Witness: Martin G. Laffer

Date: 2004-10-19

Proceedings held October 19, 2004

Called by: Defense

Phase: Guilt

Examinations: Direct – Mark Geragos (continued from previous day); Cross – David Harris; Redirect – Mark Geragos; Recross – David Harris

Day 2 of 2 for this witness

Court: San Mateo County Superior Court, Redwood City (People v. Scott Peterson)

Source: https://pwc-sii.com/CourtDocs/Transcripts/Laffer.htm

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October 19, 2004

GERAGOS: I wanted to mark the full, yesterday I showed you I think what I partially had shown to the previous witness, Mr. Nienhius. What is this that I handed you?

LAFFER: This is a full SAPEC 2002 annual report.

GERAGOS: Is this the same as what's been previously marked as D 5 J?

JUDGE: D 5?

LAFFER: D like David, 5 J like John. Actually, it does.

GERAGOS: Okay. Does this specific, I think yesterday when I was questioning you there was a specific item that you were talking about in the corporate structure of the company at SAPEC?

LAFFER: Yes. On the fourth page of the report.

GERAGOS: Okay. I'm going to put that up on the screen. Specifically I guess the chart is these are the various divisions, is that correct?

LAFFER: That's what it appears. Different functions of SAPEC as an investment group.

GERAGOS: Okay. And then TradeCorp is the parent company out of the Spain?

LAFFER: Yes. I think the top, top left is Portugal, then Spain and I think Brazil, USA and Mexico.

GERAGOS: Okay. And USA is a hundred percent, reads hundred percent Espana TradeCorp?

LAFFER: Yes.

GERAGOS: And you interpret that as?

LAFFER: As a hundred percent owned by SAPEC.

GERAGOS: Okay. Not owned at all by Scott Peterson, correct?

LAFFER: Yes.

GERAGOS: And then yesterday you had also talked about two things that you found to be significant. One I believe was the reduction of principal on the mortgage for the house at Covena, is that correct?

LAFFER: Yes.

GERAGOS: Okay. Do you have a document in front of you that reflects that?

LAFFER: Yes, I do.

GERAGOS: What is that?

LAFFER: This is Exhibit D 5 I, like Ida. It's a mortgage summary statement.

GERAGOS: Okay. A mortgage summary statement shows, and this is for, your understanding this is for the Covena address?

LAFFER: Yes.

GERAGOS: And I would assume, looks like it's a December 13th, and then Scott and Laci Peterson. And I assume that what you're talking about is right here where every time there's extra principal payments being made?

LAFFER: Yes. What I testified to yesterday, it was my understanding that he was paying approximately 1300 dollars a month, although the mortgage payment or obligation was 1250 a month. And that supports the extra principal being made on a monthly basis.

GERAGOS: And, once again, that's significant why?

LAFFER: Well, if he was having financial problems, he would make the minimum payment.

GERAGOS: Okay. And then you also, I believe, have prepared a summary of income and expense testimony, is that correct?

LAFFER: Yes.

GERAGOS: Okay. I'd like to mark this as next in order.

JUDGE: Okay. That will be,

GERAGOS: And where,

JUDGE: Defendant's 8 H, right?

CLERK: Yes.

GERAGOS: Where did you get this information from?

LAFFER: In reviewing the testimony of Mr. Mansfield, Douglas Mansfield, who I believe is with the Department of Justice, he testified that this was a summary of Scott's income and expenses every month.

GERAGOS: Okay. And what is the significance of Mr., what Mr. Mansfield put together?

LAFFER: Well, it demonstrates that there was excess revenue on a monthly basis. And, again, is just the opposite of somebody having financial problems.

GERAGOS: Okay. You also reviewed, I believe, Mr. Nienhius's testimony, is that correct?

LAFFER: Yes.

GERAGOS: Okay. And Mr. Nienhius was the gentleman who identified himself as the internal auditor for the City of Modesto?

LAFFER: That's correct.

GERAGOS: Okay. Did you find, was there a suggestion, at least, in that testimony that somehow that TradeCorp, the business, ongoing business of TradeCorp, was somehow affiliated with Scott Peterson?

LAFFER: Well, the impression or understanding or belief that I received, my interpretation of both his report and testimony was that somehow, because the company was having financial problems and was generating losses, that these were financial problems for Scott Peterson.

GERAGOS: And is that the case?

LAFFER: Well, as I testified yesterday, I believe it's exactly the opposite.

GERAGOS: Which is what?

LAFFER: Mr. Peterson has no obligations for the debts or losses of Espana TradeCorp USA Inc.

GERAGOS: Okay. And based upon all of the, the review or the obligations and expenses that you've seen, does it appear to you that Scott and Laci Peterson were in financial trouble?

LAFFER: Not at all.

GERAGOS: Does it appear to you that Scott and Laci Peterson in December of 2002 had any financial problems?

LAFFER: No.

GERAGOS: Does it appear to you that they were doing well for a young married couple, with a baby on the way, at their age?

LAFFER: Yes. They were, they were fine. I mean, they were fine.

GERAGOS: Is there anything, I assume you reviewed some of the correspondence back and forth between Detective Brocchini and the TradeCorp people. Did you see where Nienhius had done an investigation. He did this investigation and suggested that maybe Scott Peterson was embezzling. Do you remember that.

LAFFER: Yes, that was in his report.

GERAGOS: Okay. Now, did you see the information that came back from TradeCorp, with a representative of TradeCorp after they reviewed it?

LAFFER: There was an e-mail from I think it was Ross Lee, the attorney for TradeCorp, who e-mailed the detective and said that the company did an internal investigation and found no impropriety.

GERAGOS: Okay. Did that appear to you to be, to make sense based upon the, at least the records and the testimony that you saw or reviewed?

LAFFER: I really didn't get into the analysis of whether or not there were funds that were taken or misappropriated. There were a number of allegations in, in Nienhius's report about different tax issues that I thought were irrelevant. I thought this was irrelevant. So I really didn't focus on it, but I did see that e-mail from the attorney advising the detectives that there was no problem, and that was a conclusion after an internal investigation.

