 **THE COURT:** But in the larger picture, the statement  
21 is -- the statements are in April before the search warrant,  
22 and I guess I'm having trouble seeing why it's -- they're  
23 relevant or what -- where we're going with it.

24 **MR. PORTER:** Well --

25 **THE COURT:** I mean, they're not tainted by anything

1 in the search warrant, right?

2 **MR. PORTER:** Well, that's ultimately for Your Honor  
3 to decide and perhaps you've given us --

4 **THE COURT:** Well, but they precede the search  
5 warrant. But they -- I mean, how can a search warrant executed  
6 in July of 2015 taint a statement -- two statements given in  
7 April of 2015, given three months earlier -- two months?

8 **MR. PORTER:** I think that -- I think that the  
9 suggestion would be that they're part and parcel the same  
10 thing, that these are certainly connected to the affidavit  
11 because -- the search warrant affidavit because the affidavit  
12 presumably comes from these particular statements, so I'm  
13 trying to understand what the connection was, which is  
14 certainly relevant between the Brown County investigation and  
15 the federal investigation.

16 **THE COURT:** Go ahead, I'm having -- as I've  
17 indicated, I'm not convinced it's all that relevant, but go  
18 ahead, you may proceed and we'll treat this as a practice she  
19 would have done. Go ahead. Do you need the question repeated?

20 **THE WITNESS:** Yes, can you repeat the question,  
21 please?

22 **THE COURT:** Wouldn't you love to have a court  
23 reporter? We can mechanically play it back, but it's probably  
24 easier for you to restate it, because then we get into  
25 technology problems.

1           **MR. SPEAKER:** Will it accidentally erase some of it?

2           **THE COURT:** Technology is not a tool, it's a ruler.  
3 I have found that it's a -- yeah.

4 **BY MR. PORTER:**

5 Q       I'll try to reconstruct it. Ms. Hager, would you have  
6 expected Agent Dewe or others from the FBI to have discussed  
7 the Locascio interview with representatives from Brown County?

8 A       I wouldn't say that I would have expected it, because they  
9 would have received the statements, and they could have  
10 conducted further investigation based off the statements, and I  
11 don't know if they had separate conversations with Brown County  
12 personnel.

13 Q       And would your answer be the same as it related to  
14 Mr. Huntington?

15 A       Yes.

16 Q       And to sort of close this area, just so I understand,  
17 the -- the superseding indictment does not involve -- does not  
18 involve Kelly Van Den Heuvel, correct?

19 A       Correct.

20 Q       And were you -- did you consider yourself to be the lead  
21 agent in the second superseding indictment investigation?

22 A       Well, Special Agent Dewe conducted the initial interviews  
23 of Mr. Hoffman and Ms. Bald at Nicolet, and he issued the first  
24 couple of subpoenas, and I spoke to him about it and we  
25 identified that it was something that could be included with

1 the original indictment, so then I stepped up and I conducted  
2 additional investigation -- investigative steps.

3 Q I want to go back to -- you said early on in your direct  
4 testimony that you interviewed Steve Peters, I believe, in  
5 connection with an administrative investigation; is that  
6 correct?

7 A Yes.

8 Q When did you interview him?

9 A It would have been in 2010 or 2011.

10 Q Who else was present?

11 A Supervisor Examiner Steve Sheehan.

12 Q Did you take notes of that interview?

13 A I did a writeup, yes.

14 Q Did you prepare some sort of witness summary or --

15 A Yes.

16 Q Okay. Has that been produced; do you know?

17 A Yes.

18 Q It has, okay. Now, you talked about Exhibit 13.

19 A Yes.

20 Q Were -- and that was a letter to Mr. Piikkila, correct?

21 A Yes.

22 Q Were you involved in the drafting of that?

23 A I didn't draft the letter. I believe the attorney that  
24 drafted it sent it to me for review, but I didn't write it.

25 Q Now, there is -- you have testified that -- that the loans

1 were -- were, basically, identical to the loans in the initial  
2 indictment, correct?

3 A Yes.

4 Q Now, there's a reference to January 22nd, 2008, and March  
5 1st of 2010 in the second paragraph of the first page. Do you  
6 see that?

7 A January 22nd, 2008, and what was the other date?

8 Q And March 1st of 2010.

9 A March 1st. Oh, in the first paragraph, yes.

10 Q The -- the reference to March 1st of 2010, as I looked  
11 through the letter, I didn't see a reference to that particular  
12 date. Do you have an understanding as to what's that referring  
13 to?

14 A I don't know what March 1st, 2010, references. I think  
15 that perhaps that was when he was terminated from the bank.

16 Q And the reference on the first page of the document is --  
17 it says with respect to customer Ron Van Den Heuvel, correct,  
18 in the --

19 A Yes.

20 Q -- first paragraph?

21 A Yes.

22 Q That's -- it does not reference -- you testified that all  
23 three defendants are referenced in this letter, but Kelly  
24 Van Den Heuvel is not referenced as -- as one of the customers  
25 of Horicon Bank that this investigation is centering on,

1 correct?

2 A She is listed in the second page, the first bullet point.  
3 Under the KYHKJG loan, she is listed.

4 Q Right, she's listed there, but she's not listed on page  
5 one when it just -- when it discusses a pattern of dishonest,  
6 unsafe and unsound lending practices with respect to customer  
7 Ron Van Den Heuvel, correct?

8 A Correct.

9 Q It doesn't mention Kelly in that allegation?

10 A No, sir.

11 Q I believe you testified that when you became a special  
12 agent at the FDIC, that you had your first meeting with  
13 Assistant United States Attorney Humble in December of 2014; is  
14 that correct?

15 A Yes.

16 Q Who was present for that meeting?

17 A It was Mr. Humble, an FBI agent, and an IRS agent, but I  
18 cannot recall their names. The FBI agent has since retired.

19 Q What was the -- what was the purpose of that meeting?

20 A To discuss the case. Since I was new to the case,  
21 introduce myself and give them background about what we wanted  
22 to do in regards to investigative steps.

23 Q And what were the investigative steps that were -- that  
24 were planned after -- after that meeting concluded?

25 A I had planned to issue additional subpoenas and interview

1 the straw borrowers.

2 Q And you didn't interview any straw borrowers until after  
3 July 2nd of 2015, correct?

4 A Right, correct.

5 Q You didn't issue any additional subpoenas until after July  
6 2nd of 2015, correct?

7 A Correct.

8 Q Now, you -- you did indicate that you participated in an  
9 interview of Paul Piikkila on -- in the middle of April 2015,  
10 correct?

11 A Correct.

12 Q Who was present for that from law enforcement?

13 A It was the FBI agent -- two FBI agents, I apologize, and  
14 personnel from Brown County, but it was ADA Lasee, and I can't  
15 recall the other investigator from Brown County off the top of  
16 my head. No, I'm sorry, I can't recall their names. It would  
17 be in my writeup.

18 Q In your -- I was going to call it a 302, but that might  
19 get me on bad paper with you, so I'll just say in your writeup.  
20 Well, let me -- let me hand you what will be marked for  
21 identification purposes as Kelly Van Den Heuvel Number 1.

22 Your Honor, do you want a copy?

23 **THE COURT:** The clerk doesn't like those numbers.

24 **MR. PORTER:** No?

25 **THE CLERK:** The next defendant Exhibit is 1004.

1           **MR. PORTER:** Well, let's make it 1004.

2           **THE CLERK:** Okay.

3           **MR. PORTER:** I already lost track so --

4           **THE COURT:** So were -- defendants are sharing 1000  
5 and beyond, I guess, and the Government has 1 through 1000.

6           **MR. SPEAKER:** I don't expect you guys to use --

7           **THE COURT:** There's no reason you have to use them  
8 all.

9           **MR. PORTER:** Judge, do you want a copy?

10          **THE COURT:** Yes, please. Thank you.

11          **BY MR. PORTER:**

12          Q       This is the report that you prepared of your interview of  
13 Mr. Piikkila on April 15th of 2015, correct?

14          A       Correct.

15          Q       Does it refresh your memory about what other law  
16 enforcement agents were there?

17          A       Yes, it does.

18          Q       Who else was there?

19          A       There's FBI Special Agent Ron Hamon and Ted Guyan and ADA  
20 David Lasee and Special Prosecutor Bryant Dorsey.

21          Q       And why were David Lasee and Bryant Dorsey there?

22          A       Because Mr. Piikkila had worked for Mr. Van Den Heuvel for  
23 a short period of time, and at the end of the discussion of the  
24 Horicon Bank loans, there was some discussion about his  
25 involvement with Mr. Van Den Heuvel's companies.



1 Q Were they present for the entire interview?

2 A Yes.

3 Q And were -- I take it you were present for the entire  
4 interview as well?

5 A Yes.

6 Q After this interview of Mr. Piikkila, did you discuss your  
7 investigation with District Attorney Lasee or Special  
8 Prosecutor Dorsey?

9 A I don't believe that I had any discussion with them about  
10 where the Horicon Bank case was going.

11 Q Did you have a discussion with them at -- on April 15th of  
12 how their investigation was going?

13 A Not that I recall. Perhaps in general terms, but I don't  
14 recall any conversation.

15 Q What do you recall in general terms?

16 A I would say what was discussed in the interview was my  
17 understanding of where the case was at, but I don't recall any  
18 other discussion outside of that.

19 Q Was this the first time that you had met District Attorney  
20 Lasee?

21 A No, I had met him before.

22 Q How many times?

23 A I had met him one other time.

24 Q I notice you're looking down at something. What are you  
25 looking down at?

1 A I created a timeline to refresh my memory because there  
2 are so many dates involved.

3 Q And is that something you have produced to the defense?

4 A I have not. I just created it, but I believe that there  
5 are copies available.

6 Q Have you had that up in front of you throughout your  
7 testimony today?

8 A Yes.

9 MR. PORTER: Could I request from the Government a  
10 copy of that timeline? Actually, can I see it for a minute?

11 THE WITNESS: Sure.

12 MR. LE BELL: I'd also ask for a copy.

13 MR. JOHNSON: I'm sorry?

14 THE COURT: M. LeBell has also requested a copy.

15 THE WITNESS: So there is -- there's actually --

16 MR. PORTER: I'll just ask some questions.

17 THE WITNESS: Okay.

18 MR. PORTER: Can I stand at the -- lectern just so  
19 we can look at it together?

20 THE COURT: Sure.

21 BY MR. PORTER:

22 Q So you've handed me three pages, correct?

23 A Yes.

24 Q One is an investigative action with a date beginning July  
25 10th and concluding on 3/2 of 2016, correct?

1 A Yes.

2 Q You created this document?

3 A Yes.

4 Q Okay. The second page is investigative action. And  
5 again, it is a timeline or a chart beginning 4/23 of 2013,  
6 correct?

7 A Yes.

8 Q And ending 8/20 of 2016?

9 A Yes.

10 Q And then is this part of your notes as well?

11 A I did not create that, but that is a subpoena log.

12 MR. PORTER: Okay. I'm going to mark this as -- just  
13 for purposes of identification as Defendant's Exhibit 1005 and  
14 move for its admission.

15 THE COURT: Any objection?

16 MR. JOHNSON: No, sir.

17 THE COURT: Okay, it's received.

18 (Defendant's Exhibit Number 1005 was received in evidence)

19 MR. PORTER: And do you have a copy so that I can --

20 MR. JOHNSON: I have -- these are the identical to  
21 the -- these are identical timelines, but I don't have the  
22 subpoenaed ones.

23 MR. PORTER: Okay.

24 MR. JOHNSON: I can give you this and this.

25 MR. PORTER: Okay.

1 **BY MR. PORTER:**

2 Q So Ms. Hager, we were talking about your interactions with  
3 District Attorney Lasee, correct?

4 A Yes.

5 Q And I believe you testified that you had met with him  
6 prior to April 15th of 2015?

7 A Yes.

8 Q And in respect to an investigation of Ron -- or  
9 investigations of Ron Van Den Heuvel?

10 A Yes.

11 Q Okay. Have you ever -- I don't want to get into them, but  
12 have you ever had any other law enforcement dealings with  
13 District Attorney Lasee?

14 A No.

15 Q And I apologize, I just forget, you testified that you had  
16 talked with him at least once prior to April 15th?

17 A I spoke to him on -- well, there was a meeting on March  
18 12th, 2015, and then I spoke to him on the phone June 11th,  
19 2015.

20 Q Okay, so there's a reference on 3/12 of 2015 in Defense  
21 1005, correct?

22 A Yes.

23 Q And who was present at that meeting?

24 A It was myself, AUSA Humble, FBI Agents Guyan and Hamons,  
25 and Brown County personnel, including ADA Lasee and Mary

1 Shartner was also there, but I don't recall the names of the  
2 other people that were there.

3 Q Where was the meeting?

4 A It was at the U.S. Attorney's Office in Green Bay.

5 Q How long did it last?

6 A Approximately an hour, maybe less.

7 Q Who called the meeting?

8 A I was notified of the meeting by AUSA Humble.

9 Q Okay. The lawyers, huh?

10 A Yes.

11 Q Okay. And the -- the -- what was the -- from your  
12 perspective, what was the purpose of the meeting?

13 A It'd come to light that they were investigating  
14 allegations of securities fraud at the Brown County level, and  
15 they became aware of the Horicon Bank investigation.

16 Q How did federal law enforcement, if you know, become aware  
17 of the Brown County investigation?

18 A I don't know.

19 Q When did you become aware of the Brown County  
20 investigation?

21 A It would have been on or around that date, when AUSA  
22 Humble had called a meeting.

23 Q Had you reviewed any files concerning the Brown County  
24 investigation prior to this meeting on March 12th of 2015?

25 A No.

1 Q Did you review any files from the Brown County  
2 investigation in advance of the Piikkila proffer?

3 A No.

4 Q The March 12th meeting, what did -- what did the local law  
5 enforcement authorities advise you concerning their  
6 investigation?

7 A That they were investigating allegations of securities  
8 fraud, and I don't remember specifics of what was discussed.

9 Q When -- and who presented to the local law enforcement the  
10 Horicon -- call it the Horicon Bank fraud investigation?

11 A I did.

12 Q How did they react to your presentation?

13 A How did they react?

14 Q Yes.

15 A I mean, just they became aware of it. There wasn't any  
16 notable reaction.

17 Q Was there a discussion of the Locascio -- well, let me  
18 rephrase. Was there a discussion at that March 12th meeting of  
19 the allegations that turned into the second superseding  
20 indictment?

21 A I don't recall so -- that, no.

22 Q At the end of this meeting, what was the plan of action  
23 going forward? What did you all agree on?

24 A That we would pursue the Horicon Bank case federally and  
25 the State would pursue the securities fraud case.

1 Q Did you all agree to keep each other informed of your  
2 investigations?

3 A I don't recall any of -- any explicit discussion of that.  
4 I never said that I would notify anyone of where I was going.

5 Q Was there an agreement not to notify each other of your  
6 respective investigations?

7 A No.

8 Q Did -- did anyone at that March 12th meeting discuss the  
9 possibility of the use of search warrants?

10 A Not that I recall.

11 Q You testified that you spoke to AUSA Humble in June of  
12 2015 about this investigation; is that correct?

13 A Yes.

14 Q In fact, on your timeline there was a reference to June  
15 11th of 2015; is that correct?

16 A Yes.

17 Q Who was present for that discussion?

18 A I called him on the phone. So it was just the two of us.

19 Q It was a telephone call?

20 A Yes.

21 Q And what was the -- what was the purpose of the call?

22 A I was just reaching out to discuss the investigation, just  
23 touch base.

24 Q And that same day you spoke with District Attorney Lasee,  
25 correct?

1 A Yes.

2 Q Did you call him or did he call you?

3 A I called him.

4 Q Why did you call him?

5 A Because I had -- the previous phone call to AUSA Humble I  
6 discussed interviewing straw borrowers, and I wanted to verify  
7 that that wouldn't complicate the securities fraud  
8 investigation for them, so I wanted to de-conflict.

9 Q How did he respond to that?

10 A ADA Lasee?

11 Q Yes.

12 A He said that was fine, to go ahead with the interviews.

13 Q Did he -- what else did he say to you in that  
14 conversation?

15 A He indicated that the State was going to be executing a  
16 search warrant on Ron Van Den Heuvel's businesses shortly.

17 Q What else did he say about that?

18 A Nothing. We didn't discuss it.

19 Q What's your understanding of why he told you that?

20 A Because when I said that I was going to be interviewing  
21 straw borrowers, he said to go ahead, it wouldn't complicate  
22 his case, and also they were going to be invest -- because  
23 there was going to be a search warrant, Mr. Van Den Heuvel was  
24 going to be aware of the situation anyways, that the case was  
25 open, so it wouldn't cause any conflicts.



1 Q Was one of the issues that you were -- that you were  
2 talking about whether to make the investigation overt as  
3 opposed to keeping it covert?

4 A No. It was -- the reason I called was to verify that it  
5 wouldn't interfere with their investigation. Like I said, just  
6 to de-conflict. It wasn't to keep it covert as opposed to  
7 overt.

8 Q Did you offer any assistance in executing search warrants?

9 A No.

10 Q The other individual in the -- in the Piikkila interview  
11 from local law enforcement was Bryant Dorsey; is that correct?

12 A Yes.

13 Q Who's that?

14 A Special prosecutor Bryant Dorsey?

15 Q Yes.

16 A Who is he?

17 Q Yes.

18 A He works for Brown County. That's -- I haven't had  
19 extensive conversations with him.

20 Q Was -- was he part -- as you understood it, was he part of  
21 the securities fraud investigation?

22 A He was present at the Piikkila interview, so that would  
23 lead me to believe that he was involved with it.

24 Q Was he present at the March 12th, 2015 meeting?

25 A I don't recall. I didn't take an inventory of who was at

1 the meeting, just that it was Brown County personnel.

2 Q Was the April 15th proffer of Piikkila the first time that  
3 you met ASA Dorsey?

4 A If I had met him before, it would have been just in the  
5 March meeting.

6 Q How many times have you spoken with him as part of this  
7 investigation?

8 A At the Piikkila interview, he would have been present for  
9 my discussion of the Horicon Bank fraud in March if he was  
10 there, and possibly -- there were a couple of other meetings  
11 later on in 2015, in October and November. He was possibly at  
12 those.

13 Q You've also testified about Mary -- Mary Shacter?

14 A Shartner.

15 Q Shartner?

16 A Yes.

17 Q And you testified that you met with her before July 2nd of  
18 2015; is that correct?

19 A The first time I met her was in March -- on March 12th,  
20 2015.

21 Q She was at the March 12th meeting?

22 A Yes.

23 Q How many times did you talk with her before July 2nd of  
24 2015?

25 A It would have just been that meeting.

1 Q You didn't have other contact with her before the  
2 execution of search warrants on July 2nd?

3 A No.

4 Q How many times have you talked to her since July 2nd of  
5 2015?

6 A I believe that she was at the meetings in October and  
7 November of 2015; and in her review of search warrant  
8 materials, she did e-mail me just on two occasions. Actually,  
9 I apologize, three occasions.

10 Q What did she e-mail you about?

11 A One was that she was retiring, and another was she came  
12 across an e-mail that -- because I had briefed her in March of  
13 2015 regarding the Horicon Bank fraud, she came across an  
14 e-mail and sent that to me. And the third e-mail, she had  
15 compiled a list of bank accounts for Mr. Van Den Heuvel, and  
16 she had sent that to me.

17 Q The March 12th of 2015 meeting, those that were present  
18 from Brown County included District Attorney Lasee, correct?

19 A Yes.

20 Q Assistant State's Attorney Dorsey?

21 A Possibly.

22 Q Possibly, you're not sure?

23 A Right.

24 Q And Sergeant Shartner?

25 A Yes, she was there.

1 Q Anyone else?

2 A I believe that there was another person, Mitch -- I can't  
3 recall his last name. He was assisting Sergeant Shartner.

4 Q He was a law enforcement officer as opposed to a  
5 prosecutor?

6 A Right, right.

7 Q And what did you -- what did you brief them on concerning  
8 your investigation?

9 A I gave them a review of the Horicon Bank loan allegations.

10 Q Did you provide them any documents at that time?

11 A I did.

12 Q What did you provide them?

13 A There was an internal memo that I had wrote when I was an  
14 investigation specialist that outlined it, it was from 2011,  
15 and that was provided.

16 Q Anything else?

17 A Not that I can recall.

18 Q Now, there -- you had testified about an October meeting,  
19 and it's also referenced in your timeline, correct?

20 A Yes.

21 Q And in October of 2015, a decision was made that the local  
22 investigation of Mr. Van Den Heuvel would be transferred to the  
23 feds, correct?

24 A Yes, yes.

25 Q Did you participate in that decision?

1 A No.

2 Q Who participated in that decision?

3 A That would have been the prosecutors, I believe. I wasn't  
4 involved with that.

5 Q Was -- was that decision discussed in this meeting on  
6 October 8th of 2015?

7 A Well, the October 8th meeting was just a phone call to  
8 AUSA Humble. There was a later meeting in October with the new  
9 prosecutors and the team, but on the October 8th meeting, it  
10 was just a telephone call between myself and Mr. Humble.

11 Q I see. And in that telephone call, Mr. Humble informed  
12 you that the feds were taking over the Brown County  
13 investigation?

14 A Yes.

15 Q And then there was a meeting on October 29th of 2015 with  
16 Milwaukee AUSA's Johnson and Krueger and others that you  
17 participated in?

18 A Yes.

19 Q Who from Brown County participated in that meeting?

20 A Mary Shartner was there.

21 **MR. JOHNSON:** Your Honor, I'll object on relevance  
22 grounds. It just seems -- unless there's some foundation laid  
23 as to how the discussion at that meeting somehow relates to the  
24 issues in this motion.

25 **MR. PORTER:** Well, she testified about it. She was

1 referring to this exhibit that we now have just seen in her  
2 direct testimony. I think we're entitled to question her about  
3 a document that she apparently created for her testimony.

4 **THE COURT:** Mr. -- anything else?

5 **MR. JOHNSON:** No.

6 **MR. PORTER:** Just -- I guess I would add, the issues  
7 concerning communications between Brown County and federal law  
8 enforcement are -- are the issue as it relates to the search  
9 warrant.

10 **THE COURT:** So this is theory somehow that the entire  
11 investigation becomes tainted because of involvement with the  
12 Brown County law enforcement? I'm still having trouble  
13 understanding this, where we're going.

14 **MR. PORTER:** Potentially yes, Judge, if -- and so  
15 some of what we need to do is to discover what it was -- what  
16 information was shared, but if information was shared by Brown  
17 County investigators that, you know, came from them through a  
18 tainted search warrant process, which you ultimately need to  
19 decide, the theory would then be that -- that taint may well --  
20 again, you will decide, that taint may well extend to some or  
21 all of the federal law enforcement investigation. Those are  
22 legal decisions that we will decide in the coming weeks, I  
23 suppose, but we need --

24 **THE COURT:** Go ahead, let's move on. I'll overrule  
25 the objection.

1                   **THE WITNESS:** Can you repeat --

2                   **BY MR. PORTER:**

3           Q       You don't remember the question?

4           A       I don't.

5           Q       Neither do I. There was -- there was a meeting on October  
6           29th of 2015 that you participated in with Brown County  
7           investigators, correct?

8           A       Yes.

9           Q       And I may have asked this, I apologize, but who from Brown  
10          County was present, as far as you can recall?

11          A       I recall Sergeant Shartner and ADA Lasee, and possibly  
12          Bryant Dorsey, but I can't be certain. I didn't make a note of  
13          who was there from Brown County, just that Brown County  
14          personnel was there.

15          Q       Do you recall anyone else that was present from the Brown  
16          County side of things?

17          A       Possibly Mitch. His last name I can't recall off the top  
18          of my head.

19          Q       Anyone else?

20          A       Not that I recall.

21          Q       How long did this meeting last?

22          A       Possibly an hour.

23          Q       Where did it take place?

24          A       At the U.S. Attorney's Office in Milwaukee.

25          Q       And what did the Brown County investigators or prosecutors

1 brief you and your federal colleagues on concerning the Brown  
2 County investigation?

3 A I don't recall specifics. I think high level the  
4 potential victims, or alleged victims, of the investigation and  
5 provided possibly -- they did provide some documentation.

