SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA
2012 FEB -7 AM 10: 23
SANDRA FARNHAM, CLERK
BY: Jacqueline Harshman

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,
Plaintiff,
vs.
JAMES ARTHUR RAY,
Defendant.

Case No. V1300CR20108-0049

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE WARREN R. DARROW

ORAL ARGUMENT/EVIDENTIARY HEARING

RE MOTION TO REDUCE BAIL and

MOTION TO STRIKE EX PARTE PLEADING

FEBRUARY 23, 2010

Camp Verde, Arizona

ORIGINAL

REPORTED BY
MINA G. HUNT
AZ CR NO. 50619
CA CSR NO. 8335

1 APPEARANCES OF COUNSEL:

2 For the Plaintiff:

3 YAVAPAI COUNTY ATTORNEY'S OFFICE
BY: SHEILA SULLIVAN POLK, ATTORNEY
4 and
BY: BILL ROY HUGHES, ATTORNEY
5 255 East Gurley
Prescott, Arizona 86301-3868
6

7 For the Defendant:

8 THOMAS K. KELLY, PC
BY: THOMAS K. KELLY, ATTORNEY
9 425 East Gurley
Prescott, Arizona 86301-0001
10
MUNGER TOLLES & OLSON, LLP
11 BY: LUIS LI, ATTORNEY
and
12 BY: TRUC DO, ATTORNEY
355 South Grand Avenue
13 Thirty-fifth Floor
Los Angeles, California 90071-1560
14

15
For KPNX and Phoenix Newspapers, Inc.:
16
STEPTOE & JOHNSON
17 BY: CHRIS MOESER, ATTORNEY
201 East Washington Street
18 Phoenix, Arizona 85004

19
For Victims:
20
GALLAGHER & KENNEDY, PC
21 BY: PATRICK J. McGRODER, ATTORNEY
2575 East Camelback Road
22 Phoenix, Arizona 85016

23

24

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1 I N D E X

2 EXAMINATIONS PAGE

3 WITNESS

4 RICHARD LEE ECHOLS

5 Direct by Mr. Hughes 23
Cross by Mr. Li 54
6 Redirect by Mr. Hughes 79
Recross by Mr. Li 89

7

8

9 EXHIBITS ADMITTED

10 Number Page

11 5 29

12 6 29

13 1 30

14 4 32

15

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1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Tuesday,
3 February 23, 2010, at Yavapai County Superior Court,
4 Division Pro Tem B, 2840 North Commonwealth Drive,
5 Camp Verde, Arizona, before Mina G. Hunt, Certified
6 Reporter within and for the State of Arizona.
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1 P R O C E E D I N G S

2 THE COURT: Hello. This is Warren Darrow,
3 Judge Pro Tem. And I'm calling the case of V1300CR
4 20108-0049, State versus James Arthur Ray. And
5 Mr. Ray is present with his attorneys -- Mr. Kelly,
6 Ms. Do and Mr. Li. The state is represented by
7 Ms. Polk and Mr. Hughes. I believe there are some
8 people on the phone as well making appearances.
9 Do I have George Brown present
10 telephonically?
11 MR. BROWN: Yes, Your Honor.
12 THE COURT: And also Brett Neuman?
13 MR. NEUMAN: Yes, Your Honor.
14 THE COURT: And then I also had a notice handed
15 me. Lily Clark is also present.
16 This is the time set for a hearing --
17 MR. McGRODER: Excuse me, Your Honor. Pat
18 McGroder, appearing for the Shore family, also
19 present. We filed a notice of appearance.
20 THE COURT: Okay. Mr. Groder also present.
21 MR. McGRODER: McGroder, M-c-G-r-o-d-e-r.
22 THE COURT: Thank you, sir.
23 MR. McGRODER: Thank you, sir.
24 MR. MOESER: Your Honor, and Chris Moeser on
25 behalf of KPNX and Phoenix Newspapers, Inc.

1 THE COURT: Thank you, Mr. Moeser.
2 The motion today -- primarily the concern
3 is the motion to reduce bond, modify release
4 conditions. However, there has been a request for
5 camera coverage. I just want to say right now I see
6 there is a tripod. I have not made a ruling on the
7 proceeding today. So there wouldn't be any camera
8 coverage right now. There has been briefing on the
9 issue. I've read that. And I just want to know if
10 anybody else has anything to say on the presence of
11 cameras for this proceeding.
12 MR. LI: Nothing on behalf of Mr. Ray.
13 MS. POLK: Your Honor, did you receive the
14 memorandum of law that the state filed early this
15 afternoon?
16 THE COURT: I read that. That had to do with
17 the issue of the question of having sealed
18 documents. Yes. I've gotten that and read that.
19 Thank you.
20 MS. POLK: The state has nothing further to
21 add, then.
22 THE COURT: Mr. Moeser?
23 MR. MOESER: Your Honor, the only thing we
24 would add is that, as you know, this is a public
25 proceeding. Under the First Amendment, under the

1 Constitution, it's presumptively a public
2 proceeding; and that cameras, really in particular
3 video camera coverage of this proceeding, would
4 foster the First Amendment values that the Supreme
5 Court has recognized since the Press Enterprise
6 cases, the Richmond newspapers case. And that is it
7 serves as a check on all the institutions involved
8 here -- the defense, the state, others. And it
9 really is the most unfiltered way for the public to
10 monitor this important proceeding.
11 And Under Rule 122 and the changes that
12 were enacted about a year ago, really the only way
13 that the camera coverage should not be allowed is if
14 there is a showing by whoever is opposing camera
15 coverage that there is a likelihood of harm to one
16 of the Rule 122 factors.
17 And given that we have an open proceeding,
18 there will be press coverage of this proceeding,
19 that the public is allowed at this proceeding, no
20 one has really made a showing here that the addition
21 of a video camera or video coverage of such a
22 proceeding would pose any danger beyond -- or any
23 danger at all for that matter, any risk to the
24 Rule 122 factor.
25 For that reason we would urge the Court to

1 allow video and still photographic coverage pursuant
2 to the restrictions in Rule 122.
3 Thank you.
4 THE COURT: Thank you.
5 Mr. Li?
6 MR. LI: Your Honor, if I may be heard. I
7 misspoke. I thought we were only talking about the
8 issue of whether or not there would be cameras in
9 the courtroom. Ms. Polk is correct. There is
10 another issue which deals with the under seal
11 portions of this hearing. And that implicates a
12 completely different set of issues.
13 THE COURT: Well, it's related. If you think
14 we need to go into that, we can. We're going to go
15 into it at some point clearly. But if you want to,
16 I will.
17 MR. LI: I will. If I could, Your Honor. The
18 state properly notes that the factors to be looked
19 at are whether there will be a substantial
20 probability that irreparable damage to the
21 defendant's fair trial rights will result if
22 documents are not sealed or if the proceedings are
23 not sealed.
24 Secondly, that there might be a
25 substantial probability that the alternative

1 disclosure will not adequately protect the right to
2 a fair trial. Third, there must be a showing of
3 substantial probability that closure will be
4 effective in protecting against that perceived
5 harm.
6 In this particular case we from the
7 beginning with the state's concurrence asked the
8 Court to seal all of the financial records that are
9 related to the bail. And there is no connection
10 between the financial documents and any of the
11 merits of the underlying case. It literally has
12 nothing to do with each other.
13 The only reason why we've been talking
14 about this is to answer some of the state's concerns
15 relating to bail issues. And so for that reason we
16 don't think there is any probative value for the
17 media to be looking at that particular issue.
18 And secondly, there is a lot of
19 prejudicial value in that open discourse about
20 Mr. Ray's finances could serve to prejudice him
21 under these circumstances.
22 Given that, Your Honor, we would ask that
23 we maintain the documents under seal and that
24 discussions of his financial circumstances be kept
25 in camera, which is the substance of the state's

1 motion or memoranda.
2 THE COURT: Ms. Polk?
3 MS. POLK: Judge, in response to the issue of
4 the documents having been filed under seal, defense
5 filed the motion, filed the documents under seal,
6 then notified the state. At that time the state
7 indicated we had no objection.
8 Having since done research at the Court's
9 request on the issue of the filing of documents
10 under seal, we believe that the law indicates that
11 the documents cannot be filed under seal. It is the
12 state's obligation to uphold all the laws of the
13 State of Arizona and the United States. And that
14 includes the public records and the right to
15 access.
16 But, as indicated in the memorandum of law
17 that we filed with you early this afternoon, the
18 right -- the public's right of access is favored
19 over a defendant's privacy interest in documents.
20 The United States Supreme Court has held
21 that that First Amendment right to access applies
22 not just to the criminal trial, but also to
23 preliminary hearings. And in the ninth circuit
24 cases have held that right to access. I'm talking
25 about the issue of documents being filed under

1 seal.

2 The ninth circuit has held that that right

3 to access applies also to pretrial proceedings. And

4 specifically the state found a case that dealt with

5 a release hearing such as today's. The burden

6 clearly is on the party that is advocating the

7 documents be filed under seal to show that

8 substantial harm, in the substantial interest in

9 maintaining the privacy. We haven't seen that. I

10 don't believe the defense has come forward and met

11 that burden.

12 And so I think in accordance with the law,

13 I don't believe that there is any right of the

14 defendant to file those specific documents under

15 seal. And I think case law is clear that the

16 parties -- the state and the defense -- cannot

17 simply agree to have something filed under seal and

18 therefore keep it under seal.

19 And, Your Honor, I believe it does relate,

20 then, to the issue of cameras in the courtroom in

21 this way. Under Rule 122 the Court, as you know,

22 has to go through the seven factors, make specific

23 findings and weigh each of those factors.

24 Ultimately, the interest and obligation of

25 the state is to make sure that the defendant has a

1 fair trial. And the right of the state is to try
2 the defendant in Yavapai County. When we look at
3 the purpose of this hearing, which is release -- and
4 it deals with issues that ultimately do not go to
5 the guilt or innocence of the defendant, these are
6 issues that the trial in this case -- that the trial
7 jury would never consider nor would they be privy to
8 this information.
9 I think that that heightens the amount of
10 weight to be given to the first factor in terms of
11 possibly prejudicing the jury pool out there.
12 For that reason, Your Honor, although I do
13 believe that the rule does favor cameras in the
14 courtroom, does absolutely -- the law absolutely
15 favors public access, I think on a
16 hearing-by-hearing basis, when you look at the
17 purpose of this hearing, I think the weight falls in
18 favor of exclusions of video cameras. The state has
19 no objection to still photography.
20 THE COURT: Thank you, Ms. Polk.
21 Mr. Moeser, you wanted to be heard. I
22 know you're here directly with regard to the, well,
23 issue of cameras. There is access-to-public-records
24 issue that's been raised as well.
25 MR. MOESER: Your Honor, that's correct. My

1 clients, PNI and KPNX, did not move to unseal
2 records that Mr. Li had mentioned. However, we do
3 believe any aspect of this proceeding, all aspects
4 of this proceeding, should be open to the public and
5 therefore open to cameras under Rule 122.
6 We cited a case in our motion and I think
7 in our reply. The Seattle Times case is directly on
8 point. It's a ninth circuit case. It may have been
9 the case that the county attorney referred to.
10 And I think she's exactly right that there
11 is an incredibly high standard to file those
12 documents under seal. And in that case the Court
13 held that there was no danger of adverse publicity.
14 And that case was just two months before jury
15 selection. And included in the documents that were
16 sealed by the Court in that case were financial
17 affidavits, very similar records that may be at
18 issue here obviously. I don't know exactly what's
19 at issue. We haven't seen them.
20 But the Court held that the documents were
21 not inflammatory, included results of a polygraph
22 test that was included in the state's brief on bond
23 reduction.
24 And so I think the standard that Mr. Li
25 laid out, that there is a substantial probability

1 that irreparable damage to defendant's fair trial
2 right -- it's very hard to meet that standard.
3 And the last point on the point Ms. Polk
4 raised about camera coverage, I think it actually
5 cuts the other way, that if there is such a low risk
6 and there hasn't been any demonstration of prejudice
7 or likelihood of prejudice, which is the Rule 122
8 standard, the fact that we have an open proceeding,
9 the link that really needs to be made is how camera
10 coverage, video coverage, would cause some sort of
11 harm that wouldn't exist in an open hearing anyway.
12 And I don't think that showing has been
13 made. That's the showing that has to be made under
14 Rule 122, that video camera coverage of this
15 proceeding would somehow cause a likelihood of harm
16 that -- to one of those Rule 122 factors. That
17 showing just hasn't been made yet.
18 THE COURT: Thank you.
19 Mr. Li, before you speak I want to mention
20 one thing. There was a box of records provided to
21 me yesterday. And the procedure of the clerk to
22 have records scanned -- and they got into the 900's
23 in terms of pages. And the system, the program,
24 that we just got won't scan any more. I haven't
25 looked at those.