GERAGOS: Would they be the best people to make that determination, the attorney for the company?

LAFFER: Well, the company did the internal investigation. I don't know who actually performed the work. It may have been Jeff Coleman, who was the outside CPA for the company.

GERAGOS: Okay. And specifically, do any of those obligations impact whatsoever Scott Peterson and Laci Peterson's financial health, in your opinion, in December of 2002?

LAFFER: My opinion is that it's irrelevant.

GERAGOS: Now, specifically the conclusions that you drew after an analysis of the records and the testimony was, number one, that TradeCorp and Scott Peterson are not one and the same, correct?

LAFFER: Yes.

GERAGOS: That the obligations of TradeCorp are not the obligations or debts of Scott Peterson, correct?

LAFFER: That's correct.

GERAGOS: That under the business plan, as charted out by the parent company, they perceived or they expected to lose money for a number of years before they were going to become profitable?

LAFFER: That's correct.

GERAGOS: And the debt that was carried by TradeCorp was basically just a debt that was owed to the parent company?

LAFFER: That's correct.

GERAGOS: In addition to that, you said that there were, the idea that somehow the business was losing money, so to speak, bears absolutely no relevance to Scott Peterson's financial, and Laci Peterson's financial health in December of 2002?

LAFFER: Yes.

GERAGOS: Is it also a fair conclusion that there was no financial benefit, as far as you could see, to Scott Peterson doing away with Laci Peterson?

LAFFER: That's correct.

GERAGOS: And why is that?

LAFFER: Again, because Laci stood in line for a share of an inheritance from both the sale of the grandparents' home and then later from the grandparents' estate when she attained the age of 30.

GERAGOS: Okay. And based upon that, as far as you can see, there is no, and review of the testimony in terms of the trust documents and whatever kinds of a forensic accounting that you bring to bear, there's nothing that would lead one to believe, I assume, that Laci, Scott Peterson is better off financially if Laci Peterson was out of the picture?

LAFFER: That was my conclusion.

GERAGOS: Okay. Thank you. I have no further questions.

Cross Examination by David Harris

HARRIS: Mr. Laffer, you're telling us that there didn't seem to be any financial issues with Laci and Scott Peterson. Were you aware that the defendant was selling jewelry at pawn shops?

LAFFER: I'm not aware of that at all.

HARRIS: If they were selling jewelry at a pawn shop,

GERAGOS: Objection. The, there's an objection. The fact of the matter, assumes facts not in evidence. It was Laci Peterson who was going to the pawn shops.

JUDGE: Well, change it to Laci Peterson.

HARRIS: Were you aware that Laci and Scott Peterson went to a pawn shop and Scott Peterson was the one that signed the pawn ticket to sell jewelry at a pawn shop?

LAFFER: No.

HARRIS: The fact that they were selling jewelry at a pawn shop, would that make you think that maybe there might be some issue?

LAFFER: I, I would have to know the circumstances. People sell jewelry or pawn jewelry and use the money for investment proceeds. I would have to have more information to be able to draw a conclusion on that.

HARRIS: Were you aware that Laci and Scott Peterson were selling jewelry over the Internet?

LAFFER: No.

HARRIS: If they were selling jewelry over the Internet, would that appear that they were attempting to raise cash?

LAFFER: Again, I need more information. They could just be selling it because they didn't want the jewelry, didn't like the jewelry, they wanted new jewelry. Just the fact that somebody's selling something doesn't mean that you're doing it because they need money.

HARRIS: Well, now, let's go through with that. You said that you would need more information. Now, you told us yesterday that you were a criminal investigator with the IRS?

LAFFER: That's correct.

HARRIS: So, as a criminal investigator with the IRS, you're familiar with the process of going out and gathering documents, getting what's available to you and then trying to put together some kind of picture or snapshot of the individuals you're looking at, correct?

LAFFER: Yes.

HARRIS: And when you do that, not always do you find everything that you need, right?

LAFFER: That's correct.

HARRIS: So when you put together this financial analysis or look at the snapshot of these individuals, you have to do it with the information that's available to you, right?

LAFFER: Yes.

HARRIS: Now, in this particular case did you come in to really look at the snapshot or the financial analysis of these individuals? Or were you asked to look at what other people had looked at and kind of critique what you found that they had done?

LAFFER: Well, initially when Mr. Geragos contacted me back in the end of July or early August, my focus really was on the report from the, the internal auditor, Nienhius. And that's really what I focused on. And I was here giving Mr. Geragos information for his use when Mr. Nienhius testified. And then subsequently I looked at some additional records, additional documents and additional testimony, and drew the conclusions that I testified to yesterday.

HARRIS: Okay. So the additional documents that you looked at primarily was the testimony of the jeweler, Robin Rocha, Brent Rocha, Jeff Coleman, Mr. Nienhius, correct?

LAFFER: Yes. Brian Ullrich.

HARRIS: Brian Ullrich. The other additional information wasn't really financial documents other than some research that you did looking at SAPEC?

LAFFER: Yes. Well, yes, looking at SAPEC, that's correct.

HARRIS: So in terms of your initial approach was to look at, to help Mr. Geragos look at this report from Mr. Nienhius, and when you were going to form the opinion that there was no issue for the Petersons, you really didn't go out and gather any additional information, or even look at the actual documents that might have been in possession of the Modesto Police Department, is that a fair statement?

LAFFER: Well, again, I looked at what I looked at, which I just told you. And based on looking at the same exact information that Mr. Nienhius looked at, I reached a totally opposite conclusion.

HARRIS: In Mr. Nienhius's report, just to take you back through this, you indicated that you had seen the letter from, or the e-mail from Ross Lee communicating with Detective Brocchini that there was no issue as to some issue of embezzlement. And you said that there was no relevance to that, is that correct?

LAFFER: Well, I didn't focus on that. It was a closed issue.

HARRIS: Well, from looking at those particular documents, you were aware there was a document that Detective Brocchini sent to the company saying You might want to look at these, and then separately and independently, the city auditor, Mr. Nienhius, actually came up with something, saying Look, you might want to look at your stuff as well? If, in fact, the sole employee of TradeCorp in Modesto was embezzling, would that be something that you might want to consider if there was an issue about their finances?