6 Q Was this documentation that they had obtained from -- from  
7 the execution of search warrants?

8 A I don't know where it was obtained.

9 Q What did they tell you about what they had found in their  
10 execution of search warrants?

11 A I don't recall any discussion of specifics of what was  
12 discovered.

13 Q At some point you received documentation that you  
14 understood came from the search warrants, correct?

15 A Yes.

16 Q And was any of that documentation received prior to this  
17 meeting on October 29th of 2015?

18 A No.

19 Q When is the -- when is the first documentation that you  
20 received from -- from Brown County?

21 A In November, it was -- I was there over like a two-day  
22 period, 17th and 18th, at Brown -- at the Brown County  
23 Sheriff's Office.

24 Q You were there for two days?

25 A An afternoon and a morning.



1 Q Okay. Did you -- are you located up here or are you  
2 located in Milwaukee?

3 A I'm located in Chicago.

4 Q In Chicago, oh, even better. And did you -- so did you  
5 stay up here overnight and then, you know, work in the  
6 afternoon and come back in the morning, or how did it work?

7 A Yes, that's what happened.

8 Q Okay. So in all, how long did you meet with Brown County  
9 investigators on November 17th and 18th?

10 A There was a meeting in the afternoon of the 17th, maybe an  
11 hour, and then Mary -- Sergeant Shartner had set aside some  
12 documents pertinent to the Horicon Bank fraud, and that's when  
13 I did the scanning.

14 Q And what was the purpose of this meeting?

15 A Because the case was being transferred from the state to  
16 the federal law enforcement.

17 Q So was the purpose of the meeting to obtain documents from  
18 Brown County?

19 A Not at that point, not for the FBI, but I went ahead and  
20 copied what had been set aside for the Horicon Bank  
21 investigation.

22 Q Okay. And it was your understanding that -- that local  
23 law enforcement had set aside documents that they had seized  
24 pursuant to the search warrants that related to Horicon Bank?

25 A Yes.

1 Q And it was -- it was those documents that you received on  
2 either November 17th or November 18th?

3 A Right.

4 Q Did you discuss any of those documents with -- with  
5 Sergeant Shartner or anyone else from Brown County?

6 A I was mostly just scanning the documents, trying to --  
7 yeah, just scanning.

8 Q How long did that take you to do?

9 A It took a long time. The scanner is very slow and it was  
10 800 pages.

11 Q Were there other Brown County investigators that were  
12 present -- or Brown County personnel that were present on  
13 November 17th and 18th?

14 A Sergeant Shartner was there, as well as Mitch was also  
15 there.

16 Q And do you recall anything that they shared with you or  
17 communicated to you about the results of their search warrants  
18 on the 17th and 18th?

19 A I don't recall any specifics of what was discussed. There  
20 was a meeting earlier in the day on the 17th to give broad  
21 overviews, but I can't recall specifics of what was discussed.  
22 At that point I was focused on the Horicon Bank fraud case.

23 Q So the meeting that occurred earlier in the day, what was  
24 the purpose of that meeting? Was it to discuss the results  
25 of -- of the search warrants?

1 A I think it was because the case was being taken over by  
2 the feds, the FBI mostly, giving overview of -- I mean, I  
3 really can't recall the specifics of what were discussed, but  
4 where they had gotten to at that point, I don't recall if they  
5 were pulling out specific documents, or anything like that. I  
6 don't believe that happened.

7 Q I take it you would agree, though, that one of the things  
8 that was discussed, whether at a high level or in detail, was  
9 some of the results of the execution of search warrants?

10 A Yes.

11 Q How was it that you were able to identify the documents  
12 that related to Horicon Bank from the search warrants?

13 A Sergeant Shartner had set them aside.

14 Q So was there just a stack of documents on a table or  
15 something that you were allowed to -- to scan in?

16 A Yes. Yeah.

17 Q When is the next time that you -- that you received  
18 documents from Brown County related to Horicon Bank?

19 A In June of last year, the FBI conducted an operation to  
20 review search warrant materials and what was relevant to the  
21 investigation.

22 Q And was that operation an operation to determine what  
23 documents could be returned and what documents had  
24 investigative merit and should be kept?

25 A Yes.

1 Q Did you participate in that operation?

2 A Yes.

3 Q What was your participation in that operation?

4 A Prior to starting, there was a lot of FBI personnel, and I  
5 briefed them on the Horicon Bank fraud case, the people and STs  
6 that were involved, and the time frame.

7 Q Did you have any other involvement in that operation?

8 A I was also searching through materials.

9 Q So that operation, we can agree that there were lots and  
10 lots of documents to go through?

11 A Yes.

12 Q Have you ever been involved in a -- in a case involving as  
13 many documents as were seized in this case?

14 A Yes.

15 Q How many other times?

16 A On that large of a scale, once.

17 Q What was that case?

18 A That was -- I was helping out with one of my coworkers.  
19 He conducted a search warrant on multiple locations, bank  
20 locations.

21 Q The operation, as you've described it, to figure out what  
22 can be returned and what should be kept, how long did you  
23 participate in that operation?

24 A I was up there a couple of days. I believe two days.

25 Q And where were -- where did the operation occur?

1 A At Brown County, the sheriff's office.

2 Q Okay. And where in the sheriff's office?

3 A There was a warehouse that all the -- that's where all the  
4 documents were located.

5 Q Okay. And ultimately, there was a decision to return  
6 documents and to keep other documents, correct?

7 A Yes.

8 Q Fair to say that many, many, many more documents were just  
9 returned than were kept for investigative purposes?

10 A I believe so. I wasn't -- I don't know exactly what was  
11 returned.

12 Q And would you say it was on a scale of 100 to 1 in terms  
13 of return to kept?

14 A I can't speak to that.

15 Q Who could?

16 A The FBI.

17 Q Who at the FBI?

18 A Special Agent Ryan Austin would be able to identify that.

19 Q Do you view him as sort of the lead agent in determining  
20 what should be kept and what should be returned?

21 A I wouldn't say that he was the lead agent in determining  
22 what should be kept and what was returned, but he was involved  
23 with coordinating the operation, so he would be able to speak  
24 to it and what was returned.

25 Q Who would you say was the lead agent?

1 A I would say that it was shared between Special Agent Dewe  
2 and Special Agent Austin.

3 Q And it was -- it's your understanding that the documents  
4 that were returned were returned sometime in August of 2016,  
5 correct?

6 A They were returned after we conducted the second search --  
7 or the search in June, yes. I don't know when they were  
8 returned, though. It was after that, shortly after that.

9 Q When you say you conducted the search in June, what are  
10 you referring to?

11 A The FBI operation of sorting through the documents.

12 Q Okay. There wasn't -- there weren't additional search  
13 warrants that were executed?

14 A No, no. I apologize, no.

15 Q This was -- the operation was the searching through of  
16 documents that had been seized by Brown County in July of 2015?

17 A Correct.

18 Q Okay. And the documents that were returned, federal law  
19 enforcement didn't keep copies of those documents; is that  
20 correct?

21 A I don't believe so, but Special Agent Austin will be able  
22 to speak to that. I don't believe so.

23 Q Okay. Your understanding was that just the documents that  
24 you didn't find -- law enforcement didn't find to be relevant  
25 were just returned, given back?

1 A Correct.

2 Q Okay. Now, you mentioned that you conducted some  
3 interviews of -- of -- the term you used was straw borrowers?

4 A Yes.

5 Q And that you interviewed Bill Bane?

6 A Yes.

7 Q You interviewed Julie Gumban?

8 A Yes.

9 Q You interviewed Deborah Stary (ph.s.)?

10 A Yes.

11 Q Did you interview anyone else within that -- within that  
12 group of what you were calling straw borrowers?

13 A Steve Peters, and that was it for the -- for the people  
14 that received loans.

15 Q Okay. And all those interviews occurred after July 2nd,  
16 2015?

17 A Yes.

18 Q You didn't ever interview Kelly Van Den Heuvel, correct?

19 A No, no.

20 Q You didn't ever attempt to interview her?

21 A No.

22 Q You didn't consider her to be a straw borrower as well?

23 **MR. JOHNSON:** I'll object, Your Honor on relevance  
24 grounds.

25 **THE COURT:** Overruled.

1           **THE WITNESS:** I considered the KYHKJG loans to be straw  
2 loans.

3 **BY MR. PORTER:**

4 Q       And the KY -- I'll just abbreviate it KY.

5 A       Okay.

6 Q       The KY loans, you didn't -- you didn't interview anyone --  
7 any human being who would serve as a straw borrower for the KY  
8 loans; is that correct?

9 A       I did interview Julie Gumban. She was said to have had  
10 some sort of involvement with the KY loans, but not  
11 Ms. Van Den Heuvel.

12 Q       Okay.

13           **THE COURT:** Let me know when we're at a good spot for  
14 a break, Mr. Porter.

15           **MR. PORTER:** This is a decent spot.

16           **THE COURT:** Okay.

17           **MR. JOHNSON:** Your Honor, we have one concern about  
18 one of our witnesses is Bryant Dorsey -- I should stay close to  
19 the mike -- Bryant Dorsey who's here, he's got a problem  
20 because he's needed in court this afternoon. He's an assistant  
21 district attorney, and we didn't think we were going to be  
22 going quite this slow and so we thought we'd get him in this  
23 morning. Is there some way we can maybe take him out of order  
24 now in order to allow him to be done so that -- that, you  
25 know --



1           **THE COURT:** We have an initial appearance at 12:15, a  
2 new arrest that's coming in here. That doesn't mean you have  
3 to move everything, but you might want to, you know, push it  
4 aside. But, I mean, had I known, you know, I mean -- and I --  
5 I take it -- are we even going to finish today, the way it  
6 looks?

7           **MR. PORTER:** I've got about ten more minutes with --  
8 with this witness.

9           **MR. KRUEGER:** I've got a while with her, not a long  
10 cross. And then we have -- I think there are four defense  
11 witnesses, and the Government has seven.

12           **THE COURT:** Oh, we're not going to finish today.  
13 This is --

14           **MR. JOHNSON:** It doesn't seem like it.

15           **THE COURT:** What's in dispute? I'm still having  
16 trouble seeing where we're going with all this, to the extent  
17 that's it's not already apparent in the scope of the warrant,  
18 the manner in which it was -- you know, the number of documents  
19 that were seized.

20           **MR. KRUEGER:** I mean, I think the defense is seeking  
21 a blanket suppression of everything and so they're trying to  
22 establish a very flagrant disregard of the search warrant.  
23 We're trying to establish that it was a reasonable execution of  
24 a search warrant so that you wouldn't do blanket suppression  
25 and then trying to show why even the evidence that may be

1 outside of the scope of the search warrant would have been  
2 inevitably discovered.

3 **THE COURT:** And for this we need all of these  
4 witnesses?

5 **MR. JOHNSON:** Well, everybody that we would call, and  
6 I think everybody we anticipate the defense would call, is at  
7 least relevant to some aspect of these several issues which we  
8 have in the case, I --

9 **THE COURT:** Well, why don't you talk with each other,  
10 see what Mr. Dorsey's appearance is. Is he -- all afternoon is  
11 he in court?

12 **MR. JOHNSON:** Well, I think he's assigned to be in  
13 court this afternoon.

14 **MR. KRUEGER:** We can talk with him. He said he may  
15 be able to make arrangements.

16 **MR. JOHNSON:** It's possible he can get somebody to  
17 substitute for him so I'm --

18 **THE COURT:** Well, let's take a 45-minute -- let's try  
19 and start up at quarter to.

20 **MR. PORTER:** Your Honor, can I just raise one very  
21 logistical thing?

22 **THE COURT:** Yes.

23 **MR. PORTER:** My client would wish to be excused at  
24 around 2:30 for the day. And I don't have an objection to  
25 having her appearance waived beginning at about 2:30, but I

1 guess I want her to be admonished, you know, that -- that this  
2 is a -- this is a court proceeding that she has the right to be  
3 at, et cetera, et cetera.

4 **THE COURT:** That's fair.

5 **MR. JOHNSON:** We don't object.

6 **MR. KRUEGER:** We don't object.

7 **THE COURT:** All right. Well, Ms. Van Den Heuvel, you  
8 understand you have the right to be present at any evidentiary  
9 hearing involving your case? Do you understand that?

10 **MS. VAN DEN HEUVEL:** I do, Your Honor, but I also  
11 have minor children with obligations that they have that I must  
12 attend. My son has therapy and, you know, my daughter has an  
13 event as well. He has physical therapy that is detrimental --

14 **THE COURT:** Are you telling me -- are you telling me  
15 you want to be here, but cannot because of other obligations?

16 **MS. VAN DEN HEUVEL:** I definitely want to be here,  
17 but my obligations towards my son and his therapy, his mental  
18 therapy, physical therapy is important.

19 **THE COURT:** Of course it's important, but this is  
20 important too.

21 **MS. VAN DEN HEUVEL:** Yes.

22 **THE COURT:** And if you had chosen to make other  
23 arrangements --

24 **MS. VAN DEN HEUVEL:** I tried.

25 **THE COURT:** -- could you have made those

1 arrangements?

2 **MS. VAN DEN HEUVEL:** I did try, sir. I mean, I can  
3 try and see if I can get someone to take him, but yes.

4 **THE COURT:** My concern, Mr. Porter, is that your  
5 client might be making an argument that she needs an  
6 adjournment, not that she wants to be free of -- or be absent,  
7 and this is a little late in the day for a request for an  
8 adjournment.

9 **MR. PORTER:** Agreed.

10 **THE COURT:** Given the schedule that we have now.

11 **MR. PORTER:** Why don't she and I chat over the break,  
12 and we'll see where we are.

13 **THE COURT:** All right, we're in recess.

14 **MR. PORTER:** Thank you.

15 **(Recess taken from 12:05 p.m. to 1:04 p.m.; parties**  
16 **present)**

17 **THE COURT:** I understand technology is foiling us  
18 again. We're having some difficulty here. Is that right?

19 **MR. LE BELL:** It may have just eaten the CD that I  
20 brought up.

21 **MR. PORTER:** Oh, boy.

22 **THE COURT:** Do we have a --

23 **MR. LE BELL:** Oh, there you go.

24 **MR. SPEAKER:** It just dispersed it.

25 **THE COURT:** All right. Well, let's proceed and

1 continue with the examination of Special Agent, here, Sara  
2 Hager, Special Agent Hager.

3 Go ahead, Mr. Porter, you may proceed.

4 **MR. PORTER:** Thank you.

5 **CROSS EXAMINATION (CONTINUED)**

6 **BY MR. PORTER:**

7 Q You were asked some hypothetical questions on direct about  
8 things that you might've been able to do in your investigation.  
9 Do you remember those questions?

10 A Yes.

11 Q You have not subpoenaed Green Box for records concerning  
12 this investigation, have you?

13 A Correct.

14 Q You haven't subpoenaed any of the businesses that you  
15 understand are connected to Mr. Van Den Heuvel as part of this  
16 investigation, correct?

17 A Correct.

18 Q And you haven't executed any search warrants, or attempted  
19 to execute any search warrants at any of Mr. Van Den Heuvel's  
20 businesses or anywhere else as part of this investigation,  
21 correct?

22 A Correct.

23 Q And that's because you got the documents from Brown  
24 County, correct?

25 A Yes.

1 Q You also didn't execute or seek to execute a search  
2 warrant from Brown County authorities to lawfully get their  
3 documents, correct?

4 A Correct.

5 Q Those were just handed over to you voluntarily as part of  
6 this investigation.

7 A Correct.

8 Q Now, you testified about some documents that you received  
9 related to the Horicon Bank investigation from Brown County,  
10 correct?

11 A Correct.

12 Q And as I understand it, there is -- one of the many items  
13 that I took from you, so let me see if I can find it. But  
14 there is an index that was Exhibit 18 that is an index of  
15 documents from the Brown County search warrants that, as you  
16 understand it, the government might intend to use at trial,  
17 correct?

18 A The discovery index?

19 Q Yes.

20 A Yes.

21 Q And that's Exhibit 18 that I handed to you?

22 A Yes.

23 Q And without getting into any trial strategy that you  
24 might've discussed with the gentlemen at that government table,  
25 these are all documents that might potentially be used at trial

1 is your understanding?

2 A Correct.

3 Q Or at least at this point, as we sit here, the government  
4 wants to hold all of its cards in terms of being able to  
5 present such documents at trial, correct?

6 A Correct.

7 Q Now, you had -- and I just didn't understand this fully.  
8 On page 2, there's a search warrant documents folder column.  
9 Is that right?

10 A Yes.

11 Q And there're approximately 840 or maybe 42 pages of  
12 documents within the search warrant documents' folder set. Is  
13 that correct?

14 A Yes, approximately.

15 Q Are those 800-plus documents or pages of documents, the  
16 documents that you testified that you had scanned in in  
17 November of 2015?

18 A Yes.

19 Q Now, there are also 3212 pages of documents that are  
20 listed in addition in Exhibit 18. Is that correct?

21 A Yes.

22 Q Are some of the 800-plus documents also contained within  
23 the 3212 pages of documents?

24 A They're all contained within the 3200.

25 Q I see. So, all of the 800 and --plus pages of documents

1 are within the 3212?

2 A Correct.

3 Q Okay. So there are approximately 2400 pages of documents  
4 that you received at a separate point from Brown County that  
5 related to the Horicon Bank investigation?

6 A Well, I did take out duplicates and multiple emails of the  
7 same email, but there would be approximately 2400, about. But  
8 I did attempt to take out duplicates so it wasn't an  
9 overwhelming amount of documentation.

10 Q I don't understand that. I'm sorry.

11 There -- you had testified that there were 800-plus  
12 pages of documents that you scanned in in November of 2015,  
13 correct?

14 A Yes.

15 Q And there's -- do I understand that there are an  
16 additional 2400 approximately pages of documents that you at  
17 some point received from Brown County?

18 A So within the 800 pages, there were lots of duplicates.  
19 So those were extracted. And then there was also review  
20 undertaken to get out -- within the items 1 through 18 there  
21 were also a lot of duplicates. So, the new material would have  
22 been about around 2400.

23 Q And when you say the "new material," what are you  
24 referring to?

25 A The materials that were identified in June of 2016.



1 Q And those were materials that you and fellow federal  
2 agents identified as having a relationship to the Horicon Bank  
3 investigation?

4 A Yes.

5 Q And then those 2400, roughly, pages of documents were  
6 culled out during that June operation?

7 A Yes.

8 Q Okay. There is -- there is some documentation in the  
9 Exhibit 18 within these 3200 pages of documents that relates to  
10 Julie Gumban, correct?

11 A Which -- which exhibit?

12 Q Well, specifically, there's a reference at FDIC 15 to her.  
13 Is that correct?

14 A Yes.

15 Q Is that the only document that was located in the Brown  
16 County search as far as you know that relates to her?

17 A I believe that there were additional documents with her  
18 referenced on it.

19 Q They are not within this 3200?

20 A They would be.

21 Q Okay. So, in addition to FDIC 15, within this description  
22 of documents, there are other documents that reference  
23 Ms. Gumban?

24 A Pertaining to possibly payroll, not specifically Horicon  
25 Bank.

1 Q Okay. You would agree with me that she was not listed in  
2 the search warrant that -- in the search warrants that Brown  
3 County executed, correct?

4 A Correct.

5 Q There is also documentation concerning KYHKJG that is  
6 within these 3200 pages of documents, correct?

7 A I believe so, yes.

8 Q Well, in fact --

9 A Yes.

10 Q -- there is a reference at FDIC 19-3 to KYHKJG documents,  
11 correct?

12 A Correct.

13 Q And it's your understanding that in addition to that  
14 particular reference, throughout these -- throughout this 3200  
15 pages of documents, there are other references to KYHKJG.  
16 Correct?

17 A Yes, and pertains to court documents.

18 Q And you would also agree with me that KYHKJG was not an  
19 entity that was listed in any of the search warrants that were  
20 executed on July 2nd, 2015?

21 A Correct.

22 **(Pause)**

23 Q The Brown County investigators as of July 2nd of 2015 were  
24 aware of the Horicon Bank investigation?

25 A Yes.

1 Q You had briefed them on that investigation?

2 A Correct.

3 Q You were not aware as of July 2nd, 2015 of the LoCascio  
4 Huntington investigation, if I can call it that, were you?

5 A I don't recall any discussions with Brown County prior to  
6 the search warrant, no.

7 Q About that --

8 A About that.

9 Q -- that particular component?

10 A Correct.

11 Q Okay. That -- that -- what I'm probably inartfully  
12 calling the LoCascio Huntington portion of the investigation,  
13 that was in the search warrant affidavit that Brown County did  
14 on July 2nd, 2015, correct?

15 A Correct.

16 Q Do you have an understanding as to why the locals didn't  
17 just include Horicon Bank stuff in their search warrant and  
18 search warrant affidavit?

19 A It was my understanding from AUSA Humble that they were  
20 separate investigations. That we were going to be doing  
21 federal -- federally prosecuting the Horicon Bank fraud and  
22 they would -- up until that point -- up until the Milwaukee  
23 AUSAs took over, that the state would be handling the  
24 securities.

25 Q Did you believe that as of July 2nd, 2015, you had

1 probable cause to seek a search warrant for documents that  
2 Mr. Van Den Heuvel might have concerning the Horicon Bank  
3 allegations?

4 A I believe there would have been probable cause.

5 Q Did you ever discuss the possibility with your AUSA or  
6 anyone else to piggyback onto those local search warrants?

7 A No.

8 Q Why not?

9 A It just never came up.

10 Q Did you ever consider having the locals, if you will,  
11 insert the Horicon Bank allegations into their search warrant?

12 A No.

13 Q Why not?

14 A Because we -- the federal government was investigating the  
15 Horicon Bank fraud matter.

16 Q You weren't interested in July of 2015 in getting into  
17 Mr. Van Den Heuvel's business and seeing whether there were  
18 documents related to Horicon Bank?

19 A At that point I'd learned about it just prior, less than a  
20 month before, and it did not cross my mind to ask to be  
21 involved with the search warrant and I did not ask them to look  
22 for any documents.

23 Q As you sit here today, do you wish you would've done that?

24 **MR. JOHNSON:** I'll object, Your Honor, on relevance  
25 grounds.

1           **THE COURT:** Sustained.

2           **BY MR. PORTER:**

3           Q     The 3200 pages of documents in Exhibit 18, have you  
4           assisted in the identification of those documents as  
5           potentially usable at trial?

6           A     Yes, 1 through 19, yes.

7           Q     All those documents predate December 31st of 2010,  
8           correct?

9           A     December -- I'm sorry, could you repeat that?

10          Q     All of the documents that are on Exhibit 18, predate  
11          December 31st of 2010, correct?

12          A     I don't know what is in Exhibit 18 offhand. I would have  
13          to review it to be sure of dates.

14          Q     As you -- you're familiar generally with the documents in  
15          Exhibit 18, correct?

16          A     Are you referring to FDIC 18?

17          Q     I'm referring to --

18          A     Oh, Exhibit 18.

19          Q     Exhibit 18 in total.

20          A     Yes, yes. Yes, I'm familiar with them.

21          Q     Is it -- is it your understanding, as you sit here right  
22          now, that most of those documents predate December 31st of 2010  
23          or most of those documents postdate December 31st of 2010?

24          A     I would say probably most of them predate 2010, but I  
25          would have to review it and specifically look for dates to be

1 more concrete in that assessment.

2 Q And you believe that because the Horicon Bank allegations  
3 center on loans that were in 2008 and through the middle of  
4 2009, correct?

5 A Correct. There were collections' efforts after that and  
6 there -- some of that material is also included in there.

7 Q Finally, for us, Ms. Hager, I just wanted to ask a little  
8 bit more about the investigation.

9 Now, as a federal agent you have a lot of tools in  
10 your toolbox to investigate criminal fraud allegations,  
11 correct?

12 A Yes.

13 Q You've got subpoenas?

14 A Yes.

15 Q You've got witness interviews?

16 A Yes.

17 Q You've got grand jury testimony?

18 A Yes.

19 Q You've got electronic kinds of surveillance at times?

20 A Correct.

21 Q And in this case, you used witness interviews to assist in  
22 conducting your investigation, correct?

23 A Yes.

24 Q And after you became a special agent, you conducted one  
25 witness interview before July 2nd of 2015, correct?

1 A Yes.

2 Q That was Mr. Piikkila?

3 A Correct.

4 Q And after July 2nd of 2015, you've conducted dozens of  
5 witness interviews as it relates to this investigation,  
6 correct?