1 I think the real concern when you're
2 dealing with a public record and when it is a public
3 record, if it's something that the Court's
4 considered and based a decision on, an important
5 decision -- and a bond decision is an important
6 decision -- then that's something likely the public
7 I think would have a right to have access to. But I
8 haven't looked at it, none of the last submissions.
9 I just want to mention that right now. So anything
10 in there would have nothing to do with any decision
11 I would make on this issue here today.
12 Mr. Li?
13 MR. LI: Your Honor, I just want to note that
14 we're a little surprised that the state has
15 stipulated to something and then decided that it no
16 longer agrees that these matters should be under
17 seal.
18 I think the issue about whether documents
19 could be under seal could be a longer discussion.
20 We could have more briefing about that. I'm
21 actually a little taken aback that the state on one
22 hand agreed to keep the documents under seal and is
23 now advocating a different position.
24 The media interests have indicated they
25 haven't asked for anything to be unsealed. I'm a

1 little surprised and would ask for more time to talk
2 about that issue.
3 THE COURT: I know there had been some requests
4 for sealed records. I can't say offhand who has
5 made the request.
6 Ms. Polk, did you want to add anything?
7 MS. POLK: Your Honor, I want to clarify for
8 the record that the state never stipulated that
9 anything be filed under seal. The defense filed
10 records under seal. They asked us if we oppose at
11 the time. And we said we did not. As I explained
12 to the Court today, having done research, I don't
13 believe the parties by stipulation can agree to file
14 something under seal, that the law does not
15 otherwise support it be filed under seal.
16 THE COURT: I don't think the stipulation can
17 turn something into a public record that's not a
18 public record. The interest behind the stipulation
19 may rise to a level that certain records would be
20 protected. But in any event, I don't want to
21 address further other than to say I realize that
22 this can come up in the hearing today. And it will
23 just have to be dealt with at that point.
24 With regard to camera coverage, I'm going
25 to state at the outset that I am going to allow

1 camera coverage with some limitations. I have
2 concerns about use of cameras in a courtroom. I've
3 read the brief filed by Mr. Moeser and what studies
4 have been done in this regard.
5 But I can say that I think intuitively
6 based on that, cameras in the courtroom, especially
7 a television camera, is likely a distraction that
8 could impact the right to a fair trial. It's
9 something that attorneys, witnesses, jurors and The
10 Judge could be focused on.
11 I also think that an excessive amount of
12 video exposure could possibly impact a right to a
13 fair trial and also impact the right of privacy.
14 However, I just don't find that there is a
15 likelihood of harm arising from the factors that are
16 enumerated in Rule 122(b) that would outweigh the
17 benefit to the public of camera coverage.
18 As I stated, this goes against what I
19 generally think, but the law seems to be to the
20 contrary, that the very strong interest in
21 transparency and the right of the public to observe
22 proceedings, have full reporting, that's a very
23 strong interest. And at least with what I've seen
24 and what I've been shown, I have not seen a
25 likelihood of harm. So based on what I have seen at

1 this juncture.
2 So as mentioned, I do think some
3 limitations are appropriate, and I will announce
4 those. I had first stated that I was going to state
5 that I wanted the camera set up in the courtroom as
6 discussed in the informal meeting. I see that
7 that's not happening today. That's not where it was
8 agreed in the -- it was an informal meeting. It
9 wasn't a formal agreement. But that was not where
10 the camera location was for counsel who were here.
11 I believe it was going to be in the far corner.
12 However, for today that's fine. It can be
13 left there. There will be no photographing of
14 Mr. Ray, the defendant, which shows any type of
15 shackling or other restraints. Mr. Ray will be
16 permitted to dress as he is today, in civilian
17 attire.
18 And with regard to individual witnesses
19 who testify, they have not really had an opportunity
20 to object. So under Rule 122(f) and (g), if they do
21 have an objection, then that can be considered
22 within the rule at the time that the objection is
23 made.
24 In accordance with the rules, journalists
25 may use their personal recorders. I'm going permit

1 that. This is an open proceeding. It's a public
2 proceeding. A transcript could be obtained in any
3 event. And so the audio recorders are permitted.
4 With regard to the photographing of video,
5 this part of the hearing will be still photography
6 only. If we do take a recess and it's possible to
7 set up a television camera, video camera, whatever,
8 if that can be done during the recess time, I will
9 permit that in the location that was discussed at
10 the informal meeting.
11 Counsel, anything else on that?
12 MS. POLK: No, Your Honor.
13 MR. LI: No, Your Honor.
14 THE COURT: Then there is another matter that I
15 want to take up before the release -- the bond
16 hearing. And that had to do with the state's motion
17 to strike the ex parte in camera submission, or that
18 pleading where that was submitted.
19 Mr. Hughes, I think you filed that
20 yourself. I have not looked at that. I have it
21 with me. It's still sealed. But I think it did
22 relate --
23 Ms. Polk, did you submit that?
24 MS. POLK: I did, Your Honor.
25 THE COURT: Ms. Polk, I have not viewed the

1 documents and indicated I would not until that was
2 heard. If there is any further argument on that,
3 I'd like to hear that at this point.
4 MS. POLK: Your Honor, has the Court read our
5 pleading? Or do you want me to --
6 THE COURT: Yes, I have. Absolutely.
7 MS. POLK: Judge, I have nothing to add other
8 than I believe the law squarely does not allow ex
9 parte submission of materials that a party wishes
10 the Court to consider on the matter that is at
11 issue.
12 If the Court is going to review and
13 consider any information relating to the amount of
14 bond, the state has the right to see that
15 information and the state has the right to
16 cross-examine on that information.
17 We've done research on the topic. It
18 appears to me that the Court's acceptance of ex
19 parte information on the issue at hand would, in
20 fact, be a violation of the judicial canon and that
21 the submission by any attorney to the Court of
22 information ex parte would also be a violation of
23 the ethical rules.
24 THE COURT: Thank you.
25 Mr. Li, I don't know that anyone on the

1 defense has filed a response.
2 MR. LI: We have not, Your Honor. We have
3 informally spoken to Mr. Hughes about providing this
4 information, the declaration itself, to the state
5 and just doing it in camera. And we've talked about
6 that. We understand the state's position. And
7 we're willing to share the information with them.
8 It's just quite sensitive. We thought it would be
9 better shared in camera.
10 THE COURT: Well, I haven't considered it --
11 MR. LI: I think that would resolve the issue.
12 THE COURT: Ms. Polk?
13 MS. POLK: Your Honor, the state has not seen
14 the information. And, again, I would go back to our
15 research on the issue of sealed documents. Again,
16 until the defense can point to a specific case or a
17 specific statute or rule that makes a document
18 privileged, documents are not privileged and the
19 presumption is in favor of public access.
20 THE COURT: At this time I'm, essentially,
21 granting the motion to strike or not consider it,
22 however you want to phrase that. It's information
23 that could bear on this proceeding, substantive
24 decision of the Court. Any other side would have to
25 have an opportunity to address that. So it's not

1 going to be considered.
2 Mr. Li?
3 MR. LI: What's ironic is that we've offered it
4 to the state and they apparently just don't want to
5 see it and want it stricken, which I think is an
6 awkward way to proceed.
7 MR. HUGHES: Your Honor, if I can reply to
8 that. I don't want to get into a shouting match.
9 But I've asked to see that document. It's not been
10 produced. The state to this day would still like to
11 see that document, and it's not been produced.
12 We've not turned down an offer to see it. There has
13 been no offer to give it to us. There is the
14 suggestion that maybe we can look at it in the
15 Court's chambers.
16 MR. LI: In camera. That offer stands good
17 right now.
18 THE COURT: Then I would like to proceed, then,
19 with the motion for reduction of bail unless anybody
20 has something else you want to take up. The state
21 does have the burden at the pretrial stage.
22 Are the parties ready to proceed with
23 that?
24 MR. HUGHES: Yes, Your Honor.
25 MR. LI: Yes, Your Honor.

1 THE COURT: Mr. Hughes?
2 MR. HUGHES: Thank you, Your Honor. The state
3 calls Richard Echols.
4 THE COURT: Please step forward where the
5 bailiff is directing you. Raise your right hand and
6 be sworn by the clerk.
7 RICHARD LEE ECHOLS,
8 having been first duly sworn upon his oath to tell
9 the truth, the whole truth, and nothing but the
10 truth, testified as follows:
11 THE COURT: Please be seated at the witness
12 stand.
13 DIRECT EXAMINATION
14 BY MR. HUGHES:
15 Q. Sir, can you tell us your name and spell
16 your name for the record.
17 A. Richard Lee Echols, E-c-h-o-l-s.
18 Q. And would you tell us what you do for a
19 living.
20 A. I'm a fraud examiner for the Rocky
21 Mountain Information Network.
22 Q. And what does a fraud examiner do?
23 A. Rocky Mountain Information Network exists
24 as an entity of the U.S. Department of Justice. I
25 do criminal fraud investigations for law enforcement

1 agencies in the eight Rocky Mountain states.
2 Q. And how do you personally involve yourself
3 in an investigation?
4 A. When a law enforcement agency has a case
5 that is financial in nature and they do not have the
6 resources to be able to understand or prosecute the
7 case, I am loaned to that agency to help provide
8 that expertise and help them put the case together.
9 Q. Have you heard the term "forensic
10 accountant"?
11 A. Yes, I have.
12 Q. Would that term describe what do you for
13 the Rocky Mountain Information Network?
14 A. Yes, sir.
15 Q. Can you tell us what your qualifications
16 and experience are to be able to be a forensic
17 accountant?
18 A. Yes, sir. I received a degree from
19 Arizona State University in accounting. As a result
20 of that degree, I sat for and passed the examination
21 to become a certified public accountant. I have sat
22 for and passed the examination to become a certified
23 fraud examiner.
24 As a result of my experience in the
25 accounting field, I have been awarded the

1 Certification in Financial Forensics from the
2 American Institute of CPAs.
3 On the investigation side I've graduated
4 from the Arizona Regional Police Academy, was a
5 sworn peace officer and received investigative
6 experience with the City of Phoenix Police
7 Department as well as the Texarkana Sheriff's
8 Office.
9 I was a member of a CPA firm when I was --
10 when I graduated from Arizona State, became the
11 managing partner of that firm, had that firm for 35
12 years when I sold it to go to work for the City of
13 Phoenix Police Department. So I have both the CPA
14 background and investigative background.
15 Q. How many years of accounting experience do
16 you have?
17 A. About 40.
18 Q. And how long have you been a fraud
19 examiner or forensic accountant for the Rocky
20 Mountain Information Network?
21 A. Just over two years.
22 Q. Have you assisted the State of Arizona in
23 reviewing some financial documents relating to
24 James Ray?
25 A. Yes, I have.