LAFFER: If, if he was embezzling money, then it would be something that I was interested in, yes. But the conclusion was that he wasn't.

HARRIS: That was something that the company sent in afterwards in looking at just the items that Detective Brocchini sent to them, correct?

LAFFER: They said they did an internal investigation. I didn't inquire as to what that consisted.

HARRIS: In your experience as a criminal investigator, or forensic accountant, as counsel was asking about, wouldn't you want to normally find out what the basis of the opinion is?

LAFFER: We've conducted a number of investigations involving misappropriation of funds, embezzlement, and it just, I'm sure that the company would have been concerned about it. They reached their conclusion. There was no point in going further. At least that was my opinion. I didn't see any reason to have to delve and second-guess their investigation.

HARRIS: Now, the, the issue that you were retained for or you were asked about by counsel before, what your involvement was, have you ever worked for Mr. Geragos before?

LAFFER: Yes.

HARRIS: And do you expect to be paid in this particular case?

LAFFER: I expect to be, yes.

HARRIS: And what do you expect to be paid in this case?

LAFFER: That's yet to be determined. I just, I understand there's a court order or a court has authorized payment of experts, and not knowing how much time I was going to be spending, I've asked for nothing and I've received nothing, so at some point we'll figure it out.

HARRIS: Okay.

JUDGE: This is a question from a juror, that I normally discourage, but there's one here. I'll give it to both of you so if you want to ask it.

HARRIS: Now, with regards to your analysis in this particular case, we had this exhibit up here, which is, looks like D 8 L, this particular document is what you got from reading the testimony of Agent Mansfield?

LAFFER: Yes.

HARRIS: Now, your understanding of, from reading that testimony is this is when he was sitting down with the defendant and the defendant was telling him what certain expenses were?

LAFFER: That's my understanding.

HARRIS: Okay. Let's go through this. When we start at the top, monthly salary, that's the gross salary?

LAFFER: That's correct.

HARRIS: Okay. And what was his, since you went through the tax records, what would his tax bracket be?

LAFFER: His tax bracket?

HARRIS: What percentage of tax does he pay?

LAFFER: Well, from looking, it's not on there, but from looking at the paychecks, I believe he was negative about, like, 1300 dollars a month less.

HARRIS: Okay.

LAFFER: That was being withheld for federal, state taxes, social security.

HARRIS: Okay. So if we go down to the very bottom of this chart that you've put up there, which is revenue over total expenses, 2060 dollars, if you take out 1300 dollars, what should that line actually be?

LAFFER: It would be about 700 dollars.

HARRIS: Okay. So we have 700 dollars excess instead of 2000 and 60.

LAFFER: We also have discretionary items, like home improvements set aside. That was the testimony. That's money that's, in effect, savings.

HARRIS: Okay. So, let's,

LAFFER: So now it's 1200.

HARRIS: So let's go to the second item up there, which would be mileage allowance from Espana TradeCorp USA. Now, that's $1400 a month, and you took that as a set amount?

LAFFER: Well, I saw some checks that were, like, 2700 a month. But that was what Mr. Mansfield testified to, so that's what I included.

HARRIS: Okay. And that was what the defendant told him his monthly reimbursement for mileage was?

LAFFER: That's my understanding, from the testimony.

HARRIS: Now, you talked about you looked at the company's documents, the articles of incorporation, some of these other items, correct?

LAFFER: Yes.

HARRIS: Did you look in there and see the business plan or the employment contract or anything else that involved the defendant?

LAFFER: You know, I don't know if I saw the employment contract, but I saw references to the business plan and references to the projected losses.

HARRIS: Okay. The business plan was prepared by Scott Peterson for TradeCorp, correct?

LAFFER: Possibly. I don't remember who prepared it.

HARRIS: Well, who was the, who really was the only employee in Modesto when this company was formed?

LAFFER: Scott Peterson.

HARRIS: And who was the, I believe he was the treasurer?

LAFFER: I think he was a corporate secretary and treasurer, yes.

HARRIS: Corporate secretary and treasurer. So he was responsible for the finances of what, Espana TradeCorp USA?

LAFFER: Yes.

HARRIS: And when Scott Peterson wrote a check to the employee Scott Peterson, which capacity was he acting in?

LAFFER: He was acting as an employee. That was one of his responsibilities.

HARRIS: Okay. So he was the one that put down what his expenses were and then approved them?

LAFFER: It's not uncommon.

HARRIS: And in his contract isn't there a set amount of mileage reimbursement that he was supposed to get?

LAFFER: I don't know, I don't know if I saw the employment contract.

HARRIS: Okay. So if he was only doing, if he only had 20 miles in a month, would that figure go down from a reimbursement of 1400 dollars a month?

LAFFER: It could, yes.

HARRIS: Okay. So that bottom figure down there of 2000 and 60 dollars, that we've already dropped by around 1300, could that go down again?

LAFFER: Yes.

HARRIS: Okay. Now, you're, you're talking about monthly obligations. If I understand correctly, that second income column, the 1400 dollars a month, that would require him to expend funds to be reimbursed, right?

LAFFER: Yes.

HARRIS: So he would have to put in receipts for gas, oil changes, car insurance, right?

LAFFER: If it's a mileage allowance, then normally you don't have to do that.

HARRIS: Is car insurance up there?

LAFFER: Pardon me?

HARRIS: Is car insurance up there?

LAFFER: Car insurance? No.

HARRIS: Okay. So that would be another expense that would have to be up there for him to drive in the State of California to get that 1400 dollars reimbursement, right?

LAFFER: Yes.

HARRIS: And that's not up there. So, again, if the expenses go up from the 3,000 and 90 dollars, what would you say an average of car insurance would be?

LAFFER: I have no idea what car insurance is in Modesto. I know what it is in West Los Angeles. It's expensive. I would imagine it's a lot less here.

HARRIS: You talked about how there was set asides for home improvements, 500 dollars. Was there any set asides for a new baby that was coming?

LAFFER: I didn't talk about it. Mr. Mansfield talked about it. I just recorded it.

