

1 UNITED STATES DISTRICT COURT  
 2 WESTERN DISTRICT OF LOUISIANA  
 3 SHREVEPORT DIVISION

4 UNITED STATES OF AMERICA \* Criminal Action  
 5 No. 06-50164  
 6 VERSUS \*  
 7 Shreveport, Louisiana  
 8 TOMMY K. CRYER \* July 10, 2007  
 9 Morning Session  
 \* \* \* \* \*

10 VOLUME II  
 11 TRANSCRIPT OF TRIAL  
 12 BEFORE THE HONORABLE S. MAURICE HICKS, JR.  
 UNITED STATES DISTRICT JUDGE, and a jury.

13 APPEARANCES:

14 For the Government: AUSA Earl M. Campbell  
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25 PROCEEDINGS PRODUCED BY MECHANICAL STENOGRAPHY AND TRANSCRIBED  
 BY COMPUTER.

1 MORNING SESSION

2 JULY 10, 2007

3 (Court called to order at 8:52 a.m. with  
4 defendant present, jury absent.)

5 THE COURT: Good morning. Please be seated.

6 Mr. Becraft, you had something you wanted to put on the record  
7 in the manner of housekeeping details before we get the jury  
8 in?

9 MR. BECRAFT: That's correct, Your Honor. Yesterday  
10 an issue came up that I think will probably come up during the  
11 examination of Mr. Cryer. I think the Government might have a  
12 hearsay objection to certain of his testimony, so last night  
13 all I did -- I don't have a brief. I printed out some cases  
14 and I've got a rule.

15 On the issue of conversations with third parties, I'm  
16 not going to offer that type of testimony for the truth of the  
17 matter asserted. It will be under hearsay exception 803(3).  
18 And in the defendant's trial brief that was submitted earlier  
19 in this case, I direct the Court's attention to page 8. There  
20 was a case called Miller v. The United States, 120 F.2d 968,  
21 which says whenever the belief of a person or the motive of his  
22 act or conduct is material, he may not only directly testify  
23 that he had no intent to defraud, but he may buttress such  
24 statements with testimony of relevant circumstances, including  
25 conversations had with third persons or statements made by the

1     them tending to support his statement that he had no intent to  
2     defraud.

3                     What I'd like to provide to the Court -- you know, I  
4     just got on the Loislaw last night and pulled up some cases. I  
5     have a copy of a Fifth Circuit case. It's from United States  
6     v. West, 22 F.3d 586. I've got a copy here. And what I did  
7     for the Court, I just have a blue tab here and then I've kind  
8     of highlighted or bracketed the excerpt where the Fifth Circuit  
9     agrees with this proposition, and I'd like to pass it up to the  
10    Court.

11                    THE COURT: All right.

12                    MR. BECRAFT: That's all, Your Honor.

13                    THE COURT: It's premature at this point.

14                    MR. BECRAFT: I just wanted to take it up now.

15                    THE COURT: I'm not going to rule on it.

16                    MR. BECRAFT: I understand that, Your Honor.

17                    THE COURT: Mr. Campbell, any comment?

18                    MR. CAMPBELL: Yes. I'm aware of the line of cases  
19     that deal with that situation where third-party conversation  
20     may be offered not for the truth but for, I guess state of mind  
21     exception is where I think Mr. Becraft is going with this, and  
22     if it's truly offered for that, that purpose, which I take  
23     Mr. Becraft at his word, the Government would not have no  
24     objection. But depending on the content of the third-party  
25     conversation, especially if it goes to views or opinions about

1 the law or the state of the law and so forth, the Government  
2 would ask the Court for a cautionary instruction to the jury so  
3 that they know that these views are not offered for the truth  
4 but are offered to show the defendant's state of mind and if  
5 there's an assertion about the law, that the judge give the  
6 correct law so that there's no confusion as to what the state  
7 of the law is, nor is there any confusion as to the purpose for  
8 which the statement is being offered.

9 THE COURT: All right. We'll look into this. I'm  
10 not going to rule on it. I have your filing this morning.  
11 Anything else?

12 MR. BECRAFT: No, Your Honor.

13 THE COURT: Mr. Campbell, I want to make sure that we  
14 have the stipulation on the record. The stipulation submitted  
15 to the Court yesterday has been changed by agreement of the  
16 counsel involved in this case. In this instance, paragraph 8  
17 of the signed Stipulation will be omitted. Paragraph 9 will in  
18 fact be read. Is that correct, Mr. Campbell?

19 MR. CAMPBELL: That's correct, Your Honor.

20 THE COURT: Mr. Becraft, is that likewise correct?

21 MR. BECRAFT: Yes, Your Honor. I believe we made a  
22 mistake when we were --

23 THE COURT: We just want to be sure we read the right  
24 thing to the jury.

25 MR. BECRAFT: Yes. It's correct.

1           THE COURT: All right. With nothing further, we're  
2 still missing -- do we have the jurors here?

3           THE CLERK: Yes, sir.

4           THE COURT: All right. Let's go ahead and get the  
5 jury.

6           All rise for the jury.

7                         (Jury enters courtroom.)

8           THE COURT: All right. Our jury has arrived. Please  
9 be seated.

10           Good morning, ladies and gentlemen. Before we  
11 present the evidence portion of the case, beginning with the  
12 Government, there are several stipulations that have been  
13 signed by the parties. The following facts, their foundation  
14 and admissibility of the following is to be accepted by you as  
15 proven without having anyone testify to them.

16           First, Tommy K. Cryer received a juris doctor law  
17 degree from the Louisiana State University Law Center in 1973.

18           Second, from 1993 to the present, Tommy K. Cryer  
19 resided in the Western District of Louisiana.

20           Third, Tommy K. Cryer is a licensed attorney under  
21 the laws of the State of Louisiana.

22           No. 4, Tommy K. Cryer is a sole practitioner  
23 practicing under the name of Tommy K. Cryer, Attorney at Law,  
24 which is located in Shreveport, Louisiana.

25           Five, as part of his legal and business practice,

1 Tommy K. Cryer charges a monetary fee in exchange for his legal  
2 services.

3 Six, Gloria Worthey is an employee of Tommy K. Cryer  
4 at the law firm of Tommy K. Cryer, Attorney at Law.

5 No. 7, Government Exhibit 36 is a true, accurate, and  
6 authentic copy of the Tommy K. Cryer trust instrument.

7 And finally, the employment identification number  
8 assigned to the Tommy K. Cryer law practice is 72-0765328.

9 All right, ladies and gentlemen. That concludes the  
10 stipulated portion of facts that require no further proof.

11 GOVERNMENT'S CASE IN CHIEF

12 THE COURT: Mr. Campbell, are you ready to present  
13 your first witness this morning?

14 MR. CAMPBELL: Yes, Your Honor. The Government calls  
15 Ms. Gloria Jackson.

16 (Witness called and sworn.)

17 MR. CAMPBELL: May I begin, Your Honor?

18 THE COURT: You may.

19 DIRECT EXAMINATION

20 BY MR. CAMPBELL:

21 Q. Will you introduce yourself to the members of the jury.

22 A. My name is Gloria Jackson.

23 Q. And spell your first name.

24 A. G-L-O-R-I-A.

25 Q. And last name?

1 A. J-A-C-K-S-O-N.

2 Q. And Ms. Jackson, what do you do for a living?

3 A. I work for the Criminal Investigation Internal Revenue  
4 Service division.

5 Q. And how long have you been with the Criminal  
6 Investigation Division?

7 A. For 13 years; with Internal Revenue Service, 33 years.

8 Q. Let's talk for a moment about your background and your  
9 professional experiences. Let's start with what you did with  
10 the IRS before you started working with the Criminal  
11 Investigation Division.

12 A. When I initially applied for a job through Civil Service  
13 with Internal Revenue Service, I worked in Receipt and Control  
14 where we receive documents, process them, number them, batch  
15 them, and send them on their way so that other departments can  
16 process those documents and file them. After that, I worked in  
17 Collections where we sent out notices, we adjusted accounts.  
18 And then I worked with review groups, whichever they needed me;  
19 I was detailed in several positions. I went to Accounting and  
20 worked in Research to secure documents for different areas. I  
21 worked in the Examination Department in the same job as  
22 locating documents and sending them to the person that had  
23 requested that document.

24 Q. And when you say you worked with documents, are you  
25 talking about the typical kind of documents that persons would

1 file with the IRS pertaining to their tax returns?

2 A. Yes.

3 Q. And this would be, for example, a 1040, the personal  
4 income tax return?

5 A. Personal income tax returns, 1040s, 1040A's, 1040EZ's,  
6 business returns, 1120 corporation returns, 1065 partnership  
7 returns, 1041 trust companies -- I mean trust returns, 940's,  
8 which are annual employer's tax returns, or 941's, which are  
9 returns filed by the employer on a quarterly basis based on  
10 their employees.

11 Q. And now let's talk specifically about your duties with  
12 the Criminal Investigation Division. Is it part of your duties  
13 to research documents to determine if a person did or did not  
14 file a tax return?

15 A. Yes, it is.

16 Q. And is it also part of your duties to examine those  
17 documents to basically determine if they file a particular  
18 document, exactly the type of document they file and any  
19 attachments that may be a part of that document?

20 A. That is correct.

21 Q. And you've received training in that particular endeavor,  
22 haven't you?

23 A. Yes. Plus the knowledge that I have acquired over the  
24 years.

25 Q. Okay. And as part of this investigation, did

1 investigators ask you to research any filings made by Tommy K.  
2 Cryer as far as tax returns?

3 A. Yes.

4 Q. And did you in fact research that?

5 A. Yes, I did.

6 Q. And in preparation for court today, did you prepare  
7 certain certifications that basically was the result of your  
8 research?

9 A. I did.

10 Q. And let's talk about how these documents are maintained  
11 and stored. How are these documents, as far as tax filings and  
12 so forth, maintained with the IRS?

13 A. Basically, the information that is on a tax return is  
14 taken off of the tax return and indicated in our database that  
15 is stored basically forever, and we can retrieve that  
16 information and produce a certification based on that  
17 information. Also, tax returns are stored by a document  
18 locator number, and we can retrieve those documents and certify  
19 those also.

20 Q. And so, for example, if someone, let's say if I ask you  
21 to file a tax return for Person A for the tax year of 2000 and  
22 if that return is not in that particular -- if it's not there,  
23 would you file a Lack of Record Certification?

24 A. Yes. I would research it as far as any valid or invalid  
25 Social Security numbers or federal identification numbers, and

1 then I would indicate such by a Lack of Record.

2 Q. Now, let's talk about some of the exhibits that you  
3 prepared here today. At this time, I would like to show you  
4 what I've marked as Government Exhibit No. 1. And you just  
5 look on the screen right there in front of you. Do you  
6 recognize Government Exhibit 1?

7 A. Yes, I do.

8 Q. And what is it?

9 A. This is a certification of lack of record and it is for  
10 the form 1040, a U.S. Individual Income Tax Return.

11 Q. And who is the taxpayer or name of the individual there?

12 A. Tommy K. Cryer.

13 Q. Does it have a Social Security number there as well?

14 A. Yes, it does.

15 Q. And a business or residential address?

16 A. It has an address of 3415 Seminole Drive, Shreveport,  
17 Louisiana, 71107.

18 Q. And this is a form that is produced in the normal course  
19 and scope of your duties?

20 A. Yes, it is.

21 Q. And this is kind of a typical form that would produce or  
22 be maintained in the normal course of the IRS as far as  
23 maintaining records?

24 A. That is correct.

25 MR. CAMPBELL: At this time, Your Honor, I'd like to

1 move Government Exhibit 1 into evidence and ask that it be  
2 published to the jury.

3 MR. BECRAFT: No objections, Your Honor.

4 THE COURT: All right. That's entered in evidence.

5 BY MR. CAMPBELL:

6 Q. Right there, that identifies the name of the individual  
7 (indicating)?

8 A. That is the name that I researched, yes.

9 Q. Now let's talk about this line right here (indicating).  
10 Now, what is the significance of what I just drew a circle  
11 around or attempted to draw a circle around?

12 A. That is the tax periods, the ending year, like  
13 December the 31st, 1993; December the 31st, 1994; '95; '96;  
14 '97; '98; '99; 2000; 2001; 2002; 2003; and 2004, and those are  
15 the tax periods that there were no 1040 U.S. Individual Income  
16 Tax Returns filed by Tommy K. Cryer.

17 MR. CAMPBELL: Thank you, Madam Clerk.

18 (Exhibit G-1 removed from display.)

19 BY MR. CAMPBELL:

20 Q. Now, you did additional research -- now, that first  
21 document was just sort of like a summary of the lack of records  
22 for those years from '93 to, I believe, '04, correct?

23 A. That is correct.

24 Q. And you did an individual transcript for each one of  
25 those years to show exactly what was filed for that year?

1 A. I did.

2 Q. And would that have been through Government's Exhibits 2  
3 through 14?

4 MR. CAMPBELL: It would probably be easier if I  
5 just . . .

6 (Counsel hands exhibit binder to witness.)

7 THE WITNESS: That would also include 2005.

8 BY MR. CAMPBELL:

9 Q. So, basically, you did an individual record for every  
10 year from 1993 to 2005?

11 A. That's correct.

12 MR. CAMPBELL: At this time, Your Honor, I would like  
13 to move Government exhibits 2 through 14 into evidence.

14 MR. BECRAFT: No objections, Your Honor.

15 THE COURT: All right. Those are received in  
16 evidence at this time.

17 BY MR. CAMPBELL:

18 Q. Now, we're not going to go over all of them, but I just  
19 want to kind of -- let's go over the first one so the jury can  
20 get an idea of what kind of information would be contained in  
21 these records.

22 MR. CAMPBELL: Madam Clerk, can you put up page 2 of  
23 Government Exhibit 2, and if you'd blow up the top half of that  
24 page, please.

25 BY MR. CAMPBELL:

1 Q. Now, let's talk about this line right here (indicating).

2 Now, would that indicate "Tommy K. Cryer and Carolyn Cryer"?

3 A. That is correct.

4 Q. Would that be sort of like a joint filing status, like a  
5 married couple, or something like that?

6 A. That is exactly right.

7 Q. And this (indicating) would indicate the form 1040?

8 A. That is correct.

9 Q. Now let's talk about -- now, is this form generally  
10 referred to as a transcript?

11 A. It is basically a certified transcript or certification  
12 of payments, assessments, and other specified matters.

13 Q. So, for example, if Tommy Cryer had filed a 1040 for this  
14 tax year 1993, there would be an entry somewhere around here  
15 (indicating) that would indicate 1040 filed?

16 A. That is correct.

17 Q. Now let's talk about some of the entries you have there.  
18 Now, it appears here the first entry, April 15, 1994, there was  
19 an extension filed?

20 A. That is correct.

21 Q. Or request for an extension?

22 A. Correct.

23 Q. And let's talk about the second line there. What's the  
24 significance of that?

25 A. The second line with the second date?

1 Q. Yes. The "November 23, 2004."

2 A. That indicates that we received a power of attorney that  
3 covered the 1993 tax period.

4 Q. And basically someone filed a letter acting on behalf of  
5 the particular taxpayer?

6 A. That's correct.

7 Q. And would that typically sometimes be an attorney?

8 A. It could be an attorney. It could be a bookkeeper,  
9 accountant, CPA, whoever that they indicate that they want to  
10 be in charge of signing their name in regards to that  
11 particular period or periods indicated on the power of  
12 attorney.

13 Q. Now let's go down farther. Let's talk about the next  
14 four lines as far as the July 10, '95 date, the September 4,  
15 '95 date, the October 16, '95 date, and the November 27, '95  
16 date. Are those Taxpayer Delinquency Notices?

17 A. Yes, they are.

18 Q. Would you please explain the significance of a Taxpayer  
19 Delinquency Notice.

20 A. Taxpayer Delinquency Notices are sent out when we do not  
21 receive a tax return for a tax period. We send out several.  
22 If we have no response, then we send out another one.

23 Q. And would the typical notice contain information that we  
24 have not received your return, we have not received payment of  
25 tax?

1 A. Well, the first type of notice is a delinquency on the  
2 exact tax return, asking you to file that return so that we can  
3 send out a balance due or you can send in the payment that is  
4 owed.

5 Q. And so for this tax year of '93, you sent out, or it  
6 indicates that four notices were sent out?

7 A. That's correct.

8 Q. Now, does examination of those exhibits we just moved  
9 into evidence, 2 to 14, reveal that there were multiple years  
10 where delinquency notice -- excuse me, that an extension to  
11 file was made?

12 A. Yes.

13 Q. Can we go to Government Exhibit 3, the second page. And  
14 the April 15, 1995 entry, does that show that an extension of  
15 time to file was submitted for this particular tax year?

16 A. Yes.

17 Q. And let's go to Exhibit 5, the 1996 tax year.

18 THE CLERK: Page 2?

19 MR. CAMPBELL: Page 2, yes, ma'am.

20 BY MR. CAMPBELL:

21 Q. And again, the April 15, 1997 entry, another extension to  
22 file, for time to file?

23 A. That's correct.

24 Q. Let's go to Exhibit 6, the 1997 tax year. And an  
25 April 15, 1998, entry there shows an extension of time to

1 file --

2 A. That's correct.

3 Q. -- for that tax year? And then, finally, Exhibit 7, the  
4 1998 tax year. And again, another extension or request for  
5 extension for time to file April 15, 1999?