1 MR. HUGHES: Your Honor, the state would advise
2 the Court that we're very quickly going to be
3 getting into the contents of documents that were
4 submitted to the Court under seal.
5 THE COURT: We'll just handle this on a
6 question-by-question basis, Mr. Li.
7 MR. LI: Your Honor, if we could have a
8 standing objection to this.
9 THE COURT: I really need to know because I
10 think there are number of records that have been
11 submitted that -- I would think that you're not
12 concerned with ultimately having them sealed. I
13 mentioned before that I understand records that have
14 such things as account numbers, identifying
15 information. I think that should be redacted in any
16 event, and that would be appropriate under the
17 public records rules. But because of that I'm not
18 going to allow a continuing objection. It will have
19 to be question by question.
20 MR. LI: Thank you, Your Honor.
21 Q. BY MR. HUGHES: Sir, can you summarize for
22 us the documents that you've reviewed in this case.
23 A. Yes. I received the documents in three
24 different packages. The first package I received
25 was the declaration of Mr. Smith and Mr. Blitz, I

1 believe, as well as the first motion for the
2 reduction in bond.
3 The second group of documents that I
4 received was a package containing bank statements
5 supporting the documents that previously had been
6 given. And the third set of documents I received
7 were copies of tax returns and additional bank
8 statements that supported the original documents
9 that were given to me.
10 Q. Do you know where those documents
11 originated from?
12 A. I received them from the Yavapai County
13 Sheriff's Office.
14 Q. And were you -- did you have emails with
15 those documents attached to them forwarded to you?
16 A. Yes, sir.
17 Q. And were you able to determine where the
18 email originated from with the attached documents?
19 A. They came from your office.
20 Q. Have you had an opportunity to review
21 financial documents from -- that were attached to a
22 declaration of Alex Smith?
23 A. Yes, I have.
24 Q. And you mentioned that you also reviewed
25 tax returns that were attached to a Blitz

1 declaration?
2 A. Yes, sir.
3 Q. Have you had an opportunity to review a
4 net worth statement that was prepared?
5 A. Yes, sir. I have.
6 Q. And what is a net worth statement?
7 A. Generally, a net worth statement is a
8 statement that's designed to provide the assets and
9 liabilities of an individual.
10 Q. And in this case who prepared the net
11 worth statement?
12 A. I'm not aware who prepared it. It has the
13 name of Mr. James A. Ray at the top of the
14 statement. But I don't know who prepared it.
15 MR. LI: Your Honor, may we approach?
16 THE COURT: Yes.
17 MR. HUGHES: Your Honor, may I approach the
18 witness?
19 THE COURT: Yes, you may.
20 Q. BY MR. HUGHES: Showing you what's been
21 marked as Defendant's Exhibit 5, do you recognize
22 that document?
23 A. Yes, sir. I do.
24 Q. And was that one of the documents that
25 you've relied upon in trying to make a determination

1 of Mr. Ray's net worth?
2 A. Yes. That was part of the first package.
3 MR. HUGHES: Your Honor, the state would move
4 for the admission of Exhibit 5?
5 THE COURT: Mr. Li?
6 MR. LI: No objection subject to the protective
7 order, Your Honor.
8 THE COURT: Exhibit 5 is admitted.
9 (Exhibit 5 admitted.)
10 Q. BY MR. HUGHES: Sir, showing you
11 Exhibit 6, entitled "Declaration of Alex Smith,"
12 have you seen that document before?
13 A. Yes, sir. I have.
14 Q. And was that a document that you relied
15 upon in reaching your conclusion as to Mr. Ray's
16 financial order?
17 A. Yes, sir.
18 MR. HUGHES: Your Honor, the state would move
19 the admission of Exhibit 6.
20 MR. LI: No objection subject to the protective
21 order, Your Honor.
22 THE COURT: Exhibit 6 is admitted.
23 (Exhibit 6 admitted.)
24 Q. BY MR. HUGHES: Sir, attached to
25 Exhibit 6, which is the Alex Smith declaration, is

1 there a net worth statement? Strike that.
2 Let me show you what's marked as
3 Exhibit 1, Declaration of Luis Li in Support of
4 Motion for Reduced Bail.
5 Have you seen that document?
6 A. Yes, sir. I have.
7 Q. And did you review that document and its
8 attachments in determining Mr. Ray's net worth?
9 A. Yes, sir. I did.
10 MR. HUGHES: Your Honor, I'd move the admission
11 of Exhibit 1.
12 THE COURT: Mr. Li?
13 MR. LI: Subject to the protective order, Your
14 Honor.
15 THE COURT: One is admitted.
16 (Exhibit 1 admitted.)
17 Q. BY MR. HUGHES: Did you review a net worth
18 statement for James Arthur Ray?
19 A. Yes, I did.
20 Q. And do you recall which -- was it a part
21 of one of these three exhibits?
22 A. It was part of the last exhibit that you
23 gave me.
24 Q. Exhibit No. 1?
25 A. Yes, sir.

1 Q. Can you tell us what the exhibit purports
2 to show. What is an asset or net worth statement?
3 A. It's a statement that says at the top
4 "Mr. James A. Ray Net Worth Statement, January
5 2010."
6 Q. And as an accountant are you familiar with
7 net worth statements?
8 A. Yes, sir.
9 Q. What is a net worth statement?
10 A. It's a statement that lays out the assets
11 and liabilities of an entity.
12 Q. Have you had an opportunity to review the
13 assets and liabilities that are set forth on that
14 net worth statement that's a part of Exhibit 1?
15 A. Yes, I have.
16 Q. And how were you able to review that
17 document? Did you look at other documents to make
18 that review?
19 A. I reviewed where we were given additional
20 documents that would tend to support the facts and
21 figures that were on this particular net worth
22 statement. Yes.
23 Q. Sir, showing you what's marked as
24 Exhibit 4, are the documents attached to this fourth
25 declaration the documents that you reviewed?

1 A. Yes.
2 MR. HUGHES: Your Honor, the state would move
3 the admission of Exhibit 4.
4 MR. LI: Subject to protective order, Your
5 Honor.
6 THE COURT: Exhibit 4 is admitted.
7 (Exhibit 4 admitted.)
8 Q. BY MR. HUGHES: Mr. Echols, is it your
9 opinion as a certified fraud examiner that the net
10 worth statement attached to Exhibit 1 is accurate?
11 A. No, sir, it is not.
12 Q. Can you explain to us your opinion and the
13 reasons for your opinion.
14 A. Typically a net worth statement would lay
15 out the assets and the liabilities that are owned by
16 the particular entity that is represented. On this
17 particular statement we have the assets and
18 liabilities of at least five entities. So the
19 assets and liabilities as they're laid out on this
20 document don't particularly address the issue of
21 Mr. James A. Ray. They address the issue of some of
22 his assets as well as assets of a number of other
23 entities.
24 Q. And can you tell us what other entities'
25 assets and net worth are purported to be shown on

1 the net worth statement.
2 A. There are assets and liabilities on this
3 statement that belong to James Ray International,
4 Inc., a sub C corporation. There are assets from
5 the Institute for Global Harmony and Integration,
6 LLC, which is a C corporation. There are assets to
7 White Wolf International, LLC, which is a sub S
8 corporation.
9 And I believe that's all.
10 Q. Can you -- going through the net worth
11 statement that's provided, can you tell us why it
12 would be inappropriate to list on that net worth
13 statement assets or liabilities of, for example,
14 James Ray International.
15 A. Well, you have to compare that to the --
16 maybe to the example of owning stock in General
17 Motors. The fact that you own stock in General
18 Motors doesn't mean on your personal financial
19 statement that lists the assets of General Motors,
20 only that you own the stock and what that stock
21 value is.
22 The fact that Mr. Ray has an interest in
23 James Ray International or the institutes or White
24 Wolf or any of those particular entities should be
25 shown by its value of the stock as opposed to the

1 assets of that corporation or entity.
2 Q. In this case does the listing of James Ray
3 International on the net worth statement affect the
4 overall net worth of Mr. Ray as is purported on that
5 statement?
6 A. Yes. It has a material affect.
7 Q. And can you tell us what that material
8 effect is.
9 A. With respect to James Ray International,
10 it lists $920,000 of assets and $5.3 million of
11 liability. That would belong to James Ray
12 International Corporation and not to Mr. Ray.
13 Q. And then is that liability, then, for the
14 corporation used to offset Mr. Ray's remaining net
15 worth?
16 A. That's correct.
17 Q. Can you tell us, then, if you were able to
18 come up with a calculation as to Mr. Ray's net
19 worth?
20 A. Yes. I was.
21 Q. And how did you reach that determination?
22 A. I took the net worth statement that we
23 have here. I removed from it the inappropriate
24 assets that belong to a different entity and --
25 Q. Can you tell us what those assets are.

1 A. I removed the asset, the $920,000 asset,
2 that belongs to James Earl Ray International, Inc.
3 I removed the assets that were belonging to the
4 Institute for Global Harmony and Integration. I
5 removed the reference to White Wolf International
6 and the resulting liabilities that might be
7 associated with those particular interests.
8 Q. Is that because the liability that a
9 corporation, even if it's a solely owned
10 corporation, might have is not attributable to the
11 individual?
12 A. Yes. It's a liability that cannot be
13 enforced against the individual. It can only be
14 enforced against the entity for which it was
15 incurred, which would be international.
16 Q. What are the assets, then, that you
17 considered in determining the net worth of Mr. Ray?
18 A. I took the assets on the sheet. There
19 was -- first on the sheet was an investment with
20 Morgan Stanley, which they indicated had a value of
21 $227. I confirmed that by the statements that they
22 gave me. That was accurate.
23 There were two retirement accounts,
24 retirement accounts -- an IRA account and an SEP
25 account -- that were listed. The IRA was some

1 54,000 approximately. That was the SEP. The IRA
2 was approximately $180,000.
3 I confirmed both of those by the
4 statements that were provided in these exhibits that
5 those figures were good, were accurate. Then I took
6 all of the real estate that was listed. I looked at
7 the values that they had indicated on the financial
8 statement and I compared them to the documents that
9 were given to us by Mr. Smith, their accountant.
10 And I modified those figures by what was on this
11 statement to the values that were provided to us by
12 Mr. Smith. There were some modifications that were
13 required.
14 Q. Can you tell us what those modifications
15 were?
16 A. Yes, sir. I can. With respect to the
17 first property on that statement, the Balfour Court
18 property, they had listed the value of -- or the net
19 worth of that property at $900,000. And the
20 document that was provided to us by Mr. Smith, their
21 accountant, indicated that the fair market value was
22 $1,224,000. So I made that adjustment.
23 The other Balfour property was listed at
24 400,000. The document provided to us by Mr. Smith
25 indicated a fair market value of $534. Excuse me

534,459. I made that adjustment.