HARRIS: Well, you took what he testified to and you prepared a document that's been presented here in court as a chart of what his income and expense testimony is, correct?

LAFFER: Yes.

HARRIS: Now, income and expense testimony, when you were a criminal IRS agent, is where you take the actual - - what you could determine from all of the documents and all of the records, what their income is, what their expenses are, to try and determine what a cash flow is, right?

LAFFER: Well, not exactly. I mean in doing a criminal tax investigation you are looking for taxable income and you're looking for unreported income, additional income that, that's not reflected on a tax return. You're looking at deductions, whether or not they were appropriate. You're looking, you're not looking for cash flow, you're looking for additional tax due and owing,

effectively.

HARRIS: Is it a violation sometimes that people have more money than they're supposed to so that there's unreported income?

LAFFER: I don't understand your question.

HARRIS: Well, say, for example, somebody reports that they've got ten thousand dollars in income but they spent a hundred thousand dollars in a year. Isn't that something the IRS looks at?

LAFFER: Well, it depends. If somebody borrows 90 thousand dollars from a bank, it's not taxable income.

HARRIS: So you would look at basic records and see if they borrowed something?

LAFFER: Yes.

HARRIS: So when you put this up here, with your prior background and experience, some of those things that you would normally do isn't included up there, is it?

LAFFER: I don't think there is a what we normally do. Every case is different. In this case this was the testimony of one of your witnesses that I just did a chart of. I didn't do an investigation. I told you what I looked at.

HARRIS: Now, did you do a chart for what Mr. Nienhius, the internal auditor, did?

LAFFER: Did, did I do a chart?

HARRIS: Did you do a chart based on what Mr. Nienhius did?

LAFFER: I didn't see anything in his report, no.

HARRIS: Now, when you were going through this, one of the things that you kept saying, in fact, I think you were asked about it three or four times, is that Scott is not liable for TradeCorp's debt, right? It's a summary of what your testimony was?

LAFFER: Yes.

HARRIS: There's the business TradeCorp and then there's the employee Scott Peterson, right?

LAFFER: That's correct.

HARRIS: Who employs Scott Peterson?

LAFFER: TradeCorp.

HARRIS: So if TradeCorp goes out of business, is there a connection or a dependence by Scott Peterson on that business?

LAFFER: He would look for a job.

HARRIS: Okay. So he would be unemployed, and that would be a financial issue that would cause him some concerns?

LAFFER: Maybe. Maybe not. I mean there's other jobs out there.

HARRIS: Okay. Let's go through this. You're aware that his wife, Laci Peterson, was, at most, a substitute teacher, only working part time, right?

LAFFER: Yes.

HARRIS: And that in the latter part of 2002 she had stopped working all together because she was, she was pregnant, right?

LAFFER: That's my understanding.

HARRIS: Okay. So there's no source of income there from Laci Peterson at that point in time getting towards the end of 2000 and 2, right?

LAFFER: That's my understanding.

HARRIS: And so we have Scott Peterson, who is the sole employee, who is responsible for what goes on in Modesto, who is responsible for the business TradeCorp, whether it stays in business or not, isn't he?

LAFFER: Yes.

HARRIS: Okay.

LAFFER: Well, I don't know if he's responsible for whether it stays in business or not. There's, there's a parent company that's making that determination.

HARRIS: Okay. Well, the parent company makes the determination If Modesto is doing okay we're going to let it stay in business, and the person who is doing the work to make it stay okay is Scott Peterson, isn't it?

LAFFER: Yes.

HARRIS: Were you aware that Scott Peterson had said that he was a bad salesperson?

LAFFER: No.

HARRIS: So if he was a bad salesperson and he's not doing okay, he's not doing a very good job, do you think the parent company is going to let Modesto TradeCorp live very much longer?

LAFFER: I would have no way of knowing that. My understanding from the business plan is that there was an anticipation of projected losses for a number of years.

HARRIS: Now, you talked about looking at some e-mail. Did you happen to look at one of the e-mails that was found on the defendant's computer from his boss, Eric, to him asking him what was going on with the company in October of 2002? Give you a chance to read it and I'll point out where for you to look at. Right here. Item number 3, sales in October.

LAFFER: Okay. I read it.

HARRIS: Okay. Going to item number 3, there's a revised business plan that's prepared by the defendant and sent to the company, and Scott Peterson doesn't make that revised business plan projection for October, does he?

LAFFER: That's what it says.

HARRIS: He's 50 percent off of what his revised business plan projection is supposed to be, right?

LAFFER: Again, that's what it says.

HARRIS: And it says that We want something to change for November and December of 2002, right?

LAFFER: Yes.

HARRIS: And, in fact, they are expecting, this is his boss saying We want it to increase by ten times in November and December of 2002?

LAFFER: It's actually worded very confusingly, so it's, looks like somebody who is writing English that's not that familiar with the language, but it says: I hope to see in November and December other figures to make the multiplying factor realistic.

HARRIS: And when you look at that, it says right above that,

GERAGOS: There would be an objection at this point. It's hearsay. He didn't rely on it for his opinion.

JUDGE: If he didn't rely on it in forming his opinion, then it's improper.

GERAGOS: Hearsay.

HARRIS: Mr. Laffer, if you were aware that the business wanted him to increase his productivity in November and December by ten-fold over what he was projecting, would that make you think that maybe the business wasn't in such a good shape?

LAFFER: Again, you know, the condition, the financial condition of the business is one thing. The business plan called for anticipated losses, projected losses. If the company is trying to change the business plan in midstream, that doesn't tell me that the company is worse off or better off. It just tells me that they want to change the business plan and that they want to increase the projected revenue.

HARRIS: Well, that's not what it's saying. They're saying,

GERAGOS: Objection. Calls for hearsay.

JUDGE: Wait. Objection. Referring back to this, if he didn't consider this in forming his opinion, then it's improper.

LAFFER: I never saw that before, your Honor.

HARRIS: Well, you talked about the business, it being the parent company, and so, again, it's not something that Scott Peterson's worried about. Scott Peterson wrote the business plan, right?

LAFFER: I don't know who wrote it, but I'll accept that representation.