6 A. That's correct.

7 MR. CAMPBELL: Thank you, Madam Clerk.

8 (Exhibit G-7 removed from display.)

9 BY MR. CAMPBELL:

10 Q. Now, in addition to research to determine whether Tommy  
11 Cryer filed a tax return, did you also research to determine  
12 whether or not Tommy Cryer's law practice submitted its  
13 quarterly 941 returns?

14 A. Yes, I did.

15 Q. Now, explain to the jury what is a quarterly 941 return.

16 A. Basically, a quarterly 941 is a form that is requested  
17 from an employer on his employees that he should file on a  
18 quarterly basis. He should send in payments based on the  
19 withholding or FICA that he has subtracted out of their checks,  
20 either weekly or monthly, so that we receive that payment.  
21 When the return is filed, any balance due should be filed or  
22 sent in with the return.

23 Q. And it's also fair to say that those quarterly  
24 withholdings are held by the IRS?

25 A. Yes.

1 Q. And then at the end of the year, does the employer issue  
2 a W-2 to the employee?

3 A. Yes.

4 Q. And the purpose of that W-2 is to basically itemize all  
5 of the withholdings that were withheld from the paycheck for  
6 that tax year?

7 A. That's correct.

8 Q. And then the employee would use that W-2 as a document to  
9 prepare their tax return?

10 A. That's correct.

11 Q. And if their tax liability -- excuse me. If their  
12 withholdings exceed their tax liability, then the IRS would  
13 issue a refund for that difference?

14 A. That's correct.

15 Q. And would it be fair to say it's important to submit  
16 these records so the accurate refunds can be issued to the  
17 particular taxpayer?

18 A. That's correct.

19 Q. Or to determine if there are more taxes, for example, if  
20 their tax liability exceeds the amount that was withheld by the  
21 employer?

22 A. That's correct.

23 Q. And the law poses a duty on employers to submit these  
24 quarterly filings?

25 A. Yes, they do.

1 Q. Now let's talk about Government Exhibit 15. Can you  
2 identify 15 for me, please.

3 A. Government Exhibit 15 is a certified copy of Form 941,  
4 Employer's Quarterly Federal Tax Return for Tommy K. Cryer,  
5 Federal --

6 Q. And -- excuse me. Go ahead, ma'am.

7 A. Federal Identification No. 72-0765328. This is for the  
8 taxable period or quarter ending March the 31st, 2000.

9 Q. And for each tax year, there are four quarters, correct?

10 A. That's correct.

11 Q. And the employer has to submit one return per quarter?

12 A. That's correct.

13 Q. And with that return, they submit whatever they're  
14 withholding from that particular employee's salary which is  
15 deposited with the IRS?

16 A. That's correct.

17 MR. CAMPBELL: Your Honor, I move Government Exhibit  
18 15 into evidence at this time.

19 MR. BECRAFT: No objections, Your Honor.

20 THE COURT: All right. That's received in evidence.

21 MR. CAMPBELL: I'd ask that page 2 be published to  
22 the jury.

23 THE COURT: All right.

24 MR. CAMPBELL: And can we just blow up the top half.  
25 Right there, that would be fine. Thank you.

1 BY MR. CAMPBELL:

2 Q. Now, this 941 was submitted for Tommy K. Cryer?

3 A. That is correct.

4 Q. And it's a 941, so typically this would be for some kind  
5 of business entity?

6 A. Yes.

7 Q. And let's start with this number here (indicating). What  
8 is the significance of the entry on line item No. 2?

9 A. On line item No. 2, that is the total wages paid for that  
10 quarter ending March the 31st, 2000.

11 Q. And this would be the total wages paid for that quarter  
12 to the employee?

13 A. To the employee or employees.

14 Q. And as a matter of fact, would it be fair to say that  
15 this particular, right here (indicating), provides the  
16 explanation for that line item?

17 A. It's basically a line-by-line, simple way to fill out  
18 this return. You have the figures and you just insert them in  
19 these line items.

20 Q. It says here, entry No. 2, "Total Wages and Tips, Plus  
21 Other Compensation," would that be correct?

22 A. That's correct.

23 Q. Now, the second entry, No. 3, would that be the amount of  
24 taxes withheld for wages -- from the wages, tips, and sick pay?

25 A. That's correct.

1 Q. Now let's talk about line item No. 5. That would be  
2 right here (indicating), the 414 number.

3 A. That's just the adjusted total of income tax withheld,  
4 and it's basically just a total from line 3 minus anything from  
5 line 4.

6 Q. Okay. And then the next line item would be No. 6, would  
7 be taxable Social Security wages?

8 A. That's correct.

9 Q. And there's no entry there for 6B, which would be tax for  
10 Social Security tips?

11 A. Correct.

12 Q. And the next line would be taxable Medicare wages and  
13 tips, and he made an entry there for 7B which would be \$160.95;  
14 would that be correct?

15 A. Correct.

16 Q. And then line 8 would be the total Social Security and  
17 Medicare taxes?

18 A. That's correct. And that's a total from 6B and 7B.

19 MR. CAMPBELL: Now if we could scroll down some,  
20 Madam Clerk.

21 BY MR. CAMPBELL:

22 Q. And what is the significance of line item No. 10?

23 A. 10 is just the adjusted total of Social Security and  
24 Medicare -- Medicaid taxes. It's adjusted from line 8 as  
25 adjusted by line 9.

1 Q. And 11 would be the total taxes when you add lines 5 and  
2 10?

3 A. Correct.

4 Q. And now let's talk about the significance of line 13.

5 A. Line 13 is the net taxes that would be due for the whole  
6 quarter.

7 Q. And then line 14?

8 A. And line 14 is the amount that has been paid in.

9 Basically, or normally, it is the federal tax deposits that  
10 have been made through the months prior to filing the tax  
11 return.

12 Q. And then line 15 would show what is due to be deposited  
13 for this particular quarter?

14 A. Right. That's what the balance due is, line 13 minus  
15 line 14, and that's what should be sent in at the end of the  
16 quarter with the Form 941.

17 Q. And this form is a form that either the employee or --  
18 excuse me, the employer or someone designated by the employer  
19 would fill out?

20 A. That's correct.

21 Q. And it's not the typical practice that the employee would  
22 fill out their own 941?

23 A. No. They never file it out -- fill it out.

24 Q. And right here, the entry there (indicating), "Tommy K.  
25 Cryer, Owner"?

1 A. That's correct.

2 Q. And right here (indicating) would be his signature? It's  
3 hard to read, but it purports to be his signature?

4 A. Yes.

5 Q. Now I want to show you Government Exhibit 17.

6 MR. CAMPBELL: Excuse me. I'm sorry, Madam Clerk.  
7 Government Exhibit 16.

8 THE CLERK: Okay. It's not in evidence.

9 MR. CAMPBELL: Excuse me?

10 THE CLERK: It's not in evidence.

11 MR. CAMPBELL: I just -- for identification purposes.

12 BY MR. CAMPBELL:

13 Q. Now, is Government Exhibit 16 a corresponding transcript  
14 for the exhibit that we just discussed, which would be  
15 Government Exhibit 15?

16 A. Yes, it is.

17 Q. And this is sort of like a computer-generated document by  
18 the IRS?

19 A. Yes, it is.

20 Q. And does it purport to summarize the deposits made for  
21 the quarter?

22 A. That is correct.

23 MR. CAMPBELL: I ask that Government Exhibit 16 be  
24 published to the jury.

25 MR. BECRAFT: No objections, Your Honor.

1 THE COURT: All right.

2 MR. BECRAFT: To its admission and publication.

3 MR. CAMPBELL: Admission and publication.

4 THE COURT: All right. It may be published to the  
5 jury.

6 MR. CAMPBELL: Madam Clerk, can we go to page 2 of  
7 that exhibit, and you can -- top half. Thank you very much.

8 BY MR. CAMPBELL:

9 Q. Again, here's the . . .

10 (Indicating), that is the employer there?

11 A. That is correct.

12 Q. And this (indicating) would be the EIN number assigned to  
13 that particular business?

14 A. That is the federal identification number, yes.

15 Q. Now, this would be for the period ending in March of  
16 2000, which would be the first quarter?

17 A. That is correct.

18 Q. Now let's talk, let's kind of go over these entries. The  
19 first entry, the April 30, 2000 entry, what is the significance  
20 of that entry?

21 A. That indicates that a return was received. And the  
22 number under that explanation "return filed" is a document  
23 locator number. If we need that document, that is how we  
24 retrieve it from the files, requesting that particular document  
25 locator number.

1 Q. And the dates entry here, let's go with July 20, 2000  
2 (sic). Does that show a deposit?

3 A. Yes, it does.

4 Q. And April 31, 2000, another deposit?

5 A. Uh.

6 Q. April 21, 2000 -- excuse me, January 31, 2000.

7 A. Yes, January 31, 2000.

8 Q. That would be the second line entry?

9 A. Yes.

10 Q. And then February 18, 2000?

11 A. Yes.

12 Q. And then February 29, 2000?

13 A. Correct.

14 Q. And then you have here where a credit was issued for  
15 overpayment from a previous period?

16 A. That is correct.

17 Q. And that's issued on January 31, 2000?

18 A. Correct.

19 Q. And then you have here showing what was actually the  
20 payment or the deposit that was submitted with the return which  
21 would be May 1, 2000?

22 A. May 1, 2000, that's the date that the payment was  
23 credited to the account, yes.

24 Q. And the amount would be \$213.15?

25 A. Yes.

1 MR. CAMPBELL: Okay. Thank you, Madam Clerk.

2 (Exhibit G-16 removed from display.)

3 BY MR. CAMPBELL:

4 Q. And again, just based on your experiences, the typical  
5 situation would be that the employer or someone designated by  
6 the employer would fill out these forms as far as the actual  
7 return that is filed?

8 A. That is correct.

9 Q. Now, you did a -- you pulled a similar quarterly return  
10 for the second quarter, which would be Government Exhibit 17?

11 A. Yes.

12 Q. And a corresponding transcript, which would be Government  
13 Exhibit 18; is that correct?

14 A. That is correct.

15 Q. And for the third quarter for 2000, would that be  
16 Government Exhibit 19?

17 A. Yes.

18 Q. As far as the actual filing, the 940 filing.

19 A. 941.

20 Q. 941 filing. Correct?

21 A. Yes.

22 Q. And then the corresponding transcript, which would be  
23 Government Exhibit 20?

24 A. That's correct.

25 Q. And then for the final quarter of 2000 tax year, the

1 actual 941 filing, would that be Government Exhibit 21?

2 A. Yes, it is.

3 Q. And then the corresponding transcript would be Government  
4 Exhibit 22?

5 A. Correct.

6 MR. CAMPBELL: Your Honor, I ask that Government  
7 Exhibits 17 through 22 be admitted into evidence.

8 MR. BECRAFT: No objection, Your Honor.

9 THE COURT: All right. Those are admitted at this  
10 time.

11 BY MR. CAMPBELL:

12 Q. Now, for time, we're not going to go over each one of  
13 those exhibits, but would it be fair to say that those exhibits  
14 pretty much model the same information, similar information we  
15 just discussed as far as the actual filing and then the  
16 corresponding transcript?

17 A. Exactly.

18 Q. Now, let's go to Government Exhibit 21.

19 MR. CAMPBELL: And it would be the last page of that  
20 exhibit, Madam Clerk.

21 BY MR. CAMPBELL:

22 Q. Now, what are we looking at here, Government Exhibit 21?

23 A. Basically, this was a letter or note that was attached to  
24 the fourth quarter tax return 941 that was sent in because  
25 Tommy K. Cryer, Attorney at Law, did not receive a Form 941 in

1 the mail. Whether it was just never opened or never sent out,  
2 I don't know. But he indicated that he did not receive one,  
3 and so he took a previous quarter and -- which was the  
4 September quarter, and circled it out and marked the  
5 December quarter over the September one and filled that form  
6 out and sent it in, which is attached as the first portion of  
7 this exhibit.

8 Q. So, basically, what you have here is a letter explaining  
9 that because he didn't receive a form, we're going to submit  
10 this letter to explain the circumstances and still we're going  
11 to submit the quarterly withholding for the last quarter,  
12 December 2000?

13 A. Correct.

14 MR. CAMPBELL: Thank you.

15 (Exhibit G-21 removed from display.)

16 BY MR. CAMPBELL:

17 Q. Now, at the end of each year, is there also a 940 annual  
18 federal employment tax return that is submitted by the  
19 employer?

20 A. Yes.

21 Q. Just explain to the jury, briefly, what is a 940 annual  
22 tax return.

23 A. Basically, a 940, an Employer's Annual Federal  
24 Employment -- Employer's Annual Federal Unemployment Tax Return  
25 is a consolidated form over the year for an employer or

1 employ -- employee or employer -- I'm sorry, employer or  
2 employee for that year for that company. So a person would  
3 indicate their total wages that they paid out for that company  
4 for that employee.

5 Q. And so, basically, it shows exactly how much money was  
6 withheld from that check for that tax year?

7 A. For that tax year. It's a consolidated form, basically,  
8 for that year.

9 MR. CAMPBELL: I would like to move into evidence  
10 Government Exhibit 23.

11 MR. BECRAFT: No objections, Your Honor.

12 MR. CAMPBELL: And ask that it be published to the  
13 jury.

14 THE COURT: All right.

15 MR. CAMPBELL: And Madam Clerk, can we go to page 2.

16 BY MR. CAMPBELL:

17 Q. And again, this 941 -- excuse me, 940, is for Tommy K.  
18 Cryer?

19 A. Yes, it is.

20 Q. And it would be for as far as for his business?

21 A. As far as the business.

22 Q. And let's talk about this number here (indicating), line  
23 item No. 1. Would that represent the gross income that was  
24 paid to that, to either that employee or those employees?

25 A. That is correct.

1 Q. And that's before any taxes or withholdings, anything  
2 taken out?

3 A. That is correct.

4 Q. So if this was for one employee, that would represent the  
5 total salary that that employee received for that year?

6 A. That is correct. For the period ending December the  
7 31st, 2000.

8 Q. Before taxes?

9 A. Before taxes.

10 Q. Now let's talk about line item No. 3 (indicating), what  
11 that represents.

12 A. This is basically an indication of payments that, or  
13 services, that were paid in the amount over \$7,000.

14 Q. Okay. So \$7,000 is sort of like a threshold?

15 A. Yes.

16 Q. And then it indicates what was paid over \$7,000?

17 A. Correct.

18 Q. And now let's go to line entry No. 4.

19 A. That is basically the difference between line 1, \$21,275,  
20 and line 3, \$14,275.

21 Q. And let's go to line 5 here, the \$7,000 figure.

22 A. Oh, I'm sorry, I went to line 5. That's the difference.  
23 But line 4 is just moving line 3 over to line 4.

24 Q. And then line 5 will represent?

25 A. The difference between line 1 and line 4.

1 Q. Let's go to the next page. Let's go to line 7 here.

2 What does that \$434 figure represent?

3 A. Basically, that is the amount of federal unemployment tax  
4 that was sent in based on this employee or employees.

5 Q. And what purports here to be the signature (indicating)?

6 A. Yes.

7 Q. And then the owner (indicating)?

8 A. Correct.

9 Q. Now, just like with the 941's, are there also  
10 corresponding transcripts that the IRS produced, computer-  
11 generated transcripts for the 940 annual returns as well?

12 A. Yes, there is.

13 Q. And Government Exhibit 3 would be y'all's computer-  
14 generated transcript for Government Exhibit 4? Excuse me,  
15 Government Exhibit 24.

16 A. That is correct.

17 MR. CAMPBELL: Ask that Government Exhibit 25 be  
18 admitted into evidence, Your Honor.

19 MR. BECRAFT: Was that twenty -- it's either 24 or  
20 25. I have no objection to either.

21 THE COURT: All right.

22 MR. CAMPBELL: Let me make sure. 23 is what we just  
23 got through discussing, so the exhibit that I'm moving into  
24 evidence would be 24.

25 THE COURT: All right. Without objection, it's

1 admitted.

2 THE CLERK: You want it to be published?

3 MR. CAMPBELL: Yes. And can we go to page 2 of  
4 Government Exhibit 24.

5 BY MR. CAMPBELL:

6 Q. And again, just for simplification, would this transcript  
7 be just a summary of the actual 940 that was submitted on  
8 behalf of the employer?

9 A. That is correct.

10 Q. And it shows where the -- the tax that was withheld for  
11 \$434?

12 A. That is correct.

13 MR. CAMPBELL: Thank you, Madam Clerk.

14 (Exhibit G-24 removed from display.)

15 BY MR. CAMPBELL:

16 Q. Now, the records that we just discussed as far as the  
17 941's and the 940 annual, did you do similar research for 2001?

18 A. Yes, I did.

19 Q. So the records we just discussed pertain to the 2000 tax  
20 year for the Tommy K. Cryer business?

21 A. That is correct.

22 Q. And you did similar research for the 2001, for that tax  
23 year?

24 A. That's correct.

25 Q. And did you pull all -- and were you able to find all of

1 the quarterlies that were submitted for 2001 on behalf of the  
2 Tommy K. Cryer business?

3 A. Yes, I was.

4 Q. And would Government Exhibit 26, would that represent the  
5 quarterly that was submitted for the first quarter of 2001?

6 A. That is the transcript for the quarter ending March 31,  
7 2001, which would be the first quarter, yes.

8 Q. So Government Exhibit 25 would be the actual 941 that was  
9 submitted?

10 A. Yes.

11 Q. Okay. Now, would Government Exhibit 27, would that be  
12 the actual 941 that was submitted for the second quarter of  
13 2001?