7 A I wouldn't say dozens.

8 Q How many would you say?

9 A Probably more than a dozen.

10 Q And you have subpoenas that you used as a tool in this  
11 investigation, correct?

12 A Yes.

13 Q Exhibit 20 lists the subpoenas that have been used in this  
14 case. Do you have 20 up there?

15 A Is that the subpoena log?

16 Q No. I'm sorry.

17 A Oh, yes, I'm sorry. That is the -- no, I don't have that.

18 Q Okay.

19 **THE COURT:** It's in a book. Do you have a book? She  
20 doesn't have a book? The binder isn't there?

21 **(Pause)**

22 **THE COURT:** Does he -- do you have your own binder,  
23 Mr. Porter?

24 **MR. PORTER:** I don't, no. I'm just --

25 **(Voices overlap)**

1           **MR. JOHNSON:** He was given, he was given copies of  
2 all of them.

3           **MR. PORTER:** I'm using copies that the government  
4 gave me.

5 **BY MR. PORTER:**

6 Q     You didn't -- you personally didn't issue any subpoenas or  
7 direct any subpoenas to be issued before July 2nd of 2015,  
8 correct?

9 A     For the investigation, there was one subpoena issued on  
10 July 29th, 2013.

11 Q     I'm sorry. My question was: You, personally, didn't  
12 cause any subpoenas to be issued before July 2nd of 2015,  
13 correct?

14 A     Correct.

15 Q     You caused at least a dozen subpoenas to be issued after  
16 July 2nd of 2015?

17 A     Approximately ten.

18 Q     I'm sorry?

19 A     Approximately ten.

20 Q     And you used grand jury testimony in this case as well,  
21 correct?

22 A     We did not actually, no, do any grand jury testimony.

23 Q     Julie Gumban didn't testify in the grand jury?

24 A     No, she did not. There was a subpoena issued but she  
25 didn't -- she voluntarily spoke to us outside of the grand



1 jury.

2 Q That was after July 2nd of 2015?

3 A Yes.

4 **MR. PORTER:** I have nothing further, Your Honor.

5 **THE COURT:** Mr. LeBell?

6 **CROSS EXAMINATION**

7 **BY MR. LE BELL:**

8 Q Take a look at Exhibits 14 and 15 for me.

9 **(Witness complies)**

10 Okay, those are the reports that reflect the  
11 interviews with LoCascio and Huntington respectively?

12 A Yes.

13 Q You testified previously that on each occasion, these two  
14 individuals advised the interviewer about the circumstances of  
15 the cars and titles and the attempt to obtain the loans. And  
16 on both occasions you indicated that these loans were an  
17 attempt to secure funds for Ron Van Den Heuvel. Tell me where  
18 it is on those exhibits that it reflects that.

19 A In Mr. Huntington, page 2. Almost -- about three-fourths  
20 down the page it says that the vehicles were titled in one of  
21 Mr. Van Den Heuvel's companies and Mr. --

22 Q I'm sorry. You're talking about Huntington?

23 A It's Reports 14.

24 Q Sorry?

25 A It's Bates stamped "Reports 14."

1 Q Yes.

2 A And about three-quarters of the way down, it says:

3 "Mr. Hoffman was supposed to use the vehicles as  
4 collateral to try and obtain bank financing."

5 Q Yes.

6 A And in Mr. LoCascio's interview --

7 Q Let's stop there for a minute.

8 A Okay.

9 Q You're talking about three-quarters of the way down. The  
10 paragraph says "I wasn't getting paid"?

11 A Yes, that paragraph.

12 Q Okay. And where is it that says that the money was going  
13 to go to Mr. Van Den Heuvel? Point that out for me.

14 A It doesn't -- wait. It does not state that it was going  
15 to Mr. Van Den Heuvel.

16 Q No, doesn't. Can you tell me on the interview with  
17 LoCascio, exactly where it is that it says those funds are  
18 going to go to Ron Van Den Heuvel?

19 **(Pause)**

20 A On the last page Reports 31, the last large paragraph.

21 Q Show me the exact sentence where it says that the money  
22 that was derived from the loans was going to go to Ron  
23 Van Den Heuvel.

24 A It does not say that.

25 Q Thank you.

1           The meeting that you had on March 12th with various  
2 folks, including the folks from the State, Shartner and other  
3 people, were any notes taken of that particular meeting?

4     A     I did not take any notes.

5     Q     Do you know whether other people took notes or recorded or  
6 memorialized that particular meeting in any way?

7     A     I do not know.

8     Q     During the time period that you have served as an agent  
9 with other -- in many different capacities, am I correct -- and  
10 I'm not trying to minimize what you're doing, I'm simply trying  
11 to identify it -- you kind of flip back and forth between an  
12 administrative capacity and a criminal capacity? Is that true?

13     A     I started out administrative investigations and then went  
14 to criminal.

15     Q     All right. And part of the investigation that related to  
16 Piikkila, initially, and what went on in Horicon, was initiated  
17 while you were in your administrative capacity, correct?

18     A     Correct.

19     Q     Is there a standard protocol within your employment that  
20 prohibits information or at least delineates how information  
21 derived through an administrative proceeding can be utilized  
22 through a -- in a criminal proceeding?

23     A     Could you rephrase that?

24     Q     Sure. Is there a protocol that you're aware of, is there  
25 a methodology that you're supposed to adhere to that defines

1 how it is that information derived from an administrative  
2 proceeding can then subsequently be used in a collateral  
3 criminal proceeding?

4 **MR. JOHNSON:** I'll object to that on relevance  
5 grounds, Your Honor.

6 **MR. LE BELL:** Well, it has to do with if somebody --  
7 the witnesses is in front of me, so it's a little hard to  
8 explain.

9 **THE COURT:** Overruled. You're asking if there is any  
10 obstacle, legal obstacle that she's aware of that prevents her  
11 from using information she obtains in an administrative  
12 investigation in a criminal investigation?

13 **MR. LE BELL:** Better said, yes.

14 **THE WITNESS:** So, the FDIC, the OIG, the Office of  
15 the Inspector General can issue -- well, the FDIC can access  
16 documentation that is conducted in regular examinations of  
17 banks. So, because that was an administrative investigation,  
18 we were able to view the administrative file.

19 **BY MR. LE BELL:**

20 Q Right. But by what standard can it then morph into a  
21 criminal investigation, if you know? In other words, when is  
22 it and what -- how is it going to be memorialized that it has  
23 now become a criminal investigation?

24 A That the case has been or that the --

25 Q That the matter under investigation has now morphed

1 between administrative to now to criminal?

2 A So the referral is what you're referring to?

3 Q Yes.

4 A That would be in the case management system for the OIG  
5 with case opening. It indicates how the case was referred.

6 Q And in all these times you would have access to all this  
7 information, you personally, right? Including the referral?

8 **THE COURT:** What information now?

9 **MR. LE BELL:** To the information that was generated  
10 during the course of the administrative proceeding.

11 **THE WITNESS:** Yes. The case file?

12 **MR. LE BELL:** Right.

13 **THE WITNESS:** If legal was not -- yeah, yes, I could  
14 look at it.

15 **BY MR. LE BELL:**

16 Q And did you?

17 A Yes.

18 Q What about the referral? Is that around or is that  
19 available or what?

20 A That wasn't a written referral. That was -- I had a  
21 meeting with Special Agent Santana on something else. And he  
22 asked if there were any other cases in Wisconsin.

23 Q And so once the decision is made that it's now a criminal  
24 investigation, are there different standards that apply, I  
25 assume, as far as what you can do and what you can't do?

1 A Yes.

2 Q All right. Now, can you tell me -- let me just get to it.

3 With respect to the subpoenas that you -- that were  
4 issued in this case, and that's the packet that's designated as  
5 20.

6 **THE COURT:** Maybe you could give her the exhibit book  
7 back that she had?

8 **MR. LE BELL:** I don't have an exhibit book.

9 **THE COURT:** Mr. Porter, do you have her exhibit book  
10 or?

11 **MR. PORTER:** She doesn't have a book.

12 **THE COURT:** Okay.

13 **MR. PORTER:** She just has the originals that she was  
14 handed.

15 **THE COURT:** All right.

16 **BY MR. LE BELL:**

17 Q Okay. If you could take a look at that exhibit. The only  
18 one that was issued prior to your involvement would have been  
19 the first issue -- or the first subpoena dated July 29th, 2013?

20 A Correct.

21 Q All right. The second and third page of that particular  
22 subpoena requires that the person who is complying with the  
23 subpoena provide a number of different documents. Is that  
24 right?

25 A Yes.

1 Q Do you know where those documents are?

2 A Those were produced in discovery. So, I believe that they  
3 were produced on a disk.

4 Q All right. All of them, correct? Because as an example,  
5 I'm looking at -- there's a title "Minutes."

6 A When the first production was made, not everything was  
7 produced that was requested.

8 Q I'm sorry. The first production prior to the FDIC?

9 A The first production to -- for Horicon Bank?

10 Q For Horicon Bank, yeah.

11 A So the first production from Horicon Bank, not everything  
12 was included in the subpoena that was requested.

13 Q You mean the return --

14 A The return, sorry, yes.

15 Q -- was incomplete. Okay. And there was a subsequent  
16 return?

17 A In -- I did go to the bank later and scanned the loan  
18 files.

19 Q The loan files. But what about, specifically, I'm asking  
20 you about the minutes.

21 A The minutes? I don't recall seeing any minutes.

22 Q Does that mean there aren't any or does that mean that  
23 they just weren't sent to you, if you know?

24 A I don't know.

25 Q Similarly, with respect to the communications, you said

1 that you went through the loan file personally but what about  
2 the communications that were requested, including emails,  
3 notes, memoranda, that sort of thing?

4 A Some of those were in the loan files and the -- so what  
5 was gathered was in the loan files.

6 Q Right. But are you satisfied that there are no other  
7 documents that satisfy that specific request that you haven't  
8 received? I mean, I'm not faulting you. I'm simply saying  
9 whether there's something out there that you didn't --

10 A I requested additional email correspondence but it was not  
11 available.

12 Q Meaning what?

13 A Meaning the bank didn't have it anymore.

14 Q "Other Documents" is a title. It says "communications,  
15 notes, memorandum, emails related to Piikkila's severance  
16 package" and assorted other things. Were those obtained?

17 A The personnel file I believe was provided and what was in  
18 the loan files.

19 Q And it's your statement that everything that you've  
20 received has been loaded -- is part and parcel of the  
21 discovery? All the responses?

22 A Yes.

23 Q All right.

24 A From what I scanned in the initial discovery -- or, I'm  
25 sorry -- initial production with return from the 13th -- 2013.



1 Q But then there was a follow-up production?

2 A Yeah.

3 Q That has not been produced?

4 A That has been, yes.

5 Q Okay. Thank you. I want to go through the -- just a  
6 couple of the other subpoenas.

7 JP Morgan Chase. I assume you sought information  
8 from JP Morgan Chase because that was one of the banks where  
9 you thought, theoretically, money had been sent which was  
10 derived from the proceeds of the loans. Is that correct?

11 A Yes.

12 Q Similarly, that applies to Bay Lake?

13 A Yes.

14 Q And Bay Lake would be with respect to the Hoffman  
15 transaction?

16 A Bay Lake, yes. Are you referring to the March 9th, 2016?

17 Q I'm talking about the August 1st, '16. It's one of the  
18 last ones.

19 **(Pause)**

20 A Yes.

21 Q Okay. And similarly, BLC Community Bank, those are all  
22 related to Hoffman, right?

23 A Yes, BLC.

24 Q Now, here's the question I have for you. There's a  
25 subpoena in here which is one of the very last in the packet to

1 the Wisconsin Public Service Back-Office Credit A2. What was  
2 that for?

3 A That was related to the KYHKJG loan.

4 Q Seeking what?

5 A Seeking billing records to see who the utilities were  
6 named, the individual in charge of the main billing.

7 Q For the residence that was reportedly --

8 A For that residence, yes.

9 Q And when I say "residence," I'm talking about the  
10 residence that was purportedly the basis for the loan?

11 A Yeah, 1520 Silver Maple Drive, yes.

12 **(Pause)**

13 **MR. LE BELL:** I have nothing further, thank you.

14 **THE COURT:** Any redirect?

15 **REDIRECT EXAMINATION**

16 **BY MR. JOHNSON:**

17 Q You stated, Ms. Hager, that you did not, after July 2nd,  
18 2015, subpoena any records from Ron Van Den Heuvel's companies  
19 or done any search warrants or executed any searches at his  
20 companies, correct?

21 A Correct.

22 Q Did you see a need to do that at that point?

23 A No.

24 Q Do you have in mind any -- anything that you could've  
25 subpoenaed or obtained through the execution of a search

1 warrant that was needed for your investigation?

2 A Yes. I could've gotten loan records from the businesses.

3 Q Okay. That may have corroborated what the bank records  
4 indicated?

5 A Correct.

6 **MR. PORTER:** Objection to form. It's leading.

7 **THE COURT:** Sustained.

8 **BY MR. JOHNSON:**

9 Q Well, what would have been the point of obtaining any bank  
10 records that Mr. Van Den Heuvel's companies had?

11 A Corroboration of where the loan proceeds went and possible  
12 email communications.

13 **MR. JOHNSON:** Thank you. I have no other questions,  
14 Your Honor.

15 **THE COURT:** Thank you, Ms. Hager, you may step down,  
16 Agent Hager.

17 **(Witness stepped down)**

18 **THE COURT:** Next witness. Are we going to call them  
19 out of order or, I guess it would be --

20 **MR. JOHNSON:** No. Do you mean Mr. Dorsey?

21 **THE COURT:** Yeah.

22 **MR. JOHNSON:** No. He's off to court and we'll call  
23 him later. He's going to come back when he gets done.

24 **THE COURT:** Okay.

25 **MR. KRUEGER:** The United States would call Sergeant

1 Mary Shartner.

2 **THE COURT:** Okay.

3 **(Pause; Witness Summoned)**

4 **MR. KRUEGER:** If I may give the exhibits that I'll  
5 use with the witness so that we don't have to fumble around.  
6 I'll turn them over.

7 **THE CLERK:** Please raise your right hand.

8 **MARY SHARTNER, GOVERNMENT'S WITNESS, SWORN**

9 Please state and spell your first and last name for  
10 the record.

11 **THE WITNESS:** Mary Shartner, S-H-A-R-T-N-E-R.

12 **THE COURT:** Thank you. Would you please have a seat,  
13 Ms. Shartner.

14 **DIRECT EXAMINATION**

15 **BY MR. KRUEGER:**

16 Q Good afternoon, Sergeant Shartner. I've put there, face  
17 down in front of you, exhibits that I'll draw your attention to  
18 in a moment so --

19 A Okay.

20 Q Just so you know, they're a little bit precarious, but  
21 we'll get to those.

22 Are you currently employed?

23 A I am not employed with the Brown County Sheriff's  
24 Department.

25 Q Okay. Are you working presently?

1 A Not outside the home.

2 Q Okay. When did you stop working for the Brown County  
3 Sheriff's Office?

4 A I officially retired May 6th, 2016.

5 Q And when did you stop actively working there?

6 A The last week of February 2016.

7 Q What was your position when you left in February of 2016?

8 A Investigative sergeant.

9 Q What were your duties?

10 A General investigation, sexual assaults, thefts, crimes  
11 against children, that kind of thing.

12 Q In early 2015, did you receive a complaint by a Dr. Marco  
13 Araujo?

14 A I did.

15 Q What generally was the complaint?

16 A The complaint was that he had been lured into investing  
17 \$600,000 in a -- what he felt was a false scheme.

18 Q Okay. Who did he give that money to?

19 A He gave it to Ron Van Den Heuvel.

20 **MR. LE BELL:** Again, if I could just have a  
21 continuing understanding that this type of testimony about the  
22 nature of the complaint is not coming in for the substantive  
23 proof but rather for --

24 **THE COURT:** We're not at trial. It certainly -- it's  
25 simply a motion hearing. So, you're right. It's not -- I'm

1 making no findings of fact as to guilt or innocence. Nor can  
2 this be admissible or used for that purpose.

3 Go ahead.

4 **MR. KRUEGER:** Thank you.

5 **BY MR. KRUEGER:**

6 Q After receiving that -- just to be clear, what was the  
7 entity that Dr. Araujo invested in?

8 A Green Box.

9 Q Did you conduct an investigation after that complaint came  
10 in?

11 A I did. I was assigned the case and began the  
12 investigation.

13 Q Did the district attorney's office also participate?

14 A Yes.

15 Q Who from the district attorney's office?

16 A District Attorney David Lasee, Ms. Bealing (ph.s.) -- I  
17 can't remember her first name -- and Bryant Dorsey.

18 Q Okay. As part of the investigation, did you interview  
19 witnesses and collect documents?

20 A Yes.

21 Q And what generally was the focus of your investigation?

22 A The focus was to ascertain if what was being presented was  
23 fraudulent and if there were any additional victims.

24 Q And what was that thing being presented that you were  
25 investigating?

1 A Of the Green Box process? Is that what you're saying?

2 Q Yes. Just generally. I'm asking is that what you are  
3 investigating, representations of the Green Box process?

4 A Right.

5 Q Okay. And is it essentially the material that in the  
6 affidavit that you submitted for the search warrant, was that  
7 essentially the subject matter of your investigation?

8 A Yes.

9 Q In addition to you within the Brown County Sheriff's  
10 Office, were your other colleagues generally aware of what you  
11 were investigating?

12 A Yes.

13 Q How were they aware?

14 A We frequently had briefings where we discussed the cases  
15 that we were working.

16 Q I imagine you would talk with your colleagues about what  
17 they were working on as well as you interacted with them?

18 A Yes.

19 Q At some point in early 2015, did you become aware that the  
20 federal government had a separate investigation into loans  
21 given by Horicon Bank?

22 A Yes.

23 Q How did you become aware of that?

24 A I think it was by searching on CCAP, Wisconsin Circuit  
25 Court's access.

1 Q That would be about State judgments. Did you interact  
2 with federal law enforcement officers at some point to learn  
3 about the Horicon Bank loans?

4 A I did interact with Sara Hager from FDIC.

5 Q Okay. And through interactions with her did you learn  
6 generally the nature of what the FDIC was investigating?

7 A Yes.

8 Q Did that concern loans given by Horicon Bank to straw  
9 borrowers?

10 **MR. PORTER:** Objection, leading.

11 **THE COURT:** Sustained.

12 **BY MR. KRUEGER:**

13 Q What did that generally entail?

14 A It involved people acting on behalf of Ron Van Den Heuvel  
15 in an attempt to obtain financing or loans from Horicon Bank.

16 Q Was -- were those loans given by Horicon Bank part of your  
17 investigation?

18 A No.

19 Q Moving forward with your investigation, did there come a  
20 time when you decided to seek search warrants?

21 A Yes.

22 Q Did you work with the DA's office to apply for those?

23 A Yes.

24 Q Who drafted the -- at least initially the affidavits  
25 submitted in support of the search warrant?



1 A I worked closely with the district attorney's office. We  
2 sat across the desk from each other to formulate the affidavit.

3 Q And so those were search warrants that were executed on  
4 July 2nd, 2015. Is that right?

5 A Correct.

6 Q In advance of that, did you communicate with others in the  
7 sheriff's office about the execution of search warrants to be  
8 coming?

9 A Yes.

10 Q And who formulated the -- were there operation plans that  
11 were formed for those executions?

12 A Yes. Lieutenant Jim Valley formulated the ops plan, as we  
13 call it, and notified officers who were to be included in that  
14 -- in the execution of the search warrant.

15 Q And what role does Lieutenant Jim Valley play in your  
16 office?

17 A He --

18 Q At that time in July of 2015?

19 A At the time he was in charge of computer crimes.

20 Q Was he generally aware of what you were investigating?

21 A Yes.

22 Q And in preparation for the executions, did you have  
23 discussions with him about what items you were seeking to  
24 seize?

25 A Yes. He was given a copy of the affidavit so that he

1 would know what to instruct the people who were helping with  
2 this -- the execution of the search warrant so they would know  
3 what to look for.

4 Q Okay. And so the day of the search warrant, July 2nd,  
5 2015, was there a briefing for those who would be participating  
6 in the search?

7 A There was.

8 Q Did you participate in the briefing?

9 A I did not. I was busy at the courthouse obtaining a  
10 signature of the judge to -- in order to execute the search  
11 warrant.

12 Q Okay. Who led the briefing then?

13 A Lieutenant Valley.

14 Q And have you participated in other briefings for search  
15 warrants?

16 A Yes.

17 Q How -- what generally happens at those?

18 **MR. PORTER:** Objection, relevance.

19 **MR. KRUEGER:** She wasn't at it but the practice of  
20 the office seems relevant to what happened that morning.

21 **MR. PORTER:** They're going to call Lieutenant Valley,  
22 let's hear from him.

23 **THE COURT:** Any reason why we have to hear it twice  
24 or?

25 **MR. KRUEGER:** I suppose not. I can move on.

1 **BY MR. KRUEGER:**

2 Q Can I turn your attention to the big pile on your far left  
3 there, the one actually next to that one with the binder clip.  
4 There you go. I'm showing you what's been marked for  
5 identification as Exhibits 1 through 6. You can feel free to  
6 unclip them and take a moment to look at them.

7 **(Pause)**

8 A Okay.

9 Q Are these the six search warrants that you applied for to  
10 be executed on July 2nd, 2015?

11 A Yes.

12 Q And apart from the place to be searched, are the search  
13 warrants otherwise the same?

14 A Yes.

15 Q Are the affidavits in support of them the same?

16 A Yes.

17 Q Can you generally, looking at page 2 of Exhibit 1, can you  
18 generally describe what sort of records were being authorized  
19 to be seized?

20 A Computers, anything where computerized information may be  
21 stored, documents, any kind of microfiche files, which included  
22 -- all of these things which included banking information, tax  
23 returns, any kind of utility bills.

24 Q Would it be fair to say it was authorizing, as well,  
25 business and financial records related to companies that

1 Mr. Van Den Heuvel controlled?

2 A Yes.

3 Q Looking at paragraph seven in the second line where  
4 there's the date limitation of December 21st, 2010, do you see  
5 that?

6 A Yes.

7 Q Back during -- on July 2nd, 2015, was it your  
8 understanding that this date limitation applied to the searches  
9 to be executed?

10 A Yes.

11 Q Was it your intent that the officers would seize records  
12 within that date limitation?

13 A Yes.

14 Q So let's move on to the execution of the search warrant.

15 Starting with -- still sticking with Exhibit 1, as  
16 well as Exhibit 2, Exhibit 1, that search warrant concerns 2077  
17 Lawrence Drive, Suite A. Do you see that?

18 A Yes.

19 Q And then Exhibit 2 is 2077 Lawrence Drive, Suite B. Is  
20 that right?

21 A Correct.

22 Q And what was your understanding of what was at those  
23 offices?

24 A My understanding was that was where the Green Box main  
25 office was located.

1 Q Was it your understanding that that's where  
2 Mr. Van Den Heuvel worked?

3 A Correct.

4 Q Did you have an understanding about whether any actual  
5 goods or services were provided out of those offices?

6 A My understanding was that there was no actual product  
7 there.

8 Q And then, Exhibit 3 is the search warrant for 2303 Lost  
9 Dauphin Road? Do you see that?

10 A Yes.

11 Q And then, Exhibit 4 is for 2107 American Boulevard?

12 A Correct.

13 Q What was your understanding of what was at that location?

14 A At 2107 American Boulevard was patriot -- a business doing  
15 -- or doing business as Patriot Tissue. My understanding was  
16 that was the only entity that was producing a salable product.

17 Q Why did you seek a search warrant for that location?

18 A Because of information that I had received through my  
19 investigation that there would be records housed there  
20 pertinent to my investigation.

21 Q Okay. For Exhibits 4 and -- or for 5 and 6 which concern  
22 500 Fortune Avenue and 821 Parkview Drive, what was your  
23 understanding -- and let me ask you this way.

24 Why did you seek search warrants for those locations?

25 A I understood that there was machinery located at 500

1 Fortune Avenue and 821 Parkview Drive which were said to be  
2 used in the process or were used as collateral in trying to  
3 obtain financing for the process.

4 Q Did you understand there to be any actual operations of  
5 business at those locations?

6 A No.

7 Q How -- how do you -- what do you mean then by there was  
8 machinery used in the process?

9 A Well, I had information that there was a sorting -- not a  
10 machine, it was a machine but it was a -- I can't think of the  
11 word, like a machine where the product would roll along and be  
12 sorted. Okay?