HARRIS: He's the person there that's managing it, has to make sure this product gets sold, right?

LAFFER: Yes.

HARRIS: And so as a business, if you make a business plan and project certain things based on certain expectations that's given to you by your employee and your employee doesn't meet that time after time after time again,

GERAGOS: There would be an objection. There's no basis for that.

JUDGE: Assuming a fact not in evidence.

GERAGOS: It assumes a fact not in evidence.

JUDGE: Sustained.

HARRIS: If your business is based on a projection and you don't meet those projections, isn't even a big company like TradeCorp or SAPEC eventually going to fold the tent?

LAFFER: That, that's speculation. I don't know. There's companies that, you know, these Internet companies that have lost money for many years and then turned around and now they're public companies and everybody is doing great, so it really depends. I mean, SAPEC clearly made a conscious decision that they were going to fund a negative cash flow for a period of time. I haven't talked to anybody about what their tolerance level was, what they were looking for. I know that from the readings that I had or that I did that they were looking to break into this Northern American market, and they made an investment to do that. So I have no way of knowing how long they were going to continue funding a negative cash flow or when the business was going to turn around. It's purely speculative on my part.

HARRIS: Well, part of that speculation that you are kind of involved in there is you go to the Internet and you research SAPEC, right? And you look at the 2002 annual report?

LAFFER: Yes.

HARRIS: Did you look at the 2003 annual report?

LAFFER: I didn't think it was relevant.

HARRIS: Did you look at the 2004 annual report?

LAFFER: Same response.

HARRIS: Were you aware that SAPEC has closed TradeCorp USA because lack of interesting prospects?

LAFFER: Again, this is all after a series of events that, you know, culminated in our being here today, so I don't know why they did that. I have no information on it.

HARRIS: Well, you went to the Internet and you researched SAPEC. You recognize this as being one of their documents, don't you?

LAFFER: Again, I was looking for the financial condition of the company at, for 2000 and 2 because, based on the information from, from Nienhius, that was the relevant information. What SAPEC's financial condition is today is irrelevant to me. So I just looked at that one thing, the financial statement.

HARRIS: Mr. Laffer, you've been telling us over and over again that the business was planning on losing business, so therefore there was no problem with this particular business, when, in fact, it's been closed down because there was no business?

GERAGOS: There's an objection. It misstates facts not in evidence. It assumes facts not in evidence.

JUDGE: Overruled. If he knows this.

LAFFER: Again, it was not something that I looked for. There were, there were a number of pieces of information on the web site. All I wanted was the 2000 and 2 report.

HARRIS: All right. Moving to something else other than TradeCorp, you indicated that there, there was no financial reason for Scott Peterson to consider this. You're aware that there was life insurance, weren't you?

LAFFER: Yes.

HARRIS: So that's not a financial motive?

LAFFER: I mean everybody can draw their own conclusion from that. No, the proceeds from the inheritance, from the sale of the grandparents' house was a hundred and sixty thousand. And again, Brent Rocha testified that there was another 2.4 million that would become available in, I guess, a couple of years, whenever Laci turned 30.

HARRIS: Well, let's go to Brent Rocha's testimony. You've indicated that you've read that, and let's make sure that we're clear about that. You're aware that there's two trusts, right? After listening or reading his testimony?

LAFFER: I don't know if I read all of his testimony. I read parts of it.

HARRIS: Well, if you didn't read all of his testimony, how do you know that you have an accurate picture of what the trust or the financial aspect of the estate is?

LAFFER: I read his testimony with respect to the distribution of the proceeds.

HARRIS: Okay. And you told us that it was going to be distributed. Were you aware that he said that there was nothing was going to be distributed?

LAFFER: No.

GERAGOS: Objection. Assumes facts not in evidence. That's not what he said.

JUDGE: Well, he's got, overruled. He can say No, I'm not aware of that, and you can take him back on redirect. If it's not there, Mr. Geragos, if that's not there, you can take him back and redirect.

GERAGOS: What?

JUDGE: If it's not there, you can take him back and redirect.

GERAGOS: I will. I'll just grab it.

JUDGE: He's got the transcript there, or it looks like the transcript.

HARRIS: Mr. Laffer, to go through this, you're aware that there was a house and that was part of one trust, correct?

LAFFER: I wasn't aware of two trusts, but I was aware there was a house that was a trust, yes.

HARRIS: And a second trust that was for the entire estate?

LAFFER: Okay.

HARRIS: Well, if you're not aware of this, does this change your opinion at all?

LAFFER: Well, I also saw there was a trust, K 1, that was in the tax records showing that Laci had a capital account of a hundred and ten thousand dollars. I mean I didn't factor that into my conclusions, but that's just an additional asset.

HARRIS: Okay. Let's go through this just dealing with once piece at a time, then.

LAFFER: Okay.

HARRIS: With regards to the house, when was the house sold?

LAFFER: I thought it was sold in November or December of 2000 and 2.

HARRIS: All right. And you had indicated yesterday that this was something that was going to be available to her as an asset within just a matter of time, right?

LAFFER: That's my recollection from Brent Rocha's testimony.

HARRIS: So they were being, or Mr. Rocha was being asked about different properties, about the house, about being asked about the estate. So you read those parts?

LAFFER: Yes.

HARRIS: And he indicates that the house is the only asset that could have been distributed, correct?

LAFFER: Yes.

HARRIS: And then even that asset couldn't be distributed until Laci turned what?

LAFFER: I thought that asset was distributable. You're talking about the house, right?

HARRIS: Um-hm. Showing you a page 9220. This is a hundred and sixty thousand, talking about her share of the house. What's the answer right there?

LAFFER: Can I just look at this?

JUDGE: Sure. (Witness reading document)

LAFFER: I, I'm not, when I, when I read this part preceding what you're pointing to, it says that everything, it says only from, can I read this?

HARRIS: Well, read it to yourself.

JUDGE: Read it to yourself.

LAFFER: I've read it to myself.

JUDGE: Then he'll ask you a question.

HARRIS: And then what does the answer to that question indicate?

LAFFER: Which question are you,

HARRIS: Right here.

LAFFER: Okay. It says when she turns 30 years old.