14 A. Yes, it would.

15 Q. Would Government Exhibit 28 be the corresponding  
16 transcript?

17 A. Yes.

18 Q. And would Government Exhibit 29 be the 941 quarterly that  
19 was submitted for the third quarter of 2001?

20 A. Yes.

21 Q. And would Government 30 be the corresponding transcript?

22 A. Yes.

23 Q. And would Government 31 be the quarterly, the 941  
24 quarterly for the final quarter of 2001?

25 A. Yes, for the fourth quarter.

1 Q. And would Government 32 be the corresponding transcript?

2 A. That's correct.

3 Q. Government 33 would be the 940, which would be the annual  
4 federal unemployment tax return that would be submitted to  
5 summarize those withholdings for the tax year 2001?

6 A. That's correct.

7 Q. Would Government 34 be the corresponding transcript that  
8 would be generated by the IRS?

9 A. Yes.

10 MR. CAMPBELL: Your Honor, I ask that Government  
11 Exhibits 25 through 34 be admitted into evidence.

12 MR. BECRAFT: No objection, Your Honor.

13 THE COURT: All right. Those are admitted.

14 BY MR. CAMPBELL:

15 Q. Now, Ms. Jackson, we're not going to talk about those  
16 exhibits like we just did the previous ones, but would those  
17 exhibits show the same or similar information that follow the  
18 same pattern?

19 A. Absolutely.

20 Q. And they were submitted by the employer or someone  
21 designated to submit them on behalf of the employer as far as  
22 the actual 941 filings for 2001?

23 A. That's correct.

24 Q. And it shows the actual taxes that were withheld from  
25 that employee's paycheck?

1 A. That is correct.

2 Q. Now let's talk about Government Exhibit 35. What is  
3 Government Exhibit 35?

4 A. Government Exhibit 35 is a Lack of Record for Tommy K.  
5 Cryer. This is for form 1041. It is a U.S. Fiduciary Income  
6 Tax Return. This is for trusts and estates.

7 Q. Now, this particular exhibit would also be something,  
8 like the EIN number, would that also correspond with a  
9 business, the EIN number there?

10 A. Yes.

11 Q. Okay. Now, for tax years -- does it show that there were  
12 no tax returns filed for that corresponding EIN number from  
13 1993 to 2005?

14 A. That is correct.

15 MR. CAMPBELL: I ask that Government Exhibit 35 be  
16 admitted into evidence.

17 MR. BECRAFT: No objection, Your Honor.

18 THE COURT: All right. That's in evidence.

19 BY MR. CAMPBELL:

20 Q. And if that EIN number matched the EIN number for the  
21 Tommy K. Cryer law practice, would this document basically show  
22 that there was no tax returns filed on behalf of the Tommy K.  
23 Cryer law practice?

24 A. Yes.

25 MR. CAMPBELL: Okay. I ask that it be published for

1 the jury.

2 THE COURT: All right.

3 MR. CAMPBELL: And can you just highlight the tax  
4 period entries there, or just blow it up.

5 BY MR. CAMPBELL:

6 Q. So no tax return filed for that business for these years?

7 A. That is correct.

8 MR. CAMPBELL: Thank you, Madam Clerk.

9 (Exhibit G-34 removed from display.)

10 MR. CAMPBELL: The Court's brief indulgence?

11 I have no further questions.

12 MR. BECRAFT: Briefly, Your Honor.

13 THE COURT: All right.

14 CROSS-EXAMINATION

15 BY MR. BECRAFT:

16 Q. Good morning, Ms. Jackson.

17 A. Good morning.

18 Q. The service center that you work for is the Memphis  
19 service center; is that correct?

20 A. No. I'm at the Atlanta service center.

21 Q. Okay. And so you've worked for the IRS at the Atlanta  
22 service center, you told us on direct, for 33 years?

23 A. That is correct.

24 Q. Okay. And for the last 13 years, you have worked for  
25 Criminal Investigation Division, right?

1 A. That is correct.

2 Q. Now, for documents that we have in this case that relate  
3 to the Memphis service center, you're familiar with those?

4 A. Yes, I am.

5 Q. Okay. When information flows in to the Internal Revenue  
6 Service, such as a tax return, I believe on direct you  
7 testified that you have worked in such a place where returns  
8 come in; is that right?

9 A. That's correct.

10 Q. And when returns come in, a stamp is put across the top  
11 of the page, and that stamp containing a number constitutes a  
12 thing known as a document locator number, right?

13 A. That is correct.

14 Q. All right. So that document locator number gets pulled  
15 off and inserted into a computer program, right?

16 A. That is correct.

17 Q. And throughout the whole nation, all this computer  
18 information that relates to returns and other types of  
19 documents, information from those documents get pulled off of  
20 them and stuck on the computer, correct?

21 A. That's correct.

22 Q. And so to find things, the computer record is used by the  
23 IRS and employees such as yourself?

24 A. That's correct.

25 Q. And the document that you would use to do that is known

1 as an Individual Master File, right?

2 A. We use that. That's one of the tools.

3 Q. Okay. An Individual Master File is a computer record  
4 maintained by the IRS?

5 A. We maintain those records, yes.

6 Q. And if you pull up that computer record, it can be  
7 printed out; is that correct?

8 A. Yes.

9 Q. And when you go looking for any type of document, that  
10 computer record that you would print out would have a document  
11 locator number there so you could find the document that  
12 relates to that transaction; is that a fair description?

13 A. If there is a document there, we could locate it, yes.

14 Q. So document locator numbers are put on documents that  
15 flow into the service center, such as 1040 forms?

16 A. Yes.

17 Q. 1041's, trust returns?

18 A. Absolutely.

19 Q. 940's and 941's?

20 A. Yes.

21 Q. And, obviously, there was some way that -- there was a  
22 letter that Mr. Cryer wrote that was attached to I think either  
23 his 940 or 941. You were able to locate it, right?

24 A. Yes.

25 Q. Now, in this case, you were able to locate the 940's and

1 941's to find and bring to court by using some type of computer  
2 record; is that correct?

3 A. Yes.

4 Q. And would that computer record be the Individual Master  
5 File?

6 A. That is one of our tools, yes.

7 Q. So to look for either the presence or absence of a  
8 return, the first thing that is done is to pull up the computer  
9 record and look at it, at least on the screen?

10 A. That is a tool that we use, yes.

11 Q. If a return is filed, if you're -- let me give a  
12 hypothetical example, if I may. Let's say that the year in  
13 question is 2000 and you want to locate a tax return for the  
14 particular party in question. The way that you would do that  
15 is take his Social Security number, ask the computer to pull up  
16 his Individual Master File for that year, right?

17 A. I guess you could go at it that way.

18 Q. And once you saw the screen, that document locator  
19 number, then whoever is looking for that document could put in  
20 a request for the records center, I guess, to provide that  
21 document to you; is that the way it works?

22 A. You could do it that way.

23 Q. Well, are there other ways?

24 A. Well, yes.

25 Q. Can you tell us?

1 A. Well, it depends on what it is you're looking for, you  
2 know.

3 Q. In this case, you have testified that you looked for  
4 returns, 1040's, filed by Tommy K. Cryer for the years '93  
5 forward?

6 A. That is correct.

7 Q. Now, did you do that in this case? Did you look for  
8 returns?

9 A. Yes, we did.

10 Q. Can you tell the jury how you did that?

11 A. You go on the computer and you request the information by  
12 Social Security number. If you cannot locate it by Social  
13 Security number, you order information by that Social Security  
14 number and see if anything comes back. You go online, you look  
15 for the name. You try different versions of the spelling of  
16 the name. Just, you know, there's different ways of doing  
17 things that, you know, unless I'm actually doing it -- it would  
18 be hard to explain everything that you have to do or can do  
19 unless you're at a computer doing it.

20 Q. In this case, did you look at least into the computer  
21 records of the IRS for tax returns for Tommy K. Cryer? You,  
22 yourself.

23 A. Yes.

24 Q. Okay. And what you were looking for to determine whether  
25 or not he had filed a return -- let's say like for the year

1 '97, to pull a year out of the hat. You have computer  
2 information on the screen, and if a return had been filed,  
3 there would at least be a document locator number there, right?

4 A. Yes.

5 Q. And if I ask the same question for all these years, that  
6 would be the same answer, right?

7 A. If there was a return filed, then there would be  
8 information that showed up on the database, yes.

9 Q. Now, in order to make a determination that someone has  
10 not filed an income tax return, a party that's looking for that  
11 would pull up a module, so to speak, or a computer record for a  
12 particular year, and merely look at the screen to determine  
13 whether or not there's some computer record indicating the  
14 return had been filed; is that the way it works?

15 A. You could do that, yes.

16 Q. So in this case, you pulled up the computer information  
17 for Tommy Cryer for '93 through 2004, 2005, and what you saw  
18 was there was no indication in the computer records the returns  
19 had been filed, right?

20 A. I checked '93 and forward.

21 Q. But my question is: When you pulled up the computer  
22 record, what you were looking for is either the presence of a  
23 document locator number that would indicate a 1040 form had  
24 been filed or basically a blank screen, there's nothing there?

25 A. That's basically what you look for, information.

1 Q. Now, when somebody files an extension of time, does this  
2 computer record that you look at contain any information as to  
3 such an event?

4 A. It indicates an extension of time filed.

5 Q. Now, an extension of time would have a relationship to a  
6 tax return itself, right?

7 A. It has a relationship to it knowing that a person knows  
8 they're supposed to file a return if they request an extension.

9 Q. Now, let's take the year '96. When you looked at -- you  
10 pulled up for the year '96 the computer record for Tommy K.  
11 Cryer to look, see what was there, right?

12 A. That's correct.

13 Q. And you failed to see a document locator number that  
14 would indicate the filing of a 1040 form, right?

15 A. Yes.

16 Q. And would there be some type of notation on the computer  
17 screen that would indicate the filing of an extension of time  
18 for filing a return?

19 A. There would be a request for an extension, yes.

20 Q. Now, when those requests for extension of time flow in to  
21 the service center, is there a different process for treating  
22 them, or is there some reason for treating them differently  
23 from 1040 forms in that you either do or do not file or put on  
24 those extensions of time a document locator number?

25 Okay. Let me withdraw that. That's complicated.

1 Extensions of time, when they flow in to the service  
2 center, the people in the mail room are sitting there, opening  
3 them up, looking at the document; is that basically the way it  
4 happens?

5 A. Extensions go to a different area.

6 Q. Okay. Have you ever worked in that area?

7 A. No.

8 Q. Are you familiar with the process that would occur over  
9 in that area?

10 A. Not exactly.

11 Q. Okay. In your experience in working for the IRS, you've  
12 been using these computer records of the IRS for at least 13  
13 years, right?

14 A. Yes.

15 Q. Looking at Individual Master Files, which is the computer  
16 record for a taxpayer for one or more years, right?

17 A. Yes.

18 Q. Have you seen document locator numbers that are posted to  
19 an Individual Master File that would relate to a document  
20 that's been filed that's labeled extension of time to file a  
21 return?

22 A. I'm sorry, I didn't understand the question.

23 Q. Do you know or do you not know whether or not document  
24 locator numbers appear on the extensions of times that are  
25 filed by various people that are submitted to the IRS?

1 A. Yes.

2 Q. They are put on there?

3 A. Yes.

4 Q. Now, when you -- so if somebody asks for an extension of  
5 time to file a return, the Individual Master File would say:  
6 Hey, you know, you can find this particular document by this  
7 number. Right?

8 A. Yes.

9 Q. And that's a unique number, correct?

10 A. Yes.

11 Q. With that number, you can file -- if you have the  
12 computer record that indicates this is the number that is  
13 stamped on a document, with that number you can submit a  
14 request to whoever keeps all these paper documents, you can  
15 submit it to them and they can provide a copy of the document,  
16 right?

17 A. If I requested that document, then they would send me  
18 that original document.

19 Q. Okay. And according to your testimony, what you've said  
20 thus far is document locator numbers are put on extensions of  
21 time when they are received by the IRS at the service center?

22 A. They are.

23 Q. Okay. And so you could actually find if somebody  
24 submitted an extension to file a return --

25 MR. CAMPBELL: Your Honor, I've been withholding

1 objections. I'm straining to see the relevance of this line of  
2 questioning, so at this time I would like to object.

3 THE COURT: Can you demonstrate the relevance of  
4 where you're going with this, Mr. Becraft?

5 MR. BECRAFT: Yes, Your Honor. The documents that  
6 have been offered into evidence, specific numbers -- well,  
7 we've been at -- I'm just asking a general question. The  
8 documents indicate an absence of a document locator number.  
9 The ones that the witness testified on direct that relate to  
10 specific exhibits have been admitted into evidence, there's no  
11 document locator number up there on the extensions of time.  
12 And she testified based on the documents that for I think '97  
13 or '98 the extensions of time were filed for Tommy K. Cryer. I  
14 think that's a fair cross that relates to both her testimony  
15 and the document itself that was offered into evidence.

16 THE COURT: You have some leeway here. You may  
17 continue. Overruled.

18 BY MR. BECRAFT:

19 Q. Is it true that if we pulled up and looked on the screen,  
20 there is no document locator number there for these extensions  
21 of time that were, you claim was filed by Tommy K. Cryer?

22 A. Yes, they are.

23 Q. They are there?

24 A. They are there.

25 Q. Did you look for those extensions of time?

1 A. I was not asked to look for the extensions of time. I  
2 was asked to do certifications of the periods '93 through 2004  
3 or '5, whichever the year is, and I was asked to get tax  
4 returns.

5 Q. Okay. If we go back and take a look at Government  
6 Exhibit No. 1 -- we don't need to pull it up. But there's an  
7 address, you testified on direct. You read off an address on  
8 Seminole Drive here in Shreveport. And the period of time that  
9 you covered is '93 through, I think, 2004 or '5. You remember  
10 that?

11 A. Yes.

12 Q. What would indicate -- is that an indication to you that  
13 in 1993 and 1994 Tommy K. Cryer was living on Seminole Drive  
14 here in Shreveport?

15 A. That is the address that our computer showed, and since  
16 no returns were filed after that date, then we would not have a  
17 new date (sic) for him as an individual.

18 Q. Okay. How would -- how would that address get put into  
19 the computer records of the IRS?

20 A. Filing a tax return.

21 Q. So some tax return would have been filed by Tommy K.  
22 Cryer that bore an address, that address on Seminole Drive?

23 A. At some point there was a tax return filed that had an  
24 address or he requested information and gave that address. I'm  
25 not sure which.

1 Q. For somebody that lives in Louisiana, what service center  
2 of the IRS would they file the return at?

3 A. The Memphis service center.

4 Q. Have you ever worked at the Memphis service center?

5 A. No, I have not.

6 Q. All of the documents that have been generated in this  
7 case, were they produced by somebody at the Memphis service  
8 center?

9 A. Some of the documents were, yes.

10 Q. Okay. And some of them were prepared, the ones we've  
11 gone over in your direct testimony, some of them were prepared  
12 by you?

13 A. That is correct.

14 Q. Okay. Can you just briefly or generally describe for us  
15 which ones of those, which of those documents those would be.

16 A. As far as which ones I generated?

17 Q. Yes, ma'am.

18 A. Okay. Exhibit 1, I did not. Exhibit 2, 3, 4, 5, 6, 7,  
19 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,  
20 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 --

21 Q. I believe we stopped at 35.

22 A. Oh, okay.

23 Q. Now, you just read off -- as I was listening to your  
24 answer to that question, it seems like you listed all the  
25 documents 1 through 35, right?

1 A. I listed all of them. The first one I did not certify.  
2 Nos. 2 through 35 I certified.

3 Q. What do you mean by you certified?

4 A. I researched and I certified these documents by  
5 requesting information on our database, retrieving the  
6 information from our database and having the original documents  
7 to certify.

8 Q. Okay. So that answer applies to Government Exhibits 2  
9 through 35, right?

10 A. That is correct.

11 Q. And 2 through 35 were, if you actually look at the  
12 certification, they were prepared by someone else?

13 A. No.

14 Q. Prepared by you?

15 A. I prepared them. The resident agent in charge, my boss,  
16 signs them.

17 Q. Okay. On the 940's and 941's, is there any indication as  
18 to who the employee was that worked for Mr. Cryer? Can you  
19 recall?

20 A. No, it doesn't indicate an employee or employer --  
21 employee or employees that worked for a company.

22 Q. Is there anything on those documents that would indicate  
23 that employee's Social Security number or any other number that  
24 might identify that employee?

25 A. It does not identify them by name, Social Security

1 number, or address.

2 MR. BECRAFT: One moment, Your Honor.

3 Nothing further, Your Honor.

4 THE COURT: All right. Any redirect?

5 MR. CAMPBELL: Yes.

6 REDIRECT EXAMINATION

7 BY MR. CAMPBELL:

8 Q. Ms. Jackson, you had testified that you are familiar with  
9 the methods and the procedures that records are maintained at  
10 the IRS, correct?

11 A. That is correct.

12 Q. Now, based on your experience, if a tax return was filed,  
13 a 1040 was filed by or on behalf of Mr. Tommy K. Cryer for  
14 those years that you indicated, 1993 to 2005, would you have  
15 been able to find that tax record?

16 A. Absolutely.

17 Q. Now let's talk about the extensions. The extensions,  
18 there are certain transcripts that show that a request for an  
19 extension to file was made, correct?