13 Q Okay. So yeah, I'm trying to understand. You're saying  
14 there weren't actual operations at these places.

15 A Right.

16 Q How would Mr. Van Den Heuvel -- what did  
17 Mr. Van Den Heuvel, to your understanding, do with this  
18 equipment then?

19 A He did show it to people, to prospective investors to show  
20 them what the process, Green Box process involved.

21 Q Okay. So, is that why you wanted to search at those  
22 locations?

23 A Correct.

24 Q And was your intention to seize the equipment or what was  
25 done there?

1 A No. At 500 Fortune Avenue and 821 Parkview, the items  
2 were only photographed.

3 Q So moving further with regard to the executions, were you  
4 aware whether anyone from the FBI assisted in executing the  
5 searches?

6 A Yes.

7 Q Why was the FBI involved?

8 A The FBI had capability to mirror the computers, such as at  
9 Parkview -- excuse me -- at Patriot Tissue. And then it  
10 appeared that the scope of my investigation may include federal  
11 offenses as well.

12 Q But at that point, was the federal government  
13 investigating securities fraud issues?

14 A No.

15 Q To your understanding, was the federal government  
16 investigating anything other than the Horicon Bank loans at  
17 that time?

18 A No.

19 Q And in addition to the FBI, were there a number of other  
20 law enforcement agencies that participated in executing the  
21 search warrants?

22 A Yes Ashwaubenon Police Department, our drug task force --  
23 which included several jurisdictions -- were also asked to help  
24 out with it.

25 Q So on the day of the search, after the search warrants

1 were signed, do you recall about what time of the day the  
2 search warrants were signed?

3 A At around 10:00 o'clock.

4 Q Okay. Going forward from there, what was your role on the  
5 day of the search warrant executions?

6 A My role was to be available for anyone who had any  
7 questions about whatever they found, and also to float between  
8 the sites to --

9 Q Did you --

10 A Go ahead. Yeah, just to basically supervise and be there  
11 should there be any questions.

12 Q Did you have a cell phone available that day?

13 A Yes.

14 Q And was your cell phone number given to the others? The  
15 other searchers?

16 A Oh, yes.

17 Q Did the sites have an officer designated to be in charge  
18 of the searches at those sites?

19 A Yes.

20 Q And did those officers have your cell phone number?

21 A Yes.

22 Q Where did you go first after receiving the signed search  
23 warrants?

24 A I went to 2077 Lawrence Drive.

25 Q Do you recall about what time you arrived there?



1 A It was shortly after the signing, so between 10:00 and  
2 11:00.

3 Q So when you arrived, did you serve the search warrant on  
4 anyone?

5 A I did. I gave it personally to Ty Willihnganz.

6 Q Do you recall who the officers were in charge of that  
7 site?

8 A Lieutenant Valley.

9 Q Did you -- did this -- did you see whether the officers  
10 encountered employees at the Lawrence Drive's offices?

11 A Did I see if they did encounter employees?

12 Q Did they encounter employees?

13 A Yes.

14 Q And what was instructed to the employees?

15 A The employees were asked to leave the building, stand out  
16 on the sidewalk, identify themselves, give their dates of birth  
17 and so forth.

18 Q Were the employees allowed back into the building during  
19 the search?

20 A No, they weren't.

21 Q Did you enter the building once the employees were removed  
22 from it?

23 A Yes.

24 Q What generally did you encounter inside of the suites?

25 A In Suite A was cubicles with computers. There were side

1 offices on the outer edge of the area with doors, with desks  
2 and computers. There was a front desk reception area.

3 Q How about in terms of records and documents? How can you  
4 -- what would you generally describe as what you encountered  
5 with regard to documents and records in the suites?

6 A There were boxes and filing cabinets of documents.  
7 Particularly in Suite B, there were boxes and boxes and  
8 multiple filing cabinets of documents.

9 Q Okay. Did the searchers label the rooms or try to  
10 organize the site in some way?

11 A Yes. They did put stickers by each door so that whatever  
12 came from that area could be labeled and known that it had come  
13 from that spot.

14 Q Did you observe what the officers did with regard to  
15 computers at the site?

16 A If the officers could remove the hard drives from the  
17 computers, they did so. Some were laptop computers and those  
18 were taken in total. There were computer towers that were  
19 taken. Yeah.

20 Q So you referenced imaging the computers before and how the  
21 FBI could do that. I take it the imaging of computers did not  
22 happen at the Lawrence Drive sites?

23 A No, it did not.

24 Q And in your experience with Brown County, is it -- is it  
25 typical that Brown County will seize computers rather than

1 image them on site?

2 **MR. LE BELL:** That assumes a fact not in evidence. I  
3 would object if there is any such experience.

4 **THE COURT:** Lay a foundation.

5 **BY MR. KRUEGER:**

6 Q Have you had experience with other searches where  
7 computers have been seized?

8 A Yes.

9 Q And in your experience with Brown County, is it common for  
10 computers to be seized rather than imaged on site?

11 A Yes.

12 Q Do you have experience with the process of imaging  
13 computers?

14 A I -- when I have taken computers in searches, we have  
15 personnel that then take the computers and image the computers  
16 for us.

17 Q And does that occur at the Brown County Sheriff's Office?

18 A Yes.

19 Q Okay. Did you observe the actual collection of computers  
20 at Lawrence Drive?

21 A Yes.

22 Q Did it seem like appropriate care was being done with the  
23 computers?

24 A Yes.

25 Q Anything that seemed unusual?

1 A No.

2 Q Any intentional damage or any damage to the computers that  
3 you saw?

4 A No, none.

5 Q About how long did you stay at Lawrence Drive?

6 A An hour.

7 Q Were you able to observe searchers begin to actually look  
8 through the rooms for hard copy records?

9 A Yes.

10 Q And did you observe the searchers looking through the  
11 records?

12 **MR. LE BELL:** Objection unless this witness observed  
13 a multitude of people who were on site (indisc.) every box and  
14 every file drawer.

15 **THE COURT:** Overruled.

16 **MR. KRUEGER:** Thank you.

17 **BY MR. KRUEGER:**

18 Q Did you observe some searchers reviewing records as part  
19 of their search?

20 A Yes.

21 Q Did they appear to be opening boxes?

22 A Yes.

23 Q Did they appear to be opening file drawers?

24 A Yes.

25 Q Did they appear to be opening binders?

1 A Yes.

2 Q And looking at what was inside?

3 A Yes.

4 Q And did you hear discussions among searchers?

5 **MR. LE BELL:** Again, I would object. It's  
6 self-evident from what the submissions of both parties. We're  
7 talking about thousands of boxes. I shouldn't say -- probably  
8 thousands of boxes, file drawers. And this witness no way can  
9 she divide herself to be able to observe this. So, this type  
10 of questioning about whether she observed perhaps on one  
11 occasion somebody taking a look at one box, that doesn't prove  
12 anything. It has no relevance whatsoever.

13 **THE COURT:** You're perfectly free to come back on  
14 cross-examination, Mr. LeBell, but your objection is overruled.  
15 Move on.

16 **MR. KRUEGER:** Thank you.

17 **BY MR. KRUEGER:**

18 Q I think my question was, did you also overhear discussions  
19 among officers conducting the search?

20 **MR. PORTER:** Objection, leading. Objection, hearsay.

21 **THE COURT:** Overruled.

22 **THE WITNESS:** Oh, I did hear the officers involved in  
23 the search talking back-and-forth about what they were finding.

24 //

25 //

1 **BY MR. KRUEGER:**

2 Q And from what you observed in your time there, did they  
3 appear to be trying to determine whether material was within  
4 the scope of the search warrant or not?

5 **MR. LE BELL:** I would object.

6 **THE COURT:** Leading?

7 **MR. LE BELL:** Leading.

8 **THE COURT:** Ask what you heard.

9 **MR. KRUEGER:** Okay.

10 **BY MR. KRUEGER:**

11 Q What did you overhear the officers discussing during the -  
12 - during their search?

13 **MR. LE BELL:** And again, I object on this grounds  
14 that we're talking about many, many people. So, I don't know  
15 to whom you can attribute it.

16 **THE COURT:** The fact that there are any conversations  
17 it's relevant. We don't have to detail conversation as to  
18 every box. You can go into cross-examine and the number of  
19 boxes and the limited portion, but I think this is relevant.  
20 So, it's overruled. Your objection's noted.

21 Let's move on.

22 **BY MR. KRUEGER:**

23 Q What sort of discussion did you overhear while you saw  
24 officers conducting the search?

25 A Who -- who was working in a particular area, what role

1 they may have played in the business, and also documents within  
2 the dates specified.

3 Q Okay. And you mentioned before Attorney Ty Willihnganz.  
4 Did you encounter an office -- whether he had an office at  
5 Lawrence Drive?

6 A He did.

7 Q And did you understand him to -- what did you understand  
8 his role to be?

9 A My understanding of what Ty Willihnganz did for Green Box  
10 was that if legal advice was needed, he was there to provide it  
11 in lieu of having office space there.

12 Q Okay. So you understood him to provide services for  
13 Mr. Van Den Heuvel's companies?

14 A Correct.

15 Q Okay. While you are at -- during that day of the  
16 execution of the search warrant, do you know whether searchers  
17 encountered medical records or passports or photos of  
18 Mr. Van Den Heuvel?

19 A Not at the time.

20 Q Subsequently, did you -- did --

21 A Yes, when I was going through what was taken from the  
22 search.

23 Q And what did you do with those materials when you found  
24 those?

25 A Because of the sheer amount of documents that were taken,

1 it was decided that we would categorize the documents as I went  
2 through each box. So, for instance, if it was something that  
3 pertained to one category, the box was labeled that. And then  
4 as I was going through the documents, each document that  
5 pertained to the particular category would be put into that  
6 box. It wasn't -- I didn't take the time to analyze each  
7 document. I was just trying to categorize each document as I  
8 went through the, you know, I don't think it was a thousand  
9 boxes but it was a lot.

10 Q So if you encountered, say -- did you encounter medical  
11 records?

12 A Yes.

13 Q And did you set those aside?

14 A Yes.

15 Q Okay.

16 A There was a box for personal Ron Van Den Heuvel, for  
17 instance, it was labeled.

18 Q Okay. And from the -- what would you estimate the amount  
19 of records that fell into that category of medical records?

20 **(Pause)**

21 I know it's hard. Less than 100 pages, less than  
22 500? What if you had to --

23 A Oh, yes, less than -- less than 100 pages.

24 Q Okay.

25 **MR. KRUEGER:** I'd like to -- before I move on, could



1 I move into evidence, Exhibits 1 through 6, the search  
2 warrants?

3 **THE COURT:** I assume there's no objection to the  
4 search warrants?

5 **MR. PORTER:** No.

6 Q Can I turn your attention to --

7 **THE COURT:** They are received.

8 **(Government's Exhibits Numbers 1 through 6 were received**  
9 **in evidence)**

10 **MR. KRUEGER:** Excuse me, thank you.

11 **BY MR. KRUEGER:**

12 Q Can I turn your attention to Exhibits 7 and 8?

13 A Is that -- is that these? No, okay. Okay.

14 Q Are these the returns that you submitted for Suites A and  
15 B at 2077 Lawrence Drive search warrants?

16 A Yes.

17 Q Okay. One of them makes a reference to a golf bag. Do  
18 you recall a golf bag being seized?

19 A Yes.

20 Q Why was that seized?

21 A It had tube-shaped rolls of what appeared to be plans,  
22 blueprint-type plans, that appeared to be of sites used in the  
23 Green Box process.

24 Q Okay. There's also a reference -- let me ask it this way.  
25 Did you encounter, at Lawrence Drive, samples of what

1 appeared to be pellets or oil samples?

2 A Yes.

3 Q Why were those seized?

4 A Those -- initially, I had hoped to have those tested to  
5 see if they were in fact what they were purported to be.

6 Q When you say "purported to be," in what context?

7 A The process was turning plastic back into fuel, and I  
8 wanted to see if that was actually what it was.

9 Q Were you are concerned about -- when you say "purported to  
10 be," who's doing the purporting?

11 A Ron.

12 Q Okay. So, that's what I'm trying to clarify. What was  
13 your interest in it?

14 A I was trying to see if what Ron Van Den Heuvel was  
15 representing as fuel that had been obtained through the  
16 plastics-to-fuel process, if that was, in fact, what that was.

17 Q So you said -- you said you spent about somewhere around  
18 an hour at Lawrence Drive when you first went there. Then  
19 where did you go next?

20 A From Lawrence Drive I went to the residence on Lost  
21 Dauphin.

22 Q At some point during the day did you return again to  
23 Lawrence Drive?

24 A Yes, I did.

25 Q About what time was that?

1 A It was toward the end of the day, probably 6:00 p.m.

2 Q Did you have a chance to enter the Lawrence Drive suites  
3 at that point?

4 A Yes.

5 Q Did you walk through Suites A and B?

6 A Yes.

7 Q From what you observed, had the officers left some  
8 documents and records behind?

9 A Yes. There were a number of file cabinets that were  
10 determined that were, you know, too old. The documents didn't  
11 fit within the parameters of the search. I would say 25  
12 percent of everything was left behind.

13 Q Twenty-five percent at Lawrence Drive suites?

14 A Right.

15 Q Okay. So you said then you went to the residence at Lost  
16 Dauphin. About what time would you have arrived there?

17 A Around noon possibly.

18 Q What was the status -- had the search begun at the  
19 residence when you arrived?

20 A Yes. In fact, it was -- it seemed to me that it was  
21 winding down at that point already.

22 Q Did you have a chance to go inside the house?

23 A Yes.

24 Q From what you observed did it seem -- how did it appear?

25 A It was very orderly. It was very clean and neat.

1 Q Had the officers seized much from the residence?

2 A I don't know exactly what was seized. Is this --

3 Q I can point your attention to Exhibit Number 9. Is this  
4 the return for 2303 Lost Dauphin residence?

5 A Yes. It looks like primarily computers and some  
6 documents.

7 Q Okay.

8 **MR. KRUEGER:** Okay. Can I move into evidence  
9 Exhibits 7, 8, and 9, the returns from Lawrence Drive and the  
10 residence?

11 **MR. PORTER:** No objection.

12 **THE COURT:** They're received.

13 **(Government's Exhibits Numbers 7, 8 and 9 received in**  
14 **evidence)**

15 **THE WITNESS:** 7, 8, and 9? Okay.

16 **BY MR. KRUEGER:**

17 Q How long did you stay at the residence?

18 A Maybe 40 minutes, an hour at the most.

19 Q Where did you go from there?

20 A I went to Patriot Tissue on American Boulevard.

21 Q Had the search begun there at American Boulevard when you  
22 arrived?

23 A Yes.

24 Q What had happened by the time you arrived?

25 A The FBI was involved in mirroring or -- yes, mirroring the

1 computer system there. And that's about all. The actual  
2 physical search of the rooms didn't begin until I got there.

3 Q Did you encounter employees at American Boulevard?

4 A Yes.

5 Q Were they cleared from the premises?

6 A No. It -- it appeared that they were working their  
7 regular shift, so they were allowed to continue working.

8 Q Did that interfere with your search at all?

9 A No.

10 Q Were you able to secure the premises where you were  
11 planning to search?

12 A Yes. In fact, a couple of the employees assisted with  
13 driving a forklift. Some of the documents were on pallets and  
14 so, in order to get those loaded, one of the employees actually  
15 helped us.

16 Q Okay. And so can you generally describe where were  
17 hard-copy documents found at Lawrence -- at American Boulevard?

18 A As you enter the building, the office area is to the  
19 right. And then there's a long hallway that goes to the left  
20 where doors to offices or storage space are located. At the  
21 far end of that hall was a storage area. And then as you come  
22 in the front door, if you were to go straight on through, you  
23 would enter the production floor. It's just a big warehouse  
24 space with some big paper-making machines. And then beyond  
25 that in one corner of the warehouse was an enclosed area that

1 held a piece of equipment that I had learned was part of the  
2 Green Box process. And then beyond that, on the far wall of  
3 the warehouse were pallets, plastic-wrapped pallets of boxes of  
4 documents. Many, many documents there too.

5 Q What did the officers decide to do with regard to those  
6 pallets of documents in the warehouse?

7 A You know, initially we thought to take them and we did  
8 actually load a pallet or two of those documents. But then,  
9 you know, on second thought we thought well, you know, if  
10 they're in the back of this warehouse area and they're plastic  
11 wrapped, they're probably pretty old documents. And so then we  
12 decided, you know, that we weren't going to take those.

13 Q Okay. Were those unloaded and put back in the warehouse  
14 then?

15 A Yes.

16 Q That was that same day, July 2nd, 2015?

17 A Yes.

18 Q So you didn't take any of those?

19 A No.

20 Q If I can turn your attention to Exhibit Number 10.

21 A Okay.

22 Q Is this the search warrant return from 2107 American  
23 Boulevard?

24 A Yes.

25 **MR. KRUEGER:** Can I move Exhibit 10 into evidence?

1           **THE WITNESS:** I'm sorry?

2           **MR. KRUEGER:** Your Honor, I request to move this into  
3 evidence.

4           **THE WITNESS:** Sorry.

5           **THE COURT:** I take it there's no objection?

6           **(No audible response)**

7           It's received. Ten is received.

8           **(Government's Exhibit Number 10 was received in evidence)**

9           **MR. KRUEGER:** Thank you.

10          **BY MR. KRUEGER:**

11          Q       The first line is nine file boxes from front office  
12 storeroom. Was that part of -- where was that compared to what  
13 you were describing earlier?

14          A       This was -- you know, as you come in and there's a long  
15 hallway, at the very end of the hallway was where the front  
16 office storeroom, that's what we called it.

17          Q       Did you observe the search and seizure in that office?

18          A       Not all of it. I was there initially and then I went to  
19 another area.

20          Q       What did you observe of the search in that front office  
21 storeroom?

22          A       That documents that were within the scope of the search  
23 warrant were taken.

24          Q       How were officers determining whether the documents were  
25 within the scope of the search warrant?

1 A Either by date or by reference to Green Box.

2 Q So did you observe officers actually looking into the  
3 boxes?

4 A Yes.

5 Q And trying to make those determinations?

6 A Yes.

7 Q And there's a reference in the next line of "two file  
8 boxes, attorney living quarters". What does that refer to?

9 A That was more information that was found in what appeared  
10 to be a living area that we learned belong to Ty Willihnganz.

11 Q What do you mean by a "living area"? This is a -- what  
12 do you mean?

13 A It was -- it had a couch, a TV, lots of empty food  
14 containers. It appeared that someone had been staying there.

15 Q So you understood him to be an attorney. Was there  
16 discussion of how to deal with any potentially privileged  
17 material?

18 A Privileged material, when I went through the documents, if  
19 I saw that --

20 **MR. LE BELL:** I have an objection. Question-wise,  
21 was there a discussion, I assume, either before or during the  
22 search as opposed to what she's testifying to after the fact.

23 **THE WITNESS:** Oh, I see. Okay, thank you.

24 **MR. KRUEGER:** Thank you, Mr. LeBell.

25 **THE COURT:** So your objection as nonresponsive? Is



1 that -- I thought that was his objection.

2 **MR. LE BELL:** That's not my objection, right.

3 **THE COURT:** okay, well, why don't you restate your  
4 question and let's move on.

5 **THE WITNESS:** I'm sorry.

6 **THE COURT:** Listen carefully to the question and  
7 answer that one.

8 **MR. KRUEGER:** Okay.

9 **BY MR. KRUEGER:**

10 Q If you recall, while the search at American Boulevard was  
11 being conducted, do you recall discussions of what to do with  
12 potentially privileged material?

13 A Yes.

14 Q What do you recall?

15 A I recall that anything that pertained to anyone other than  
16 Ron Van Den Heuvel or Green Box was to be left.

17 Q Do you recall anything else?

18 A As far as?

19 Q Potentially privileged material?

20 A No.

21 Q Okay. I think you were then going to talk about once the  
22 materials were seized and after that, were there -- what were  
23 you going to say about potentially privileged material?

24 A At that time, there was a separate box that if I saw  
25 anything that appeared to be privileged, that that was

1 immediately put into the box. You know, I'd just look to see  
2 what was and put it into a box, separate box, that was labeled  
3 "Privileged." And nothing further was done with it.

4 Q How long did you stay at Lawrence Drive -- excuse me at  
5 American Boulevard?

6 A That was longer, probably two, two or three hours.

7 Q Okay. Did you go to either 500 Fortune Avenue or 821  
8 Parkview Drive?

9 A I went to both.

10 Q Can I draw your attention to Exhibits 11 and 12?

11 (Pause)

12 A Okay.

13 Q Are these the returns from those two properties?

14 A Yes.

15 Q They both refer to thumb drives, photos, or, and/or video  
16 taken. I take it nothing was actually seized?

17 A No, nothing was taken from those.

18 Q Just the photos or videos were taken?

19 A Correct.

20 Q Okay.

21 MR. KRUEGER: I would move into evidence Exhibits 11  
22 and 12, as well as 10 if I failed to do 10.

23 MR. LE BELL: That's fine. No objection.

24 //

25 //

1           **THE COURT:** Okay. They're all received.

2           **(Government's Exhibits Numbers 11 and 12 were received in**  
3 **evidence)**

4           **MR. KRUEGER:** Thank you.

5 **BY MR. KRUEGER:**

6 Q       From all the properties, the material that were seized,  
7 where was it transported to?

8 A       It was transported to a newly constructed, open garage  
9 area at the Brown County Sheriff's Office.

10 Q       Was that garage area secured somehow from public access?

11 A       Yes.

12 Q       How was it secured?

13 A       It was secured. The garage doors only opened from inside  
14 and then there were access doors that were controlled by  
15 electronic key fob.

16 Q       Who had the main responsibility for reviewing the material  
17 after it was seized?

18 A       Me.

19 Q       You referenced it before but generally what was your  
20 method for reviewing the material?

21 A       There were categories of interest that were -- office  
22 boxes were labeled. For instance, if it dealt with Clifton  
23 Industries or whatever their correct title was, any item that I  
24 found as I was going through documents would go into that box.  
25 Or if it had to do with Dr. Araujo, it went into the Dr. Araujo

1 box. I didn't -- because of the sheer volume of everything, I  
2 didn't analyze every single document. I was there just mainly  
3 ascertaining what the topic of the document was and then  
4 categorizing it.

5 Q Did you also have other cases on your caseload as well, at  
6 least when it -- when this started, soon after the search  
7 warrant was executed?

8 A Yes.

9 Q Did that change at some point? What percentage of your  
10 time were you able to devote to review of the material?

11 A After a time when I just didn't have time to devote to  
12 other cases, finally I was given a desk in that back-garage  
13 area and primarily that's what I did for about six months --  
14 no, not quite six months.

15 Q Did you have other -- what -- was Brown County Sheriff's  
16 office able to give you other personnel to help?

17 A I had one of our computer analysts came to help me. And  
18 what she did was collate any information about checking  
19 accounts and that kind of thing. She put it on a -- on a  
20 document like a spreadsheet. And then I also had assistance  
21 from a retired -- an accountant who works with the Brown County  
22 District Attorney's Office. He came two or three days a week  
23 to help with information of an accounting nature.

24 Q Fair to say this was a big project?

25 A Yes.

1 Q In your review, did you find materials that were seized  
2 that predated the December 31, 2010 limitation?

3 A Yes.

4 Q If you're able to estimate, about what percentage of the  
5 materials would you say fell into that category?

6 A Five percent.

7 Q Five percent were in which side?

8 A Were pre-2010.

9 Q Okay. What did you do with those sort of materials?

10 A Those were left, either in a box or in a filing cabinet.

11 Q And were they -- where were those earlier materials found  
12 compared to materials that were within the time limitation?

13 A Well, I went through everything because I wasn't sure that  
14 -- what happened was even though some of the documents predated  
15 the 2010 date, going through them, all of a sudden, I'd be, you  
16 know, looking at 2009, 2008, whatever, and then all of a sudden  
17 bing, there'd be like a 2010 or later document. So, then I  
18 realized that I had to go through everything, otherwise I  
19 wouldn't be able to -- you know, I couldn't rely on if it said  
20 "2009" on the box, because potentially there was information  
21 that came after the 2010 date.

22 Q I know this is hard to do given the scope of records but  
23 how would you generally describe -- describe the types of  
24 records that were seized?