The Canyon Road property in Henderson was valued on their statement at $190,000. The market value that was provided by Mr. Smith was 226,060. The Las Vegas Palms property was listed on the document at their value of 470,000 on the document that was supplied to us by their accountant. The fair market value was 501,066.

With respect to the Hawaii property, the value they had indicated on the net worth statement was 660,000. The document that he provided to us had a fair market value of 602,300. Minor modification.

The North Second Street property in Los Angeles was valued on the statement at 200,000. He did not send us another value on that so we left it at 200,000.

The J and J Investment property was listed on the statement as $39,450. We were not sent any additional information on that property, so we left that also at $39,450.

Q. Now, Mr. Echols, in determining the asset value of those real pieces of property, did you also take into account the figures of indebtediture (sic) that exist for those, in other words, mortgage

1 amounts for those different properties?
2 A. Yes. What we did was we looked at the
3 mortgage balances that were provided to us by
4 Mr. Smith and found that the areas that were
5 represented on the net worth statement were
6 approximately the same.
7 Q. And so did you then use the mortgage
8 values provided by Mr. Smith?
9 A. I used the mortgage -- the outstanding
10 mortgage balance/liability used on this financial
11 statement. I left it without change or
12 modification.
13 Q. Now, the net worth statement shows a
14 Las Vegas City Center property; correct?
15 A. That's correct.
16 Q. And did you subsequently review a letter
17 from Mr. Li indicating that Mr. Ray stood to,
18 basically, lose that property?
19 A. Yes. I believe you showed me something a
20 couple hours ago that indicated that there was a
21 $332,000 down payment made on those two units that
22 are under construction at the City Center in
23 Las Vegas. And that they felt that they could not
24 find financing for the balance, 1.7, which is what
25 it was actually going to cost. And they felt there

1 was a chance he was going to lose that deposit.
2 Q. Did you then not include that deposit
3 amount in determining the net worth of Mr. Ray?
4 A. I left that particular entity out. Yes.
5 Q. Were you aware of a company called
6 "Quantum Shift"?
7 A. Yes, sir. That's a sub S corporation that
8 was create by Mr. Ray in -- I believe it was March
9 of 2009.
10 Q. And are you familiar with the purpose of
11 that Quantum Shift Corporation that was created a
12 little less than a year ago?
13 A. In the documentation that Mr. Smith gave
14 us, he indicated that Quantum Shift was created
15 solely for the purpose of purchasing the
16 Beverly Hills property.
17 Q. And were you able to determine what that
18 property was purchased by Quantum Shift last year?
19 A. Yes, sir.
20 Q. What were you able to determine?
21 A. We reviewed the closing document. And
22 that property was purchased for $4 million. It had
23 an original mortgage of 3 million. So there was
24 approximately a million dollars plus closing costs
25 that was put down to purchase that property.

1 Q. Would that be considered equity in the
2 property?
3 A. Yes, sir.
4 Q. But that would be equity by Quantum Shift;
5 correct?
6 A. Whoever provided the funds for that. Yes.
7 Q. Now, was it your understanding that some
8 substantial improvements had been made to the
9 property in the last year?
10 A. Yes, sir. Since it's purchase there was
11 close to $300,000 that's been spent since there --
12 then on the property.
13 Q. Now, in this net worth statement does the
14 net worth statement purport to show any share values
15 or any equity whatsoever of Mr. Ray in Quantum
16 Shift?
17 A. No, sir.
18 Q. Would appropriate net worth statement show
19 ownership interest in Quantum Shift?
20 A. It should. Yes.
21 Q. Does the net worth statement indicate the
22 existence of pension funds that were liquidated from
23 White Wolf?
24 A. No, it does not.
25 Q. Can you tell us what White Wolf is.

1 A. White Wolf is a sub S corporation that was
2 created by Mr. Ray to be the recipient of his book
3 revenue from selling books and from his tapes and
4 the other advertising and whatever documents that he
5 had from his business. White Wolf was created to be
6 able to receive those funds.
7 Q. And were you able to determine if funds
8 from a pension were removed at some point late last
9 year?
10 A. Yes, sir. The records that we were given
11 indicated that there was a contribution made to a
12 defined benefit pension plan in 2009 of
13 approximately 80,000 -- $85,000 and that that
14 defined benefit pension plan was then liquidated.
15 The money, 87,000, was removed from the
16 defined benefit pension plan, was returned to White
17 Wolf International and then was removed from White
18 Wolf International in November of 2009.
19 Q. And do you know where that approximately
20 $85,000 has gone to?
21 A. No, sir.
22 Q. Do you have any idea of the approximate
23 value of Quantum Shift?
24 A. The things I know about Quantum Shift is
25 that it has the Beverly Hills property that it spent

1 the money on, the additional 300,000, towards it.
2 And I know that in November of 2009 it had
3 approximately $287,000 in the bank that was taken
4 out in November of 2009.
5 Q. $287,000 of liquid cash?
6 A. That's correct.
7 Q. Do you know what happened to that 287,000
8 in liquid cash in the last several months?
9 A. No, sir.
10 Q. Are there any documents that would have
11 assisted you in determining what happened to that
12 money?
13 A. Yes. Any of the documents relating to
14 White Wolf International.
15 Q. What documents pertaining to White Wolf
16 International were you provided?
17 A. I believe the only document we were given
18 was the first page to a tax return for the year of
19 2008.
20 Q. And are you familiar with what type of tax
21 return that was?
22 A. It's an 1120S.
23 Q. Do you know what -- I don't know what
24 1120S is. Can you tell us what's significant about
25 an 1120S tax return.

1 A. It's a corporate tax return that's filed
2 on behalf of a sub S corporation.
3 Q. And are there more than one page to such a
4 tax return?
5 A. Oh. Yes, sir. Many pages.
6 Q. And what's the sort of information that
7 would have been included in the omitted pages?
8 A. On the White Wolf tax return it showed a
9 cost of the goods sold coming to a net gross
10 income. Those additional pages would have told us
11 what made up the cost of goods sold. It would have
12 also -- would have given us the amount of money that
13 might have been spent on salaries to the individuals
14 that were listed on page 1. In addition, the last
15 pages of that tax return would have given us a
16 balance sheet that would show us what the assets and
17 liabilities of that corporation were at the end of
18 the year.
19 Q. Were you able to determine whether any
20 sums of cash were liquidated from bank accounts in
21 the last five or six months and provided to law
22 firms?
23 A. Yes, sir. Part of the documents that they
24 gave us were for bank accounts in which assets, and
25 in some cases investments, were stored. And during

1 the months of October and November those accounts --
2 and I have nine of them here that were provided to
3 us. Those accounts, the assets in those accounts,
4 were liquidated to cash. Then they were
5 subsequently moved from account to account until
6 they got to one basic account. And then that
7 account was --
8 MR. LI: Your Honor, at this point I'm going to
9 object to discussion about law firms. I don't know
10 exactly where he's going, but I have a feeling I
11 know where he's going.
12 THE COURT: Mr. Hughes?
13 MR. HUGHES: Your Honor, I intend to ask him if
14 that amount is in excess of $700,000 of liquid cash
15 that Mr. Ray recently, basically, turned over to his
16 lawyers for safekeeping.
17 MR. LI: I would object, Your Honor.
18 THE COURT: Overruled.
19 Q. BY MR. HUGHES: Sir, can you tell us in
20 summation on that the approximate amount of funds
21 that you've been able to ascertain from the records
22 provided that were liquidated from Mr. Ray's bank
23 accounts in the last five or six months?
24 A. Yes, sir. Starting on October the 13th --
25 since October the 13th there have been $250,000 paid

1 to the law office of Mark J. --
2 MR. LI: Your Honor, objection. This is
3 directly attorney/client privilege material.
4 MR. HUGHES: Your Honor, it's the state's
5 position, as set forth in the state's pleading
6 motion to strike ex parte pleading, that fees paid
7 to an attorney are not attorney/client privilege in
8 Arizona.
9 THE COURT: And I recall the law being cited.
10 Mr. Li, do you have some law to the
11 contrary?
12 MR. LI: Your Honor, not with respect to this
13 particular issue. But this is exactly the
14 protective order -- this is exactly why we need this
15 to be covered by a protective order. This has
16 nothing to do with the guilt or innocence of
17 Mr. Ray. This is simply an attempt by the state to
18 create a laundry list of issues for the media.
19 THE COURT: At this time money being paid out
20 or something, I want to know those facts.
21 At this point, Mr. Hughes, go ahead. You
22 have authority.
23 MR. HUGHES: Thank you, Your Honor.
24 Q. Can you tell us, sir, how much has been
25 paid out in the last five months of liquid cash from

1 Mr. Ray's account?
2 A. To attorneys?
3 Q. Yes.
4 A. $250,000 to the law offices of Mark J. --
5 THE COURT: Hold it. I'm sorry, sir. At this
6 point the money paid out --
7 MR. LI: I think we've established, Your Honor,
8 that there is -- whatever the question that
9 Mr. Hughes wants to ask is 700,000 to various law
10 firms. I think the details is probably not
11 necessary.
12 MR. HUGHES: Your Honor, I think it's going to
13 be a larger figure than that if I can get to it.
14 THE COURT: I want to know the figures paid
15 out. At this time I'll sustain an objection as to
16 particular law firms. But I do want to know the
17 figures.
18 Q. BY MR. HUGHES: And, Mr. Echols, I don't
19 need to know which law firms. Actually, if you can
20 tell us the -- if you can lump them into one
21 category of funds from the last five months that
22 were liquidated from Mr. Ray's accounts paid to law
23 firms. You don't need to tell which law firms,
24 which lawyers, got which amounts of money. Probably
25 people in the courtroom would get jealous anyway.

1 So tell us the overall number.
2 A. Since October the 13th just a few dollars
3 short of a million dollars.
4 Q. Is it your professional opinion that at
5 least a portion of that million dollars should be
6 included in the net worth of Mr. Ray?
7 A. Unless they're for legal fees that have
8 already been expended, in other words, the money has
9 been spent for legal services. Short of those,
10 anything that's on deposit for future services
11 certainly should be a part of the net worth
12 statement.
13 Q. And you have not seen any documents to
14 establish what's actually been used up or spent,
15 have you?
16 A. No, sir.
17 Q. Are you aware of any amounts of liquid
18 cash that are existing in the James Ray
19 International bank accounts at this point in time?
20 A. Inside the James Ray International
21 account -- we were only given one bank account. We
22 know of at least two others that we were not given
23 access to.
24 Q. How do you know of the other two?
25 A. There is an account called a "merchant

1 account," in which most of the money that was
2 received inside of what I will refer to as the 287
3 account -- most of the money that came into the 287
4 account came from the merchant account. And it
5 would appear that most of the money that was used
6 inside there came out of that merchant account.
7 We were not given access to the merchant
8 account. So I don't know if there is money in there
9 or not. I do know that on this financial statement
10 there was a listing for the 287 account in which it
11 said the value at 10/31/09 was zero. But, in fact,
12 they gave us a financial statement that showed that
13 there was $82,000 in that account.
14 Q. Are you familiar with -- and certainly
15 based on your testimony earlier, the accounts that
16 are owned by James Ray International should not be
17 included in determining the amount of Mr. Ray's
18 personal net worth; correct?
19 A. That's correct.
20 Q. Only the share amount, if there is a share
21 amount, of the corporation?
22 A. That's correct.
23 Q. Are you aware of a account called the
24 "J.R. Trust account"?
25 A. Yes. There is seven of those.