HARRIS: Okay.

LAFFER: But...

HARRIS: In looking up here, the answer to this particular question when they were talking about the estate, everything was held in trust for the family, provide for the father's care until he passes, so nothing is going to anyone for quite some time.

LAFFER: Okay. But then, well...

HARRIS: And then the question is asked about the assets from the estate. So there are two separate trusts. So let's go back through this. The house is sold in November or December of 2002, right?

LAFFER: Yes.

HARRIS: How much was the house worth?

LAFFER: My understanding is it sold for approximately 485 thousand dollars.

HARRIS: And so the share of that roughly was a hundred and sixty, and that's the dollar amount that's being divided up there, right?

LAFFER: A hundred and sixty would be one third of the 480.

HARRIS: Okay. So when that's being asked about the 160, so that we're aware, we're talking about that particular house, and that did not go do her, according to the answer, until she turned 30?

LAFFER: Well, there's another reference there that says that's the only part that's distributable. Just...

GERAGOS: That would be line 13 and 14.

HARRIS: Taking you to page 9250, the question was asked about what happens to the trust, who would inherit, where it would go. And the answer was only with regards to the house. Everything else was still being held in another trust. Do you see that note?

LAFFER: Yes.

HARRIS: Okay. So when we're talking about that, there are two separate trusts. There's the house and a separate trust for all the other property. Do you see that now?

LAFFER: Yes.

HARRIS: So when you go through there and you're talking about this money or these assets that are going to be available, when was it going to be available to Laci Peterson?

LAFFER: Again, my understanding was that the hundred and sixty thousand was going to be available shortly and the remain, remainder of the other trust would be distributed at the age of 30.

HARRIS: Now, were you aware that nothing had been distributed because the trust put it back and it's being held?

GERAGOS: Objection. It assumes facts not in evidence. He doesn't have any basis for this.

JUDGE: I think there was some testimony about this from Mr. Nienhius in that regard. Am I mistaken?

GERAGOS: You are. There was no testimony by Nienhius about this.

JUDGE: All right. Then the objection's sustained.

HARRIS: 9183. Do you see here where they're talking about the provisions of the trust so that no one would get anything until they're 30? I've also consulted with an attorney, an accountant and a financial advisor as to whether we should retain that money for my grandfather's needs?

LAFFER: Yes.

JUDGE: This is the Rocha's testimony you're referring to?

HARRIS: Yes. So with regards to this trust, this money that's going to be available soon to Laci Peterson, what we had is grandmother Rocha who passes away. Her house is sold. That money is not distributed. We have another trust that's held in trust which involves the rest of the estate that's going to be held there to take care of grandfather Rocha's needs. Isn't that what Brent Rocha testified to?

GERAGOS: There's an objection. Once again, he's assuming facts not in evidence.

JUDGE: I think there was testimony in this regard.

GERAGOS: Well, the testimony, the testimony is what it is, and he keeps, he keeps collapsing the two.

JUDGE: Well, you can take him back on redirect. This is cross-examination. I'll permit the question. My recollection is there was some testimony in that respect from Mr. Rocha.

LAFFER: Okay. My, my answer is what I said earlier, that it was my understanding that the proceeds from the sale of the home was, was distributable and was going to be distributed. The remaining proceeds were not going to be distributed until the attainment of age 30.

HARRIS: The trust document, was that available to you?

LAFFER: I'm sure it was available, but I don't recall looking at it.

HARRIS: So if there was any ambiguity or something that needed to be cleared up, could you have gone and looked at that document?

LAFFER: Well, if there was real ambiguity, I wasn't prepared to provide legal interpretation of a trust instrument. I just based it on the testimony and the information that I had.

HARRIS: Now, you...you also, turning away from the trust, just talking about the expenses and things along those lines. You made some notes of your review going through the documentation?

LAFFER: Yes.

HARRIS: And in one of the notes that you made in that is something about dunning notices?

LAFFER: Yes.

HARRIS: And what is that?

LAFFER: A dunning notice is, when somebody is late in making payments, companies send out reminder notices asking for payment. And that's referred to as a dunning notice.

HARRIS: And did you find dunning notices?

LAFFER: There was a reference, I remember you and I spoke about this on the phone last week. There was a reference to some late notices, but I don't remember the context it was in, if it was a company or the Petersons. I don't recall.

HARRIS: But from your review of the financial documents, there, you found at least late notices indicating that things weren't being paid?

LAFFER: Either I saw the notices or there was a reference in Mr. Nienhius's report making reference to it.

HARRIS: Now, if there's late notices being either received on a personal or a business level, is that something as a forensic accountant that would cause you concern?

LAFFER: Well, it wouldn't necessarily cause concern, but it would pique my interest, which is one of the reasons I wrote it in my notes.

HARRIS: Now, you also talked about the, going through the credit report, looking at the Experian credit report, and you came up with the totals and the amounts of credit and all those things in your notes as well, right?

LAFFER: Yes.

HARRIS: Now, from looking at that particular credit report, going through and see what credit was available, was there anything in there that would indicate that Laci and Scott Peterson could afford a 400 to 600 thousand dollar home?

LAFFER: I'm not aware of a 460,000 dollar home. There was a mortgage of a hundred sixty-six thousand dollars.

HARRIS: No, I'm saying 400 to 600 thousand dollar home.

LAFFER: Oh, 400 to 600. I don't know anything about that.

HARRIS: You're aware that a pool was put in the backyard?

LAFFER: Yes.

HARRIS: Now, if they're, looking at your sheets, again that's the, I can't see the letter from here. D 8 L, the Petersons were paying 750 a month just on their credit cards?

LAFFER: That's what that shows. But my understanding was that some of these credit card obligations were on behalf of the company that Mr. Peterson used his credit card for. So,

HARRIS: And how is it that it's your understanding that these were business obligations?

LAFFER: I think that some of the expenses that I saw, some of the charges on the credit card appeared to be business expenses, and I know that he was being reimbursed for business, excuse me, for business expenses by the company.

HARRIS: Now, you also looked at the business credit card that the defendant had, didn't you?

LAFFER: Yes, there was a business credit card.