25 **MR. LE BELL:** I'm not sure that that adds anything

1 materially to what we're doing here. We're going to go through  
2 it in detail and that's probably the best way of describing for  
3 the Court what it was. Just describing it generally of what it  
4 is, doesn't do much.

5 **MR. KRUEGER:** Your Honor, this is my examination.  
6 I'd ask as long as there's a relevance objection to let me talk  
7 to the witness.

8 **MR. LE BELL:** It isn't relevant if you're just in  
9 global terms saying it's paper, it's folders. That doesn't do  
10 any good.

11 **THE COURT:** Overruled. If you can answer the  
12 question, answer it.

13 **THE WITNESS:** What were -- what was contained within  
14 the documents?

15 **BY MR. KRUEGER:**

16 Q If you can generally describe the types of records that  
17 were seized.

18 A Okay. Financial records, documents from companies that --  
19 potential investors. Yeah, that's -- a lot of business  
20 documents.

21 Q During the search, did you encounter materials related to  
22 the Horicon Bank loans that you had learned about from Special  
23 Agent Sara Hager?

24 A I did.

25 Q What did you do with those?

1 A Another box was labeled and if it had -- if I felt it had  
2 anything to do with Horicon Bank, it got put into that box.

3 Q And how would you know whether it had to do with Horicon  
4 Bank?

5 A If it had Horicon Bank's name or any kind of information  
6 mentioning Horicon Bank, it went into the box.

7 Q In addition to the name "Horicon Bank," were you familiar  
8 with the names of the straw borrowers who had taken out loans  
9 from Horicon Bank?

10 A Yes.

11 Q Did you do anything with regard to that information?

12 A They -- anything --

13 **MR. PORTER:** I'm sorry. This is on me. I just  
14 didn't hear that question.

15 **THE WITNESS:** Oh.

16 **MR. PORTER:** Could I just ask that the general thrust  
17 of the question be repeated?

18 **BY MR. KRUEGER:**

19 Q The preceding question was, from conversations with  
20 Special Agent Sara Hager, were you aware of the names of the  
21 straw borrowers who received loans from Horicon Bank?

22 A Yes.

23 Q Knowing that information, did you use that information  
24 while you were reviewing the seized materials?

25 A Documents with names of the straw borrowers were also

1 included in the Horicon Bank category.

2 Q Did Sara Hager ask you to do that?

3 A No, but, I -- you know, as it came up, there was  
4 information there as I was going, you know, flipping through  
5 all these boxes. So that category was created because, you  
6 know, I knew there was an investigation going on but it wasn't  
7 my intent in the -- you know, with the search to go looking for  
8 documents that pertained to Horicon Bank. It just happened  
9 that there were documents within the stuff that was taken from  
10 my search warrant that pertained to the Horicon Bank  
11 investigation.

12 Q And at some point did Sara Hager come to the Brown County  
13 Sheriff's Office and have access to those documents you set  
14 aside?

15 A Yes.

16 Q Do you recall generally when that was?

17 A It was in the fall or late -- or early winter of 2015.

18 Q Okay. So you retired in February of 2015. Is that right?

19 A No.

20 Q Excuse me, 2016.

21 A Correct.

22 Q Okay. At that point was the federal government  
23 investigating the Green Box allegations?

24 A Yes.

25 Q How long had they been investigating?



1 A It was after the first of the year or late 2015 when they  
2 became involved.

3 Q Okay. And how did you know that? What was your awareness  
4 of their involvement?

5 A They came to look at some of the documents that I had  
6 already separated from the mass of everything else.

7 Q Okay. Part of your search warrant affidavit refers to  
8 statements by Guy LoCascio. Do you recall that?

9 A Yes.

10 Q As well as statements by Steve Huntington. Do you recall  
11 that?

12 A Yes.

13 Q Had you interviewed them before -- before you drafted the  
14 affidavit?

15 A Yes.

16 Q Had they described to you generally titling of vehicles in  
17 a Patrick Hoffman's name?

18 A Yes.

19 Q Did you share that information with the federal government  
20 as far as you recall?

21 A Yes.

22 Q How?

23 A Just as a matter of sharing the rest of the information  
24 for this case.

25 Q And would that have been when the federal government began

1 investigating the Green Box fraud?

2 A When I shared the information with them?

3 Q Yes.

4 A Yeah, that was in the beginning.

5 Q And that was -- that was again you said late 2015, early  
6 2016?

7 A Yes.

8 Q Okay.

9 A I'm not positive of the date.

10 Q Is that the general range, do you think?

11 A Yes.

12 **MR. KRUEGER:** No further questions.

13 **CROSS EXAMINATION**

14 **BY MR. LE BELL:**

15 Q Ms. Hager [sic], I have a bunch of questions for you. Let  
16 me start by asking you this.

17 I noticed, based on your kind of quasi-CV that you  
18 included in your affidavit for search warrants, that you've had  
19 sort of a historied experience with the Brown County Sheriff's  
20 Department, including being on routine patrol for three years,  
21 being part of the DARE program from '95 to 2001, being a jail  
22 sergeant, commander from '01 to '03. And then there was a  
23 period of time that you were the juvenile investigator. How  
24 long was that, by the way?

25 A Six years.

1 Q Then you did sexual assaults and you did other  
2 investigations. Tell me, if you can count for me, how many  
3 search warrants did you participate in where over 300 or  
4 400,000 documents were seized?

5 A Zero.

6 Q Thank you. Now, can you tell me how many search warrants  
7 you participated in where there was a building containing  
8 approximately 30 different cubicles with file boxes numbering  
9 in the hundreds, documents in the hundreds of thousands, other  
10 pieces of physical evidence, all of which were seized? Did you  
11 participate in any of those?

12 **MR. KRUEGER:** Objection, foundation.

13 **THE COURT:** Say that again. Repeat your question.

14 **MR. LE BELL:** Sure.

15 Q Tell many how many searches you participated in wherein  
16 there was an enormous physical plant that was searched, where  
17 hundreds and hundreds of boxes were seized and examined, where  
18 hundreds of thousands of documents were seized, and where  
19 physical items were seized?

20 **MR. KRUEGER:** I'd say it's a hypothetical.

21 **THE COURT:** Okay. Go ahead. Can you answer it?

22 **THE WITNESS:** Well, there -- as far as hundreds and  
23 hundreds of documents in a business-type setting, none.

24 //

25 //

1 **BY MR. LE BELL:**

2 Q Thank you. Now, you made an application for this  
3 particular search at Lawrence Drive based, at least on your  
4 affidavit, on your review of CCAP and the number of other  
5 apparent resources wherein you divined that Mr. Van Den Heuvel  
6 was (quote) "associated" with a laundry list of 47-odd  
7 businesses. Is that right?

8 A Yes.

9 Q And so, tell me about the association that  
10 Mr. Van Den Heuvel had with these 47 businesses. What were  
11 they?

12 A He was either listed as a chairman or a primary. Yeah,  
13 that was it. It was either that he was a primary -- I can't  
14 think of the term -- in CCAP or TLO, but it showed that he had  
15 direct association with those entities.

16 Q Were those entities viable? Were they closed? Were they  
17 operative? What was the status as of the date in which you  
18 applied for the search warrant?

19 A I assumed that they were all current.

20 Q You assumed that?

21 A Yes.

22 Q Didn't you bother to check? When you're making  
23 application to have a person's premises searched, and you're  
24 making a representation that a person has an association with  
25 the business, isn't it your responsibility to determine whether

1 those businesses are viable, closed, or whether they're even in  
2 any way, shape, or form operative in the state of Wisconsin?

3 A Yes.

4 Q But you didn't, did you?

5 A I - what I determined it by was if the LLC was current.

6 Q Well, let's just take one of them, okay? I'm looking at  
7 your laundry list of businesses that you have indicated are the  
8 subject of the search warrant. Tell me, as an example, RNK  
9 Development, Inc. What is that? Is it still alive and well?  
10 What was the association of Mr. Van Den Heuvel with that  
11 business?

12 **THE COURT:** One question at a time, please.

13 **MR. LE BELL:** Sure.

14 **BY MR. LE BELL:**

15 Q Is it alive and well and was it alive and well on that  
16 date?

17 A I don't know.

18 Q Okay. So what was Mr. Van Den Heuvel's association with  
19 that particular business?

20 A I don't remember.

21 Q Would you have it written down any place?

22 A I would have to look it up again on TLO or CCAP.

23 Q Do you have it written down any place now?

24 A Now? No.

25 Q Did you write it down at the time you did this thorough

1 exhaustive search in CCAP and TLO?

2 A I made notes probably, yes.

3 Q Where are the notes?

4 A I never kept notes.

5 Q Let's talk about another one as an example. Waste Tire  
6 Recovery Technology, LLC. Was that alive and well at the time  
7 of your application?

8 A I don't know.

9 Q Was Mr. Van Den Heuvel associated? And if so and how?  
10 How was he associated?

11 A If it's listed, I knew of him to be associated as a  
12 primary or listed as a chairman.

13 Q Let's assume for the purpose of discussion, ma'am, that a  
14 person has an association with 50, 100, 175 businesses. It's  
15 your belief that you're entitled then to make an application  
16 for a search for every one of those businesses? Is that your  
17 belief as a law enforcement officer?

18 A If the address is --

19 Q Is it your belief? Just a yes or no?

20 A It's not a yes or no question.

21 Q Well, let's parse it out so that you can answer it in yes  
22 or no. If a person is associated with a 100 different  
23 businesses, you don't know if those businesses are alive or  
24 well, is it your statement to me that you can make an  
25 application for a search warrant for anything connected with

1 those businesses?

2 A If the address is the same.

3 Q Just a yes or no.

4 A It's not a yes or no question.

5 Q Then tell me, ma'am, what is the differentiation on when  
6 you are allowed to apply for a search warrant? In other words,  
7 how do you differentiate those search -- those searching --  
8 searchable entities as opposed to non-searchable entities? How  
9 close does the association have to be?

10 A As I said, the address. If the address is the same and it  
11 shows that the business is -- the working address of the  
12 business is the same such as 2077 Lawrence Drive.

13 Q You're telling me that all these corporations operated out  
14 of 2770 Lawrence?

15 A Most -- most, if not all, yes.

16 Q Do you have evidence to back that up?

17 A On CCAP or TLO, it would've indicated that address.

18 Q Okay. And so let's assume whatever you're saying is  
19 accurate for the purposes of discussion, and a person has a  
20 physical plant from which he operates 50 businesses, are you  
21 telling me that irrespective of what the evidence is, you can  
22 go in and search every one of those businesses?

23 A Not if the evidence doesn't indicate.

24 Q Well, tell me then, what evidence you had that indicated  
25 that there was any illegality or contraband on the premises

1 that dealt as an example with -- I'll give you one -- Waste  
2 Poly Recovery Technology. It's one of the ones listed. Tell  
3 me what evidence you had that there was some illegality by that  
4 corporate entity.

5 A I don't remember.

6 Q Well, you're the one that made the application. You  
7 signed off on this affidavit.

8 **THE COURT:** Is this an evidentiary question, are you  
9 challenging the warrant? Because I'm a little confused. She  
10 --you know, where are we going with this?

11 **MR. LE BELL:** What I'm trying to show, Your Honor, is  
12 that part and parcel of our motion to suppress is that the  
13 search warrant, in and of itself, is general in nature. And if  
14 the applicant can't justify why it was that certain things are  
15 included, I think that that presents pretty good evidence that  
16 it's general in nature, that somebody just sort of put  
17 everything into a cart and said, "We want to be able to search  
18 everything that relates to those entities".

19 **THE COURT:** But isn't that the legal question  
20 concerning the validity of the warrant? Whatever is in the  
21 affidavit either supports it or it doesn't support it. We  
22 don't ask later is there enough evidence here for the warrant  
23 to have been issued. Did you have other evidence other than  
24 what you said in the warrant?

25 **MR. KRUEGER:** Right. That's a decision on the face



1 of the warrant, under the affidavit and the warrant under the  
2 legal standard.

3 **THE COURT:** Yeah.

4 **MR. LE BELL:** I'm sorry.

5 **THE COURT:** Well, I guess I'm questioning -- I mean,  
6 you've made the point that there are lots of companies here.  
7 She explained to you as best as she can recall why she listed  
8 them here. Okay. What's the legal significance of it? Why  
9 are we beating her up on this?

10 **MR. LE BELL:** The legal significance is this. That  
11 on direct examination a moment ago, she testified that the  
12 parameters -- and I'll use her words -- were Ron Van Den Heuvel  
13 and Green Box. And I assume the two -- the interconnection  
14 between those two. I'm assuming that. If then, what this  
15 happens to be is a general search in the way in which it's  
16 executed and she's looking for other evidence, now that's  
17 inconsistent with what she just testified to. That's what I'm  
18 trying to say. Because if she's saying I can search for  
19 everything that's connected with -- associated with Ron  
20 Van Den Heuvel, that's bizarre. I mean, that's just not the  
21 law.

22 **MR. KRUEGER:** This does turn on the face of the  
23 affidavit and the warrant because we can -- when we'll brief  
24 this, there is allegations in here that Van Den Heuvel -- in  
25 that affidavit, allegations that Van Den Heuvel would make a

1 lot of different business entities in order to shift money  
2 around.

3           **THE COURT:** As I read the warrant -- and certainly  
4 I'm not -- I haven't looked at the legality or asked that  
5 question -- but certainly the focus of the warrant is  
6 Mr. Van Den Heuvel, no matter what entity he's operating, or  
7 operating as. And the theory, it seems to me -- whether it's  
8 legally sound or not -- is that they got a warrant allowing  
9 them to go into all of the documents, business records that  
10 were accumulated or related to Mr. Van Den Heuvel's activities  
11 with respect to any of these companies. Now, whether that's  
12 valid or not, I don't know. I mean, that's the legal question  
13 that we'll deal with. But other than, you know, what's in the  
14 warrant, it seems to me we're going far afield from what would  
15 be an evidentiary question here concerning the validity of the  
16 warrant.

17           **MR. LE BELL:** I understand what you're saying, Your  
18 Honor, however, I'm taking this witness at her word which was  
19 the scope of the warrant was Ron Van Den Heuvel and Green Box.  
20 And so what I was then going to do, and I will do, is go into  
21 the cross-examination of the items that were taken and to show  
22 how those things don't fit in with those two parameters.

23           **MR. KRUEGER:** But the search warrant speaks for  
24 itself. The scope is on the face of it.

25           **MR. LE BELL:** No, I'm talking about the search and

1 the manner in which it was executed. She made the statement,  
2 not I. She's narrowed the focus, is what I'm trying to  
3 inarticulately say. She narrowed the focus.

4 **THE COURT:** Whether she narrowed it or broadened it,  
5 the question of whether she was authorized or allowed under the  
6 warrant to seize everything she seized is really a question of  
7 -- I mean, I'm not sure it's a question of -- it seems to me a  
8 question of law under the validi -- under whether the warrant  
9 authorized that.

10 **MR. LE BELL:** Well, you are absolutely correct.  
11 That's what the law says. You look at the face of the warrant  
12 first, and then you look at the way it is executed and does it  
13 fall within the scope of that allowable search. I understand  
14 that. But the point I'm trying to make is, that the search,  
15 it's the warrant, itself, is incredibly overbroad. And that's  
16 going to be part of your concern, obviously, at some point in  
17 time.

18 **THE COURT:** I understand that. That's why -- I mean,  
19 I'm just wondering why we're -- this has become an evidentiary  
20 matter other than, you know, what happened, what did you do?  
21 But beyond that, whether or not that was authorized, or whether  
22 that's lawful to do, that is a question I'll decide.

23 **MR. LE BELL:** I'll move on. I get the drift --

24 **THE COURT:** I'm really searching. I mean, I'm not  
25 trying to rule. I'm just trying to -- wonder why we 're going

1 into this if the warrant on its face lists all these companies,  
2 she explained why she listed them, and then the question is is  
3 the information in the affidavit support a finding of probable  
4 cause to seize all these things, I guess, I --

5 **MR. LE BELL:** I'll move on.

6 **THE COURT:** All right.

7 **BY MR. LE BELL:**

8 Q So what you're testifying to, and you correct me if I'm  
9 wrong, is that the scope, as you understood it and what you  
10 told your fellow searchers -- is the things dealing with Ron  
11 Van Den Heuvel and specifically things that were dealing with  
12 Green Box, are fair go [sic], right?

13 A I'm sorry. Green Box what?

14 Q Are fair game, right?

15 A Yes.

16 Q Ron Van Den Heuvel and Green Box, that's what you just  
17 testified to.

18 A Green Box is my -- from my understanding --

19 Q I just want to know if that's what you testified to?

20 Okay? I don't need an explanation. I assure your counsel will  
21 ask for an explanation. Okay? Is that what you testified to?  
22 You told your fellow searchers that the scope was Ron  
23 Van Den Heuvel and Green Box. Is that what you just testified  
24 to? We can read it back if you want.

25 A The people who participated --

1 Q Excuse me. I just asked a yes or no.

2 A I'm not answering yes or no because --

3 Q You refusing to answer?

4 A It is not a yes or no question.

5 Q It's not a yes -- thank you for the smile. I appreciate  
6 that you find humor in this. But the bottom line is, what I  
7 want to know is that what your testimony was. And if you don't  
8 remember, that's all you have to tell me, we'll read it back.

9 **(Pause)**

10 Are you thinking about my question or are you're just  
11 not going to answer it?

12 A I'm thinking.

13 Q You know what? I'll withdraw the question because the  
14 record speaks for itself.

15 When you -- and I'm going to use your words -- when  
16 you told these fellow searchers to search for anything that  
17 deals with Green Box, can you tell me how it is that your  
18 fellow searchers took items that belonged to a project known as  
19 Oconto Falls?

20 A Oconto Falls, Ron Van Den Heuvel was associated with  
21 Oconto Falls.

22 Q When?

23 A I don't remember.

24 Q Well let's assume for the purpose of discussion the record  
25 will show that Oconto Falls fell way, by years, outside of the

1 2010 parameters. Was that then within the allowable search,  
2 ma'am?

3 A I don't see Oconto Falls listed on the search warrant.

4 Q Excuse me. I'm not asking whether you see something. I'm  
5 just asking you to answer my question. If you don't understand  
6 the question, just tell me and I'll repeat it. Sometimes I'm  
7 not very articulate. Do you understand the question?

8 A Repeat the question, please.

9 Q You bet.

10 If Oconto Falls documents were taken and Oconto Falls  
11 documents relate to a period outside of the scope of the  
12 allowable search warrant, is that allowed according to your  
13 parameters? Do you understand it?

14 A When my searchers --

15 Q Excuse me. I don't mean to yell at you but I think  
16 usually I use the English language fairly well. If I'm asking  
17 for a yes or no, just tell me. Yes or no.

18 **MR. KRUEGER:** I think we'd would move through this  
19 faster if she could just give an explanation and then move on.

20 **MR. LE BELL:** I don't think so. I'm controlling the  
21 cross-examination, I think.

22 **THE COURT:** Okay. Listen -- listen carefully to the  
23 question. If you can answer that question, answer that  
24 question. And if there's a further explanation, wait for  
25 Mr. Krueger to come back and ask you about it, okay?

1           Go ahead. State your question and then we'll see if  
2 we can get a direct answer.

3           **MR. LE BELL:** Sure.

4 **BY MR. LE BELL:**

5 Q       If documents were seized that relate to Oconto Falls,  
6 those documents exceed the allowable time scope that you set in  
7 2010. That would mean, would it not, that it exceeded the  
8 scope of the search, correct?

9 A       Yes.

10 Q       Thank you. Let's assume --

11           **THE COURT:** Let's take a -- can we take an afternoon  
12 break at this point?

13           **MR. LE BELL:** You bet.

14           **THE COURT:** Is it a good time or --

15           **MR. LE BELL:** Sure.

16           **THE COURT:** I don't mean to interrupt if you've got  
17 something going.

18           **MR. LE BELL:** No, that's fine.

19           **THE COURT:** We got an answer, so let's take a break.

20           **MR. LE BELL:** Thank you.

21           **(Recess taken from 2:50 p.m. to 3:00 p.m.; parties**  
22 **present)**

23           **THE COURT:** We're back on the record. You can be  
24 seated.

25           **MR. PORTER:** Your Honor, before we proceed, I'd like

1 to (indisc.)

2 **THE COURT:** Sure.

3 **MR. PORTER:** There are a bunch of witnesses  
4 apparently both Mr. LeBell is going to call and the  
5 Government's still going to call. I expect with this witness  
6 there's going to be a fair amount of cross examination still  
7 that will last probably till about 4:25, 4:30, is my guess.

8 **THE COURT:** Just of this witness?

9 **MR. PORTER:** Yes.

10 **THE COURT:** Okay.

11 **MR. PORTER:** I would suggest, my client continues to  
12 have an issue. One of the issues she was able to take care of.  
13 But she does need to leave at approximately 4:20 and I would  
14 suggest that we adjourn for the day at that time.

15 **THE COURT:** How fast can we get it back for? And I'm  
16 talking about your calendar, not so much mine. What do you  
17 guys have next week?

18 **MR. PORTER:** I could come back Monday or I could come  
19 back -- I've got a lot of -- I'd have to look at my calendar,  
20 but when is -- I've got a couple obligations in Chicago --

21 **THE COURT:** I'm wondering, and here I just -- I  
22 question what's in dispute here in terms of is it really  
23 necessary? It seems to me that -- is there much of a dispute  
24 that the documents seized in this case exceeded -- if that's a  
25 time limit in the warrant, they were earlier than the time



1 limit in the warrant, is there an argument here -- I know you  
2 make the argument that even if the warrant was not properly  
3 executed, even if they seized documents other than those  
4 authorized by the warrant, some may have been relevant, they  
5 may have recognized relevancy, and so under the plain view  
6 doctrine they're entitled to look at them. You may have an  
7 argument that we're not even using those and suppression would  
8 not extend to those. The argument that you're making is this  
9 broad argument that the manner in which the warrant was  
10 executed and the breadth of the warrant, one -- I know you have  
11 an argument the warrant's invalid on its face. There's a good  
12 faith argument in return for that. Isn't much of this not so  
13 much a factual dispute as a legal question? And do we have to  
14 hear all these witnesses? Or maybe can it be put in through an  
15 offer of proof?

16 Have you talked about what you can agree about the  
17 nature of the warrant or the nature of how it was executed?

18 **MR. LE BELL:** I think the problem -- the problem that  
19 I've got -- sorry, the problem that I've got is this: Because  
20 of the sheer volume it's virtually impossible for anybody, and  
21 nobody has that I know of, to go through and say here's the  
22 percentage of items that we can both agree are outside of the  
23 scope of the search, here are the things that we know are  
24 within the scope of the search, assuming the search is valid in  
25 the first place, and here are the things that are kind of in

1 dispute.

2           **MR. PORTER:** Judge, I'm sorry, could we have the  
3 witness step out actually for a minute, because I think you're  
4 making good suggestions about other ways to consolidate some of  
5 this. Some of this goes actually to some of what the witness  
6 might say.

7           **THE COURT:** Sergeant, just step out for a moment.

8           **THE WITNESS:** Okay.

9           **THE COURT:** And we'll bring you back in then, okay?

10           **(Witness exits courtroom at 3:03 p.m.)**

11           Another -- okay, I think we could continue that, but  
12 another point I didn't make in front of the witness,  
13 Mr. LeBell, you were saying she gave instructions, but I  
14 thought she wasn't there when the instructions were given for  
15 executing the warrant. I'm not sure where you're getting this  
16 testimony that she told everybody what to take and what not to  
17 take.

18           **MR. LE BELL:** Because on direct examination she was  
19 asked whether she had communications where basically the  
20 inference was, and I think it was direct, not an inference,  
21 that she told these folks how to differentiate between -- in  
22 other words, what the parameters were, meaning by the subject  
23 and the dates.

24           **THE COURT:** I thought her testimony was about what  
25 she heard them talking about, not directions she gave them.

1 Maybe I missed that part. In any event, I know I heard the  
2 part where she wasn't there when the initial instructions were  
3 given.

4 But wholly aside from that, whether -- you know, what  
5 was seized, you know what was seized because much of it was  
6 returned and you have it and whether -- whatever she said, if  
7 it's not authorized by the warrant, if there's no argument for  
8 it, I suppose under the plain view you could -- if there's  
9 something that she saw that she recognized or somebody  
10 recognized as relevant, that might be testimony I have to hear.  
11 But we can't go through, what is it, 600,000 pages or 300,000  
12 pages? What are we talking about? I mean we --

13 **MR. LE BELL:** And so, you know, that Exhibit  
14 Number --

15 **THE COURT:** Eighteen.