1 Q. Were those trust account assets included
2 in the financial net worth statement that was
3 prepared by Mr. Smith?
4 A. Only one.
5 Q. And which one was included?
6 A. It was a Morgan Stanley account. And
7 without giving the account number, there is --
8 again, there is, like, seven of them. There were
9 two accounts that had money in them at this date --
10 the one that they showed on the financial
11 statement. The other five were liquidated and were
12 zero balance. The last account that was not listed
13 anywhere has a balance of $508,000 in it.
14 Q. 508,000?
15 A. Yes, sir.
16 Q. That was not included in the net worth
17 statement?
18 A. No, sir.
19 Q. Can you tell us what your opinion is,
20 then, of Mr. Ray's net worth based on the
21 information attached to the documents that are in
22 evidence.
23 A. We've gone through a process where I've
24 taken the financial -- the net worth statement that
25 we have here. We've talked about removing the

1 assets that didn't belong there. We've talked about
2 making small modifications to some of the real
3 estate and removing liabilities that were not
4 supposed to be on that statement. We've talked
5 about all those things.
6 If I remove those and I add the $508,000
7 that was not included originally, we have a net
8 worth of approximately 2.4 million.
9 Q. Does that net worth statement take into
10 account Mr. Ray's ownership in Quantum Shift?
11 A. Yes, sir. To the extent of the equity in
12 the Beverly Hills home. If there is additional
13 assets in the Quantum Shift, which we don't know
14 about, it could be higher.
15 Q. Is that, then, your opinion that's the
16 share value, then, of Quantum Shift is the value of
17 its major assets?
18 A. That's what -- yes. What we could
19 determine.
20 Q. And that would be deducting the amount
21 that Quantum Shift owes on the mortgage; correct?
22 A. That's correct.
23 Q. Does your net worth statement include
24 other assets, such as the 2008 Mercedes -- the least
25 interest in the 2008 Mercedes?

1 A. No, sir.
2 Q. Does it include the Dodge Durango listed
3 on the net worth statement?
4 A. No, sir.
5 Q. Does it include the Range Rover listed on
6 the net worth statement?
7 A. No, sir.
8 Q. Does it include the Porsche 911 listed on
9 the net worth statement?
10 A. No, sir.
11 Q. And why did you not include those assets?
12 A. Because I didn't have any information that
13 would have helped me provide the fair market value
14 for those assets.
15 Q. Is it your opinion that the net worth
16 figure that you gave would be greater if you knew
17 what the value was, for example, of the Porsche?
18 A. Absolutely.
19 Q. Does the net worth that you've come up
20 with include any other sorts of personal property?
21 A. No, sir.
22 Q. Do you have any opinion as to whether
23 there is any personal property that might have
24 value?
25 A. There certainly would be a value

1 associated with any jewelry that Mr. Ray might own.
2 There is a substantial amount of money that's spent
3 by JRI International annually for those types of
4 things. But there was no value given to or any list
5 given that might enumerate what that value is.
6 Q. And is that based on a review of a JRI tax
7 return?
8 A. Tax return and the profit and loss
9 statements. Yes.
10 Q. How about furnishings or things such as
11 that?
12 A. We know that all the real estate that was
13 listed was being rented to JRI and owned by Mr. Ray
14 and that they were being used as offices is what the
15 tax returns show. So we make an assumption that
16 there must be furniture and fixtures inside those
17 six or seven properties. But we have no way of
18 estimating what their value might be.
19 Q. And so the net worth statement, then, that
20 you -- the net worth value that you've come up
21 with -- would you consider that a conservative
22 figure?
23 A. Very conservative. Yes.
24 Q. Have you had an opportunity to review and
25 determine what Mr. Ray's adjusted gross income was

1 for the year 2008?
2 A. Adjusted gross income for 2008 --
3 MR. LI: Object to this, Your Honor, as subject
4 to the protective order.
5 THE COURT: You asked for his opinion of that?
6 MR. HUGHES: I'm asking if he knows what that
7 number is. I believe that will require him to refer
8 to one of the documents that's now in evidence.
9 MR. LI: Your Honor, I think he's already
10 proffered his opinion as to what Mr. Ray's net worth
11 is.
12 THE COURT: Overruled.
13 You may answer that.
14 THE WITNESS: His adjusted gross income from
15 2008 was $4,961,104.
16 Q. BY MR. HUGHES: Are you familiar with
17 whether a tax return has been prepared for 2009?
18 A. We were specifically told by Mr. -- Is
19 it Blitz? -- that the return has not yet been
20 prepared.
21 Q. Are you referring to the Blitz affidavit
22 that's in evidence?
23 A. Yes, sir.
24 Q. Thank you.
25 I don't have any more questions for this

1 witness at this time, Your Honor.
2 THE COURT: Thank you.
3 Mr. Li?
4 MR. LI: Thank you, Your Honor. Your Honor, I
5 feel more comfortable up here.
6 THE COURT: Wherever you wish.
7 MR. LI: Thank you.
8 CROSS-EXAMINATION
9 BY MR. LI:
10 Q. Mr. Echols you're aware that this case has
11 been ongoing since October 8, 2009; is that correct?
12 A. I know that there is a case that's going
13 on, and that was sometime in October. My first
14 involvement in this case was just last week.
15 Q. So this matter has been under
16 investigation since October 2009, and the first time
17 the state asked you to look at any of this was last
18 week?
19 A. Yes, sir.
20 Q. Now, you've been talking about how some of
21 the financial statements appear to be inaccurate in
22 various ways; isn't that right?
23 A. Yes, sir.
24 Q. Now, isn't it true that all of the
25 financial information that you've been reviewing,

1 including the underlying documents, the financial
2 statements, the tax returns -- all of those
3 documents have been provided to you by Mr. Ray
4 himself? Isn't that true?
5 A. They've been provided by Mr. Hughes to
6 me. I'm not sure where they came from.
7 Q. Would it surprise you if all the documents
8 that you've been describing today actually came from
9 me sent to Mr. Hughes?
10 A. No. That would not surprise me.
11 Q. So there has not actually been an attempt
12 to conceal anything; isn't that correct?
13 A. I'm not aware of any attempt. No.
14 Q. That's right. There has not been an
15 attempt to conceal anything from you; isn't that
16 right?
17 A. I'm not aware of any.
18 Q. That's right. And, in fact, the documents
19 that you've been reviewing today and showing how
20 this particular document has been impeached by
21 another document, all of that -- every single bank
22 account that you've looked at has actually come from
23 Mr. Ray. Are you aware of that?
24 A. Yes.
25 Q. So there has not been an attempt in any

1 way to conceal anything from the state?
2 A. Let me respond to that.
3 Q. Please do.
4 A. I'm not sure that I understand what you're
5 saying. When I look at a financial statement that's
6 prepared by somebody and it doesn't list the major
7 assets that they have, the bank accounts that they
8 have that are substantial, I don't want to jump to
9 the conclusion that they're misleading anybody. But
10 it's not there.
11 And when somebody prepares their net worth
12 and leaves off the most valuable asset they got, I'm
13 not sure what conclusion I am to come to. So I
14 don't know whether I've been mislead or not.
15 Q. Well, sir, you were provided those very
16 bank accounts, were you not?
17 A. Yes, sir.
18 Q. And those bank accounts -- you were
19 provided those bank accounts, and those bank
20 accounts came from Mr. Ray, didn't they?
21 A. No. I was not provided bank statements
22 for Quantum Shift. And that's the asset we're
23 talking about.
24 Q. Well, actually, let me ask you a few other
25 questions. You were provided about a stack this big

1 of bank statements relating to White Wolf, relating
2 to the trust, relating to all of these various
3 entities, were you not?
4 A. To various entities. Not to Quantum
5 Shift.
6 Q. The various entities involved with
7 Mr. Ray; isn't that correct?
8 A. For a lot of them, yes.
9 Q. You did not personally go out and obtain
10 any of these, did you?
11 A. No, sir. I did not.
12 Q. These were not, in fact, obtained by the
13 police, were they?
14 A. Not to my knowledge.
15 Q. These were not produced pursuant to a
16 subpoena, were they?
17 A. Not to my knowledge.
18 Q. These were not seized in a search warrant;
19 were they?
20 A. Not to my knowledge.
21 Q. They were all voluntarily given for your
22 review; isn't that right?
23 A. I believe that to be true.
24 Q. Now, were you involved at all in the
25 investigation when the bond was set at $5 million?

1 A. No, sir.
2 Q. Do you know what investigation went into
3 determining that the bond should be set at
4 $5 million?
5 A. No, sir.
6 Q. Are you aware of any bond in Yavapai
7 County ever that has been $5 million?
8 A. The only bond I've been associated with is
9 two different cases in Yavapai County. I would not
10 be qualified to answer that. I don't know.
11 Q. It's a simple question, sir. Are you
12 aware of any bond in the amount of $5 million?
13 A. No, I'm not.
14 Q. Thank you. So you don't know, for
15 instance, whether the Yavapai County Sheriff's
16 Department looked at any of Mr. Ray's computers, are
17 you?
18 A. No. I'm not aware.
19 Q. You're not aware of whether Mr. Ray's bank
20 accounts were taken by -- or reviewed by the Yavapai
21 County Sheriff's Department, are you?
22 A. I'm not aware of that.
23 Q. The only information that you have has
24 been voluntarily supplied to you by Mr. Ray; is that
25 correct?

1 A. I believe that's correct.
2 Q. Now, you are aware, are you not, that
3 Mr. Ray was arrested on February 2nd, 2010 --
4 sorry. Strike that.
5 February 3, 2010?
6 A. I believe I read that in the documents
7 that I was given. Yes.
8 Q. And you are also aware that immediately
9 thereafter a motion for a bail review was filed on
10 February 4th; isn't that correct?
11 A. I'm not sure of that. I don't know.
12 Q. Well, that's the document that contains
13 the financial statement that you've been talking
14 about.
15 A. Okay.
16 Q. And then -- but you were not asked to
17 review it on February 4th, 2010, were you?
18 A. No, sir.
19 Q. You were asked last week?
20 A. I was asked -- and maybe I misspoke. I
21 was asked on Thursday of the week before last.
22 Q. Okay. But you were not asked --
23 A. Prior to that.
24 Q. -- prior to that; correct?
25 A. No.