20 A. That is correct.

21 Q. If there was a corresponding grant of extension of time  
22 to file, would that also be indicated on the transcript?

23 A. Yes, it would.

24 Q. But there is no grant of extensions of time to file on  
25 those transcripts that you saw; is that correct?

1 A. No.

2 Q. Now, you mentioned something -- Mr. Becraft had asked you  
3 about the extensions to file and you mentioned something that  
4 if an extension of time to file is submitted, that you would  
5 expect also to see at some later date the actual file document  
6 that was requested for the extension, correct?

7 A. Absolutely.

8 Q. Now, did you -- now, after these extensions to file that  
9 were indicated, were there any tax returns filed that  
10 corresponded with those requested extensions to file?

11 A. No.

12 Q. Now, as far as Government Exhibit No. 1, you didn't  
13 prepare it, correct?

14 A. I did not prepare it, no.

15 Q. But based on your knowledge of procedures and so forth,  
16 was Government Exhibit 1 also certified by someone in IRS who  
17 performs similar duties as yourself?

18 A. Yes.

19 MR. CAMPBELL: No further questions, Your Honor.

20 THE COURT: All right. You may step down.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: Thank you.

23 Your next witness, Mr. Campbell?

24 MR. CAMPBELL: The Government calls Ms. Gloria  
25 Worthey.

1                   THE COURT: All right. How long do you estimate her  
2 direct will last?

3                   MR. CAMPBELL: Ten minutes.

4                   THE COURT: All right. We're working towards a  
5 mid-morning break, ladies and gentlemen, about 10:30, give or  
6 take. You can hear the pounding of the people laying the  
7 carpet in the hall, which is a bit annoying. It hasn't quite  
8 gotten to the point that I'll either stop them or we'll take a  
9 break yet, but it's getting there.

10                                           (Witness called and sworn.)

11                                           DIRECT EXAMINATION

12 BY MR. CAMPBELL:

13 Q. Good morning.

14 A. Good morning.

15 Q. Will you introduce yourself to the members of the jury.

16 A. Yes. My name is Gloria Worthey.

17 Q. Will you spell your last name.

18 A. W-O-R-T-H-E-Y.

19 Q. And where do you work?

20 A. I'm Tommy Cryer's secretary.

21 Q. How long have you worked for Mr. Cryer?

22 A. It will be 30 years on October 10.

23 Q. When did you start?

24 A. October 10, 1977.

25 Q. I'm sorry.

1 A. That's okay.

2 Q. That's one of those questions you'll probably see on the  
3 internet somewhere about stupid lawyer questions.

4 Let me ask you this: So you worked continuously for  
5 Mr. Cryer from October up until this point?

6 A. Yes.

7 Q. So that would include the years of 2000 and 2001?

8 A. Yes.

9 Q. Okay. Now, how are you paid? Are you paid monthly,  
10 weekly, or biweekly?

11 A. On the 15th and the 31st.

12 Q. So roughly twice a month?

13 A. Uh-huh.

14 Q. Are you paid by paycheck?

15 A. Yes, sir.

16 Q. Are you issued a stub?

17 A. No, sir.

18 Q. Let me ask you this: Are you the only employee for  
19 Mr. Cryer?

20 A. Yes, sir.

21 Q. And how -- are deductions made from your paycheck as far  
22 as the FICA deductions and --

23 A. Yes, sir.

24 Q. -- so forth? Is there some kind of document issued with  
25 your paycheck to show what deductions are made?

- 1 A. No, sir.
- 2 Q. So you don't see those?
- 3 A. No.
- 4 Q. So you don't prepare the quarterly filings?
- 5 A. Yes.
- 6 Q. You prepare them?
- 7 A. Uh-huh.
- 8 Q. But does Mr. Cryer look at them?
- 9 A. He signs them.
- 10 Q. So you prepare them and he looks at them and signs them?
- 11 A. (Nods head.)
- 12 Q. That's where you put all these deductions and so forth?
- 13 A. Uh-huh.
- 14 Q. Okay. Now, also, at the end of each year, are you issued
- 15 a W-2?
- 16 A. Yes, sir.
- 17 Q. And does the W-2 show all of the taxes and FICA and so
- 18 forth that's withheld from your paycheck?
- 19 A. Yes, sir.
- 20 Q. Do you use that W-2 to prepare your tax returns for that
- 21 year?
- 22 A. Yes, sir.
- 23 Q. And is that W-2 issued by Mr. Cryer?
- 24 A. Yes, sir.
- 25 Q. Now, as far as W-2's, do you prepare the W-2?

1 A. Yes, sir.

2 Q. So you prepare the W-2 and you put all your deductions  
3 there and so forth?

4 A. Yes, sir.

5 Q. And then you give it to Mr. Cryer?

6 A. He never sees the W-2. He signs the W-3 transmittal.

7 Q. But is he aware of the fact that W-2's are submitted on  
8 behalf of this business?

9 A. Sure.

10 Q. Okay. So you're not doing anything behind his back as  
11 far as the W-2 or anything like that?

12 A. No.

13 Q. So he knows about it?

14 A. Yes, sir.

15 Q. And he knows that basically the W-2 shows all of these  
16 different monies being withheld from your check?

17 A. Yes, sir.

18 MR. CAMPBELL: No further questions, Your Honor.

19 THE COURT: Mr. Becraft, you have a witness that's  
20 obviously identified with your client. Are you intending to do  
21 direct examination or cross-examination limited to direct by  
22 Mr. Campbell?

23 MR. BECRAFT: It's going to be related to this  
24 testimony, Your Honor.

25 THE COURT: All right.

## 1 CROSS-EXAMINATION

2 BY MR. BECRAFT:

3 Q. So you've worked for him from October of 1977 through  
4 now?

5 A. Yes, sir.

6 Q. And at some stage in the '90s -- '91, '92, '93, '94,  
7 '95 -- these employment taxes were still being withheld from  
8 you, right?

9 A. Yes, sir.

10 Q. And through the end of the '90s, employment taxes were  
11 withheld?

12 A. Yes, sir.

13 Q. For the years 2000, 2001, 2002, 2003, 2004, 2005?

14 A. Yes, sir.

15 Q. Even now?

16 A. Yes, sir.

17 Q. Taxes are withheld?

18 A. Yes, sir.

19 Q. Now, let's go back to, say, late '90s. Would you be the  
20 party that would actually generate all the documents?

21 A. Yes.

22 Q. That relate to withholding?

23 A. Yes, sir.

24 Q. Did that continue into this century?

25 A. Yes.

1 Q. 2000 through 2007? Do you have control of or do you keep  
2 up with his checking account?

3 A. The business checking account, yes. I'm in --

4 Q. So you're the one that sits down, and you know what your  
5 salary is, and you write out a check from the business account  
6 and you slide it to him and say, "Pay me," right?

7 A. I even sign my own check.

8 Q. Okay. Now, in reference to withholding, there you sit in  
9 the office and you're doing legal work for him and you cut your  
10 own checks to yourself. Is it fair to say that you also do  
11 everything that's related to the employment taxes?

12 A. Yes, I do.

13 Q. So in the late '90s you were doing the filing of the  
14 forms for employment taxes?

15 A. Yes.

16 Q. So you would prepare on a quarterly basis -- would you  
17 keep up in the late '90s, and even now, and even within the  
18 last seven years, would you keep up with the amounts that  
19 should be withheld and submitted quarterly to the IRS?

20 A. I do. I keep up with that. I mean, even after he came  
21 to me and offered to take me off the payroll -- when he  
22 discovered we were not legally obligated to pay income tax, he  
23 offered --

24 MR. CAMPBELL: Objection.

25 THE COURT: Sustained. You're leading your witness.

1 MR. BECRAFT: I'll withdraw it, Your Honor.

2 THE COURT: And I'll allow some of that simply  
3 because it's cross-examination, but she is clearly identified  
4 with Mr. Cryer.

5 MR. BECRAFT: Okay.

6 THE COURT: And you need to exercise a better sense  
7 of control on your questions, so start using direct examination  
8 techniques.

9 MR. BECRAFT: Will do, Your Honor.

10 BY MR. BECRAFT:

11 Q. In the late '90s were 940's, 941's submitted by  
12 Mr. Cryer?

13 A. Yes, sir.

14 Q. Were 940's, 941's submitted by Mr. Cryer's office 2000  
15 through even the first quarter of this year?

16 A. Yes, sir.

17 Q. Who would prepare those documents?

18 A. I prepared them.

19 Q. Okay. Who was in charge of actually keeping up with the  
20 funds that related to withholding on your pay?

21 A. Me.

22 Q. So you would set aside some money for that?

23 A. Yes, sir.

24 Q. Come time to file a quarterly, who would prepare the  
25 document itself?

1 A. Me.

2 Q. Who would prepare the check to pay the quarterly  
3 payments?

4 A. I do that.

5 Q. Who would drop it in the mail?

6 A. I take it to the bank.

7 Q. Is it fair to say that in the late '90s the only thing  
8 that Mr. Cryer was doing in reference to this matter was either  
9 signing the checks or signing the forms?

10 A. Signing the form.

11 Q. If I ask the same questions, that series of questions for  
12 2000 through 2007, is there anything different?

13 A. No, sir.

14 Q. At the end of the year, you'd send -- who would prepare  
15 the W-2 statements?

16 A. I do my W-2 and W-3.

17 Q. So you would prepare the W-2 for yourself and you'd mail  
18 it to yourself, or you'd probably keep it, right?

19 A. Just put it in my purse.

20 Q. And the document that related to, that had to be sent to  
21 the IRS, you would just drop it in the mail --

22 A. The W-3.

23 Q. -- to the IRS?

24 A. He would sign the W-3 transmittal and I would mail that  
25 to the . . .

1 Q. So would it be fair to say, then, Mr. Cryer has delegated  
2 virtually all of the responsibilities, outside of signing --

3 A. Correct.

4 Q. -- regarding withholding on you?

5 A. Correct.

6 Q. Were there -- from, say, like '93 forward, has anybody  
7 else worked in the office?

8 A. No, sir.

9 MR. BECRAFT: One moment, Your Honor.

10 Pass the witness, Your Honor.

11 THE COURT: Your redirect.

12 REDIRECT EXAMINATION

13 BY MR. CAMPBELL:

14 Q. Ms. Worthey, you stated that Mr. Cryer would sign the  
15 941's, correct?

16 A. Yes, sir.

17 MR. CAMPBELL: Can you show Government Exhibit 15,  
18 second page, and just highlight the signature.

19 BY MR. CAMPBELL:

20 Q. Is that Mr. Cryer's signature?

21 A. Yes, sir.

22 MR. CAMPBELL: Okay, thank you.

23 (Exhibit G-15 removed from display.)

24 MR. CAMPBELL: Thank you. Nothing further. I mean,  
25 no further as far as this exhibit.

1 BY MR. CAMPBELL:

2 Q. And so like Mr. Becraft just asked you a couple of  
3 seconds ago, you actually fill out the form?

4 A. Yes, sir.

5 Q. And then you give it to Mr. Cryer and he will sign it?

6 A. Yes, sir.

7 Q. You've worked for Mr. Cryer for a long time, correct?

8 A. Yes, sir.

9 Q. Would it be fair to say that Mr. Cryer knew this form was  
10 being submitted to take, to withhold taxes out of your salary?

11 A. Yes, at my request.

12 Q. But out of your salary?

13 A. Yes, sir.

14 Q. Now, Mr. Becraft used the term employment taxes. I just  
15 want to make sure we understand what we're talking about.

16 We're not talking about taxes that are being withheld out of  
17 the business income, we're talking about taxes that are being  
18 withheld out of your salary?

19 A. Yes.

20 Q. Okay. And this was your practice for pretty much the  
21 entire time that you worked for Mr. Cryer, correct?

22 A. Yes, sir.

23 Q. And the same thing with the W-2's, you prepared them and  
24 everything, correct?

25 A. Yes, sir.

1 Q. But based on your relationship and your, the time you  
2 worked with him, would it be fair to say that Mr. Cryer knew  
3 that the W-2's were being used so you could file your tax  
4 returns?

5 A. Yes, sir.

6 Q. And the W-2's show basically all of the monies for that  
7 tax year that were withheld out of your salary?

8 A. Yes, sir.

9 MR. CAMPBELL: No further questions, Your Honor.

10 THE COURT: All right. You may step down. Thank  
11 you.

12 THE WITNESS: Thanks.

13 THE COURT: Ladies and gentlemen, we're at a good  
14 breaking point for our morning break.

15 And you have another witness ready to testify after  
16 our break is over this morning?

17 MR. CAMPBELL: Yes, I do, Your Honor.

18 THE COURT: All right. Ladies and gentlemen, we'll  
19 be in recess for about 15 minutes. We'll plan to resume at 20  
20 minutes to 11:00.

21 All stand for the jury.

22 (Jury exits courtroom.)

23 THE COURT: Court is in recess.

24 (Recess had 10:27 - 10:43 a.m. )

25 THE COURT: Thank you. Please be seated. Ready to

1 get the jury, Mr. Campbell?

2 MR. CAMPBELL: Yes. Before I begin, Your Honor, I  
3 conferred with Mr. Becraft; I do not foresee any need to recall  
4 Ms. Worthey or Ms. Jackson, and so unless there's an objection,  
5 I ask that they be released from their subpoenas.

6 MR. BECRAFT: No objection, Your Honor.

7 THE COURT: All right. They are released from their  
8 subpoenas.

9 All right. Let's get the jury.

10 (Witness called.)

11 THE COURT: All rise for the jury.

12 (Jury enters courtroom.)

13 THE COURT: Our jury has returned. Please be seated.

14 (Witness sworn.)

15 MR. CAMPBELL: May I begin, Your Honor?

16 THE COURT: You may.

17 DIRECT EXAMINATION

18 BY MR. CAMPBELL:

19 Q. Good morning.

20 A. Good morning.

21 Q. Will you please introduce yourself to the members of the  
22 jury.

23 A. My name is George McGovern, III.

24 Q. Will you spell your last name.

25 A. M-C-G-O-V-E-R-N.

1 Q. Mr. McGovern, do you live in Shreveport or the  
2 Shreveport-Bossier area?

3 A. Yes, I do.

4 Q. And what do you do for a living?

5 A. I'm a certified public accountant.

6 Q. How long have -- do you own your own practice?

7 A. Yes, I do.

8 Q. How long have you owned your own practice?

9 A. Twenty-two years.

10 Q. What are some of the typical services you perform or  
11 render in your practice?

12 A. Preparation of income tax returns, counseling, financial  
13 statements preparation. That's pretty much it.

14 Q. And let's talk about your educational background.

15 A. I have a bachelor's degree from LSU, and I still go to  
16 their football games. And I have a master's degree from  
17 Mississippi State University. I do not go to their football  
18 games.

19 Q. Now, what did you receive your master's degree in?

20 A. It's an MBA, which just means in business. Yes.

21 Q. Now, as far as -- let's talk specifically about your CPA  
22 training and certification and so forth. What kind of training  
23 did you have as far as preparing to receive, to become a  
24 certified public accountant?

25 A. Well, after I got out of college, I went in the military.

1 Got out of the military, I went to work for a national CPA firm  
2 in Houston. At the time it was called Touche Ross. They used  
3 to have something called the Big 8 firms. You're probably  
4 familiar with Arthur Andersen; they were one of the Big 8's.  
5 Now there's the Big 4, and this firm is still out there, and  
6 they're called Deloitte Touche. I worked for them and passed  
7 the CPA exam while working for them, and became a CPA in 1974  
8 or '76.

9 Q. Now, are you a member of any related professional  
10 organizations?

11 A. Yes. State of Louisiana has a society called the  
12 Louisiana State Society of CPA's; I'm a member of that, and I'm  
13 a member of the American Institute Society of CPA's.

14 Q. Do you teach?

15 A. I used to teach. I taught full-time at Centenary College  
16 from '78 through '85.

17 Q. And would it be fair to say that in order to do your job  
18 effectively, that you have to have some comfort level, if  
19 that's possible, of familiarity with the tax code?

20 A. I would hope so. Yes, sir.

21 Q. Okay. Now, in connection with this case, do you know  
22 Mr. Tommy Cryer?

23 A. Yes, sir, I do.

24 Q. How do you know Mr. Tommy Cryer?

25 A. Tommy and I have been acquaintances for probably 15 years

1 or so. We have some mutual clients, and I believe we actually  
2 got to know each other pretty well with a client that owned a  
3 pizza establishment in a mall, is where we first became  
4 friends.

5 Q. Now, would you describe your relationship as a business  
6 relationship?

7 A. My relationship with Tommy has always been a business  
8 relationship. I would consider him to be a friend, but it's  
9 been always business.

10 Q. So I guess there's also a personal aspect to it as well?

11 A. Yes, sir.

12 Q. Now, at some point did Tommy Cryer come to you and ask  
13 you to do some work for him as far as his business accounts?

14 A. Yes, sir, he did.

15 Q. Okay. And what was the nature of that request?

16 A. I believe when Tommy first came to see me, he asked me to  
17 help him to assemble some data -- I believe that's where we  
18 started -- assemble some data regarding the amount of income  
19 that he had made off of his business.

20 Q. And was that the term he used, income?

21 A. I don't remember the exact term, but that's the way I  
22 understood it, that he wanted to know what he had made in his  
23 business.

24 Q. Okay. And so as you understood it, what was some of the  
25 things that you did in order to comply with that request?