16 **MR. LE BELL:** -- 18 that says here is the broadest  
17 universe of things from the search warrant that the Government  
18 would potentially use was our attempt to say, okay, this is the  
19 material that in this case would be things the Government may  
20 use at trial and --

21 **THE COURT:** Okay, let's go back to whether we can  
22 narrow things. Is there a dispute here as to whether there are  
23 facts in dispute that have to be resolved and that we need this  
24 expensive record in order for me to make a determination or for  
25 you to be able to make your record?

1           **MR. LE BELL:** If what Mr. Krueger is -- and I don't  
2 want to put words in his mouth, if what he's proposing to say  
3 is that, as you well know, the Government, from their  
4 perspective, in retrospect, 20/20 hindsight, has determined,  
5 having culled through the items that were searched, in their  
6 wisdom they believe that there are 3200 items that are arguably  
7 relevant, that's what I've been led to believe, if the converse  
8 of that is that everything else, and again I don't want to put  
9 words in Mr. Krueger's mouth, but if everything else, meaning  
10 the balance of that 300-400,000 documents, is not relevant, not  
11 just not relevant, but was outside of the search, then clearly  
12 I can live with that.

13           Now, I don't think that's necessarily what  
14 Mr. Krueger is saying.

15           **THE COURT:** No, and you're talking about relevant to  
16 their case --

17           **MR. LE BELL:** Correct, yes.

18           **THE COURT:** -- which was separate, at least at the  
19 time --

20           **MR. LE BELL:** Right.

21           **THE COURT:** -- from the Green Box invest -- the  
22 securities fraud investigation.

23           **MR. LE BELL:** Right. But then there's that vast  
24 amount of documentation between -- let's say it's 500,000  
25 documents that have been seized and they think it's 3200, the

1 balance of that is huge and the question is how much of that  
2 amalgam of documents is actually within the scope and not  
3 within the scope, and I don't think there's any way that I can  
4 humanly determine that with any degree of accuracy. And again,  
5 it would be my assessment, it would be my determination. And  
6 what I was going to try and do --

7 **THE COURT:** Okay, but still, this was a Brown  
8 County -- this was the Brown County Sheriff's Department that  
9 executed this warrant?

10 **MR. KRUEGER:** Yes.

11 **THE COURT:** All right. It was not this prosecution  
12 that executed the warrant.

13 **MR. KRUEGER:** Correct.

14 **THE COURT:** So even if you're right that the warrant  
15 was executed badly and that the warrant, you know, on its face  
16 seems -- there's still the good faith exception and all that,  
17 but even if you're right on all that, where does that leave  
18 you?

19 **MR. LE BELL:** Well, I think there's a legal dispute  
20 ultimately, and you can see that from the filing that was  
21 submitted right before the hearing today, and that is it's the  
22 position of the Government that if you determine because the  
23 overwhelming percentage of items that were seized that really  
24 what happened here is that it was a totally invalid search and  
25 everything gets wiped off the books, if that's your conclusion,

1 their argument is going to be, no, it doesn't work that way for  
2 any number of different legal arguments. So I guess my  
3 question is if there's a concession that everything else was  
4 outside of the scope of the search, then I suppose at that  
5 point in time we are in a position to just make legal  
6 arguments, and I don't think we're there yet.

7 **THE COURT:** Let's see what the Government thinks.  
8 Mr. Krueger?

9 **MR. KRUEGER:** We certainly wouldn't concede that  
10 everything besides the 3200 wasn't within the scope of the  
11 search warrant. That's just not accurate. But we would be  
12 willing to consider saying that we would limit ourselves at  
13 this stage to at trial using only material from the 3200, so  
14 that -- and just to make it even more specific, I think, as was  
15 indicated earlier, we're talking about what's in I think  
16 Exhibit 18.

17 **THE COURT:** Which is more like, is it 800 or 500 now?

18 **MR. KRUEGER:** Well, that's the 3200, that's the  
19 roughly 3200.

20 **THE COURT:** That's the 3200, which I think wasn't it  
21 reduced to 2400 after you knock out duplicates and --

22 **MR. KRUEGER:** Well, I think the 3200 is sort of the  
23 universe. There is an initial 800 that was then squeezed into  
24 3200.

25 But to do that, just, you know, to be clear about it,

1 some of the stuff pre-dates the search warrant and then some of  
2 it's within the search warrant. And so presumably the Defense  
3 would still argue that you can't use things from outside the  
4 search warrant date and so we would be relying on plain view or  
5 inevitable discovery for that. But we'd be relying on the  
6 validity of the warrant for things within the search warrant.

7 **MR. LE BELL:** The problem with that proposition is  
8 this: I think both counsel and I are joined at the hip in the  
9 proposition that the manner in which the search was executed,  
10 they literally came in and hoovered up anything that was  
11 movable, and the idea is that the consequence of that is that  
12 everything gets tossed, irrespective of whether it falls within  
13 the Government's 20/20 hindsight assessment that it's relevant  
14 or not.

15 **THE COURT:** And even for plain view, don't you have  
16 to recognize that it's relevant at the time you seize it in  
17 order for plain view to authorize that seizure?

18 **MR. LE BELL:** That's correct. You have to have some  
19 recognition at the time that it was taken, not upon 20/20  
20 hindsight analysis.

21 **THE COURT:** A year later, or whenever it was.

22 **MR. KRUEGER:** Well, I mean our argument on that would  
23 be sort of Sgt. Shartner's testimony that -- it's similar to  
24 say seizing a computer, where there's an initial seizure and  
25 then there is additional searching that happens and that might

1 not be the same day but it is apparent the relevance of it, the  
2 plain view document can extend to that.

3 **THE COURT:** Well, let's do this, let's bring --

4 **MR. LE BELL:** Judge --

5 **THE COURT:** Yep.

6 **MR. LE BELL:** I'm sorry, if I --

7 **THE COURT:** Right. We started this, let's let our  
8 witnesses go.

9 **MR. LE BELL:** Yes.

10 **THE COURT:** Let them go. We'll pick another date.  
11 We'll continue this discussion maybe at 4:00 or 4:20, when your  
12 witness -- when your client has to leave. Let's see if we can  
13 finish Sgt. Shartner.

14 **MR. LE BELL:** Thank you.

15 **THE COURT:** All right. So if you need to convey that  
16 to people, go ahead and do it. Let's bring the witness back in  
17 and let's use the time we have trying to finish up this  
18 witness.

19 **(Pause)**

20 It's also worth noting, Mr. LeBell, that the Sergeant  
21 had an Assistant -- or the District Attorney himself draft the  
22 warrant and a Circuit Court Judge signed it. So I think you  
23 ought to keep that in mind in your questioning of this witness.

24 **MR. LE BELL:** Oh, I am.

25 **THE COURT:** Okay.



1           **(Pause)**

2           Another point I think that might bear some  
3           consideration, and I would ask that the Government ask itself  
4           does it really need this as part of its case-in-chief. A  
5           Fourth Amendment violation excludes the evidence in the case-  
6           in-chief, but as I recall the law, it's still admissible on  
7           cross examination. And you might want to give some  
8           consideration to whether this fight is worth it.

9           **MR. JOHNSON:** Yeah. I was just talking with my co-  
10          counsel with that, but that would be much more a factor to the  
11          Government if the Defense is not -- because I understood the  
12          Defense to be arguing that it's not (indisc.) the 3200, but  
13          derivative use and essentially success --

14          **THE COURT:** In prosecution itself.

15          **MR. JOHNSON:** Yes, exactly.

16          **THE COURT:** Well, that would be a legal issue I think  
17          I could decide even -- and conclude, you know, give them the  
18          chance to make their argument, but it seems to me that if  
19          that's the argument to be made, we can assume that they could  
20          prove they claim and then ask if that's true, do we then  
21          essentially dismiss the charges for misconduct of the Brown  
22          County Sheriff's Department. That's --

23          **MR. JOHNSON:** I believe we've also already presented  
24          our evidence about that. I don't think our other witnesses  
25          would --

1           **THE COURT:** Bear on the question of --

2           **MR. JOHNSON:** -- bear on that. Sara Hager was our  
3 witness on that.

4           **THE COURT:** But, as I understand, the concern is that  
5 the Defense argument is that regardless of what you had before,  
6 it all -- you lose it all because of the egregious manner in  
7 which the warrant was obtained and executed. If that's the  
8 argument, I think that might raise a legal issue that we don't  
9 need that record for.

10           **MR. JOHNSON:** (indisc.) -- I'm sorry -- as well as  
11 the searchers flagrantly disregarded the scope of the warrant,  
12 as opposed to things they shouldn't have. And so that seems to  
13 me to be an issue that requires the presentation of evidence.  
14 That was largely the point of most of our remaining witnesses.

15           **MR. PORTER:** I agree with Mr. Johnson, that that  
16 factual development is important. I've been thinking about  
17 some ways that we might be able to agree on some boundaries,  
18 and maybe we can't, but maybe we can. And so, you know, we can  
19 discuss that. But, you know, that is a factual record that in  
20 some way or another I think needs to be developed.

21           **THE COURT:** Let's bring the witness in and we'll  
22 continue the discussion, if we can complete the witness.

23           **MR. PORTER:** But, Judge, I like your idea of having  
24 the Government not use the 3200 in direct.

25           **(Laughter)**

1           **MR. JOHNSON:** We dislike the idea.

2           **THE COURT:** You probably would like them to agree not  
3 to use it at all.

4           **MR. PORTER:** At least as it relates to my client,  
5 yes.

6           **THE COURT:** Sure.

7           **MR. PORTER:** She'd be happy to just go home and not  
8 come back.

9           **THE COURT:** Okay, let's bring the witness in. Thank  
10 you.

11           **(Witness resumes stand)**

12           **THE COURT:** Okay. All right, go ahead, Mr. LeBell,  
13 you can continue.

14                           **CROSS EXAMINATION (RESUMED)**

15           **BY MR. LE BELL:**

16           Q     I'm showing you what's been marked as Exhibit 1005 --

17                   **MR. KRUEGER:** We already have a 1005.

18                   **MR. LE BELL:** (indisc.) Okay, never mind.

19                   **MR. SPEAKER:** Yeah, we ended at 1005.

20                   **MR. LE BELL:** That's right (indisc.)

21                   **THE COURT:** No, I think 1006 is what you want.

22                   Sergeant, that doesn't mean there's 1,006 exhibits  
23 they're going to show you, so...

24                   **(Laughter)**

25           //

1 **BY MR. LE BELL:**

2 Q Exhibit 1025 and it appears to be --

3 **THE COURT:** No, it's 1006, is what -- you're --

4 **MR. LE BELL:** No, no, I took them out of order.

5 **THE COURT:** Okay. Okay, you've already marked  
6 everything.

7 **MR. LE BELL:** Yeah.

8 **THE WITNESS:** Okay.

9 **THE COURT:** So 1025 is the exhibit number?

10 **MR. LE BELL:** Yes.

11 **THE COURT:** Thank you.

12 **(Pause)**

13 **BY MR. LE BELL:**

14 Q (indisc.)

15 A Complete appraisal in a summary format of 405 Grant  
16 Street.

17 Q What's the date on that document?

18 A March 15th, 2006.

19 Q What's the Bates stamp on that document?

20 A The date stamp --

21 Q Bates stamp. The lower right corner, the little numbers,  
22 starts with BC.

23 A I'm sorry, I'm not -- I'm not following you. This number  
24 here?

25 Q Yes.

1 A BCSO\_SW\_FDIC\_001631.

2 Q All right --

3 **THE COURT:** Mr. LeBell, you do need to be near a  
4 microphone, if you want to be --

5 **MR. LE BELL:** Sure.

6 **THE COURT:** -- have a record.

7 **BY MR. LE BELL:**

8 Q I'm going to tell you that that particular document is one  
9 of the items that was seized under -- during the course of the  
10 search warrant. Does that document fall within the time  
11 parameters of the allowable search?

12 A No.

13 Q Can you tell me how it was that that particular document  
14 was seized based on the directions that were received by the  
15 searching officers? If you know.

16 A I don't know.

17 Q I'm going to show you what's been marked as Exhibit 1008.  
18 Can you tell me what that document is or what it appears to be?

19 A It looks like a note renewal.

20 Q What are the dates of the note renewal?

21 A 12/8 of '07, due 6/8 of '08.

22 Q What's the Bates stamp, that little number in the right  
23 bottom corner?

24 A BCSO\_SW\_FDIC\_000110.

25 Q Is that document within the time parameters of the

1 allowable search?

2 A No.

3 Q Appears to be a mistake that it was taken, correct?

4 A No.

5 Q Okay. Then would you tell me how it is that that  
6 particular document comports with the limitations of the  
7 search?

8 A Because of the volume of the documents that were taken and  
9 because of the organization, ultimate organization of the  
10 documents, this document may have been in a box that was within  
11 the parameters of the search.

12 Q So in other words, this was a document that was not within  
13 the allowable search limitations and somehow it just, either by  
14 error, by the fact that nobody had sufficient time to go  
15 through it, it got seized along with everything else, right?

16 A Yes.

17 Q And the same thing with the exhibit that I showed you  
18 before, 1025, that they mistakenly seized, is that right? Be a  
19 nice way of putting it?

20 A Yes.

21 Q I'm going to show you what's been marked as 1009. Tell me  
22 what it appears to be.

23 A It appears to be a promissory note.

24 Q What's the date?

25 A December 28th, 2007.

1 Q Is that within the allowable time limits of the search?

2 A No.

3 Q How did that just happen to be one of the items that was  
4 seized from the search?

5 A Same thing, by the sheer amount of documents that were  
6 there and the organization or disorganization of the documents,  
7 this may have been within a box that said 2010.

8 Q Let me see if I understand this. The way in which things  
9 are taken from the situs of a search warrant is limited by the  
10 organizational skills of the owner, is that correct?

11 **MR. KRUEGER:** Objection, foundation.

12 **MR. LE BELL:** Based on her experience as an  
13 experienced investigator.

14 **THE COURT:** I don't think she knows about who  
15 organized or what the purpose or skills were, so maybe you want  
16 to rephrase.

17 **MR. LE BELL:** Sure.

18 **THE COURT:** I think your point can be made --

19 **MR. LE BELL:** Sure.

20 **THE COURT:** -- but not with that question.

21 Sustained.

22 **BY MR. LE BELL:**

23 Q You just said that this was taken because of the  
24 disorganization of the way it was found or they way it was  
25 seized, it was comingled, and so basically it wasn't up to you,

1 as the searcher, or your fellow searchers to go through the  
2 documents and determine whether there was comingling, right?  
3 That's not part of your search responsibilities, is it?

4 A It was --

5 Q Just yes or no.

6 A Yes.

7 Q Let me show you what's been marked as Exhibit 1012. Tell  
8 me what that appears to be.

9 A Another promissory note.

10 Q What's the date of the promissory note?

11 A October 28th, 2008.

12 Q Is that within the allowable time periods?

13 A No.

14 Q Do you know how it was that this, along with these other  
15 items that we've been going through in the last ten minutes --

16 **THE COURT:** Just let me break in a minute.

17 **MR. LE BELL:** Sure.

18 **THE COURT:** What's the exhibit number on that,  
19 Sgt. Shartner?

20 **THE WITNESS:** 1012.

21 **THE COURT:** 1012. Okay, thank you.

22 **BY MR. LE BELL:**

23 Q Do you know how it was that that particular item was  
24 taken, even though it was outside of the scope?

25 A Same thing.



1 Q In other words, what you're telling me is that the  
2 searcher either didn't have the time, didn't have the  
3 wherewithal, or didn't actually go through the boxes with  
4 sufficient discriminating efforts to determine what was within  
5 the scope and what wasn't, right?

6 A Yes.

7 Q And you would agree with me that it was up to you and your  
8 fellow searchers to do that discrimination so that things were  
9 not swept up in the search seizure that were not allowable,  
10 right? That's your responsibility, correct?

11 A Yes.

12 Q Let me show you what has been marked as Exhibit 1013.  
13 Tell me what it appears to be.

14 A It is a title transfer.

15 Q What's the date of the title transfer?

16 A I don't know if it says 12/9 of '96 or '86.

17 Q Irrespective, it appears to be a few decades outside of  
18 the scope of the search, right?

19 A Yes.

20 Q Does that have a Bates stamp at the bottom right-hand  
21 corner?

22 A BCSO\_SW\_FDIC\_001625.

23 Q That is an item that was seized by your searchers. So  
24 that again, along with the other items, is something that was  
25 erroneously taken, right?

1 A Yes.

2 Q And it was erroneously taken because your searchers didn't  
3 exercise the proper scrutiny on things that were included  
4 within the search and excluded, right?

5 **MR. KRUEGER:** I'm just going to object on again  
6 foundation. She doesn't know how this was seized.

7 **MR. LE BELL:** It doesn't matter how it was seized,  
8 it's a question of whether it was done based on a failure to  
9 comply with the limitations.

10 **THE COURT:** Well, I think that's a legal question,  
11 Mr. LeBell.

12 **MR. KRUEGER:** Right.

13 **THE COURT:** And I think the argument is -- I mean I  
14 think it's clear what occurred here in one sense and I think  
15 she's testified several times that rather than go document by  
16 document they took boxes of documents. Now, whether that was a  
17 lawful way of executing the warrant that authorized seizure of  
18 these documents, I don't know. That's ultimately a legal  
19 question though, isn't it?

20 **MR. LE BELL:** Well, that -- I would -- if that was  
21 the witness's testimony, I would take that lock, stock, and  
22 barrel, where basically -- and that's not what she testified  
23 to.

24 **THE COURT:** I thought --

25 **MR. LE BELL:** If she were going to testify that they

1 took the boxes out, they didn't go through it, it was just too  
2 voluminous and they couldn't do it, for manpower reasons, time  
3 reasons, it was getting dark, I don't really care, if that's  
4 what her testimony is --

5 **THE COURT:** Well, I think she testified that they --  
6 well, I'm not going to -- I shouldn't say what her testimony  
7 is.

8 **MR. KRUEGER:** She testified that she was there for  
9 about an hour and observed a limited scope and search. That's  
10 granted, she only limited -- saw what she saw. And there's no  
11 foundation about whether she saw somebody seize this or not, so  
12 there's no foundation about how this particular one was seized.

13 And I think just I'd object on repetition. The  
14 point's been made here with five documents now.

15 **MR. LE BELL:** To the contrary (indisc.) just what we  
16 were talking about in the break, is that somehow I have to be  
17 able to demonstrate that the magnitude of documentary evidence  
18 that was seized was so overwhelmingly outside of the scope that  
19 it invalidates the search in and of itself. And that -- I'm at  
20 a disadvantage because I know that there's hundreds of  
21 thousands of documents that fill that bill. I'm trying to go  
22 through selected items that I just sort of culled out of a pile  
23 in my office. I mean I can do it the other way too, but we'd  
24 be here for years.

25 **THE COURT:** Mr. Porter?

1           **MR. PORTER:** Judge, we certainly are entitled to put  
2 a record together about mistakes and to say she doesn't have  
3 the foundation, respectfully, she's in charge and she's  
4 testified to that and one of the things when you're the  
5 quarterback or the general manager, whatever the analogy is,  
6 you know, you've got to wear it for other people on the team.  
7 And so I think we are certainly entitled to probe as this law  
8 enforcement officer was ultimately -- certainly she didn't  
9 search everything and no one would make that claim, but she is  
10 in charge, she is the person who did the search warrant, did  
11 the search warrant affidavit, was bouncing between, as she  
12 testified, was bouncing between sites, had the cell phone, was  
13 talking to people. There's always someone in charge of these  
14 searches, she was the one. This has to be appropriate bounds  
15 of cross.

16           **MR. KRUEGER:** I guess, you know, my objection would  
17 just be that all these questions, but that last one about how  
18 is it that this particular document got seized, if they have a  
19 foundation for it or if she can give one, great, but otherwise  
20 she doesn't know.

21           **THE COURT:** Well, if she doesn't know she can say  
22 that, otherwise the question will stand.

23           You can repeat your question.

24           Or if you remember the question, you can answer it,  
25 Sgt. Shartner.

1           **THE WITNESS:** Could you repeat it.

2           **MR. LE BELL:** Judge, I'm going to try something.

3 Maybe we can stop the bleeding here, depending on the answer of  
4 the witness.

5 **BY MR. LE BELL:**

6 Q       Would you agree that any item that was seized the predated  
7 December 31st, 2010 was improperly seized?

8 A       Yes.

9           **MR. LE BELL:** The next step would be to try and  
10 figure out how I can present those and if the Government's  
11 going to stipulate to that, I'd have to go through my  
12 relativity search and try and do a date parameter search to  
13 come up with those thousands of documents. I don't know.

14           **MR. KRUEGER:** We have a legal argument, as you noted,  
15 for why we wouldn't agree that they were necessarily improperly  
16 seized before that date.

17           **MR. LE BELL:** I'm sorry, that they were or were not?

18           **MR. KRUEGER:** We wouldn't concede that documents  
19 before that date were improperly seized.

20           **MR. LE BELL:** Okay. I mean everybody's entitled to  
21 their argument. I mean if there's some argument that the rest  
22 of the witnesses are going to be able to establish that each  
23 one of these items that were outside of the time scope somehow  
24 in plain view were determined to be relevant, we will be here  
25 for decades.

1           **MR. KRUEGER:** Right. No, our argument that we laid  
2 out in the brief is that -- and there's case law examples or  
3 instances in which, you know, (a) when an entity is permeated  
4 with fraud there can be a broad seizure authorized. But more  
5 than that one, particularly --

6           **MR. LE BELL:** Judge, I'm sorry --

7           **MR. KRUEGER:** Hold on. You can't interrupt right  
8 now --

9           **MR. LE BELL:** No, please, I'm sorry --

10          **MR. KRUEGER:** -- excuse me --

11          **MR. LE BELL:** -- we have a witness on the stand who  
12 should not be hearing this.

13          **MR. KRUEGER:** Oh, okay. That's a good objection.

14          **THE COURT:** Let's move on. Do you have any other  
15 questions for this witness?

16          **MR. LE BELL:** I do.

17 **BY MR. LE BELL:**

18 Q       I'm showing you what's been marked as Exhibit 115 --  
19 actually 1015. Tell me what it purports to be.

20 A       A financing statement was assigned a particular number and  
21 entered into records.

22 Q       What's the date?

23 A       September 14th, 2004.

24 Q       What's the Bates stamp?

25 A       BCSO\_SW\_FDIC\_001551.

1 Q The item that was seized apparently was seized in error,  
2 correct?

3 A Yes.

4 Q Exhibit 1016. Can you identify me -- or for me the date  
5 and what it is.

6 A It's a UCC financing statement dated 9/13 of 2004.

7 Q What's the Bates stamp?

8 A BCSO\_SW\_FDIC\_001545.

9 Q Outside of the scope of the allowable warrant within six  
10 years?

11 A Yes.

12 Q Again seized in error?

13 A Yes.

14 Q Exhibit 1014.

15 **MR. JOHNSON:** We're a little confused about the  
16 numbers. Mr. LeBell said 1014. I think there's already a  
17 1014.

18 **(Pause)**

19 **BY MR. LE BELL:**

20 Q 1017 -- I'm sorry, what exhibit did we just show you?

21 A 1014.

22 Q And what is that exhibit?

23 A It's a title.

24 Q What's the date of the title?

25 A Title issued 4/8 of 2004.

1 Q It's a title to a motor vehicle, correct?

2 A Yes.

3 Q What's the Bates stamp?

4 A BCSO\_SW\_FDIC\_01626.

5 Q This is another item that was seized again in error, is  
6 that right?

7 A Yes.

8 Q Exhibit 1011.

9 A 1011?

10 **(Pause)**

11 **MR. JOHNSON:** We already have a 1011, at least --

12 **(Counsel confer)**

13 **BY MR. LE BELL:**

14 Q Tell me what that exhibit is, please.

15 A A promissory note.

16 Q What is it a promissory note for as far as date is  
17 concerned?

18 A October 1st, 2004 -- 2004.

19 Q What's the Bates stamp?

20 A BCSO\_SW\_FDIC\_000011.

21 **THE COURT:** Is there a reason we have to say the  
22 Bates stamp for the record? It's on the exhibit.