HARRIS: So he had a business credit card available to him, yet he was making purchases for the business on his private credit card?

LAFFER: I believe there were some expenses on his personal credit card that were being used for the business, yes.

HARRIS: Now, you also saw expenses like at Trader Joe's on the business credit card, didn't you?

LAFFER: That was noted in Mr. Nienhius's report.

HARRIS: Okay. So that was something that was brought to your attention?

LAFFER: It was in the report, yes.

HARRIS: Okay. So if the defendant could make those purchases, did you see anything that would prevent him from using his business credit card to make purchases for the business?

LAFFER: I didn't look at any frequency or any type of pattern of, of charging. So I really didn't look at that.

HARRIS: Well, did you see any reason why he couldn't have used his business credit card?

LAFFER: Again, I hadn't thought about that. I don't know if, I think the business credit card was a Bank of the West MasterCard, or something. I don't know.

HARRIS: May I have one moment? I have no other questions.

Redirect Examination by Mark Geragos

GERAGOS: The part that Mr. Harris was showing you on Brent Rocha's testimony, specifically at page 9220 where he asked you to read, specifically at line eight: Brent Rocha said only for my grandfather's house was the only thing that was going to be distributed; isn't that correct?

LAFFER: Yes.

GERAGOS: Everything else was held in trust. Nothing is going to anyone for quite some time, correct?

LAFFER: Yes.

GERAGOS: And I said where there was 160, and what was the answer?

LAFFER: That is the only part that could be distributed.

GERAGOS: Right. So the 160 is one third from the house, is the part that could be distributed, and the remainder of the estate, the 2.3 million, is the amount that was going to go to Laci when she turned 30; is that correct? Was that your understanding?

LAFFER: Again, yes, that's my understanding.

GERAGOS: Okay. Now, you were also asked specifically about the selling of jewelry. Do you remember that?

LAFFER: Yes.

GERAGOS: Okay. Did you know that Amy Rocha had testified in this case that, specifically, that they did not like portions of this jewelry?

LAFFER: No.

GERAGOS: So when you said people may sell jewelry because they don't like it, you just knew that Amy Rocha had said that she didn't like part of this jewelry as well?

LAFFER: I didn't know what Amy Rocha testified to here, but just because somebody is trying to sell jewelry doesn't mean that they're selling it because they need to.

GERAGOS: Okay. If somebody doesn't like jewelry and they sell it for cash, you had indicated they could -- they could invest with it, correct?

LAFFER: Yes.

GERAGOS: They could use that to pay down principal on their mortgage; is that correct?

LAFFER: Yes.

GERAGOS: They could use it to -- to pay down credit cards if they have them; isn't that correct?

LAFFER: Yes.

GERAGOS: In fact, if they had $45,000 in jewelry, that they sold, they could take that money and use it as a ten percent down payment on a $450,000 house, couldn't they?

LAFFER: They could do whatever they want with it.

GERAGOS: Well, is there anything that you have seen from the credit report that would indicate that Mr. Peterson couldn't -- did not have good credit?

LAFFER: Not at all. Just the opposite.

GERAGOS: Okay. And when Mr. Harris asked you could they afford a $400-600,000 house, have you done the analysis to determine how much they would get if they sold the Covena house?

LAFFER: Not at all.

GERAGOS: Do you know what the equity is in the Covena house?

LAFFER: I have no idea.

GERAGOS: If I told you that there was testimony in this case already that the Covena house was worth between 3 and $400,000s, and the mortgage is how much?

LAFFER: I think it was a hundred and sixty-six thousand.

GERAGOS: And what would that -- if the house sold halfway between, 350, would that give you an equity of 200,000?

LAFFER: Yes.

GERAGOS: If you had an equity of $200,000, and you sold your golf club membership because you're moving out of Modesto and got 25,000 for that, and then you took the 45,000 from the jewelry, would you have, you know, almost $300,000 to buy a $400,000 house?

LAFFER: You went a little fast for me, but you would have a significant down payment.

GERAGOS: Wouldn't that mean at that point, if you bought your $400,000 house, that you have actually got a mortgage that's less than your house in Modesto?

LAFFER: Could be.

GERAGOS: You've got a house in Modesto that's a hundred and sixty, if you take 200 out in equity, 45 in the jewelry, and another 25 or 22 from the country club, doesn't that give you 300 thousand dollars to put down on a $450,000 house?

LAFFER: Yes.

GERAGOS: And that would mean you would have a mortgage of how much?

LAFFER: Difference between 300 and 450. A hundred and fifty thousand.

GERAGOS: Which would actually be less than the mortgage in Modesto?

LAFFER: That's correct.

GERAGOS: Okay. Now, specifically, Mr. Harris was showing you, or trying to show you, documents from October about, from Mr. McGinnis; do you remember that?

LAFFER: Yes.

GERAGOS: Okay. Do you remember, I'm going to show you Defendant's Exhibit KK. You've seen this, correct?

LAFFER: Yes. That's what I talked about earlier.

GERAGOS: Okay. And this was in March -- apparently March of oh three?

LAFFER: That's the date, yes.

GERAGOS: Okay. And they completed an internal analysis of the company; is that correct?

LAFFER: Yes. That's what it says.

GERAGOS: And the checks that Brocchini sent over that were issued were issued to pay salaries and authorized -- authorized expenses?

LAFFER: Again that's what it says, yes.

GERAGOS: And they were appropriately booked, correct?

LAFFER: Yes.

GERAGOS: Which is the more proper way to financially analyze whether or not these transactions were authorized? To see -- get a letter from the lawyer? Or to go on the Internet two years later and try to make a determination as to whether or not the company is still going?

HARRIS: Objection. Argumentative.

JUDGE: Well, I'll let him answer. He's an expert. Overruled.

LAFFER: I think it's two separate things. One is unrelated to the other.

GERAGOS: And they're unrelated because this issue is whether or not he was appropriately managing the company, correct?

LAFFER: Well, I don't know if it goes into his management of the company. It talks about the expenses, the checks that were issued, that they were proper.

GERAGOS: Okay. And specifically you would refer to the events taken place to bring us here today when you were being asked about whether or not it's still an ongoing concern, correct?