1 A. I asked Tommy to furnish me his documentation that he  
2 had, and he furnished me all of his bank statements and all of  
3 the records that he had available. And then I met with Tommy  
4 periodically in regards to items that may or may not have been  
5 taxable. And I worked up some spreadsheets that Mr. Cryer and  
6 I went over to determine if Mr. Cryer agreed with the numbers  
7 that I had obtained or not.

8 Q. Now, when you said you met with him periodically to  
9 determine what was taxable, would it be fair to say that the  
10 purpose of you doing this work was to determine what his tax  
11 liability may be?

12 A. Well, I would have inferred that. I don't know that  
13 Tommy ever asked me that. Tommy had asked me to assist him in  
14 determining the amount of money he had made in his business.

15 Q. Okay. So you said you had access to his bank records and  
16 so forth?

17 A. He furnished me all of his bank statements, and I believe  
18 his check stubs, and anything else that I would have asked for.

19 Q. And this would be going back to 1997?

20 A. I believe that's the first year we started with, yes.

21 Q. The years that you covered would have been from 1997 till  
22 2001?

23 A. I believe I actually went to 2003.

24 Q. 2003, okay. Now, let's talk about -- well, can you just  
25 kind of describe what you did as far as actually going through

1 these bank records to determine how much money he made?

2 A. Well, I -- when I first met Mr. Cryer, he had told me  
3 that anything in question, to treat it as income. So I started  
4 out with the approach --

5 Q. Let me stop right there. Now, what is the significance  
6 of that to you, anything in question, treat it as income?

7 A. Well, one of the first things we had -- that I have to do  
8 as an accountant is to determine if something he's received is  
9 taxable or not.

10 Q. And where is the source of making that determination?

11 A. The Internal Revenue Code.

12 Q. Okay.

13 A. So one of the first things I had to do was determine what  
14 was taxable, and Mr. Cryer had said that in the event of doubt,  
15 treat it as being taxable -- well, I don't know if he used the  
16 word taxable income. I may be using my words versus his. But  
17 treat it as income he had made in his business. And then I  
18 analyzed the expenses that he had in the bank accounts to  
19 determine the expenses that I thought would be deductible  
20 expenses, once again in accordance with the Internal Revenue  
21 Code. And when I say we met periodically, we probably met two  
22 or three times during this period of time to go over what I had  
23 so that Mr. Cryer was comfortable that what I had were numbers  
24 that he was comfortable with.

25 Q. Now, when you said that, you know, as far as you checking

1 with the Internal Revenue Code just to make sure that what you  
2 were doing complied, did you have these discussions with  
3 Mr. Cryer about the Internal Revenue Code?

4 A. No, I did not.

5 Q. Okay. Now, at some point you was able to basically put  
6 together a spreadsheet to show Mr. Cryer basically how much  
7 money he made in his business?

8 A. That's correct.

9 Q. Okay. And also what were the applicable deductions and  
10 so forth?

11 A. That is correct.

12 Q. And also, you also indicated to him what his tax  
13 liability would have been based on your calculations?

14 A. Not at our first meetings. Our first meetings were  
15 geared at me determining the income from the business.  
16 Mr. Cryer in the first -- in all fairness to the court, I'm not  
17 sure how many meetings we had. I would say more than two and  
18 less than five. But our first few meetings were just geared at  
19 how much money did I make in the business, not so much as what  
20 was the tax liability.

21 Q. But at some point in your work you did determine what  
22 this tax liability would be based on the figures that you --

23 A. I did. Yes, I did.

24 Q. And you showed that information to Mr. Cryer?

25 A. Yes, I did.

1 Q. And also in the course of your work, did you prepare tax  
2 returns for those years?

3 A. I did.

4 Q. But he did not ask you to do that?

5 A. That is correct.

6 Q. But I guess -- would it be fair to say that as part of  
7 your work as far as trying to figure out his tax liability,  
8 that that would be something normal that you would do, actually  
9 prepare a return?

10 A. At some point in what I was doing for Tommy, it became  
11 obvious that we were going to be dealing with what the tax  
12 liability might be, and since the simplest way for any  
13 accountant to do it is to input the data into your software  
14 system, that's what I did to see where we were.

15 Q. Now, as far as the bank records that you relied upon, did  
16 you have any reason to question their authenticity or  
17 reliability?

18 A. No, sir, I did not.

19 Q. As far as the checks and information that he provided  
20 you, did you have any reason to question those checks'  
21 authenticity or reliability?

22 A. No, sir. I had every reason to believe it was the real  
23 thing.

24 Q. Okay. Now, at some point were you interviewed by agents  
25 from the IRS?

1 A. Yes.

2 Q. Were you interviewed, for example, by that man sitting at  
3 the Government's table, Mr. Jimmy Sandefur?

4 A. Yes.

5 Q. And did, pursuant to subpoenas from the government, did  
6 you produce the bank documents that Mr. Cryer had submitted to  
7 you?

8 A. I think they got those from Mr. Cryer. I think at that  
9 point I had given those back to Mr. Cryer. I don't recall.

10 But I did meet with Mr. Sandefur.

11 Q. But they did get some documents from you?

12 A. They got some documents from me, which primarily  
13 consisted of the tax returns I had prepared and those  
14 spreadsheets I was referring to.

15 Q. At some point was you presented a chart that basically  
16 summarized the tax returns that you prepared?

17 A. Yes. Recently, I received that chart, yes.

18 Q. And did you look at that chart to make sure that it was  
19 accurate as far as the actual numbers and figures that you were  
20 able to come up with?

21 A. It was the same numbers that I had derived when I did my  
22 calculations.

23 Q. All right. At this time, I would like to show you what  
24 has been marked as Government Exhibit 40. Do you see  
25 Government Exhibit 40 on your screen in front of you?

1 A. Yes, I do.

2 Q. Is that the chart that was presented to you to compare to  
3 the work that you did?

4 A. Yes, it is.

5 Q. And is it accurate based on what was actually presented  
6 to you?

7 A. Yes, sir. That's the same numbers I arrived at.

8 Q. Now, you did not prepare the chart, but it is accurate  
9 based on what you'd done?

10 A. Yes, sir. I prepared tax returns and income numbers that  
11 would -- that are the same numbers as you see here.

12 MR. CAMPBELL: I ask that Government Exhibit 40 be  
13 admitted into evidence and published to the jury at this time.

14 MR. BECRAFT: No objection, Your Honor.

15 THE COURT: All right. That's in evidence.

16 BY MR. CAMPBELL:

17 Q. Now, let's start with the first column on the left as it  
18 pertains to the year. So the first column starting on the  
19 left, would that be 1997 (indicating)?

20 A. Yes, sir.

21 Q. And the second column going towards my right, that would  
22 be 1998 (indicating)?

23 A. Yes, sir.

24 Q. '99 (indicating)?

25 A. Yes, sir.

1 Q. 2000 (indicating)?

2 A. (No verbal response.)

3 Q. And then 2001 (indicating)?

4 A. Yes, sir.

5 Q. In each column are basically the figures that were taken  
6 from the tax returns you prepared for that respective year?

7 A. That is correct.

8 Q. Now, we're not going to go over each year, but just to  
9 kind of show the work that you did, let's just go over one  
10 column. Okay?

11 A. Okay.

12 Q. Let's go with column 2000.

13 A. Okay.

14 Q. The top figure here (indicating), would that represent  
15 the gross income?

16 A. Yes, sir.

17 Q. Now, explain to the jury what is gross income.

18 A. Well, gross income is all of the income that Mr. Cryer  
19 received during this calendar year that was -- that would be  
20 taxable. Mr. Cryer's a cash basis taxpayer, so it would be all  
21 of the income that came into his various accounts for this  
22 calendar year.

23 Q. So now let's go to the second entry on the 2000 column.

24 Would that be -- well, explain that as far as the \$48,442  
25 figure.

1 A. When you have a business and you're a sole proprietor,  
2 which is what Mr. Cryer was, you complete a form called a  
3 Schedule C. And the Schedule C consists of your gross income,  
4 which is the first item we talked about, and you subtract from  
5 that business expenses that are allowable in accordance with  
6 the Internal Revenue Code. So the \$48,442 represents the  
7 amount of expenses that Mr. Cryer incurred in regards to making  
8 this gross income.

9 Q. Now let's go to the third figure there, the \$6,778.

10 A. The federal government, the Internal Revenue Service, is  
11 allowed to charge self-employment tax to people that have their  
12 own business, and that rate changes depending on what year  
13 we're looking at. But, also, in addition to being able to  
14 charge it, the taxpayer is allowed to deduct one-half of what  
15 they charged. So if you look down to the self-employment tax  
16 number, which is \$13,555 -- towards the bottom.

17 Q. Right here (indicating)?

18 A. Yes, sir. That number should be one-half of that number,  
19 and that's a deduction to arrive at a term we call adjusted  
20 gross income.

21 Q. And that would be the fourth entry there?

22 A. Yes, sir.

23 Q. That would be the \$146,527?

24 A. Yes, sir.

25 Q. Now let's talk about the significance of less standard

1 deduction, which would be the fifth entry, the \$4,400 figure.

2 A. The federal government allows taxpayers the right to take  
3 itemized deductions, which we normally consider to be our  
4 interest on our house, taxes, or charitable contributions, the  
5 three big items, or we get a standard deduction, whichever is  
6 larger. This particular year, and most of the years we're  
7 looking at, Mr. Cryer took the standard deduction in my method  
8 of calculating it because we didn't have any itemized  
9 deductions.

10 Q. And let's go to the sixth, which would be the exemptions,  
11 \$2,352.

12 A. This is the deduction you get for yourself. You also get  
13 a deduction for any children or dependents that you have. I  
14 tried to get Mr. Cryer to take some of my children, but he  
15 wouldn't do it. But anyhow, this is a -- this is a deduction  
16 you get and the federal government tells us how much it is for  
17 each person. The interesting thing about the year that we're  
18 looking at is that you'll notice that it's less than 1999. It  
19 was -- actually, the amount that was available for this year  
20 was more than what I deducted, but this type of deduction is  
21 limited based upon your income. So Mr. Cryer's deduction, once  
22 you go through the calculation for the exemption, is \$2,352.

23 Q. Now let's talk about the taxable income, which would be  
24 the \$139,775.

25 A. That's a number that we did everything else to get to.

1 That's a number that we go to the IRS tables or the U.S.

2 Treasury tables to see what kind of income tax we have.

3 Q. You say the incomes tax table?

4 A. Yes, sir.

5 Q. That's a reference that you used to come up with this

6 figure?

7 A. Yes, sir. The next figure, the income tax number.

8 Q. And that would be the --

9 A. \$38,370.

10 Q. -- \$38,370?

11 A. Yes, sir.

12 Q. Now let's go to -- and you reference earlier the

13 self-employment tax, which would be the \$13,555?

14 A. Yes, sir. That tax is the tax -- that tax is computed on

15 the business net, net income, which would have been the

16 business gross income less the business expenses.

17 Q. Okay. And so what -- so when you add the income tax to

18 the self-employment tax, you come up with a figure of \$51,925?

19 A. Yes, sir.

20 Q. And that would be right here (indicating)?

21 A. Yes, sir.

22 Q. So what that represents is the total tax that Mr. Cryer

23 owes at this time before withholdings?

24 A. Total federal tax.

25 Q. Total federal tax, correct.

1 A. Yes. Yes, sir.

2 Q. And if there are any withholdings applicable, that would  
3 be right here (indicating)?

4 A. Yes. And that would be the case if you had a W-2 or you  
5 would have had deductions. If you had paid in estimated tax  
6 payments, that would have been something you would have  
7 subtracted there.

8 Q. So, basically, after all of these figures and entries are  
9 made, the total taxes that you calculated that Mr. Cryer owes  
10 for 2000 is reflected right here (indicating)?

11 A. Yes, sir. \$51,925.

12 Q. So that we're clear on this, the total taxes for each  
13 respective year is reflected on the bottom line for each  
14 column?

15 A. Yes, sir.

16 Q. And that comes to a figure here of \$169,494?

17 A. I'm going to assume y'all are right there. I didn't  
18 check that.

19 MR. CAMPBELL: You can take it down.

20 (Exhibit G-40 removed from display.)

21 BY MR. CAMPBELL:

22 Q. Now, did you -- was this service you rendered Mr. Cryer,  
23 did he pay you for that?

24 A. He paid me some. He paid me some money. It's better  
25 than a lot of my clients, so.

1 Q. Well, I'm not going to touch that. Okay. Let me ask you  
2 this: Afterwards, did he complain about the work you  
3 performed?

4 A. No. Tommy was completely agreeable, and I don't believe  
5 he questioned what we did. As a matter of fact, at one point  
6 he told me I had missed some income in a year, and we went back  
7 and changed it.

8 Q. So as far as the figures you worked up that show what his  
9 tax liability was, he didn't express any objections to you  
10 about that?

11 A. None at all.

12 MR. CAMPBELL: No further questions, Your Honor.

13 THE COURT: Your cross-examination, Mr. Becraft?

14 MR. BECRAFT: Yes, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. BECRAFT:

17 Q. Good morning, Mr. McGovern.

18 A. Yes, sir.

19 Q. You've been a CPA for 22 years?

20 A. No. I've been a sole proprietor for 22 years. I think  
21 I've been a CPA for --

22 Q. Well, let's back up a little bit.

23 A. All right.

24 Q. When did you graduate from LSU?

25 A. '71.

1 Q. And the degree was?

2 A. Accounting.

3 Q. Okay. And you went to -- you got your master's from  
4 Mississippi State is what you said on direct, right?

5 A. That's correct.

6 Q. And when was that?

7 A. '74.

8 Q. And so you got a doctorate?

9 A. No.

10 Q. Okay. The degree you got from Mississippi State is  
11 actually what?

12 A. An MBA, Master's in Business Administration.

13 Q. When you were at LSU as an undergraduate, did you receive  
14 courses in taxation?

15 A. Yes, sir.

16 Q. When you went to Mississippi State to get your master's,  
17 were there courses in taxation?

18 A. I believe there were, but I don't believe I took any.

19 Q. After you got out of LSU in '71, I think you said you  
20 went to the Houston office of Touche Ross?

21 A. Yes.

22 Q. Which later changed its name to Deloitte Touche, right?

23 A. Yes.

24 Q. That was two years?

25 A. Almost three.

1 Q. So that would lead you up to -- you moved from Houston to  
2 Shreveport about that time?

3 A. Came back to Shreveport in about '78, so. Something like  
4 that.

5 Q. So you got your master's before you came back to  
6 Shreveport?

7 A. Oh, I was -- yeah. I was in the military during this  
8 period of time, stationed in Starkville, Mississippi, and I got  
9 my master's degree while in the military.

10 Q. Okay, good enough.

11 A. So, yeah.

12 Q. If you've been here in Shreveport for 22 years, that  
13 means about '85 is when you established your office?

14 A. Well, let's back up, if I could, Counselor. I came back  
15 to Shreveport in '78. Okay? That's when I started teaching at  
16 Centenary, and I went through various partnerships. I became a  
17 sole proprietor in about '87 or '85. Okay? But I've been here  
18 since '78.

19 Q. Okay. Good enough. What did you teach at school?

20 A. Centenary College. I taught probably everything during  
21 the period of eight years.

22 Q. Would that include tax accounting methods?

23 A. Yes, sir.

24 Q. Would that include courses on the Internal Revenue Code?

25 A. Well, we only had one or two courses in income tax. It

1 would have been all encompassing. So I didn't have a separate  
2 course called that.

3 Q. So any tax topics would be covered in a course that's not  
4 specifically --

5 A. That's right --

6 Q. -- devoted to that?

7 A. -- all I taught in regard to taxation were undergraduate  
8 tax courses, the first and second.

9 Q. Can you tell the jury the substance of those courses that  
10 you taught.

11 A. The primary subject included -- the first course was  
12 individual income taxation. The second course was partnerships  
13 and corporations, and you had a little smattering of getting  
14 into the Internal Revenue Code, but not that much.

15 Q. Well, in your practice -- well, in your undergraduate  
16 courses as well as at Mississippi State, did you specifically  
17 study specific provisions of the Internal Revenue Code?

18 A. Well, by its nature, when you take the income tax  
19 courses, I mean, you are learning the Internal Revenue Code in  
20 that the textbooks refer back to the code and you do tax  
21 research. So indirectly, I was.

22 Q. So when you say you do tax research, is that reference to  
23 the Internal Revenue Code?

24 A. The Internal Revenue Code and other things, such as the  
25 regulations, such as court cases, and so forth.

1 Q. Now, when you and I talk about the Internal Revenue Code,  
2 I can just merely hold this up (indicating) and you recognize  
3 it, right?

4 A. Two books, yes, sir.

5 Q. Basically, if you order a copy of the Internal Revenue  
6 Code, depending on the publisher, you'll get books about this  
7 thick (indicating)?

8 A. I've got two books, different cover, in my briefcase,  
9 same thing.

10 Q. Okay. And regulations, if we had regulations, the income  
11 tax regulations or all the tax regulations here in the  
12 courtroom, we'd have --

13 A. About seven books.

14 Q. Okay, seven books. So it's a lot of material?

15 A. Yes, sir.

16 Q. Is it complex?

17 A. Yes, sir.

18 Q. Incredibly complex?

19 A. Yes, sir.

20 Q. Most accountants, do they consult the Internal Revenue  
21 Code and the regulations when they do tax work?

22 A. Well, we end up thinking after a while we probably know  
23 it or think we have a good understanding of it. I would hope  
24 most CPA's know what they don't know.