23 **MR. LE BELL:** Just to -- if the Government's going to  
24 stipulate that all these things were seized in the Brown County  
25 search, I have no problem with that.



1           **THE COURT:** Well, it's on the exhibit. If --

2           **MR. KRUEGER:** Sure --

3           **(Voices overlap)**

4           **MR. KRUEGER:** -- range, then we've already  
5 represented they were seized in the search warrant.

6           **MR. LE BELL:** That's fine.

7 **BY MR. LE BELL:**

8 Q       I'm showing you what's marked as 1021. Could you tell me  
9 what that appears to be and its date?

10 A       It's a document indicating a loan on 1/26/07.

11 Q       Outside of the scope?

12 A       Yes.

13 Q       Appears to again be a document that was seized in error,  
14 is that right?

15 A       Yes.

16           **(Counsel confer)**

17           **MR. KRUEGER:** Were you just asked about Exhibit 1021?

18           **THE WITNESS:** Yes.

19           **(Pause)**

20 **BY MR. LE BELL:**

21 Q       I'm showing you what's marked as 1028. Can you tell me  
22 what it is and its date?

23 A       It's a letter indicating that a limited summary appraisal  
24 report has been done.

25 Q       What's the date on it?

1 A April 3rd, 2002.

2 Q It is outside of the scope, correct?

3 A Yes.

4 Q Again another item that was seized by mistake?

5 A Yes.

6 Q Now, I've got a number of other documents and I'm going to  
7 eventually give them to you as evidence in a packet. Do you  
8 have any idea who seized these items?

9 A No.

10 Q Do you have any idea by what method that item happened to  
11 be included in the things that were taken?

12 A By what -- I'm sorry, I don't understand the question --

13 Q Sure, what --

14 A -- by what method.

15 Q Was it something that was selectively taken by you or one  
16 of your searching agents, was it just in a box by mistake, or  
17 what? If you know.

18 A I don't know.

19 Q Assuming for the purposes of discussion that there are  
20 records that were taken from the Lawrence Avenue address that  
21 relate to Georgia Pacific contracts, is that within the scope  
22 of the search?

23 MR. KRUEGER: Objection --

24 MR. LE BELL: And let me --

25 MR. KRUEGER: -- calls for speculation --

1           **MR. LE BELL:** Let me --

2           **MR. KRUEGER:** -- lack of foundation.

3           **MR. LE BELL:** Well, I put on -- I intend to put on  
4 evidence to demonstrate that these are one of the items that  
5 was taken that was outside of the scope.

6           **THE COURT:** What is your question to the witness?

7           **MR. LE BELL:** Assuming for the purpose of discussion  
8 that there are items that were taken that belonged to Georgia  
9 Pacific -- Georgia Pacific contracts that's outside of the time  
10 scope, would it have been taken improvidently.

11          **THE COURT:** Okay.

12          **MR. LE BELL:** That was my object.

13          **THE COURT:** Can you answer that question?

14          **THE WITNESS:** I don't know that specific document. I  
15 don't know.

16          **BY MR. LE BELL:**

17          Q       Well, if it exceeds the scope by time, it would be  
18 improper to seize it, right?

19               **(No audible response)**

20               It those contracts pre-dated December 31st, 2010 they  
21 shouldn't have been seized, right?

22               **(No audible response)**

23               Am I right?

24          A       I need to give an explanation. That is not a yes or no  
25 question.

1 Q You just told --

2 A None of these are.

3 Q You just told me that if anything was seized that was  
4 outside of the temporal scope of the search it was improperly  
5 seized. So if I'm making a representation as far as I know  
6 that Georgia Pacific contracts pre-dated that effective date,  
7 it would be improperly seized, right?

8 A You're --

9 Q According to your testimony.

10 A You are saying that as if an officer saw that particular  
11 document and seized it anyway.

12 Q I don't care whether the officer saw it or didn't see it.  
13 That's not my point. If it was taken, if you had a blind  
14 officer who took it, it doesn't make any difference. It was  
15 improperly seized, right?

16 A It was outside of the scope of the --

17 Q And improperly seized, right?

18 **(No audible response)**

19 Yes or no?

20 A Yes.

21 Q Thank you.

22 Similarly, if there are Fort Howard Paper contracts  
23 and paperwork that belongs to that particular project that pre-  
24 dated December 31st, 2010, it would, and they were taken, be  
25 improperly seized, right?

1 A I don't know if they were or not. I didn't see the  
2 document.

3 Q For the purpose of discussion, if the items pre-dated  
4 December 31st, 2010 and they related to that particular  
5 contract, it would be improperly seized, right? Just like the  
6 one we went through ten second ago, right?

7 A Yes.

8 Q Proctor & Gamble contracts, if those contracts pre-dated  
9 December 31st, 2010, those would be improperly seized, right?

10 A Yes.

11 Q Medical records, you said that you found a box of medical  
12 records or you went through things and you determined that  
13 there were medical records and you said I put those in a box,  
14 how was it that medical records were seized in the first place?  
15 How did that happen that medical records, perhaps images of  
16 MRIs, things that on their face, because you determined they  
17 were medical records, anybody else that can read and write can  
18 determine they were medical records, how is it that the  
19 searching officers seized those items? Even if it was just a  
20 hundred pages, which isn't a minimal amount.

21 A There may have been a hundred pages total. I don't  
22 believe there was a chunk of 100 pages found at any one -- in  
23 any one location.

24 Q What difference does it make? No medical records should  
25 have been seized, right?

1 A Due to the volume --

2 Q Excuse me. No medical records should have been seized,  
3 should they?

4 A That was not listed in the search warrant.

5 Q Is the answer yes, that no medical records should be  
6 seized? Just a yes or no. You can do it, come on.

7 A Yes.

8 Q Thank you.

9 If checkbooks were seized --

10 **THE COURT:** Mr. LeBell?

11 **MR. LE BELL:** Yes, sir.

12 **THE COURT:** Please, I would ask for a little more  
13 civility with the witness. All right?

14 **MR. LE BELL:** I will.

15 **THE COURT:** Thank you.

16 **BY MR. LE BELL:**

17 Q If checkbooks were seized that dated between 1990 --  
18 excuse me -- 1988 to 2008, those were clearly outside the  
19 temporal allowance, those would be improperly seized, right?

20 A Yes.

21 Q Now, you indicated that you brought the FBI in because  
22 they have the imaging capacity. Is that right?

23 A Yes.

24 Q And in fact, on some of the other sites that's precisely  
25 what the FBI did before finishing the search, they did image

1 certain computers, right?

2 A Yes.

3 Q Where were those sites in conjunction with this particular  
4 search?

5 A The site -- the imaged computers were at Patriot Tissue on  
6 American Boulevard.

7 Q How many were imaged?

8 A I don't know.

9 Q At the site? There was more than one, right?

10 A I don't know.

11 Q At least one, correct?

12 A Yes.

13 Q So just so I understand, on the same day that the search  
14 warrant for which you had applied was executed at a different  
15 site, the FBI went there and dutifully involved themselves in  
16 the imaging process and then the business obviously wasn't  
17 disrupted, everybody had the same information, right?

18 A Right.

19 Q And that's why you brought the FBI in, right?

20 A And because --

21 Q Is that why you brought the FBI in?

22 A Not solely, but yes.

23 Q All right. But that wasn't done at Lawrence, was it?

24 A No.

25 Q Now, how long, if you know, were you at Lawrence?

1 A A couple of hours.

2 Q Are you guesstimating?

3 A Yes.

4 Q Could it have been less than a couple of hours?

5 A Um -- no.

6 **MR. KRUEGER:** You're talking about in total or for  
7 the whole day or what's the question?

8 **BY MR. LE BELL:**

9 Q The whole period of time that you were there.

10 A I don't think it was less than that, no.

11 Q And how many people were doing the search?

12 A I don't remember.

13 Q Give me a guesstimate.

14 A You mean total?

15 Q Yes.

16 A That day?

17 Q Yes.

18 A During --

19 Q At Lawrence.

20 A Oh. Oh, at Lawrence. Yeah, I wouldn't know.

21 Q Well, are we talking about more than ten?

22 A I don't know.

23 Q Wait a minute. Weren't you running the show? Last time I  
24 checked, I mean that's what you told me.

25 A I'm trying to picture it here. Possibly ten.



1 Q Possibly more?

2 A Yeah.

3 Q Yes?

4 A Yes.

5 Q And what were you doing when you were there for that few  
6 hours, whatever period of time it was, besides --

7 A Excuse me, I may be confused. I was not at Lawrence Drive  
8 for two hours. Are you talking Parkview?

9 Q Now, I'm talking about Lawrence.

10 A Okay. No, I wasn't there. I wasn't there two hours. I  
11 thought you said Parkview.

12 Q No.

13 A Where the FBI was imaging the computers.

14 Q At Lawrence, how long were you there?

15 A Oh, probably an hour.

16 Q The searching team was there for eight, approximately?  
17 Would that be a correct assessment?

18 **THE COURT:** Eight hours?

19 **THE WITNESS:** No.

20 **MR. LE BELL:** Eight hours, right.

21 **THE WITNESS:** No.

22 **BY MR. LE BELL:**

23 Q How long were they there?

24 A Six? Yeah, approximately six --

25 Q What time did --

1 A -- six and a half.

2 Q I'm sorry. What time did the search start?

3 A It was probably 11:00 or -- around 11:00.

4 Q Okay, but things wrapped up at 7:00, right?

5 A Yeah.

6 Q Okay, so 11:00 to 7:00 would be about eight hours?

7 A Yeah, I'm not sure of the exact start time, but yeah.

8 Q Okay. So as sort of the lead person, not sort of, as the  
9 person who was running the show, what specific duties did you  
10 perform when you were at Lawrence? I know you were  
11 coordinating with other individuals at other sites, right?

12 A Right.

13 MR. KRUEGER: Objection to the characterization of  
14 leading the show.

15 MR. LE BELL: Well, I'm using the vernacular.

16 BY MR. LE BELL:

17 Q You were leading the search, right?

18 A I obtained the search warrant.

19 Q Were you the lead detective in the search?

20 A Yes.

21 Q Thank you.

22 And so when you're leading the search as the lead  
23 detective, you're engaged in a number of things almost  
24 simultaneously while you're on site at Lawrence for that hour  
25 period, right?

1 A Right.

2 Q Sometimes you're on the phone coordinating with the other  
3 different sites of the search, right?

4 A Correct.

5 Q I assume you're talking to one of your lieutenants or  
6 other people about things, problems that may have arisen,  
7 correct?

8 A I don't remember doing that, but --

9 Q That's not out of the ordinary, would it be, in a search  
10 warrant --

11 A No.

12 Q -- execution?

13 And I assume you were coordinating with the folks who  
14 actually physically moved the pallets onto the trucks to make  
15 sure it was done correctly?

16 A No, I wasn't supervising that.

17 Q Well, in point of fact, there were people that were on  
18 site who were designated as drivers and operators of vehicles  
19 to get the pallets onto the trucks, right?

20 A Correct.

21 Q You were outside, I assume, for a portion of that hour to  
22 make sure that it was done correctly, is that right?

23 A No, I wasn't -- I wasn't watching them loading the  
24 documents, if that's what you're asking.

25 Q Okay.

1 A I did not supervise that.

2 Q Were you making notes contemporaneously with what you  
3 observed or anything that transpired in conjunction with that  
4 hour at Lawrence?

5 A No.

6 Q What else were you doing?

7 A At Lawrence?

8 Q Yes.

9 A Walking around the building, seeing where everybody was  
10 doing what they were asked to do.

11 Q Okay. So if there are 60 minutes in a day -- in an hour  
12 and there's ten people there, everybody got maybe six minutes  
13 at the most, except that that's probably not correct because  
14 you were on the phone for part of the time, right?

15 A Yes.

16 Q So maybe everybody got a minute or two, is that about  
17 right?

18 A Yes.

19 Q And so your observation of those folks who were on site  
20 for eight hours, you saw them for a minute or two total, right?

21 A Yes.

22 Q So you didn't see them go through the boxes, you didn't  
23 even see if they went through the boxes, did you?

24 A No.

25 Q You didn't see them go through the file drawers and you

1 didn't even see if they went through the file drawers, right?

2 A I did see someone go through a file drawer.

3 Q You saw one person in a period of one hour go through one  
4 file drawer in the entire suite of offices, right?

5 A Yes.

6 **MR. KRUEGER:** Objection, misstates the testimony.

7 **MR. LE BELL:** I thought that's exactly what she said.

8 **MR. KRUEGER:** She didn't say that was the only  
9 person.

10 **THE COURT:** Well, this is her chance to tell you.

11 **THE WITNESS:** If I may?

12 **THE COURT:** Go ahead, tell him what you saw in  
13 response to the question whether --

14 What's your -- restate your question.

15 **BY MR. LE BELL:**

16 Q As I understand it, and correct me if I'm wrong, you saw  
17 one person go through a file drawer, right?

18 A I saw many people doing many things, but I saw at least  
19 one person go through a file drawer.

20 Q All right. So when I asked you if you saw one person go  
21 through a file drawer, the answer is yes, right? Correct?

22 A Yes.

23 Q If I ask you if you saw two people go through a file  
24 drawer, you can't say yes, right, because you don't remember  
25 that?

1           **MR. KRUEGER:** Objection, misstates the testimony.

2           **THE COURT:** Overruled.

3           Do you remember that?

4           **THE WITNESS:** No.

5           **BY MR. LE BELL:**

6           Q     Okay. Now, you saw a lot of people doing different  
7 things. What were they doing?

8           A     They were searching through boxes upon boxes of documents  
9 to see if they pertained to Green Box.

10          Q     How many boxes were actually seized?

11          A     I don't know.

12          Q     Hundreds and hundreds of boxes, right?

13          A     Yeah.

14          Q     And in those hundreds and hundreds of boxes, how many  
15 people -- how many times do you actually think you saw somebody  
16 put their hands in those boxes? Five times? Six times?

17          A     I don't remember.

18          Q     Give me a guesstimate. Is that an underestimation?

19          A     Put their hands in the box?

20          Q     Yeah, going through the boxes, right.

21          A     I have no idea.

22          Q     Well, you were watching. Is it more than five times?

23          A     Yes.

24          Q     Less than ten times?

25          A     No, it was more than that.

1 Q Okay, so how many boxes did you see somebody actually sort  
2 of go through?

3 A I don't know.

4 Q Tell me, during that two minutes that you spent,  
5 approximately, give or take a few seconds, with every  
6 individual, were there any notes that you made of what that  
7 person was doing?

8 A No.

9 Q Were there any notes that were made of what that person  
10 said he or she found?

11 A No.

12 Q Was there any way that you immortalized what it was that a  
13 person did in the time that you saw them go into the box to try  
14 and differentiate what it was that was seizable and what  
15 wasn't?

16 A I'm sure I wrote an incident report, but I don't recall  
17 what I wrote.

18 Q Where is your incident report?

19 A I don't know.

20 Q Did you sign an incident report?

21 A No, we don't sign our incident reports.

22 Q You recorded it, right?

23 A Yeah.

24 Q You dictated it?

25 A Yeah. I probably typed it myself, but I don't recall what

1 I wrote.

2 Q Did you see anybody go through folders that were on a  
3 shelf and these folders would have been closed, having a flap  
4 over them, black in color?

5 A No.

6 Q No, you didn't see that?

7 A I don't recall that at all.

8 Q You're not saying it didn't happen, you're just saying you  
9 didn't see it personally, right?

10 A I don't remember it happening.

11 Q Okay. In the -- and you're not saying that it didn't  
12 happen in the seven hours that you weren't there, right? You  
13 were there for an hour, right?

14 A Yeah, I don't know anything about folders like that.

15 Q Okay. What -- the people that you brought with you to  
16 conduct this search, there was, I assume, a briefing that was  
17 conducted prior to leaving your facility and entering Lawrence,  
18 is that correct?

19 A I was not at that briefing.

20 Q Do you know what happened during the briefing of your own  
21 knowledge?

22 A No.

23 Q Did you ever tell the searching people what to do with  
24 respect to how to conduct the search?

25 A No. They had copies of --



1 Q No, no, I just want to know whether you --

2 A No.

3 Q -- told them. The answer's no?

4 A The answer's no.

5 Q Thank you.

6 Was there ever a time in that one-hour period and  
7 those kind of two minutes per person that somebody came up to  
8 you and said, hey, Sarge, should I seize this or should I leave  
9 it?

10 A I don't remember.

11 Q You would have remembered, right?

12 A In two years?

13 Q I don't care, two years, three years --

14 A No.

15 Q -- or five decades. It doesn't matter.

16 A No, I don't remember.

17 Q Did you have conversations with people on the scene about  
18 what you were doing there and what the effect would be of the  
19 search? And I'm talking about the employees or people who had  
20 offices on site.

21 A I don't recall.

22 Q You don't remember having any conversations or are you  
23 denying you had conversations with the employees?

24 A I don't remember -- having conversations with the  
25 employees?

1 Q Yes, ma'am.

2 A I spoke to three employees, I believe.

3 Q Who did you speak with?

4 A Phil Reinhart, Ty Willihnganz, and then I don't remember  
5 her name, but she -- I believe she was one of the ED5  
6 employees.

7 Q Some of these folks asked you about mirror imaging their  
8 computers, right?

9 A That day?

10 Q Yes.

11 A I don't recall that.

12 Q You're not denying it happened, you're just saying you  
13 don't recall it?

14 A I don't remember that.

15 Q Are you saying that it didn't happen or are you saying  
16 that you don't remember it.

17 **MR. KRUEGER:** Asked and answered.

18 **THE WITNESS:** I don't remember --

19 **THE COURT:** Sustained.

20 **THE WITNESS:** -- if they asked me --

21 **MR. KRUEGER:** Asked and answered.

22 **THE COURT:** Sustained.

23 **MR. KRUEGER:** He has a ruling.

24 **THE WITNESS:** Okay.

25 //

1 **BY MR. LE BELL:**

2 Q Now, you said that Thank you Willihnganz was a lawyer who  
3 had an office at Lawrence, right?

4 A Correct.

5 Q Mr. Willihnganz told you, did he not, that the computer  
6 which you were taking that belonged to him had information on  
7 it relating to his other clients who had nothing to do with  
8 Mr. Van Den Heuvel, right?

9 A I believe so.

10 Q And what did you do to ensure that Mr. Willihnganz had at  
11 least access to his other clients' materials; i.e., imaging the  
12 computer?

13 A I don't know if that particular computer was imaged.

14 Q Well, you just told us that nothing was imaged at  
15 Lawrence.

16 A No, not on that day. I mean later.

17 Q I don't care about later. I'm talking about right then  
18 and there.

19 A No.

20 Q No what?

21 A It was not imaged there.

22 Q And so what did you do to make sure that Mr. Willihnganz  
23 had immediate access to his clientele and all the information  
24 that related to those unrelated clients?

25 A Nothing.

1 Q How about the other businesses who had nothing to do with  
2 Mr. Van Den Heuvel who told you that their computer and  
3 information didn't have anything to do with Mr. Van Den Heuvel?  
4 What did you do to help those folks out have their records?

5 **MR. KRUEGER:** Objection, foundation.

6 **THE COURT:** Mr. LeBell, foundation?

7 **MR. LE BELL:** Sure.

8 **BY MR. LE BELL:**

9 Q There were other businesses on site, right? There was a  
10 woman who was an architect, or do you not know that?

11 A I don't remember --

12 Q Did you --

13 A -- an architect.

14 Q Sorry. I'm sorry, I didn't hear you.

15 A I don't remember an architect.

16 Q Did you inquire whether there were people that weren't  
17 related to Mr. Van Den Heuvel's business that had their own  
18 offices there?

19 A I did not inquire about -- my understanding was that the  
20 people who were in the offices had provided services for Ron  
21 Van Den Heuvel.

22 Q Okay. And was it your understanding or did you bother to  
23 inquire whether those folks all also had other business  
24 entities ongoing totally unrelated to Mr. Van Den Heuvel?

25 A No.

1 Q But how would you determine if somebody's wearing two hats  
2 and has two different sets of information what's relevant to  
3 the search and what's not relevant to the search?

4 A On the computer?

5 Q On the computer, in hard copies sitting on the desk, in  
6 fold file -- or file folders, in laterals, in verticals, you  
7 name it.

8 A I would determine that upon examination.

9 Q Okay, so it's seize now, determine later. That's the  
10 mantra basically that was used for the search, is that correct?

11 **MR. KRUEGER:** Objection --

12 **THE WITNESS:** No, that's not correct.

13 **MR. KRUEGER:** -- mischaracterizes.

14 **BY MR. LE BELL:**

15 Q That's not correct?

16 A No.

17 Q Well, you just told me that you would determine what was  
18 within the scope and what was outside of the scope by later  
19 analysis, right?

20 **MR. KRUEGER:** Objection, mischaracterizes.

21 **MR. LE BELL:** To the contrary, that's exactly what  
22 she said.

23 **THE COURT:** She can answer the question.

24 Is that what you told him? You can answer. That's  
25 the question. He's asking what your testimony was.

1 Go ahead.

2 **BY MR. LE BELL:**

3 Q Is that correct?

4 A I'm sorry.

5 Q You just told me, and correct me if I'm wrong, that you  
6 determine what's relevant and what's not relevant after the  
7 fact. You get it back to the warehouse, take a look at the  
8 stuff, you have the time to cull through it and say, okay, this  
9 goes in a pile of rejects, this goes in a pile that's accepts.  
10 Right?

11 A In the instance of the computers, yes.

12 Q Well, in the instance of the paperwork too, because you  
13 obviously -- you already testified there's a whole bunch of  
14 medical records, which clearly didn't fall within the scope,  
15 right?

16 A Our team did their best to stay --

17 Q Just answer the question. I don't want an explanation.

18 A I thought I was.

19 Q Okay. So the process under which you operate, and correct  
20 me if I'm wrong, is basically seize and then later analyze  
21 what's relevant and what's not relevant?

22 A That was not our intent.

23 Q But that's the way it worked out, isn't it?

24 A In some instances there were items that were among the  
25 items that were within the scope of the search that turned out

1 to be outside of the scope of the search.

2 Q Now, by varying estimates there was somewhere in the  
3 neighborhood, depending on whose assessment you use, of 500,000  
4 to as many as a million documents that were taken from  
5 Lawrence. It depends on -- and it really is academic for the  
6 purposes of today.

7 A Okay.

8 Q Let's assume the lower end, there's 500,000 documents.  
9 Are you telling me that your searchers went through 500,000  
10 dollars (sic) to be able to discern --

11 MR. KRUEGER: I think it was --

12 THE COURT: Five hundred thousand documents.

13 MR. KRUEGER: Yeah, and I'm going to object to the  
14 foundation on this as well.

15 MR. LE BELL: What foundation? I'm asking a  
16 question, if that's what the process was.

17 MR. KRUEGER: You just -- you represented to her a  
18 number of pages that were seized and I'm questioning the  
19 foundation for that.

20 MR. LE BELL: It's a hypothetical and it really  
21 doesn't make a difference whether it's 300,000 or 500,000.

22 THE COURT: Well, why don't you just ask her if she  
23 went through every -- if they went through every document that  
24 was there that they seized.

25 MR. LE BELL: All right.

1 **BY MR. LE BELL:**

2 Q Is it your testimony that your searchers went through  
3 every single document that was seized from Lawrence to  
4 determine whether they were in the accept category or the  
5 reject category?

6 A No.

7 Q So they didn't, did they?

8 A No.

9 Q And how many times -- what percentage of actual -- let's  
10 see if I can phrase the question correctly. What's the  
11 percentage of actual documents did they go through to determine  
12 whether it was the reject or the accept?

13 **MR. KRUEGER:** Objection, foundation.

14 **BY MR. LE BELL:**

15 Q If you know.

16 A I don't know.

17 Q Well --

18 **THE COURT:** Okay, are we going to even finish this  
19 witness today?

20 **MR. LE BELL:** Probably not at this point.

21 **THE COURT:** You have a lot more?

22 **MR. LE BELL:** I have -- I'm sorry.

23 **THE COURT:** I have some questions that maybe we  
24 should take up outside, but I think we can shorten this. I  
25 just don't -- I think we're getting nowhere, frankly. But I



1 would like to adjourn but keep counsel here to address some  
2 matters, including rescheduling. All right?

3 **MR. LE BELL:** Sure.