LAFFER: Yes.

GERAGOS: Okay. And I assume you mean that if it's a one person running the business, that he's not exactly going to be running the business out of the McGuire Correctional Center while he's sitting in there waiting for this trial to take place, correct?

HARRIS: Objection. Argumentative.

JUDGE: Sustained.

GERAGOS: The fact of the matter is you don't know as you sit here today whether or not SAPEC or whether or not TradeCorp is holding their job for him right now and holding it in suspension until he gets out, right?

HARRIS: Objection. Relevance.

GERAGOS: Based upon the questions he was asking.

JUDGE: No, I'm going to sustain the objection.

GERAGOS: The -- specifically the checks that you saw, some of them for 2700 for mileage that Mr. Harris brought up, you -- I think were asked about insurance; is that correct? Auto insurance? Whether that would diminish the amount on the bottom line?

LAFFER: Well, I don't know if I said that the 2700 dollar checks that I saw were for mileage, but they were expense reimbursements.

GERAGOS: Okay. Were you aware or are you aware that TradeCorp paid for his auto insurance?

LAFFER: No, I'm not.

GERAGOS: Okay. Would that, if TradeCorp paid for the auto insurance, would that then, and then we had these questions about how much it is in West LA and how much in Modesto, but the fact of the matter is TradeCorp is paying for it, then Mr. Peterson doesn't, correct?

LAFFER: That's correct.

GERAGOS: And if Mr. Peterson is getting a mileage allowance, when Mr. Harris asked you does he have to submit receipts for oil and gas and this and that, that's the whole idea of a mileage

allowance is that you don't have to do that, correct?

LAFFER: A mileage would be a non-accountable plan, so it would be a payment every month.

GERAGOS: Right. Which means you don't have to submit receipts, tell them how much mileage, and boom, that's the end of the story, correct?

LAFFER: Yes.

GERAGOS: Okay. Is there anything that you saw that indicated Mr. Peterson only drove 25 miles a month in connection with his business?

LAFFER: I didn't look at his mileage.

GERAGOS: Okay. Is there anything that indicated to you that, in fact, the checks that they were talking about for the mileage reimbursements were, in fact, the very checks that Brocchini sent over to Ross Lee to have them check up on to see if they were appropriate?

LAFFER: I wasn't aware of exactly what was sent over.

GERAGOS: Okay. And specifically the selling of jewelry, if one sells, back to this one more time. If one sells the jewelry on eBay, for instance, does it matter if they're selling it on eBay or anywhere else?

LAFFER: No.

GERAGOS: If there's a history of selling other items for a number of years -- jewelry, golf bags, other kinds of things -- on eBay, isn't that indicative of somebody who does that as -- as a way to get rid of things they don't need?

LAFFER: I understand it's a very common practice.

GERAGOS: Thank you. No further questions.

Recross Examination by David Harris

HARRIS: Well, if it's a common practice or something somebody's been doing for years, if they bought stuff on eBay, would that be a factor that you should look at in terms of their monthly expenses?

LAFFER: If they bought on eBay? I don't understand your question.

HARRIS: If Mr. Peterson was a frequent buyer, if he goes on eBay all the time and buys things, isn't that something that you should factor in to their monthly expenses?

LAFFER: Well, you know, the chart that we looked at, I don't know the exhibit reference, but the one that has the summary of Mansfield's testimony, there's a lot of things that are missing from that, such as the annual bonus that Mr. Peterson got. I mean it wasn't meant to be some all-inclusive analysis of their monthly budget. So if he buys things on eBay, sells things on eBay, if he takes a ski trip somewhere, there's a lot of other things that weren't part of that analysis.

HARRIS: Now, I asked you earlier about that Ross Lee e-mail. We have it up there now. And you indicated that the company had done a complete audit and nothing was found? Looking at the first line up there, doesn't it appear to say it was an internal analysis to verify the checks?

LAFFER: I don't think I said that the company did a complete audit. I don't believe I used those words. What I said is that the company looked at the allegation. Or if I did say that, what I meant to say was that the company looked at the information, they looked at the allegation and dealt with it internally, and concluded that the, there was nothing improper with the information that was given to them.

HARRIS: Counsel asked you also about those particular checks. The reason why there was some suspicion by both the detective and both the internal auditor is these were checks for mileage reimbursement which had a fixed amount which they found it hard to imagine that you always

got the same number of miles in for mileage reimbursement? Do you remember seeing that particular section in the auditor's report, Mr. Nienhius?

LAFFER: As I sit here today, I don't recall that.

HARRIS: Well,

LAFFER: But it's not uncommon for companies to give a fixed allowance for mileage or for travel expenses. And, in fact, when somebody prepares their tax return, there's reporting requirements based upon a fixed unaccountable reimbursement from an employer. It's very common.

HARRIS: In terms of the tax, since you looked at the tax returns, did you see any of that being reported by the defendant for the business?

LAFFER: You know, there were, I saw other things that weren't reported on the tax return as well, so I, I don't recall if I saw that. I don't recall if it's in the W2 or not. I'd have to look at that.

HARRIS: So, the answer to the question is you don't recall that being reported by the defendant or the business?

LAFFER: I don't recall seeing or not seeing it. I wasn't looking at that.

HARRIS: Now, counsel also asked you about whether the business was paying insurance. If a business pays your insurance for your automobile, does that result in a tax liability for the individual?

LAFFER: Again, it goes back to the reimbursable or the accountable plan for reimbursements. I'd have to, I mean it's, if you want to ask me a lot of tax questions, we can go into taxes, but I don't know whether it's taxable or not. If it's a business expense it could be taxable, but then it would be a 2106 deduction on Schedule A, so it would be an offset.

HARRIS: And the simplest way to determine that would be to look at the business or employment contract that TradeCorp had with the defendant?

LAFFER: That's one way of determining it.

HARRIS: And did you look at that contract?

LAFFER: Again, as I sit here, what I said earlier was that I don't recall if I saw that contract or not. I don't recall if it was in Nienhius's exhibits that I looked at.

HARRIS: The People have no other questions.