1 Q. You were not involved in any way, shape or
2 form in establishing that Mr. Ray's bond, the
3 unprecedented amount of $5 million, should be set.
4 You were not involved in any way, were you?
5 A. No.
6 Q. You did not proffer an opinion to
7 Mr. Hughes, to the detectives, The Judge or anyone
8 about Mr. Ray's net worth, did you?
9 A. No.
10 Q. Let's do some math. $5 million is the
11 amount of the bond; correct?
12 A. Yes.
13 Q. $2.4 million is what you think Mr. Ray's
14 net worth is; correct?
15 A. No. I indicated it was $2.4 million plus
16 all of the other assets that we didn't have access
17 to.
18 Q. If you know of any such assets?
19 A. I think we know them. We just don't know
20 their value.
21 Q. Right. But 2.4 million is your
22 conservative estimate of what Mr. Ray's assets are
23 today -- correct? -- subject to that qualification?
24 A. Subject to that qualification. Yeah.
25 Q. So $5 million, $2.4 million. Can

1 $2.4 million satisfy a $5 million bond?
2 A. I don't know.
3 Q. Is $2.4 million less than $5 million?
4 A. I don't know. Is the $5 million bond
5 required all in cash? I'm not sure.
6 Q. Then let me rephrase the question. Is
7 $2.4 million less than $5 million?
8 A. Yes, sir. It is.
9 Q. Thank you. Now, the tax returns that you
10 reviewed, those were provided by Mr. Ray, were they
11 not?
12 A. Yes, sir.
13 Q. And a citizen is not obligated to provide
14 his tax returns to the police or to you except for
15 by court order; isn't that right?
16 MR. HUGHES: Objection. Calls for a legal
17 conclusion.
18 THE COURT: You can answer that if you know.
19 THE WITNESS: I don't know.
20 Q. BY MR. LI: Do you get people's tax
21 returns voluntarily typically?
22 A. Not typically. No.
23 Q. You don't, in fact, do you?
24 A. I get them all the time.
25 Q. Not typically voluntarily; correct?

1 A. Not typically.
2 Q. And, in fact, these returns were provided
3 to you through Mr. Hughes voluntarily; correct?
4 A. The first page of those returns were given
5 to me voluntarily.
6 Q. The first page of every tax return that
7 you're describing, sir? Is that what you're
8 testifying?
9 A. Yes, sir.
10 Q. Every single tax return?
11 A. Yes, sir. In the third group of papers
12 that were given to me, we received the 2008 tax
13 return for Mr. Ray. We were given the second page.
14 In that third documentation we were actually given
15 four pages to one of the sub S corporations. I
16 can't remember which one. I believe it might have
17 been -- no. It wasn't White Wolf.
18 But all the returns we were given, we were
19 given the first page. The second set of documents
20 that we got just last Friday contained one
21 additional page to one and two pages to another.
22 Q. So it's not true that you only got the
23 first page to various tax returns?
24 A. I'm sorry. On two of them I got two
25 pages.

1 Q. Well, actually, didn't you just say that
2 in some of them you got four pages?
3 A. Only one.
4 Q. So you actually got four -- I'm sorry to
5 belabor the point, but you did say you only had --
6 A. Let me go through them one by one. The
7 2006, seven and eight 1040 tax returns for Mr. Ray I
8 got one page. In the second group that was sent to
9 me I got the second page for 2008.
10 Q. Thank you.
11 A. In the second group I got, second, third
12 and fourth page to one of the sub S's. And I'll
13 look that up for you if you like.
14 Q. No. That's fine. I just wanted to make
15 sure that we had -- the record was clear that you
16 got the tax returns more than just one page. That's
17 all I wanted to make sure we understood.
18 MR. HUGHES: Your Honor, may the witness
19 complete his answer?
20 THE COURT: I think he finished.
21 Go ahead and ask your next --
22 MR. LI: Thank you.
23 Q. Now, I'd ask you to look at Exhibit 4. It
24 will be tabbed G.
25 If I may I approach, Your Honor?

1 THE COURT: Yes, you may.
2 Q. BY MR. LI: This is, Your Honor, what has
3 been marked as Exhibit 4 to the fourth declaration
4 of Luis Li, which is Exhibit 4 in this matter?
5 THE COURT: Thank you.
6 Q. BY MR. LI: Do you see what that is?
7 That's a website entry, isn't it?
8 A. Yes, sir. I believe it is.
9 Q. It's a printout. And it says that JRI had
10 a revenue of $9.4 million in 2008; is that correct?
11 A. That's correct.
12 Q. I'll just take that back now. I'll ask
13 you a few questions about that.
14 A. Sure.
15 Q. Thank you. Now, there is a difference
16 between revenue and income, isn't there?
17 A. The difference between revenue and
18 income?
19 Q. The terms.
20 A. I'm not sure that there is.
21 Q. Revenue means everything that comes in;
22 correct? All the money that comes in?
23 A. Revenue is typically thought of as earned
24 income.
25 Q. All the money that comes in?

1 A. That's correct.
2 Q. And then from that figure, revenue, you
3 deduct expenses; correct?
4 A. That's correct.
5 Q. And then after you've deducted expenses,
6 you come up with a net income?
7 A. Correct.
8 Q. And net income means how much that the
9 company actually made?
10 A. After expenses. Correct.
11 Q. And the types of things that you would
12 include in expenses are rent?
13 A. Yes.
14 Q. Payroll?
15 A. Yes.
16 Q. Debt?
17 A. No.
18 Q. How about debt service? Interest?
19 A. Interest. Only the interest.
20 Q. What about real estate costs?
21 A. Sometimes.
22 Q. What about taxes?
23 A. Sometimes.
24 Q. So you would agree with me, would you not,
25 that a figure of $9.4 million dollars in revenue

1 typically under accounting principles, such as the
2 ones you've studied, would be then reduced in order
3 to find what the actual net income was; right?
4 A. Let me say it back to you differently.
5 You're saying that the 9.4 is the gross revenue, the
6 total?
7 Q. Right.
8 A. I would agree with that.
9 Q. Thank you. So if it's the gross revenue,
10 $9.4 million, after you've deducted all the
11 expenses, whatever you might be, then you would end
12 up with a net figure for a company; correct?
13 A. That is correct.
14 Q. It would be improper, would it not, from
15 your accounting perspective, to rely on that website
16 page to determine what the net value of a person,
17 was? Do you agree with that?
18 A. Absolutely.
19 Q. And if a sheriff's deputy told a judge
20 that Mr. Ray's net worth was 10 million dollars
21 based on that document, that would be improper,
22 would it not?
23 MR. HUGHES: Objection, Your Honor. Calls for
24 a legal conclusion and speculation.
25 THE COURT: Overruled.

1 THE WITNESS: If, in fact, that's what he was
2 basing it on, I would say that would be improper.
3 Q. BY MR. LI: Improper from an accounting
4 perspective?
5 A. That's correct.
6 Q. And it would conceal certain facts such as
7 expenses and various things that are required to
8 find what an actual net income is?
9 A. It would be comparing apples to oranges.
10 Q. Thank you. And, furthermore, as I think
11 you testified earlier for Mr. Hughes, JRI is not
12 Mr. Ray, isn't that correct?
13 A. That is correct.
14 Q. So the assets and the revenue that are
15 attributable to Mr. Ray -- excuse me. Strike that.
16 One should not attribute the assets to
17 Mr. Ray; correct?
18 A. I'm sorry. The assets?
19 Q. Of JRI.
20 A. Of JRI should not be attributed to
21 Mr. Ray. That is correct.
22 Q. And that's also because the liabilities,
23 as you were testifying for Mr. Hughes -- the
24 liabilities also should not be attributable to
25 Mr. Ray; correct?

1 A. That is correct.
2 Q. These are apples and oranges?
3 A. Correct.
4 Q. And if a deputy told a judge that 9.4
5 million dollars was Mr. Ray's net worth, that would
6 simply be false; correct?
7 A. If that's what he was basing it on, yes.
8 Q. Now, you had said earlier today that the
9 $508,000 in a Smith Barney account had not been
10 revealed to you; is that correct?
11 A. That's correct.
12 MR. LI: Your Honor, if I may approach?
13 THE COURT: Yes.
14 Q. BY MR. LI: And I'd ask the witness to
15 look at Exhibit 6, which is a declaration of Alex
16 Smith. I'd ask you to look at subparagraph E.
17 Do you have that before you?
18 A. Yes, sir. I do.
19 Q. Could you read what that says.
20 A. Says account No. 4100720D-19. The value
21 of the account as of January 31, 2010, was 508,138.
22 Attached collectively as Exhibit T are true and
23 correct copies of the November --
24 THE REPORTER: Excuse me. Attached
25 collectively?

1 THE WITNESS: I'm sorry. Where were you?
2 THE REPORTER: Attached collectively.
3 THE WITNESS: Attached collectively as
4 Exhibit T are true and correct copies of the
5 November and October 2009 statements.
6 Q. BY MR. LI: So, in fact, that $508,000
7 account at Smith Barney had been disclosed to you in
8 this very declaration; isn't that correct?
9 A. Let me back up and say to you that the
10 question you asked me was that I had said it had not
11 been disclosed. I didn't say it hadn't been
12 disclosed. I said it was not reported on the net
13 worth statement.
14 Q. I'm sorry. Maybe I misunderstood.
15 A. It was disclosed because I had the bank
16 statements to prove that it was there. So I knew
17 the money was there. It was just not disclosed on
18 the net worth statement. So I added it to the net
19 worth statement so that it would be correct.
20 Q. Thank you. But I guess the point is that
21 this is in a declaration that you were supplied by
22 Mr. Ray; isn't that correct?
23 A. That's correct.
24 Q. And the bank account that you're relying
25 on was also disclosed to you by Mr. Ray; correct?

1 A. That's correct.
2 Q. Now, isn't it true that financial
3 statements can have different purposes?
4 A. I'm not sure that I understand that
5 question.
6 Q. Sometimes you create one financial
7 statement under one set of circumstances and under
8 another set of circumstances different information
9 is requested?
10 A. I can't resist saying are you saying
11 keeping a double set of notes?
12 Q. No, I'm not, sir. I'm asking whether
13 certain times people want to know one set of
14 information and other times people want to know
15 other information. Isn't that true?
16 A. Let me answer that in this fashion: As an
17 accountant you sometimes prepare an audit statement,
18 sometimes you prepare a reviewed statement.
19 Sometimes you prepare a compilation statement.
20 In preparing those different statements,
21 those statements are only different in the amount of
22 information that's presented to the reader in terms
23 of underlying documentation. But the figures would
24 never change on a statement, nor should they.
25 Q. But you're not saying that the figures

1 change. You're just saying that some areas here you
2 would have included more information. Isn't that
3 right?
4 A. Only as a footnote to say that a
5 particular bank account had an interest rate of a
6 certain amount. But it certainly wouldn't change
7 the dollar value of the statement.
8 Q. You've had a chance to review Exhibit 6,
9 which is Mr. Smith's declaration; is that correct?
10 A. Yes, sir, I have.
11 Q. You have no reason to doubt that Mr. Ray's
12 company is operating at a total net loss of $3.9
13 million?
14 A. Ask me that question again.
15 Q. You have no reason to doubt that Mr. Ray's
16 company, JRI, is operating at a total net loss of
17 3.9 million dollars?
18 A. According to the records that I've been
19 given, that's what they say. Yes.
20 Q. You have no reason to doubt that since the
21 accident Mr. Ray's company cannot sustain itself?
22 A. I don't know that.
23 Q. But you have no reason to doubt that, do
24 you?
25 A. Yeah, I do.

1 Q. That the company can't sustain itself?
2 A. Yes, I do.
3 Q. Have you looked at the profit and loss
4 statements of the company?
5 A. Yes, sir. I have.
6 Q. What do the profits look like since the
7 accident?
8 A. Let me answer it a different way --
9 Q. Actually, I'm sorry. I'm just asking you
10 a single question.
11 A. Ask me that again.
12 Q. What do the profits look like at the
13 company since the accident?
14 A. My understanding, the profits that are
15 recorded by Mr. Smith indicate that since August
16 through December of 2009 there was only $125,000 of
17 revenue, gross revenue.
18 Q. $125,000 --
19 A. Yes, sir.
20 Q. And are you aware that employees have been
21 laid off?
22 A. I am. But I'm wondering where the income
23 is.
24 Q. Are you aware that the company's office
25 space will likely be foreclosed upon?