4 **THE COURT:** All right. Sgt. Shartner, thank you.  
5 You are free to step down and go.

6 **(Witness excused)**

7 I appreciate Sgt. Shartner's testimony is what she  
8 thought the warrant said.

9 **MR. PORTER:** I'm sorry, Your Honor, may I have my  
10 client excused --

11 **THE COURT:** Sure.

12 **MR. PORTER:** -- for purposes of this conversation?

13 **THE COURT:** Yes. We're not longer in an evidentiary  
14 portion. There's no absolute right to be here. You can  
15 certainly fill her in. This is not evidence.

16 **MR. PORTER:** And I will. Thank you.

17 **MS. DE LANGE:** Thank you, Your Honor.

18 **THE COURT:** You're welcome.

19 **(Defendant Kelly Van Den Heuvel excused)**

20 But I'm looking at these warrants and they're all  
21 essentially the same and I realize we've been emphasizing  
22 Category 7, which has a time limit, but I'm looking at Category  
23 Number 5, which authorizes the seizure of papers, papers,  
24 including, but not limited to, spreadsheets, binders, and  
25 accompanying ledgers. Now, if they're authorized to take

1 papers and they're also authorized to take all computers,  
2 storage devices, media, is this really an argument that law  
3 enforcement exceeded the authority granted them by this warrant  
4 when they took all of the papers?

5 And maybe my grammar isn't -- maybe I'm missing on  
6 the rules of grammar, but if some -- if a warrant says take all  
7 papers, including, but not limited to, spreadsheets, binders,  
8 and accounting ledgers, what are we left with?

9 **MR. LE BELL:** Well, let me answer it, maybe you  
10 weren't addressing it to me, but --

11 **THE COURT:** No, I'm addressing it to all of you. You  
12 know, obviously the warrant authorized a wide -- I'm trying to  
13 find where the time limit is.

14 **MR. LE BELL:** The --

15 **THE COURT:** And whatever the officer thinks, this is  
16 a legal question, what the warrant by its terms authorized.  
17 Now, whether that's a valid warrant is a separate question.

18 But your argument is that the officers exceeded their  
19 authority and she tried to say at one point that each one had a  
20 copy of the warrant and if you have a copy of a warrant that  
21 authorizes you to take all papers, including, but not limited  
22 to, and it goes on from there, how are you -- what's the  
23 argument that they exceeded the authority granted them by this  
24 warrant?

25 **MR. LE BELL:** Because there's an incongruity in the

1 search itself and any reasonable copy who is executing a search  
2 would say wait a minute, I've got parameters here, as set forth  
3 in Paragraph A, which is December 31st, 2010 --

4 **THE COURT:** So you think a reasonable officer would  
5 say I'm supposed to go through 500,000 or 300,000 or however  
6 many documents while executing a search warrant, each  
7 individually, and look at the date on them?

8 **MR. LE BELL:** That's one of the --

9 **THE COURT:** That's a reasonable interpretation of the  
10 warrant too?

11 **MR. LE BELL:** I guess, without being snarky, that's  
12 one of the burdens that law enforcement bears if they're going  
13 to go try and execute a search warrant at a large corporation.  
14 Would the same argument be valid if they went to a GM plant and  
15 seized nine gazillion documents and said, okay, we're going to  
16 shut you down but it's all the paper that we could find? It  
17 doesn't -- that doesn't fly for me.

18 When you have an experienced law officer who takes a  
19 look at a search warrant on its face -- these people are not  
20 stupid, they are -- they're designed through their employment  
21 to be able to analyze written documents. They're trained.  
22 They look at it and anybody on their place can see there is an  
23 incongruity. If you allow somebody to go in and search and  
24 take every paper, you could take toilet paper for that matter,  
25 it's ludicrous. So the parameters are within the timeframe

1 that's established.

2 **THE COURT:** Aren't you making an argument that the  
3 warrant on its face was invalid and it was so obviously invalid  
4 that there's no good faith exception that applies here?

5 **MR. PORTER:** Yes. Yes, we are. And, Judge, I think  
6 that the question that you asked is a question that the  
7 Government needs to answer. I mean, you know, what warrant are  
8 they defending? Because I would hope that everyone in this  
9 room would agree that a warrant that sought all papers is --  
10 that is a general warrant. And so if that's what they're  
11 defending, then we can litigate that. If they're defending a  
12 warrant that is from 12/31/10 to the present, that's more  
13 constrained, but our view is that that is shockingly broad as  
14 well and factually the execution of the warrant is relevant to  
15 this discussion.

16 But I think the first question is one that what's the  
17 Government trying to -- you know, what are they defending here?

18 **MR. KRUEGER:** As laid out in our papers and I think  
19 is consistent with the testimony heard so far and would hear  
20 that the officers at the time interpreted this warrant to view  
21 the date limitation as applying to the other categories.  
22 Because the officers are trained under Leon if they've got a  
23 warrant that said you can take everything, then you can in good  
24 faith really execute that. And so at the time and consistent  
25 with the instructions they were given, they were -- they

1 understood the limitation of the date to apply and that's how  
2 we argue this and it's consistent with what actually happened.

3 That's -- similarly under Seventh Circuit cases, when  
4 you have an overbroad warrant there's a severance principle  
5 that the overbroad portion is excised and the portion that is  
6 particularized still applies. That would be true after the  
7 fact and we're arguing that. But again, at the time they  
8 understood this -- and I think that's actually the reasonable  
9 reading of it for the reasons Mr. LeBell said, an officer  
10 reading this would say it can't possibly mean that I grab the  
11 toilet paper because that's a paper. You know, they understood  
12 it to be scoped.

13 **THE COURT:** Doesn't it seem -- I mean I think  
14 everybody concedes they couldn't possibly look at every  
15 document and check the date. There were just too many.

16 **MR. KRUEGER:** Right. And so that goes to the -- that  
17 goes to the --

18 **MR. JOHNSON:** We've cited some authority for that  
19 proposition, that in those situations it's appropriate to seize  
20 the containers and then review the documents.

21 **MR. PORTER:** Well, Judge, the basis for -- I do think  
22 that that exercise or that execution of a warrant is  
23 unreasonable. And that -- I mean their argument is that these  
24 were businesses permeated by fraud. I mean I think was the --  
25 you know, it's the investment --

1           **THE COURT:** The Bentley (ph.s.) case.

2           **MR. PORTER:** Yes. And you've heard -- just the  
3 testimony you've heard today destroys that argument. I mean  
4 there were over 50 employees working in these businesses.  
5 There were ten employees on site. There was not -- there has  
6 been no testimony that any case that what was happening at 2077  
7 was just a, you know, a boiler room or, you know, an example  
8 of -- in a different kind of fraud situation where it's a  
9 credit card fraud, right, where you've got the machines and  
10 you've got the blank cards and you've got the documents that  
11 have the account statements. That's not what this is at all.  
12 And so that is a very heavy --

13           **THE COURT:** Is that what Bentley requires? I mean  
14 there was a going business here, it seems.

15           **MR. KRUEGER:** I think this is important to clarify.  
16 The -- first of all, this issue of permeated by fraud will be  
17 determined by the search warrant affidavit, not through an  
18 evidentiary mini trial of the merits. So you have to ask does  
19 the affidavit establish permeated by fraud.

20           But as to what came out and I should clarify it is  
21 there is Patriot Tissue, there's about 40 employees there that  
22 are making something. At the office suite nothing is being  
23 made and the evidence set out in the affidavit shows it was  
24 close to a boiler room. They were all helping  
25 Mr. Van Den Heuvel create presentations and create a fiction of

1 this Green Box process to then try to get money from investors.  
2 So that is what we're -- what's established through the  
3 affidavit.

4 **MR. PORTER:** Well, respectfully, Your Honor, that's  
5 not what this affidavit says at all. This affidavit says that  
6 there was a presentation to Mr. Orahua (ph.s.), he gave money  
7 and at least half of that money went to not Green Box but to  
8 other purchases.

9 That's not -- if that occurred, and there's not been  
10 an indictment of that as far as I'm aware, but if that  
11 occurred, then that will be litigated in an indictment  
12 somewhere. But that doesn't -- that's not close to a boiler  
13 room situation and there's been no testimony about that. What  
14 the testimony has been is that there were legitimate operations  
15 ongoing. And it's the Government's burden to show that there  
16 was this permeation of fraud ongoing and they haven't -- they  
17 haven't introduced that here and so for them to hang their hat  
18 on that I think is belied by the testimony.

19 **MR. KRUEGER:** Again, that turns on the affidavit. We  
20 don't have to put on evidence of permeated by fraud. That's  
21 what our criminal case would be.

22 **THE COURT:** Well, and I think Mr. Porter's first  
23 argument is the affidavit doesn't establish that it was  
24 permeated. It doesn't provide the basis. So he didn't meet  
25 your argument, he went beyond it, and your argument that you

1 look at the affidavit is a different one.

2 Well, given where we are and given these facts, do we  
3 need to have a lot more testimony or do you think --

4 **MR. JOHNSON:** Can I suggest this?

5 **THE COURT:** Yeah. Anything, Mr. Johnson.

6 **MR. JOHNSON:** I'm taking your concerns seriously.  
7 They deserve to be taken seriously. Not just because you're  
8 the Judge, I mean they make sense. I think it may be possible  
9 for us to, if not reach an agreement, at least sort of severely  
10 limit the issues regarding the examination of --

11 **THE COURT:** Yeah.

12 **MR. JOHNSON:** -- the scope of the search. What I  
13 might suggest is that Mr. Krueger and I will discuss seriously  
14 on our drive back to Milwaukee today some ideas that I have  
15 ruminating in my brain to possibly try to resolve that. If it  
16 seems upon our discussion that those are wise, we will promptly  
17 share them with Defense counsel and propose some way that we  
18 can perhaps eliminate or at least minimize whatever additional  
19 need we have for an evidentiary hearing.

20 **THE COURT:** Why don't we see if we can schedule today  
21 a continuation of the hearing, but not Monday. Let's put it  
22 off, if we can, either later next week or the following week.

23 What's our trial date? What are we looking at?

24 **MR. JOHNSON:** October 23rd.

25 **THE COURT:** Okay, so we want to get these issues



1 resolved and so maybe at the end of next week or the following  
2 week.

3           Now, in between that time I certainly invite you to  
4 see if you can reach some resolution. On the other hand, don't  
5 misunderstand me here. I do not intend to, you know, prevent  
6 you from making a record or from foregoing claims that you  
7 think or arguments that you think are legitimate. I've raised  
8 questions because they've come up in my mind and I have a  
9 tendency to voice them. Maybe I shouldn't. But hopefully if  
10 they're valid then you'll consider them and maybe they'll guide  
11 us toward a resolution that everybody is comfortable with. If  
12 not, well, I'll do what Judges are supposed to do and I'll make  
13 a decision. All right?

14           **MR. PORTER:** Judge, can I --

15           **THE COURT:** Yeah.

16           **MR. PORTER:** -- I guess ask you about a couple of  
17 different categories of evidence that would those be helpful to  
18 Your Honor?

19           **THE COURT:** Sure.

20           **MR. PORTER:** One is the 3200 pages and my argument  
21 anyway is that the testimony that you've heard thus far is that  
22 there was not a plain view analysis on site, which there must  
23 be. You know, the plain view, as we all historically know  
24 about it, is you do a document warrant, officers go in and they  
25 find cocaine or they find child pornography or they find a

1 weapon or something like that that is obviously -- a weapon  
2 gets a little more dicey because of the Second Amendment, but  
3 is obviously criminal. The testimony we heard here was that  
4 that -- no one was on site searching and seeing a Horicon Bank  
5 document and saying, ah-ha, I know that this is criminal in  
6 nature. That was not the testimony. The testimony was that  
7 she brought it back, was looking at it and was putting things  
8 in boxes. There's more testimony that I think, if Your Honor  
9 was interested, we could establish there. But that alone I  
10 think is not sufficient under the plain view doctrine.

11 But would it be useful for Your Honor to just look at  
12 those 3200 pages of documents? And if not you, for us to try  
13 to collectively categorize what those are? Because I think  
14 most, if not all, of those pre-date 12/31/2010.

15 **THE COURT:** Well, I'm not sure I have to look at them  
16 all, but I think that type of a description, if you can reach  
17 agreement that they pre-date that, pre-date the -- that will  
18 help in one respect. I mean, again, I look at the plain  
19 language of the warrant and I'm bothered by this warrant for  
20 the reasons I've said.

21 **MR. PORTER:** Right.

22 **THE COURT:** But in any event, I think that that  
23 would -- that's a way to narrow things, if you can agree that  
24 those documents, most of them or all of them or all but this  
25 many, precede the -- what's viewed as perhaps an operative date

1 in this warrant.

2 **MR. PORTER:** And Judge, the other I guess category of  
3 documents is -- and you'll remember that in August of '16 just  
4 a bunch of stuff was returned to Green Box or  
5 Mr. Van Den Heuvel or whoever. Right? And those were -- the  
6 Government took those and returned those. Didn't make copies,  
7 didn't -- just handed them back. And kept what I believe was a  
8 fairly small subset of that, about 330,000 pages of documents.  
9 I would like to get to you at least a rough number of how many  
10 pages of documents were returned and I'd also like to get to  
11 you how much of that pre-dated December 31st of 2010. Because  
12 I will just represent from my eyeball of the stuff, it is way  
13 more than five percent.

14 **THE COURT:** I think that that kind of information,  
15 which -- you know, we don't need an evidentiary hearing going  
16 document by document, and I encourage you to reach ballpark  
17 estimates, if that's the best you can do, and indicate. Now,  
18 this isn't conceding anything, other than the fact that the  
19 documents would show this percentage were returned of the  
20 total, and that would be helpful if that is essentially --  
21 because I assume returned without copying is a concession that  
22 they're not relevant.

23 **MR. PORTER:** Right.

24 **MR. KRUEGER:** Judge, I hate -- not to belabor it, but  
25 this is actually to our mind an important point. The testimony

1 through Special Agent Austin would be that when FBI went to do  
2 that operation in June certainly if they thought something was  
3 outside the scope, set aside, but that there was a substantial  
4 amount of material that would have been within the scope of the  
5 warrant but which for purposes of trying to scope the  
6 investigation, move things forward, that they returned quite a  
7 bit of other things too. So --

8 **THE COURT:** Okay, so you're not -- you wouldn't  
9 concede that what you returned isn't a percentage -- that  
10 doesn't reflect the percentage that was seized that was beyond  
11 the extent of the warrant.

12 **MR. KRUEGER:** No, not at all.

13 **MR. PORTER:** And, Your Honor, I don't --

14 **THE COURT:** That's fine.

15 **MR. KRUEGER:** It was quite far from that.

16 **THE COURT:** That's fine. Still the numbers would be  
17 helpful.

18 **MR. PORTER:** Yeah, because I think Mr. Krueger is  
19 correct that there may well be documents, you know, from 1/1/11  
20 to July 2nd of '15, so that they're within the warrant and they  
21 may even relate to Green Box, but they are 30 copies of the  
22 same presentation, just as an example. Those are responsive to  
23 the search warrant, but stuff before that -- my only point is  
24 there was a lot of stuff that was returned that was not  
25 responsive because it pre-dated that 12/31/2010 date, to the

1 extent that that's how we're reading this, you know, the  
2 limitation of this warrant.

3 So I'd like to get you that information. That may  
4 take a little bit of time, though.

5 **MR. KRUEGER:** I mean I'm doubtful that can actually  
6 be done, so I wouldn't want to hold things up to try to get to  
7 that sort of number. But I think we can talk to Defense  
8 counsel and get to whatever numbers we can agree upon.

9 **THE COURT:** Well, you may, based on what's ruminating  
10 in Mr. Johnson's mind, conclude that maybe you don't need  
11 those. But let's see where we are. Those types of agreements,  
12 stipulations, would be helpful. I think it would be helpful  
13 for you in making the record that I think you want to make and  
14 at the same time, to the extent you need to have live  
15 testimony, we'll certainly, you know, make arrangements for  
16 that.

17 Let's look at our calendars and see what things look  
18 like for next week.

19 **MR. LE BELL:** Judge, I can say my next week is just  
20 absolutely jammed.

21 **THE COURT:** Okay.

22 **MR. LE BELL:** I've got -- what about the 24th of  
23 August, or this month?

24 **THE COURT:** Court trial 23rd through the 25th. 28th  
25 looks really wonderful. That's a Monday. And we could go the

1 next day as well. 28th, 29th.

2 **MR. LE BELL:** I mean I have court all over the place.

3 **MR. KRUEGER:** Well, Your Honor, I'll say we discussed  
4 this a little bit this morning. Our only concern is that we  
5 certainly don't want to do anything which is going to postpone  
6 the October 23rd trial date.

7 **THE COURT:** Right.

8 **MR. LE BELL:** Your Honor, could we do the 31st and  
9 1st, that Thursday/Friday, if we needed the Friday, if we  
10 needed more than one day?

11 **THE COURT:** Nothing I can't move, so yes.

12 **MR. LE BELL:** I have an 8:30. I can try and get out  
13 of it, but otherwise I could start, if we're going to do the  
14 two days, I could start as soon as I get out of court in  
15 Milwaukee.

16 **THE COURT:** What kind -- is it the kind of hearing  
17 you don't think you --

18 **MR. LE BELL:** It's not. Under normal circumstances  
19 there wouldn't be any problem. It's a sexual assault case.  
20 But a new Judge is taking over the case and I think she's going  
21 to look to everybody in the courtroom to familiarize herself.  
22 I will try and contact her. She's on the bench.

23 **THE COURT:** Let's tentatively put it 9:00 o'clock  
24 starting on the 31st.

25 **MR. LE BELL:** If there's a problem --

1           **MR. KRUEGER:** I'm sorry to ask, is there any chance  
2 30/31 is possible?

3           **MR. LE BELL:** 30 isn't, I've got court all over the  
4 place.

5           **THE COURT:** I'm moving things whatever we do, so --  
6 but I'm the Judge, I get to do that.

7           **(Laughter)**

8           **MR. KRUEGER:** I have travel plans that Friday for the  
9 Labor Day weekend. I could risk marital strain and move them,  
10 but it sure would be nice if we could find some date other than  
11 that in the next three weeks.

12           **THE COURT:** On the other hand, if we're good the 31st  
13 it may be that with the --

14           **MR. KRUEGER:** Well, for what it's worth --

15           **THE COURT:** -- discussion we've had --

16           **MR. KRUEGER:** -- our subsequent witnesses, if we have  
17 to get into them, should be, I hate to say this after today,  
18 but should be pretty short.

19           **THE COURT:** I think we have a pretty good idea of  
20 what went on and hopefully it shouldn't -- and I don't see a  
21 big dispute between the parties as to what went on. I don't  
22 see Sgt. Shartner saying we carefully reviewed every document  
23 to make sure that it fit within the parameters of the warrant.  
24 That's not her argument. That's not her testimony. So  
25 however -- you know, wherever that leaves us, I hope we don't

1 have to belabor this longer.

2 But why don't we aim for the 31st. We'll certainly  
3 try to complete it that day. And I don't know, other than --  
4 you know, Judges can do a lot, but they can't do much to help  
5 marriages.

6 **(Laughter)**

7 **MR. KRUEGER:** I appreciate that. If you did, you'd  
8 be very impressive. Is there any way we can request an earlier  
9 start time? I don't know if you ever start before 9:00.

10 **THE COURT:** I certainly can do the 8:30. Beyond  
11 that, it's tough on staff. But the problem is Mr. LeBell has  
12 got to try to move things.

13 **MR. LE BELL:** Well, I'll just have Judge Stark call  
14 you.

15 **THE COURT:** That's fine.

16 **MR. LE BELL:** I'll work-- I'll try and work it out.

17 **THE COURT:** I'll be happy to explain to her our  
18 predicament.

19 **MR. LE BELL:** I'll try and work it out.

20 **THE COURT:** Yeah.

21 **MR. LE BELL:** Okay.

22 **THE COURT:** All right, then, the 31st and potentially  
23 the 1st as well.

24 **MR. LE BELL:** And if you want to do it, I mean if I'm  
25 up here I don't care when you want to start. Doesn't matter.



1 I'll just come up the night before.

2 **MR. PORTER:** Actually, this is the beauty of all  
3 these schedules, I'd prefer to start right at 9:00. Someone's  
4 leaving the U.S. Attorney's Office in Chicago on the 30th, I  
5 was his supervisor, I'm speaking at his going away.

6 **THE COURT:** Sure. Nine o'clock is fine.

7 **MR. PORTER:** So I'm going to get up here the morning  
8 of the 31st.

9 **THE COURT:** Nine o'clock is fine.

10 **MR. PORTER:** Thank you.

11 **THE COURT:** I am hopeful that our progress today, but  
12 also our discussions can lead us to a --

13 **MR. LE BELL:** Yes.

14 **THE COURT:** -- more concise hearing on the record.

15 All right, thank you all. Have a good weekend.

16 **(Counsel thank the Court)**

17 **(Off the record from 4:35:22 p.m. to 4:35:36 p.m.)**

18 **MR. LE BELL:** My reply -- I'm sorry, my reply brief  
19 on the non-evidentiary hearings are due on the 18th in front of  
20 Judge Jones. Can we put that off until after we're done with  
21 this, because some of (indisc.). Not a lot, but --

22 **THE COURT:** On which issues?

23 **MR. LE BELL:** One is on severance of the counts, one  
24 is on the actual facial attack on the search warrant. I didn't  
25 bring my file, there might be a third one.

1           **MR. PORTER:** Judge, we were intending to -- we have a  
2 reply due on a grand jury issue and while I'd love to have more  
3 time, we can get our reply in on Friday for that. But in terms  
4 of the warrant, it just strikes me that it makes more sense to  
5 think about additional briefing after we've either compromised  
6 or not compromised and finish this hearing.

7           **MR. JOHNSON:** Your Honor, it really is a separate  
8 issue.

9           **THE COURT:** The validity of the warrant.

10          **MR. JOHNSON:** Yeah, the validity of the warrant is  
11 decided strictly of the basis of the face of the warrant, so it  
12 doesn't seem to me that whatever happens in this hearing would  
13 much, if at all, affect those arguments.

14          **MR. LE BELL:** I just have some --

15          **THE COURT:** And it might even make the other  
16 arguments less relevant.

17          **MR. LE BELL:** I just have some logistical issues that  
18 I need some more time, so --

19          **THE COURT:** Mr. LeBell, we're missing you --

20          **MR. LE BELL:** I'm sorry --

21          **THE COURT:** -- but you said, you've asked to put it  
22 off, put off your reply till after the evidentiary hearing and  
23 you indicated you have some logistical problems.

24          **MR. LE BELL:** Personal stuff with the secretarial  
25 staff, but -- or non-secretarial staff I should say.

1           **THE COURT:** And you owe a reply is what you're  
2 trying --

3           **MR. LE BELL:** It's my reply.

4           **THE COURT:** Your reply on the validity of the  
5 warrant. Go ahead, I'll allow that, but I'm going to look at  
6 it and if I conclude you win even without a reply I may let you  
7 know that. If that will help us do other things. But I mean I  
8 have your primary brief and I have the response. If the  
9 response isn't convincing, you're not going to help yourself  
10 with the reply. You're not going to hurt yourself by not  
11 replying. You can still throw in your reply for the record,  
12 but I may be able to -- you know, I'll take a close look at  
13 what's been already out there and see where we are.

14           **MR. LE BELL:** There's also the severance motion and I  
15 just I need a little more time on that one, too. I don't  
16 care --

17           **THE COURT:** Yeah, well, the severance is before  
18 Judge Jones, so --

19           **MR. LE BELL:** Correct.

20           **THE COURT:** -- I don't mind if you push that off.  
21 I'm going to -- we're going to keep our trial date. That's  
22 what I insist on.

23           **MR. LE BELL:** No, no, no, I didn't mean that. I  
24 meant like a week or two. I just need some time to get a  
25 typist in.

1           **THE COURT:** Okay. Well, confirm that with  
2 Judge Jones, because he's going to have to do a decision and a  
3 report and recommendation essentially.

4           **MR. LE BELL:** Okay.

5           **THE COURT:** Or an opinion that's subject to further  
6 appeal.

7           All right, then we're in recess. Thank you all.

8           **(Counsel thank the Court)**

9           **(This proceeding was adjourned at 4:38 p.m.)**

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



November 24, 2017

TONI HUDSON, TRANSCRIBER

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