25 Q. Okay. You first met Tommy Cryer, according to your

1 direct testimony, about 15 years ago, which would be about '92,  
2 right?

3 A. I think that's right. I don't really recall, but  
4 sometime about then.

5 Q. So sometime in the early '90s?

6 A. I think so.

7 Q. And that would be in reference to some business matter.  
8 Might it have involved a mutual client?

9 A. Oh, it was a mutual client.

10 Q. And y'all worked together on that mutual client's  
11 problems that involved an accountant, you, right?

12 A. I'm not sure I understand the question.

13 Q. Okay, let me -- okay. The client -- you had a mutual  
14 client that caused the two of y'all to come together, right?

15 A. Yes, sir.

16 Q. And it involved legal matters and accounting matters;  
17 that's the reason why the two of y'all teamed up, so to speak,  
18 to work on your client's problems?

19 A. I guess so. Yes, sir.

20 Q. Fair characterization?

21 A. Fair.

22 Q. You had frequent contact from whenever that happened over  
23 the years?

24 A. With Mr. Cryer?

25 Q. Yes.

1 A. Yes, I have.

2 Q. You've had other mutual client problems that you've  
3 worked with, right?

4 A. Yes, I have.

5 Q. Okay. He's even used you, called you, as the case might  
6 be, to work with him on some of his clients?

7 A. Yes, he has.

8 Q. So you had a real good business relationship with him and  
9 you knew him to be a lawyer here in Shreveport?

10 A. Yes, sir.

11 Q. All right. When was it that he came to you to first talk  
12 about these years '97 through 2003?

13 A. I think it was the latter part of '03 or '04. I get my  
14 years mixed up. But it was one of those.

15 Q. So did he just pick up the phone, set up an appointment,  
16 and come by to see you and talk about it?

17 A. Tommy and I go back, and Tommy called and he said: "I'd  
18 like to come by and see you about something I got. Can I see  
19 you one afternoon?" And I believe it was a Friday Tommy came  
20 by and we visited about it.

21 Q. And you understood from what he told you that he wanted  
22 to do some profit and loss statements for the years '97 through  
23 2003?

24 A. Yes. I mean, yeah, that was what I was told he wanted me  
25 to do, was create the amount of profit and loss that he had

1 made in the business.

2 Q. Now, in order to generate profit and loss statements for  
3 each individual year, which I guess in this case was '97  
4 through 2003?

5 A. Yes, sir.

6 Q. You'd have to have access to his bank records?

7 A. Yes, sir.

8 Q. You'd have to have access to his checks?

9 A. Yes, sir.

10 Q. You'd have access to other accounting documents that he  
11 might maintain, correct?

12 A. Yes, sir.

13 Q. Now, when he requested you to prepare these profit and  
14 loss statements, did you request that he provide to you those  
15 items that I've just mentioned?

16 A. Yes, sir.

17 Q. Were there other items that you also wanted?

18 A. Yes, sir.

19 Q. Can you describe for the jury what those might be.

20 A. I think one of the things I asked Tommy was, I wanted him  
21 to tell me other things that may not be coming through the bank  
22 statements that I might not have known about. I also asked  
23 Tommy as I got into the bank statements about transactions that  
24 might appear not to be income. I might have a large deposit  
25 that came in and a check going out to, say, a client of Tommy

1 's, I wanted to make sure I was picking things up correctly. I  
2 wanted to make sure there weren't any notes coming into the  
3 bank accounts that I would call income not knowing any more,  
4 because, as I recollect, all the deposits may not have been  
5 itemized as to what they were for and so I had to get with  
6 Tommy to help me determine that.

7 Q. So as a case arose, you would confer with him?

8 A. Yes, sir.

9 Q. If you had a question, is this -- you mentioned notes.  
10 Did he have some notes receivable?

11 A. No. I think I was talk -- in my world, I was looking  
12 more at notes payable that Tommy may have borrowed money for a  
13 big case and may have had to pay it back, or may have gotten an  
14 inheritance. You know, I knew his wife had died. And so I was  
15 more interested in what's coming into this account that might  
16 not be income, plus what may -- not -- what may be income  
17 that's not coming through these accounts.

18 Q. You mentioned his wife died. Does that -- does his  
19 wife's death have a tax consequence?

20 A. No. But I was concerned that some of the in -- some of  
21 the things he may be, I might be looking at could be inherited  
22 items that maybe shouldn't be taxable.

23 Q. You have a judgment of recollection as to when his wife  
24 died?

25 A. No, I don't.

1 Q. Would '99 be about right?

2 A. I don't remember.

3 Q. Okay. Good. Did he openly and candidly provide to you  
4 everything that you needed?

5 A. Yes, sir.

6 Q. And you totalled up all the receipts that had been  
7 received by his law practice, correct?

8 A. Yes, sir.

9 Q. And you did it for all these years, '97 through 2003?

10 A. I went further than that. I prepared detailed  
11 statements. It wasn't just a total. I actually made a  
12 detailed spreadsheet by item so that we could have something to  
13 fall back on, as opposed to just getting a total.

14 Q. Okay. But you did it for '97 through 2003, everything  
15 that came in the business, right?

16 A. Everything that came in the business, I attempted to  
17 determine whether it should be taxable or not.

18 Q. And you went through all of his records that would relate  
19 to deductions --

20 A. Yes, sir.

21 Q. -- correct? And you ended up with a bottom line; is that  
22 about right?

23 A. Yes, sir.

24 Q. On a profit and loss statement?

25 A. Yes.

1 Q. So, in essence, what you -- if we had here in the  
2 courtroom your profit and loss statements, that would just  
3 simply say, basically, the net that he made from his law  
4 practice?

5 A. Yes, sir. Which would have been the same thing we just  
6 looked at earlier.

7 Q. Now, the profit and loss statements that you prepared at  
8 his request did not disclose any amount of tax that would be  
9 due; is that right?

10 A. That's correct.

11 Q. And that's all he wanted?

12 A. It's all he wanted at that time, from what I recall.

13 Q. Now, about how long, how much time did you spend on  
14 generating these profit and loss statements? A couple weeks?  
15 A couple months?

16 A. No more than -- no more than a couple weeks.

17 Q. So within two or three weeks after him coming in, you had  
18 completed the work?

19 A. No. Originally, Tommy needed it for -- I forget why, but  
20 he wanted it fairly quick. So I worked on it, and then I think  
21 Tommy was out of town or something, from what I recall, and we  
22 didn't get back together for two to three months after I  
23 started, and then I believe I completed it. But most of the  
24 work was done by me during that initial period of time.

25 Q. So within a couple of weeks --

1 A. I had done most of --

2 Q. -- you did most of the work?

3 A. Yes, sir.

4 Q. And then he contacted you again saying, "Mr. McGovern,  
5 please finish it," and that's what you did?

6 A. Yes, sir.

7 Q. And it might have been two or three months later?

8 A. Yes, sir.

9 Q. Okay. Good enough. And you thought that those profit  
10 and loss statements were accurate?

11 A. Yes, sir.

12 Q. Based on his records that he freely provided to you?

13 A. Yes, sir.

14 Q. Did he ever make a statement to you or request that you  
15 should calculate what his taxes were for these years?

16 A. I thought he did.

17 Q. Okay. You specifically recall?

18 A. No, I don't.

19 Q. At whose request were these returns prepared?

20 A. Well, if he didn't --

21 Q. Let me withdraw -- let me refer back to a question.

22 A. All right.

23 Q. When you were developing these profit and loss  
24 statements, I think you said on direct, well, to do that, you  
25 basically used your tax computer program, right?

1 A. No. I may have said that. I didn't mean to say that.  
2 When I -- when I developed these profit and loss spreadsheets,  
3 I used an Excel spreadsheet program. Once we had determined  
4 that what net income number was, then I -- which was later -- I  
5 calculated the tax.

6 Q. So you had a meeting where the two of y'all sat down and  
7 you showed him what the profit and loss statements disclosed?

8 A. If I recall, Mr. Cryer actually took what I had with him  
9 and reviewed it and then we got back together.

10 Q. Okay.

11 A. Yes.

12 Q. Did he ever request you prepare returns for him?

13 A. I would have thought he would have or wanted to know what  
14 the liability was, because I don't know why I would have done  
15 it otherwise.

16 Q. But as you sit here in this courtroom right now, you  
17 don't have any specific recollection or even a general  
18 recollection that he requested you to prepare returns?

19 A. I don't know why I would have had he not asked, but I  
20 don't have any recollection sitting in this courtroom.

21 Q. Okay. But in any event, for whatever reason, returns  
22 were made by you?

23 A. By me.

24 Q. Okay. At some stage, Mr. Sandefur came by your office,  
25 right?

1 A. That's correct.

2 Q. You have a judgment or recollection as to when that  
3 happened?

4 A. No, I don't. It's --

5 Q. Just how about --

6 A. -- 2006, two thousand-something, yeah.

7 Q. And on that occasion, was Mr. Cryer aware that you were  
8 meeting with Mr. Sandefur?

9 A. I called Mr. Cryer after Mr. Sandefur left, because, you  
10 know, I'm not too familiar with these type of situations, and I  
11 told Mr. Sandefur that, and I told Mr. Cryer that they had  
12 visited with me.

13 Q. Did he make any objections to you about turning over  
14 records?

15 A. No, he did not.

16 Q. Did he tell you to go ahead and turn them over?

17 A. Yes, he did.

18 Q. So you turned over to Mr. Sandefur the profit and loss  
19 statements, correct?

20 A. Yes. I don't know I did that the initial meeting, but I  
21 did later on. Yes, I did.

22 Q. And did you turn over to him the tax returns you had  
23 prepared?

24 A. Yes, I did.

25 Q. Did Mr. Cryer know that you were giving the profit and

1 loss statements and the tax returns to Mr. Sandefur?

2 A. Yes, he did.

3 MR. BECRAFT: One moment, Your Honor.

4 BY MR. BECRAFT:

5 Q. On the topic of the returns that you prepared, you first  
6 prepared the profit and losses statements and then later you  
7 prepared the returns?

8 A. That is correct.

9 Q. Did you have a conversation with Mr. Cryer about those  
10 returns?

11 A. I'm sure I did, yes, sir.

12 Q. Okay. Did you deliver copies or the originals of those  
13 returns to him?

14 A. I believe I did.

15 Q. Did you have conversations with him about those returns?

16 A. I believe I did.

17 Q. And what was the general nature of the conversation?

18 A. Was that I had prepared these returns based upon the  
19 profit and loss that we had calculated for the business.

20 Q. And did you ever know that Mr. Cryer had or had not filed  
21 returns for these years?

22 A. Oh, I knew that. I had had conversations, I believe,  
23 during this period of time with the lady that was the federal  
24 prosecutor working for the government and I had had  
25 conversations with her to let her know I was working on the

1 profit and loss statements. So I was aware that the returns  
2 had not been filed.

3 Q. So the returns would have been delivered by you to  
4 Mr. Cryer, let's say sometime in 2006?

5 A. The date escapes me, but it was before I gave them to  
6 Mr. Sandefur.

7 Q. Whatever date that is?

8 A. That's correct.

9 Q. And so you gave him copies of those returns?

10 A. Yes, sir.

11 Q. Do you know what happened to them after that?

12 A. No, sir.

13 Q. You said that Mr. Cryer had a tax liability for these  
14 years '97 to 2003, right?

15 A. I calculated one. Yes, sir.

16 Q. Now, is that based upon your conclusion about what a tax  
17 liability is, is that based upon manuals of the IRS, or is that  
18 based on the Internal Revenue Code?

19 MR. CAMPBELL: Objection. Compound question.

20 MR. BECRAFT: I'll --

21 THE COURT: Rephrase that. Sustained.

22 BY MR. BECRAFT:

23 Q. The -- your statement there that he had a tax liability  
24 for this year, is it based upon your understanding of what's  
25 provided in manuals by the IRS?

1 A. No.

2 Q. Is it provided based upon the Internal Revenue Code?

3 A. Yes.

4 Q. And that conclusion that he had a tax liability, does it  
5 arise from your sitting down and preparing the return and  
6 ultimately seeing that there's taxes due pursuant to the  
7 return?

8 A. (No audible response.)

9 Q. If you don't understand my question, let me know. I need  
10 to make them clear.

11 A. I think I need to try that one again.

12 Q. You reached the conclusion he had a tax liability by  
13 using the form itself, right?

14 A. The form?

15 Q. The form.

16 A. The tax forms?

17 Q. Yes.

18 A. Correct.

19 Q. The 1040 form.

20 A. Correct. Right.

21 Q. What you prepared was a 1040 form, right?

22 A. Correct. Correct.

23 Q. Now, an accountant like you doesn't -- I guess you have a  
24 program where you --

25 A. I do.

1 Q. -- just insert numbers, right?

2 A. Yeah.

3 Q. And once you insert the numbers and you hit the key for  
4 the printer, it will print out the form?

5 A. It's not that easy. I've got to charge a fee, remember.

6 Q. Oh, yeah. But, I mean, the computer --

7 A. You're right. The computer calculates the tax based upon  
8 what I put in.

9 Q. And the form is printed out, right?

10 A. The form is printed out.

11 Q. So both -- the insertion of the numbers happens on the  
12 screen, and the form itself, when you hit the Print button, it  
13 will print out the form, right?

14 A. Right.

15 Q. The calculation or the amount of tax, is that determined  
16 by the computer itself?

17 A. Yes. Or the software program.

18 Q. Okay. Well, do you ever consult, to determine the amount  
19 of tax, do you ever consult anything like the Internal Revenue  
20 Code?

21 A. Do I ever go to look, see if the calculation would agree  
22 with the Code?

23 Q. Correct.

24 A. No, I don't.

25 Q. So in this situation, when you saw the computer printout,

1 gee, this amount of taxes -- if we had the forms here in court,  
2 which are similar to Government Exhibit No. 40, correct?

3 A. Correct.

4 Q. If we had the forms here in court with us, the bottom  
5 line would say whatever the Government Exhibit 40 says for 2000  
6 or 2001; that's what was on that form?

7 A. Yes, sir.

8 Q. Which was generated by the computer program itself?

9 A. Yes, sir.

10 Q. And you didn't compare that to the Internal Revenue Code?

11 A. No.

12 Q. That figure?

13 A. No, I didn't.

14 Q. Okay. What part of your business is devoted to preparing  
15 tax returns?

16 A. Probably 60 to 70 percent.

17 MR. BECRAFT: One moment, Your Honor.

18 THE COURT: All right.

19 MR. BECRAFT: Nothing further, Your Honor.

20 THE COURT: Redirect?

21 REDIRECT EXAMINATION

22 BY MR. CAMPBELL:

23 Q. Mr. McGovern, so we get a clear picture of the work you  
24 perform, you did -- did you do more as far as working with  
25 Mr. Cryer's records than just punching numbers in the computer?

1 A. Well, yeah. I mean, the actual work from the standpoint  
2 that to get at the data was all done in the spreadsheet that we  
3 discussed earlier. When you get the spreadsheet data and you  
4 input the data, the tax, based upon the software I use, should  
5 be an automatic.

6 Q. In order to get to that stage, you had to sit down, would  
7 it be fair to say, you had to sit down and look at the bank  
8 records?

9 A. Oh, yeah. I had already gone through that with the  
10 preparation of the spreadsheets.

11 Q. And did you analyze the transactions to determine, based  
12 on your understanding of the Code, whether this would be  
13 income?

14 A. Yes, sir.

15 Q. Okay. And I believe that you stated with Mr. Becraft's  
16 questions that there were times when you consulted with  
17 Mr. Cryer to determine, if there were any questionable items,  
18 to determine whether it was income or not?

19 A. That's correct.

20 Q. So not only did you work on it, but Mr. Cryer  
21 participated to some extent?

22 A. I asked him to, and I believe -- yes, sir.

23 Q. Now, let's talk about this term profit and loss  
24 statement. Did your work just merely include, you know,  
25 totalling up profits and comparing the losses -- excuse me,

1 totalling up what's gross and then doing the losses to see what  
2 the profits are?

3 A. Well, the profits are what's left over after you've done  
4 everything else. I mean, it's a -- you know, we are  
5 simplifying it. It ends up being income less expense. But the  
6 work was performed in analyzing every transaction for this  
7 period of time, analyzing every deposit and looking at every  
8 expense to determine if it should be taxable as an income item  
9 or should it be deductible as an expense. The net of all that  
10 is this profit and loss that we're talking about.

11 Q. And part of the profit and loss calculations would  
12 necessarily include inputting tax liability? Would that be  
13 included in the profit and loss?

14 A. Well, we're talking about profit and loss for tax returns  
15 and we could be talking about profit and loss for financial  
16 statements. But the tax liability, if you're talking about the  
17 number itself, would not have been something when I did the  
18 profit and loss that I would have calculated.

19 Q. Now, it's your understanding, based on your conversations  
20 with Mr. Cryer, that this work that you was doing was just for  
21 a financial statement, for example, one that would be attached  
22 to a loan application to a bank or something?

23 A. No. I believe when I started I knew that Mr. Cryer was  
24 in conversations with the IRS as to what we were -- what was  
25 going to happen and that this was something that was needed.

1 Q. Now, you stated during Mr. Becraft's testimony that they  
2 were -- that you couldn't recall exactly the scope of what  
3 Mr. Cryer asked you to do. Remember that?