1 A. Yes, sir.
2 Q. Couple of last questions. With respect to
3 your opinion as to what Mr. Ray's net worth is, you
4 agree with me that at least one point --
5 approximately $1 million of that purported net worth
6 comes from his house?
7 A. From the Beverly Hills house?
8 Q. From the Beverly Hills house.
9 A. Yes, sir.
10 Q. And you are aware that that house --
11 you're aware there has been a fairly severe downturn
12 in this country recently?
13 A. Yes, sir.
14 Q. And you're aware that real estate prices
15 have fallen quite a bit?
16 A. Yes, sir.
17 Q. You would also agree with me, would you
18 not, that a house of that magnitude is not a liquid
19 asset?
20 A. I don't know the area. I don't know the
21 house. It would be impossible for me to answer.
22 Q. Is a house a liquid asset?
23 A. Depends upon where it's at. If it's in
24 demand, it is very liquid.
25 Q. If the house had been on the market for

1 months and months and months, would you consider
2 that a liquid asset -- with no offers?
3 A. I wouldn't consider it not to be liquid
4 unless it was on the market for at least a year,
5 that you didn't entertain at least an offer.
6 Q. Would it surprise you if a surety set for
7 a bail bondsman said he would not give that piece of
8 property more than $200,000 in equity?
9 A. A bondsman is not someone I would look to
10 for establishing real estate value.
11 Q. I understand. The question I asked you,
12 thought, is would it surprise you if a bail bondsman
13 said that he would not give more than $200,000 in
14 equity for that house?
15 A. Nothing would surprise me about a bail
16 bondsman.
17 Q. So it would not surprise you if a bail
18 bondsman said that there was only $200,000 equity in
19 that house?
20 A. I wouldn't be surprised at anything a bail
21 bondsman would say.
22 Q. Thank you. Now, once you take out all of
23 the taxes that Mr. Ray has paid and the various --
24 strike that.
25 Are you aware that in October -- on

1 October 30, 2009, there was a margin call that
2 reduced Mr. Ray's net worth by another million
3 dollars in the Smith Barney account? Did you take
4 that into account?
5 A. I don't believe -- the only records that I
6 have about Smith Barney accounts are all those
7 assets were liquidated in October. So I don't know
8 how there could be assets in there that would be the
9 result of a margin call. I wasn't given that
10 information.
11 Q. You were not given that information?
12 A. No, sir. That would be another asset that
13 we haven't accounted for.
14 Q. Well, sir, if I represented to you that
15 it's in that stack there --
16 If I may approach, Your Honor.
17 Have you reviewed every page in this
18 stack, sir?
19 A. Me or my office.
20 Q. You have reviewed every page?
21 A. Yes, sir.
22 MR. LI: If I may take this for one second,
23 Your Honor, and find the actual page.
24 THE COURT: You know it's been 90 minutes. I
25 need to take a recess in any event. We can only

1 proceed until 5:00 o'clock. So if there are timing
2 concerns, please discuss that. We will take a
3 15-minute recess.
4 (Recess.)
5 THE COURT: The record will show the presence
6 of defendant, counsel. And the witness, Mr. Echols,
7 has resumed the stand.
8 You're still under oath, of course.
9 Mr. Li was cross-examining.
10 Are George Brown and Brett Neuman -- are
11 you still there on the phone?
12 MR. BROWN: Yes, Your Honor. I'd like to make
13 the Court aware that my wife, Virginia, is also with
14 us.
15 THE COURT: Thank you, sir.
16 Mr. Li, you may continue.
17 MR. LI: Thank you, Your Honor. Just a few
18 more questions.
19 Q. Where we left off, we were talking about a
20 margin call?
21 A. Yes, sir.
22 Q. Okay. I'd ask you to look at Exhibit 6,
23 which is a declaration of Alex Smith, paragraph 13.
24 That paragraph describes a practice whereby a line
25 of credit was paid for out of Mr. Ray's personal

1 account; isn't that correct?
2 A. I believe that's correct. Yes.
3 Q. And it demonstrated that approximately
4 $1 million was taken out of his personal accounts to
5 deal with JRI's liabilities? Isn't that correct?
6 A. I don't know that they were for JRI's
7 liabilities because there was money that was taken
8 against that credit line that didn't go to JRI.
9 Q. The declaration you're looking at
10 explicitly states that certain of the money, over a
11 million dollars, was taken out to deal with JRI's
12 liability and certain went to a different set of
13 lawyers?
14 A. That's what this indicates. Yes.
15 Q. Thank you. And you had that, didn't you?
16 A. I did have that. And I had, in fact, all
17 of the documents where the other accounts were
18 liquidated and where money was transferred into the
19 account to cover that million dollars. Yes.
20 Q. Thank you. And that was out of his
21 personal accounts?
22 A. That was out of his personal accounts.
23 Q. Thank you. Now, finally, you had
24 testified that it was improper in Mr. Ray's
25 financial statement to include the assets and

1 liabilities of JRI; correct?
2 A. Correct.
3 Q. And the reason was because it's apples and
4 oranges; right?
5 A. That's correct.
6 Q. Now, Quantum Shift is actually a separate
7 entity, is it not?
8 A. It's similar to JRI. Yes.
9 Q. And Quantum Shift owns the house in
10 Beverly Hills, does it not?
11 A. That's correct.
12 Q. And yet you included Quantum Shift, the
13 house belonging to Quantum Shift, into Mr. Ray's
14 personal liabilities, did you not?
15 A. No, sir. I did not.
16 Q. You didn't?
17 A. No, sir.
18 Q. Did you take the $1 million from the house
19 in equity? Did you attribute that to Mr. Ray's
20 personal assets?
21 A. No. I attributed the equity in Quantum
22 Shift to be worth $1.5 million. That stock is owned
23 by Mr. Ray. Therefore, it would appropriately be
24 listed on his net worth statement.
25 Q. What if Mr. Ray is the sole owner of JRI?

1 A. Then the net worth of JRI should also be
2 listed on there.
3 Q. And even if the net worth of JRI is
4 negative $3.9 million?
5 A. No, sir. The stock would be worth zero.
6 Q. But the liabilities --
7 A. The liabilities are not Mr. Ray's.
8 They're JRI's.
9 Q. I just want to finish the question. I'm
10 sorry. The liabilities for JRI are negative $3.9
11 million; isn't that right?
12 A. That's correct.
13 MR. LI: I have nothing further of this
14 witness.
15 THE COURT: Thank you, Mr. Li.
16 Mr. Hughes, redirect?
17 MR. HUGHES: Thank you, Your Honor.
18 REDIRECT EXAMINATION
19 BY MR. HUGHES:
20 Q. Mr. Echols, you mentioned or you were
21 asked about documents that were provided to you or
22 not provided to you. You started to answer
23 regarding tax returns. Can you tell us the tax
24 return information that was not provided?
25 A. Yes. Mr. Ray's individual income tax

1 returns, because of their complexity would be
2 somewhere between 30 and 50 pages long. For the
3 years 2006, 2007 and 2008 we received only the first
4 page. So we could not evaluate what else would be
5 on that return that would give us information.
6 Q. What would you expect -- based on your
7 experience of 40 years as an accountant, what would
8 you expect to be on those other 39 pages or so?
9 A. They would give us an indication of where
10 the interest income and dividends income were coming
11 from, which would lead us to assets that maybe had
12 been undisclosed.
13 Q. Would they show you bank account --
14 perhaps interest income and bank accounts and stocks
15 or other investments?
16 A. Potentially, yes. It would also give us
17 information about rental property, what rental
18 property was owned, what type of income was being
19 received from those rental properties, the furniture
20 and fixtures associated with those rental
21 properties. It would give us a lot of information
22 that we did not have.
23 Q. You indicated that the net worth statement
24 that was provided and attached to Mr. Smith's
25 declaration actually failed to disclose some bank

1 accounts that you were able to determine the
2 existence of from other documents; correct?
3 A. That's correct.
4 Q. Would you have used, then, that same
5 process looking through the tax returns to see if
6 there were even more bank accounts that they didn't
7 bother to list?
8 A. Yes, sir.
9 MR. LI: Your Honor, move to strike "that they
10 didn't bother to list." Argumentative.
11 THE COURT: Sustained.
12 Q. BY MR. HUGHES: Would you use that, then,
13 to determine other bank accounts that were not
14 listed on a net worth statement?
15 A. Yes, sir.
16 Q. You mentioned that in addition to the tax
17 returns there are other documents that you didn't
18 receive. Did you receive documents pertaining to
19 White Wolf?
20 A. No, sir. The only information we received
21 from White Wolf was concerning the defined benefit
22 pension plan. We received the statements on that
23 that allowed us to track the money when it was
24 withdrawn, when it disappeared. We also got --
25 MR. LI: Your Honor, move to strike

1 "disappeared."
2 THE COURT: Sustained.
3 Q. BY MR. HUGHES: What do you mean by
4 disappeared?
5 MR. LI: Your Honor, move to strike.
6 THE COURT: Overruled. He can explain that.
7 THE WITNESS: The money was removed from the
8 account, put back into White Wolf International and
9 then a debit to take all the money out. We don't
10 know where it went.
11 Q. BY MR. HUGHES: Were there -- would you
12 expect there to be other documents pertaining to
13 White Wolf?
14 A. Substantial.
15 Q. Can you tell us what documents you'd
16 expect to see.
17 A. Well, we did get the first page of White
18 Wolf International's corporate tax return for the
19 calendar year 2008. And during that year it had a
20 gross revenue of $1.1 million.
21 So we would expect under normal
22 circumstances since White Wolf was set up to receive
23 the income from the books and the seminars,
24 et cetera, that during 2009 there would be
25 additional revenue, substantial revenue.

1 But we were given nothing -- no bank
2 statements, no tax returns, anything with respect to
3 White Wolf.
4 MR. LI: Your Honor, if I may ask for a sidebar
5 for a second on this particular issue.
6 (Sidebar conference.)
7 MR. LI: Your Honor, this whole line of
8 questioning is unfair. Mr. Hughes asked for
9 specific documents and date ranges with respect to
10 the White Wolf account, White Wolf tax returns. I
11 have an email where he's asking for very specific
12 date ranges involving 2008. And so we voluntarily
13 provided the documents to the state. He didn't ask
14 for every document.
15 MR. HUGHES: I asked for --
16 MR. LI: I have the email. The point is that
17 he's making an implication that we're hiding things,
18 and we're not.
19 THE COURT: This is -- you know it's a hearing
20 on bails pretrial. Rules of evidence do not
21 strictly apply. You can really make that clear in
22 argument, point that out. But at this point I'll
23 hear the testimony.
24 MR. LI: I wanted to make the record.
25 THE COURT: Okay.

1 (End of sidebar conference.)
2 MR. LI: Thank you. Could the court reporter
3 read back the last question.
4 (Record read.)
5 Q. BY MR. HUGHES: Mr. Echols, could you tell
6 us what documents you would have expected to see
7 pertaining to White Wolf.
8 A. A complete tax return for 2008, plus a
9 profit and loss statement for 2009, which would give
10 us an indication as to where the money that
11 typically is received by White Wolf would --
12 Q. Do you, based on your review of the
13 financial documents, have reason to believe that
14 there are assets in White Wolf?
15 MR. LI: Your Honor, objection. Calls for
16 speculation.
17 THE COURT: Overruled.
18 You may answer that if you can.
19 THE WITNESS: I can. I'm trying to figure the
20 best way to answer is as I look at JRI and White
21 Wolf, which are the two entities that receive the
22 seminar, book, tapes, all of the income with respect
23 to the business -- the combination of those two
24 during the year 2009 took in over $10 million.
25 Q. BY MR. HUGHES: 2009 or 2008?