4 A. Okay.

5 Q. I want to show you what I'm just going to mark for  
6 identification purposes only as Government Exhibit 43. Will  
7 you identify Government Exhibit 43.

8 A. This is a -- on my letterhead. It's dated February the  
9 4th, 2005, and it's entitled "Memo of Work Performed for Tommy  
10 Cryer."

11 Q. I'm just going to put it here (indicating) so the Court  
12 can see it as well.

13 A. Okay. All right.

14 MR. CAMPBELL: Can the Court see that?

15 THE COURT: Yes.

16 BY MR. CAMPBELL:

17 Q. Can you see it on your screen?

18 A. I'm glad they can; it's a little blurry for me.

19 Q. I'll get a copy, another copy. (Hands document to  
20 witness.)

21 Now, what I want you to do is read the first paragraph to  
22 yourself.

23 A. Okay, "Mr. . . ." --

24 Q. Just read it to yourself.

25 A. All right.

1 Q. Now, after reading that first paragraph, is your memory  
2 more refreshed as to the scope of the work that Mr. Cryer asked  
3 you to do?

4 A. Yes. I mean, I --

5 Q. Just tell the jury what that would be.

6 A. Well, the first paragraph says that --

7 Q. Without reading the paragraph, just tell them based on  
8 what you now recall, after reading that, what was the scope of  
9 the work that Mr. Cryer asked you to do.

10 A. Mr. Cryer in November '04 contacted me about compiling  
11 some data for the years 1997 through 2003.

12 Q. And what was the purpose of that data?

13 A. The purpose of the data?

14 Q. Yes. And read the first sentence.

15 A. Preparation of his tax returns, per my memo.

16 Q. Thank you.

17 MR. CAMPBELL: No further questions, Your Honor.

18 THE COURT: All right. You may step down.

19 May Mr. McGovern be released from his subpoena?

20 MR. BECRAFT: No objection, Your Honor.

21 THE COURT: Mr. McGovern, you may return to your  
22 office. You're released. Thank you.

23 Mr. Campbell, you're ready with your next witness?

24 MR. CAMPBELL: Yes, Your Honor. The Government calls  
25 Agent Jimmy Sandefur.

1 (Witness sworn.)

2 DIRECT EXAMINATION

3 BY MR. CAMPBELL:

4 Q. Good morning.

5 A. Good morning, Mr. --

6 Q. Will you please introduce yourself to the members of the  
7 jury.

8 A. My name is Jimmy H. Sandefur. I'm a supervisory special  
9 agent with IRS, Criminal Investigation, here in Shreveport.

10 Q. And how long have you been a supervisor?

11 A. I've been a supervisor during two phases, Mr. Campbell.  
12 The first time was February 2003 through August 2004. That was  
13 in Jackson, Mississippi. And then I've been the supervisor in  
14 Shreveport since August 2004. Excuse me, August 2006.

15 Q. What are some of your general duties and  
16 responsibilities?

17 A. As a supervisor, I am the manager for a group of special  
18 agents. The special agents, our duties are to investigate  
19 criminal violations of the Internal Revenue Code and related  
20 statutes.

21 Q. Let's talk about your background. How long have you been  
22 with the IRS?

23 A. I've been with the IRS since 1988. I began that job as a  
24 revenue officer in the Collection Division. And basically what  
25 revenue officers do are work with taxpayers, deal with

1 taxpayers who are delinquent on filing or paying. But that's  
2 in a civil capacity; it's not a criminal capacity. And I  
3 transferred to Criminal Investigation Division in 1994.

4 Q. And as part of your training, would it include becoming,  
5 having some level of comfort and familiarity with the Internal  
6 Revenue Code, IRC?

7 A. I'm familiar with it. I'll be honest: I'm not an  
8 accountant. That's not our job as criminal investigators. Our  
9 primary job is to investigate criminal violations. Now,  
10 because of the nature of the work, working for IRS, of course,  
11 I am familiar with the Code somewhat. I'm not an expert, but  
12 I'm familiar with general basics of the Code.

13 Q. Yes. Part of criminal investigation, would that include  
14 investigating crimes regarding persons who have either failed  
15 to file a return and/or pay taxes?

16 A. Yes, sir.

17 Q. Now, were you involved in the investigation of Tommy  
18 Cryer?

19 A. Yes.

20 Q. Now, did the case start out as yours?

21 A. No, sir. This case was referred to Criminal  
22 Investigation from our Examination Division. It originated, I  
23 believe, in early 2001. There was a revenue agent in the  
24 Shreveport office by the name of Clair Bullock, and Ms. Bullock  
25 initiated an examination, what most people refer to as an

1 audit, of Mr. Cryer. The case was referred to Criminal  
2 Investigation I believe in May 2002, and we initiated a  
3 criminal investigation on Mr. Cryer for failure to file  
4 personal income tax returns.

5 Q. And during the course -- let's talk about some of the  
6 things you did during the course of your investigation. Did  
7 you talk to particular witnesses?

8 A. Yes. The first thing I did, we -- and there was also,  
9 let me clarify, another agent. I went to Mississippi during  
10 this time frame, as I explained. And when I left, another  
11 agent was assigned to the investigation. He moved on to  
12 Houston. So when I came back in 2006, I re-inherited this  
13 investigation. So when I say we, I'm referring to either  
14 myself or the other agent.

15 Q. Now, without telling the jury what witnesses may have  
16 told you, can you describe the kind of witnesses that you spoke  
17 with.

18 A. Well, I spoke to Mr. McGovern, per his testimony just a  
19 few minutes ago, and basically I acquired from Mr. McGovern the  
20 spreadsheets that he prepared based on his analysis of the bank  
21 statements and other items he obtained from Mr. Cryer.  
22 Furthermore, we subpoenaed those bank records. And as I  
23 recall, there were four bank accounts that we looked at  
24 specifically. We looked at a personal account named "Tommy  
25 Cryer"; a business operating account, "Tommy Cryer, Attorney at

1 Law," and that was at Regions Bank; another one, "Tommy Cryer,  
2 Attorney at Law." I believe that one was at First Louisiana  
3 Bank. And also a trust account. That's an account attorneys  
4 have to put money in escrow for their clients while they're  
5 performing legal services for the client.

6 Q. Now, did you examine the records from all those accounts?

7 A. Yes.

8 Q. Did you also talk to -- from those records, did you get  
9 names of clients who wrote checks to Mr. Cryer?

10 A. Right. As part of my corroboration of the work that  
11 Mr. McGovern had done, I prepared a spreadsheet very similar to  
12 what he did and listed out the checks, the deposit items to  
13 Mr. Cryer's bank account, and identified those by name; for  
14 example, John Doe, a check to Tommy Cryer for \$1,000. And me  
15 and other agents interviewed a sampling of those clients to  
16 determine the purpose of the check. And when I say  
17 interviewed, we would basically approach the witness, identify  
18 ourselves and say: I'm here to ask you about this check, can  
19 you please tell me the purpose of this check. It was either  
20 for legal services or not. And that's how I determined what --  
21 I corroborated Mr. McGovern's spreadsheets and my spreadsheets  
22 that most of the deposits to the account, not all, but a  
23 majority of the deposits to the bank accounts were legal  
24 income.

25 Q. Now, what's the relevance of talking to clients to

1 determine whether the check that they wrote -- I mean  
2 relevance, relevance to your investigation -- to determine  
3 whether the check that they wrote was for legal services?

4 A. The scope of my investigation was to determine if  
5 Mr. Cryer had a filing requirement, in other words, a legal  
6 obligation to file a tax return for 2000 and 2001. And  
7 Internal Revenue Code Section 61 says gross income includes  
8 income derived from business. Mr. Cryer's an attorney, he  
9 practices, has a business, and so I needed to determine to see  
10 if he had the requirement to file a tax return; therefore, I  
11 needed to know if there were legal services. Let me give you  
12 one example. One check I recall was from Porter's Cleaners in  
13 2001. We contacted them and it was for reimbursement for  
14 damaged dry-cleaning. That would not be considered income.  
15 That's a reimbursement.

16 Q. So after you talked to various clients to confirm whether  
17 or not they wrote checks in exchange for legal services, did  
18 you start to put together your own spreadsheet to determine  
19 some tax liability?

20 A. Yes. Much in the same way that Mr. McGovern had  
21 testified today, I looked at the bank statements, I prepared a  
22 spreadsheet with the deposits to the account by check, by  
23 deposit. I analyzed that and I came up with a gross income  
24 figure for Mr. Cryer for 2000 and 2001, specifically.

25 Q. Now, I want to show you what's been marked as Government

1 Exhibit 42, and is that the, I guess the chart that you  
2 prepared after examining Mr. Cryer's bank records and talking  
3 to some of his clients?

4 A. Yes. This is a summary of the gross income earned by  
5 Mr. Cryer from 1997 through 2001.

6 Q. And would it be fair to say you did similar work that  
7 Mr. McGovern did?

8 A. It was very similar, yes, sir.

9 Q. And used some of the same documents, as a matter of fact?

10 A. Matter of fact, we used pretty much basically the same  
11 documents, the bank statements that we mentioned previously,  
12 and I referred to Mr. McGovern's work papers as a starting  
13 point for my work.

14 MR. CAMPBELL: I move Government Exhibit 42 in  
15 evidence, Your Honor.

16 MR. BECRAFT: No objection, Your Honor. Is that 42?

17 MR. CAMPBELL: 42. I'm going to get to 44.

18 THE COURT: 42 is received in evidence.

19 BY MR. CAMPBELL:

20 Q. Now, I don't want to start with --

21 MR. CAMPBELL: Publish to the jury, Madam Clerk.

22 BY MR. CAMPBELL:

23 Q. Now, would it be fair to say that this spreadsheet is  
24 structured the same way as Government Exhibit 40, the one for  
25 Mr. McGovern?

1 A. Yes. We start out with the top line, gross income. We  
2 deduct business expenses and one-half of self-employment taxes  
3 the same way as described by Mr. McGovern. From that, we  
4 determined an adjusted gross income. Then we have a standard  
5 deduction and exemptions. We get down to taxable income, tax  
6 due, income tax, self-employment tax, for a total tax less  
7 withholdings, and that's -- the bottom line is the tax.

8 Q. I'm not going to go through each one like we did for  
9 Mr. McGovern, but would it be fair to say that your total tax  
10 liability for '97 to 2000 is less than the figure that  
11 Mr. McGovern came up with?

12 A. Yes. Um --

13 Q. Let me stop you right there. And can -- is it  
14 possible -- I don't know if it would be possible to do a side  
15 by side of the total figure. It would be Government Exhibit 40  
16 for Mr. McGovern.

17 THE CLERK: I don't think you're going to be able to  
18 see it. You're not going to be able to see it.

19 MR. CAMPBELL: Can you just pull up Government  
20 Exhibit 40 briefly.

21 BY MR. CAMPBELL:

22 Q. Now, Mr. McGovern on tax liability was roughly \$169,000.  
23 \$169,494?

24 A. Yes, sir.

25 Q. Now pull up yours, which would be 42. Your tax liability

1 is \$137,314.19?

2 A. 91 cents.

3 Q. 91 cents.

4 A. Yes.

5 Q. So, roughly, it's about a \$30,000 difference between  
6 yours and Mr. McGovern's?

7 A. There's a couple of reasons for that. If I could  
8 explain?

9 Q. Sure.

10 A. One of the most basic reasons is Mr. McGovern used the  
11 single filing status. When you're unmarried and single and you  
12 claim that status, that's a higher tax rate. I used a married  
13 filing jointly for Mr. Cryer for the entire period '97 through  
14 2001. Also, if you'll -- there are some differences, if you  
15 look at the top line, gross income, between Mr. McGovern's  
16 figures and my figures. And my figures are generally less than  
17 his figures, and the reason for that is, as I said, I used  
18 Mr. McGovern's work papers as a starting point, but going  
19 through his work papers, I identified some items that were not  
20 taxable; for example, the check from Porter's Cleaners. There  
21 were also some minor errors in Mr. Cryer's calculations; for  
22 example, there were transfers between accounts, a \$1,000 check  
23 in this account and it was transferred to another account and  
24 it was picked up twice, so I backed that out. And then there  
25 were some items that I just didn't feel were taxable. As I

1 said, my starting point for this analysis was, I wanted to  
2 determine what Mr. Cryer's income was from his law practice and  
3 legal services for 2000 and 2001.

4 Q. So you took a more conservative approach as far as coming  
5 up with these calculations?

6 A. Yes.

7 Q. Now, you stated earlier that, as part of your work, you  
8 do have a, sort of like a basic working understanding of the  
9 Internal Revenue Code?

10 A. A basic understanding.

11 Q. And you stated earlier that income based on Section 61 is  
12 income received or gross receipts from a business?

13 A. Right.

14 Q. That definition guided you to determine what was income  
15 for Mr. Cryer?

16 A. Right. The law says under Internal Revenue Code  
17 Section 61 that gross income is income from any source, and  
18 included in that definition is income derived from a business.  
19 And as I've explained before, Mr. Cryer is an attorney in  
20 business. Our Internal Revenue Code Section 6012 says you must  
21 file a return if -- and each year the figures change, but  
22 basically Internal Revenue Code Section 6012 says that if you  
23 have gross income exceeding the amount of your personal  
24 exemptions and standard deductions, you must file an income tax  
25 return. So, for example, in 2000, a single person, if they

1 earned over \$7,200, they were required to make an income tax  
2 return. Gross income, regardless of taxable income. I could  
3 have gross income of \$7200 and have no tax due and owing, but I  
4 still have to make a tax return. A married person filing  
5 jointly with their spouse for that year 2000, that figure jumps  
6 up to \$12,950, I believe. And again, that's because of you're  
7 getting an extra exemption for your spouse. Now, for 2001,  
8 those figures would increase. Every year they generally  
9 increase. And the figure would be \$7,450 for a single person  
10 and \$13,400 for a person who's married filing with their  
11 spouse.

12 Q. And so based on that, the gross income that Mr. Cryer had  
13 made in this business far exceeded the threshold for filing?

14 A. Yes, sir.

15 Q. And what is your understanding as far as the date that  
16 filings are to be made?

17 A. Again, I would refer to the code. I'm no expert, but  
18 Internal Revenue Code Section, I believe it's 6072 -- as  
19 Mr. Becraft pointed out, it's a voluminous book. It's a big,  
20 thick book. But Internal Revenue Code Section 6072 defines  
21 when a tax return is due, and for an individual that's April 15  
22 following the calendar year that you've earned the money. For  
23 example, in 2001 -- excuse me, 2000, it would be April 15 of  
24 2001, unless that date falls on a Saturday or Sunday, a  
25 weekend, and then you go to the following Monday.

1 Q. And that would explain why in one of the, I believe  
2 Count 1 of the indictment you have an April 17 date as opposed  
3 to an April 15 date?

4 A. April 17, yes. And, actually, I think I made an error,  
5 Mr. Campbell. I think, actually, the due date was April the  
6 16th, but -- a day.

7 Q. So you get one more day. And then the same is true for  
8 the following year, April 15?

9 A. April -- the 2001 return for an individual who earned  
10 personal income per the guidelines I previously stated, that  
11 would be due on April the 15th, 2002.

12 Q. Because we have 2000 and 2001 charged in the indictment,  
13 is that correct?

14 A. Right.

15 Q. So you have one due date; that would have been for  
16 April 15, 2002, for 2001?

17 A. Yes, sir.

18 MR. CAMPBELL: No further questions, Your Honor.

19 THE COURT: All right. Mr. Becraft, your cross-  
20 examination.

21 CROSS-EXAMINATION

22 BY MR. BECRAFT:

23 Q. Mr. Sandefur, I believe you said you've been a special  
24 agent with the CID, but you became a CID agent in 1993, right?

25 A. 1994.

1 Q. Okay. What is your educational background?

2 A. I have a bachelor's of arts degree from Northwestern  
3 State University in Natchitoches.

4 Q. And when did you graduate?

5 A. 1986.

6 Q. And what did you do after that?

7 A. I went to graduate school for about a year, and then in  
8 1988 I started working for Internal Revenue Service.

9 Q. And that was as a revenue agent, right?

10 A. A revenue officer.

11 Q. Okay. What background did you have in college in  
12 reference to accounting and matters like that?

13 A. I had a minor in business administration, and as I  
14 recall, I had approximately 15 hours in accounting.

15 Q. Okay. So by the time you graduated from college, you  
16 had, you know, an accounting background that enables you to do  
17 basically what you do today?

18 A. Well, actually, no, Mr. Becraft. As I said, I was a  
19 revenue officer and that job is completely different than a  
20 special agent. Basically, a revenue officer deals with  
21 delinquent taxpayers with their delinquent filings or payments,  
22 and frankly, there's not a lot of accounting involved in that.

23 Q. Okay. So you were a revenue officer from '88 to '93,  
24 right?

25 A. 1994.

1 Q. '94, okay. And then you became the special agent?

2 A. Yes, sir.

3 Q. Okay. But in that period of time before you became a  
4 special agent and you were a revenue officer, did you have to  
5 take courses that were offered by the IRS, like further  
6 educational courses?

7 A. We had what we call CPE, continued professional  
8 education, occasionally, yeah.

9 Q. When you were in college, did you study the Internal  
10 Revenue Code?

11 A. No, sir.

12 Q. Okay. When you became a revenue officer and were working  
13 with the IRS, did you take courses in the Internal Revenue  
14 Code?

15 A. No. As I said, Mr. Becraft, I had a basic understanding.  
16 One of my jobs as a revenue officer was to solicit and obtain  
17 delinquent returns. Therefore, I needed a basic understanding  
18 of how much money required a return to be filed, so.

19 Q. So prior to you becoming a special agent in '94, you were  
20 working with the IRS at a particular office where?

21 A. Shreveport.

22 Q. Okay. So you became a special agent in '94 and you  
23 worked in Shreveport as a special agent till you moved to  
24 Mississippi, as you mentioned during your direct testimony?

25 A. Yes, sir. In February 2003.

1 Q. And from 2003 until you came back was when?

2 A. August 2004 I came back to Shreveport.

3 Q. So less than a year?

4 A. 18 months.

5 Q. Okay, 18 months. When you became a special agent, did  
6 you take courses in investigative techniques?

7 A. Yes.

8 Q. Did you take courses in the Internal Revenue Code?

9 A. Again, we had an introduction to the Code and a basic  
10 understanding and introduction to the Code.

11 Q. Did you have -- you had courses in how to do like what  
12 you've done in this case, during the course of your testimony,  
13 prepare in essence a profit and loss statement?

14 A. Well, it was more than that, but yes. The method of  
15 proof, we had courses on what's called the method of proof, and  
16 part of, one of those was called the specific items method of  
17 proof. In other words, I looked at each check in the bank  
18 account.

19 Q. This case got its start when I think you said the lady by  
20 the name of Clair Bullet?

21 A. Ms. Bullock. Yes, sir.

22 Q. Okay. She was engaged in an audit in, sometime before --  
23 in 2001?

24 A. I believe it initiated, that audit initiated in  
25 January of 2001, or thereabouts. Yes, sir.

1 Q. And as a result of whatever she did, she ultimately said:  
2 Hey, I'm going to refer this to CID, Criminal Investigation  
3 Division, right?

4 A. Correct.

5 Q. And that happened in May of 2002?

6 A. Yes, sir.

7 Q. So when you received this case, it was in direct response  
8 to a referral by Clair Bullock, this IRS lady?

9 A. Yes, sir.

10 Q. Here in Shreveport?

11 A. Yes, sir.

12 Q. Okay. One of the first things that you do is you -- your  
13 ultimate goal is to get the, whatever documents you can to  
14 demonstrate what somebody made, right?

15 A. Yes, sir.

16 Q. And, ultimately, that was -- George McGovern is a party  
17 that basically provided that information to you?

18 A. Well, he provided part of it. As I mentioned in my  
19 direct testimony, we also obtained Mr. Cryer's bank records  
20 through subpoena and I analyzed those. But, yes, I did obtain  
21 a portion of my information from Mr. McGovern's work papers.

22 Q. So you were working up this case and you got bank records  
23 which would include the monthly statements, checks, things of  
24 that nature, correct?

25 A. Yes, sir.

1 Q. And would that be somewhere in like the end of 2004?

2 A. As I recall, Mr. Becraft, I got back to Shreveport, as I  
3 said, August 2004 and I was the only agent in Shreveport for a  
4 time.

5 Q. Okay.

6 A. This wasn't my only investigation.

7 Q. All right.

8 A. So it wasn't like I walked in the door and said:

9 Mr. Cryer's case, I'm going to start working on that today.

10 But it is a fair statement to say after I got back in 2004, the  
11 bank records were available to me and I began looking at them,  
12 yes, sir.

13 Q. Okay, good enough. Good enough. And, ultimately --  
14 you've heard the testimony from Mr. McGovern that he got the  
15 records I think sometime in November 2004 from Mr. Cryer,  
16 right?

17 A. Yes, sir.

18 Q. And as time went by, did you ultimately learn that  
19 Mr. McGovern had that material; right?

20 A. Yes.

21 Q. And you established contact with Mr. McGovern?

22 A. I did.

23 Q. Would that be, you know, sometime during the first half  
24 of 2005?

25 A. Actually, I think it was later than that, Mr. Becraft. I

1 want to say that I reached out and talked to Mr. McGovern in  
2 August 2005, summer of 2005.

3 Q. All right. Now, to your knowledge, Mr. McGovern was a  
4 CPA that had been hired to work on behalf of Mr. Cryer for  
5 these years '97 through 2003, correct?

6 A. Yes, sir.

7 Q. And once you learned that, you had some conversations  
8 wherein you obtained from Mr. McGovern whatever you needed,  
9 right?

10 A. His work papers, I did.

11 Q. Okay. What you've done in your testimony here today,  
12 you've had an opportunity to go through and probably spend a  
13 considerable amount of time with Mr. McGovern about his  
14 calculation that has ultimately led to the preparation of  
15 Government Exhibit 40, right?

16 A. Actually, I met with Mr. McGovern at his office one day  
17 for an hour, maybe a little bit longer than that, went back to  
18 my office, began analyzing his work, and then there were a  
19 series of fax transmissions back and forth, phone calls. Those  
20 totalled probably six, seven.

21 Q. I didn't hear the last part.

22 A. I'm sorry, sir. Those, the fax transmissions, the phone  
23 calls between totalled six or seven, you know, conversations.

24 Q. Okay. But Government Exhibit No. 40 which was offered  
25 through the testimony of Mr. McGovern -- he said that that's a

1 summary of his underlying profit and loss statements, right?

2 He delivered those to you, right?

3 A. He didn't deliver the, the spreadsheet, but he gave me  
4 the work papers that were used to come to the conclusion that  
5 is the spreadsheet.

6 Q. Okay. And what -- in order to generate Government  
7 Exhibit No. 40 which was offered during Mr. McGovern's  
8 testimony -- he looked at the screen. We all saw it up here.  
9 He said, "Yeah, this is highly accurate," or I guess it was a  
10 hundred percent accurate. But that document had been prepared  
11 by you based upon the materials that had been provided to you  
12 by Mr. McGovern?

13 A. Yes, sir, that's correct. What I did was analyze his  
14 spreadsheet, as I said, and the tax returns that he testified  
15 that he prepared, and based on those documents, the spreadsheet  
16 that was introduced as Exhibit 40, that was prepared.

17 Q. Okay. Now, so you had the information -- I'm presuming  
18 that Government Exhibits 40 and 42 were probably prepared about  
19 the same time, right?

20 A. As I recall, yes.

21 Q. Okay. But in any event, you used Government Exhibit 40  
22 as to kind of summarize the work of Mr. McGovern?

23 A. Yes.

24 Q. And then based upon the same type of documentation, you  
25 prepared Government Exhibit No. 42, which is your summary,

1 right?

2 A. Yes. Based on my earlier testimony, I looked at  
3 Mr. McGovern's work papers and threw out, for lack of a better  
4 term, items that I thought were not taxable, duplications,  
5 those type things.

6 Q. So, in essence, what -- you were uncomfortable with maybe  
7 some assumptions that Mr. McGovern had made and so you just  
8 said: I'm going to throw out and not consider this. And in  
9 essence, we end up with a summary on your part that's basically  
10 a fair characterization, be it less than Mr. McGovern's in  
11 reference to gross income and tax?

12 A. The figures generally are less, yes, sir.

13 Q. Okay. You had this case before you went to Mississippi,  
14 right?

15 A. That's correct.

16 Q. And you went out and talked to clients of Mr. Cryer?

17 A. Before I went to Mississippi, no, sir, I did not. As --  
18 before I went to Mississippi, this was an administrative tax  
19 case. And not to bore the jury, but an administrative case is  
20 one that is within the purview of IRS. It has not been  
21 referred to the United States Attorney's Office as a grand jury  
22 investigation. And during my initial stages of my  
23 investigation, I summonsed bank records, an administrative IRS  
24 summons. Mr. Cryer quashed those summons -- filed documents to  
25 quash, I should more accurately say. So between the time I

1 started my investigation and I left for Mississippi, I did not  
2 look at any bank records nor talk to any clients.

3 Q. Okay. And that only happened when you came back?

4 A. Yes.

5 Q. August 2004?

6 A. Yes.

7 Q. All right. The courses that you've taken regarding the  
8 Internal Revenue Code have been sponsored by the Internal  
9 Revenue Service, right?

10 A. Yes, sir.

11 Q. Have you been taught specific provisions of the Internal  
12 Revenue Code?

13 A. Yes. I've been exposed to them, made aware of them, yes,  
14 sir.

15 Q. Well, does that mean that you're basically sitting down  
16 and reading manuals and studying manuals that kind of summarize  
17 the Internal Revenue Code?

18 A. Actually, the Internal Revenue Code is law.

19 Q. My question is: Are you studying explanations of the  
20 Internal Revenue Code or are you actually studying the Internal  
21 Revenue Code itself?

22 A. Both. I've looked at explanations or course books, for  
23 lack of a better term, and I've also referred to the code.

24 Q. Okay. Now, you mentioned during the course of your  
25 direct testimony you're aware of Section 61 of the Internal

1 Revenue Code, right?

2 A. Yes, sir.

3 Q. And that would have been brought -- you didn't have any  
4 courses about the Code when you were in college?

5 A. No, I did not.

6 Q. You didn't have any courses about the Code when you were  
7 a revenue officer?

8 A. Well, I was exposed to it and referenced to it as I had  
9 to be aware of it to determine someone's filing requirement.

10 Q. But basically what you've learned about the Code has been  
11 while you've been a special agent?

12 A. I had some exposure prior to that, but --

13 Q. Okay. But in any event, as a special agent, they want  
14 you to sit down and at least take a look at some provisions of  
15 the Code?

16 A. Yes, sir.

17 Q. Now, you mentioned during the course of your direct  
18 testimony Section 61.

19 A. Yes.

20 Q. Doesn't it begin with the words except as otherwise  
21 provided?

22 A. It does.

23 Q. Okay. Do you know what is otherwise provided?

24 A. As I mentioned, Mr. Becraft, the Code is voluminous, but  
25 I also know that there are certain deductions and exemptions

1 you can take, but gross income as defined in Section 61 is  
2 identified, is characterized. One of the characteristics of  
3 that is income derived from a business.

4 Q. Well, let me kind of read it for you: "(A) General  
5 Definition. Except as otherwise provided" -- and this  
6 subtitle, Gross Income, means all income, right? You're  
7 familiar with that?

8 A. Uh-huh.

9 Q. ". . . from whatever source derived, including the  
10 following items," one of which is compensation for services.  
11 In fact, that's number 1.

12 A. Yes.

13 Q. Okay. So you're familiar with that?

14 A. Yes.

15 Q. But you can't tell us what the meaning of the first  
16 phrase is, "except as otherwise provided"?

17 A. No, I think I did attempt to explain that, Mr. Becraft.  
18 There are certain sections of the Code that give you  
19 exemptions. As we said, you can have nontaxable items that  
20 isn't included in your income.

21 MR. BECRAFT: One moment, Your Honor.

22 BY MR. BECRAFT:

23 Q. Have you ever had any conversations with Tommy Cryer  
24 himself?

25 A. I only met Mr. Cryer once in the investigative stage, and

1 that was in June of 2002, shortly after we initiated the  
2 investigation. And I met Mr. Cryer, along with Mr. Harp, at  
3 the, as I recall, the Broadmoor library in Shreveport at  
4 Mr. Harp's request, that location, not the meeting.

5 Q. Is it two times? The purpose was to engage in  
6 conversations with him?

7 A. One time I met with him during the investigative stage,  
8 and the purpose of that was -- prior to that, two weeks before,  
9 Mr. Harp had a valid power of attorney on file. I wrote  
10 Mr. Harp a letter and said: Mr. Harp, I'm an agent with  
11 Criminal Investigation, I understand you represent Mr. Cryer,  
12 Mr. Cryer is now the subject of a criminal investigation for  
13 these years, and I would like to meet with you to discuss that.

14 At that meeting, I met with Mr. Cryer and Mr. Harp. As I  
15 recall, Mr. Harp was the one who -- he and I had most of the  
16 interchange. Per our agency guidelines, I did advise Mr. Cryer  
17 of his Fifth Amendment rights to self-incrimination and asked  
18 him if he understood them, and he said yes.

19 Q. You knew that he was a lawyer at that time, right?

20 A. Yes.

21 Q. Did you know whether or not he did either civil or  
22 criminal work?

23 A. I knew he had a law practice on Youree Drive in  
24 Shreveport and, as I recall from the paper that was  
25 transferred, the case that was transferred from Ms. Bullock,

1 that he did general practice type of work.

2 Q. Okay. Did Mr. -- during the time that you met with him  
3 on this occasion that you just described, did Mr. Cryer make  
4 any statements?

5 A. No, sir.

6 Q. Okay. After -- that was the first meeting?

7 A. Yes.

8 Q. And you specifically recall he said nothing?

9 A. Well, I advised him of his rights and he said yes. But I  
10 do not recall, Mr. Becraft, him making any statements. As I  
11 said, the dialogue that day was primarily between me and  
12 Mr. Harp.

13 Q. Okay. Now, on the second occasion, that meeting would  
14 have lasted a short period of time, right?

15 A. As I said, during the investigative stage of the case,  
16 before the case was referred to the Department of Justice, I  
17 met with Mr. Cryer once.

18 Q. Okay. Was Mr. Harp present?

19 A. As I just said, yes.

20 Q. Okay. I thought your testimony is that you met with him  
21 twice?

22 A. During the investigative stage, I met with Mr. Cryer  
23 once. Mr. Harp was present.

24 Q. Okay. All right. And there's no other time?

25 A. Correct.

1 MR. BECRAFT: One moment, Your Honor.

2 BY MR. BECRAFT:

3 Q. Has Mr. Cryer ever made a statement to you that he would  
4 comply if you would provide him a section of the Internal  
5 Revenue Code that made him liable?

6 A. He sent a letter to Ms. Bullock, as I recall,  
7 January 2001, shortly after she contacted him, Mr. Becraft, and  
8 said: Please provide any evidence or items that you have that  
9 I earned gross income. I'm paraphrasing.

10 Q. Yes.

11 A. When I met with Mr. Cryer and Mr. Harp on -- in June of  
12 2002, I told Mr. Cryer that I reviewed this letter and other  
13 letters that he had provided through Mr. Harp which I  
14 characterized as frivolous. For example, one letter requested,  
15 said that an IRS letter --

16 Q. My question is different from that. Okay? My question  
17 that is pending right now is did Mr. Cryer make or ask such  
18 question of you on that occasion?

19 A. No, sir. Of me that day, no, sir.

20 Q. All right.

21 MR. BECRAFT: Nothing further, Your Honor.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY MR. CAMPBELL:

25 Q. Kind of finish up on that meeting you had with Mr. Cryer,

1 you had started to answer a question about a letter that  
2 Mr. Cryer had sent that caught your attention?

3 A. During the course of the civil examination such as  
4 Ms. Bullock conducted, she requested certain records from  
5 Mr. Cryer. Again, at this point, this is not a criminal  
6 investigation. She's trying to get records to determine what  
7 his income was. She sent some letters and in response, through  
8 Mr. Harp, she got back letters that I would characterize as  
9 frivolous. Through my experience as a special agent, we get  
10 many letters from people who do not agree with the income tax  
11 laws, for whatever reason. One letter in particular I remember  
12 said this letter is invalid because it doesn't have an OMB  
13 number, an Office of Management and Budget number. It's  
14 frivolous. I mean, you don't need that. But this is delaying  
15 tactics that many people who espouse these beliefs try with the  
16 IRS.

17 So when I met with Mr. Cryer and with Mr. Harp in June of  
18 2002, I explained to them that Mr. Cryer was an attorney, to my  
19 understanding, at that time he had not filed a personal income  
20 tax return since 1992, and the arguments that he had been  
21 espousing to Ms. Bullock -- this was our first meeting, not to  
22 me -- were frivolous and that income had been defined by the  
23 Code, and he's an attorney, you earn money, you have to file,  
24 that's the law.

25 Q. So you just put it to him that bluntly?

1 A. I prepared a contemporaneous memo, Mr. Campbell, and I  
2 wrote the word "frivolous" in there.

3 MR. CAMPBELL: No further questions.

4 THE COURT: All right, sir. You may step down.

5 Mr. Campbell, we're now almost ten minutes after the  
6 noon hour. Do you have another witness for this afternoon?

7 MR. CAMPBELL: Subject to the Government's exhibits  
8 being properly admitted, I rest at this time.

9 GOVERNMENT RESTS

10 THE COURT: All right, ladies and gentlemen. The  
11 Government has rested its case. We're going to take a lunch  
12 break today till 1:30. Once again, if you need assistance in  
13 looking for a place to eat here in the downtown area, our court  
14 security officers will be glad to help you with ideas and give  
15 you directions. We will resume then at 1:30.

16 Mr. Campbell, if you would use a few minutes to be  
17 sure that your exhibits are in order and properly introduced.

18 Very well. We are in recess till 1:30. All rise for  
19 the jury.

20 (Jury exits courtroom.)

21 THE COURT: Court is in recess.

22 (Lunch recess had at 12:10 p.m.)

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I N D E X

WITNESSES FOR THE GOVERNMENT:

	Dir	Cross	Re-Dir	Re-Cross
Gloria Jackson.....	43	72	85	-
Gloria Worthey.....	87	91	95	-
George McGovern, III.....	98	113	131	-
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C E R T I F I C A T E

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I, Marie Moran Runyon, Official Court Reporter, do hereby certify that the foregoing pages numbered 38 through 162 do constitute a true and correct record of proceedings had in said trial to the best of my ability and understanding.

I certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Subscribed and sworn to this 14th day of August, 2007.

---

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