1 A. 2009. Well, excuse me. 2008. You're
2 correct. We don't know what White Wolf got in
3 2009. But assuming that we're looking at
4 approximately 9 to $10 million, during the months of
5 August and September you would have expected there
6 to be somewhere in the neighborhood of $800,000 per
7 month in revenue coming in through these entities.
8 I mean, the pump is primed. Things are
9 moving along. They're making that kind of money.
10 They've established that level of income. And yet
11 when we look at the books for JRI for August,
12 September, October, November and December, we have a
13 total income of $148,000.
14 We had been receiving over $800,000 a
15 month. Where has all this money going? It could
16 potentially go into White Wolf because White Wolf
17 was set up specifically to receive book revenue,
18 that type of revenue.
19 So I'm looking for where that money went,
20 and I can't find it in JRI. So I'm going to look at
21 White Wolf because that's presumably where it must
22 go if it didn't go to JRI. And I have no records to
23 go to.
24 Q. You were asked a couple questions about
25 the purpose of financial statements, if they could

1 be prepared for different purposes. Regardless of
2 why a financial statement is prepared, would it
3 contain -- if it's a net financial worth statement,
4 would it contain the same basic conclusion as to a
5 person's net financial worth even if, say, it's
6 prepared for court or prepared to provide to a board
7 of directors?
8 A. The only difference between who or how
9 they're prepared for is in the nature of the
10 declaration of underlying data. The figures
11 themselves would never change.
12 Q. What's a declaration of underlying data?
13 A. In an audited financial statement you may
14 have 15 or 20 pages of footnotes explaining things
15 that are on the profit and loss statement.
16 If you were preparing an internal only
17 statement for management and it's for internal use
18 only and nobody on the outside would see it, you may
19 not see all those footnotes because they already
20 know that information. But the dollars would be
21 exactly the same.
22 Q. You were asked whether you agreed with a
23 bail bondsman who purportedly said there was
24 $200,000 in equity in the Beverly Hills home, and
25 you indicated you did not agree. Can you tell us

1 why you didn't agree.
2 MR. LI: Your Honor, move to strike. Misstates
3 the question and the testimony.
4 THE COURT: Overruled.
5 THE WITNESS: Yes. As we went to each of these
6 properties and after we reviewed the data that
7 Mr. Smith gave us in terms of fair market value, we
8 also went to internet sources that would give us an
9 indication as to what the values of each of those
10 properties were so that we could confirm that the
11 values Mr. Smith had given us were accurate.
12 When we went to the values for the
13 Beverly Hills home, we were able to get the listing
14 for the Beverly Hills home. And so the house was
15 only bought in, I believe, February-March of 2009.
16 It's currently on the market. It has a listed price
17 on market of $4,595,000.
18 Q. What was it purchased for?
19 A. Four million. So if the property only has
20 $2,000 worth of equity, why haven't they reduced the
21 listing price of the asset down to 3,200,000? It's
22 still at 4,595,000.
23 Q. Is the listing price a piece of
24 information that a forensic accountant would
25 typically rely upon in reaching the decision -- the

1 determination that you've reached?
2 A. Yes, sir.
3 Q. Finally, Mr. Echols, can you clarify what
4 the major components, then, of the 2.4 million net
5 worth amount that you testified to are.
6 A. The major components would be the trust
7 funds that we talked about, that were the 508,000
8 that was not originally listed on the net worth
9 statement but we've agreed we found in the bank
10 statement that were given to us. That 508 plus the
11 $240,000 in the SEP and IRA, the $1.5 million in
12 stock value from Quantum Shift and the real estate.
13 Q. And what real estate are you referring
14 to?
15 A. I'm referring to all of the real estate
16 that was listed on the original net worth statement
17 except for the $332,000 that we had attributed to
18 the Las Vegas City Center, which we removed.
19 Q. And the real estate does not include the
20 Beverly Hills property; correct?
21 A. No, sir. That's included in the stock
22 value of Quantum Shift.
23 Q. The real estate figure is less the amounts
24 owed on mortgages on the property; correct?
25 A. Yes, sir.

1 Q. It's merely the equity in the property as
2 disclosed by Mr. Smith in that net worth statement;
3 correct?
4 A. Yes, sir.
5 Q. Does that 2.4 million net worth include
6 the approximately million dollars plus that you
7 testified went to law firm trust accounts?
8 A. No, sir.
9 Q. So there is 2.4 million plus an additional
10 1 million?
11 A. Yes, sir.
12 Q. And does it include the vehicles and the
13 fixtures and furnishings and other things that we
14 talked about?
15 A. No, sir.
16 Q. Thank you.
17 I have no other questions.
18 RECROSS-EXAMINATION
19 BY MR. LI:
20 Q. It's kind of sloppy to say it doesn't
21 include the $1 million in attorneys' fees when
22 you've agreed, I think, that some of those fees may
23 have been expended. Isn't that right?
24 A. Some of those fees could have been
25 expended.

1 Q. So it would be a little sloppy to say it's
2 a million dollars if you don't actually know how
3 many fees have been expensed; isn't that right?
4 A. I think his question to me was does the
5 $2.4 million include any of those million dollars
6 that we talked about, and I said no.
7 Q. Now, with respect to the equity in the
8 house, the Beverly Hills house --
9 A. Yes, sir.
10 Q. -- you'd agree, would you not, that we are
11 in a bond hearing today; correct?
12 A. Yes, sir.
13 Q. And that a surety company is the relevant
14 issue in a bond hearing; isn't that right?
15 MR. HUGHES: Objection. Calls for legal
16 conclusion.
17 THE COURT: If he can answer that, he may.
18 THE WITNESS: I'm not sure what you're
19 referring to as a surety company.
20 Q. BY MR. LI: Well, for a bonds bailsman.
21 A. I still don't -- I'm not sure I
22 understand.
23 Q. You'd agree with me, would you not, that
24 what a bonds bailsman will take as equity is
25 relevant in a bonds hearing, a bond reduction

1 hearing?
2 A. I think it would be. Yes. It would be
3 relevant.
4 Q. So it might be important for the Court to
5 hear what a bail bondsman surety would value a
6 particular piece of property?
7 A. Let me make sure I understand. I'm just
8 here to tell you what it's worth. I don't know what
9 a bail bondsman will do. I really don't.
10 Q. I understand. I guess I'm just asking you
11 whether a bail bondsman might look at this issue in
12 a different way than you do.
13 A. I really have no idea.
14 Q. Because his job is to determine whether or
15 not bail -- whether or not a particular piece of
16 real estate property can be pledged as collateral
17 for bail?
18 A. If you say that, that's fine. I don't
19 know that.
20 Q. So you have the same job as a bail
21 bondsman? You guys do exactly the same thing?
22 A. No. I'm telling you I don't know what his
23 job is. I don't know how he looks at it. I can
24 just tell you what the property is worth. How he
25 values it I don't know.

1 Q. And how he values it might be different
2 than how you do it?
3 A. I suppose that's possible.
4 Q. Because you guys do different things?
5 A. That's true.
6 Q. And this is a bond hearing; correct?
7 A. I believe it is.
8 Q. This is not an audit?
9 A. No. It's not an audit.
10 Q. Thank you.
11 THE COURT: Mr. Hughes?
12 MR. HUGHES: Your Honor, I think I've made my
13 point. Thank you.
14 THE COURT: May Mr. Echols be excused as a
15 witness for this proceeding?
16 MR. HUGHES: Your Honor, I would actually like
17 to keep him possibly as a rebuttal witness.
18 THE COURT: We are going to close the
19 proceedings today in just a minute.
20 But you may be recalled. I'll discuss in
21 a moment if the proceeding continues, it likely will
22 be in Prescott tomorrow at 1:30.
23 So go ahead and step down, sir, if you
24 would. Please watch your step there.
25 What was discussed was continuing the

1 hearing to resume in Prescott at 1:30 p.m.
2 tomorrow. I am conducting a jury trial over there,
3 and it would be anticipated that only the morning
4 would be devoted to the jury trial. And then this
5 hearing would resume at 1:30.
6 Is that still the thought?
7 MR. HUGHES: Yes, Your Honor.
8 MR. LI: Yes, Your Honor.
9 THE COURT: So that's ordered. Then we will
10 resume tomorrow at 1:30, Division 4 in Prescott.
11 And at this point I'm confirming the
12 existing conditions of release. And I did want to
13 ask the attorneys, though, about what I had
14 mentioned in the scheduling conference about
15 resetting the March 15 case management conference to
16 March 16 at 9:00 a.m. and allowing time. I have up
17 to two hours to address motions that may be
18 pending.
19 Will that work?
20 MR. HUGHES: Yes, Your Honor.
21 MR. LI: Yes, Your Honor.
22 THE COURT: Okay. So that's ordered. And
23 vacating the March 15 date, resetting CMC and
24 hearing on pending motions for March 16 at 9:00.
25 Anything else before we close for the

1 day?
2 MS. POLK: Judge, just a point of
3 housekeeping. The Court did strike the ex parte
4 pleading. I want to bring it to the Court's
5 attention that the defense has marked it as
6 Exhibit 3. So even though it has been struck, it
7 has now been marked as an exhibit and is in the
8 clerk's and Court's possession.
9 THE COURT: Okay. Thank you.
10 MR. LI: Your Honor, just for the record, it
11 was marked before the Court struck.
12 THE COURT: I understand.
13 MR. LI: I want to make that clear.
14 MR. McGRODER: Your Honor, may I be heard for a
15 moment?
16 THE COURT: Yes, you may.
17 MR. McGRODER: Just in terms of housekeeping,
18 Your Honor, is it your intent to hear from the
19 victims at the conclusion of the evidentiary
20 evidence?
21 THE COURT: Yes.
22 MR. McGRODER: And I can attend telephonically
23 if necessary?
24 THE COURT: Yes. We don't have the same
25 equipment over there that we do here. So I would

like to accommodate that, but I'm just not sure if that can be done.

Mr. Li?

MR. McGRODER: My intention is to be here, Your Honor. But I may be caught in a hearing in Phoenix. I want to be sure that the Shore family is able to be heard on this matter.

THE COURT: Okay. If you would get in touch with my JA tomorrow morning, if you would. And then let's try and make sure we can do that.

MR. McGRODER: Thank you, Your Honor.

THE COURT: Thank you.

Anything else?

All right. We will be in recess.

(The proceedings concluded.)

STATE OF ARIZONA)
) ss: REPORTER'S CERTIFICATE
COUNTY OF YAVAPAI)

I, Mina G. Hunt, do hereby certify that I am a Certified Reporter within the State of Arizona and Certified Shorthand Reporter in California.

I further certify that these proceedings were taken in shorthand by me at the time and place herein set forth, and were thereafter reduced to typewritten form, and that the foregoing constitutes a true and correct transcript.

I further certify that I am not related to, employed by, nor of counsel for any of the parties or attorneys herein, nor otherwise interested in the result of the within action.

In witness whereof, I have affixed my signature this 16th day of May, 2010.

Mina G. Hunt

MINA G. HUNT, AZ CR No. 50619
CA CSR No. 8335