Witness: Gary Nienhius

Date: 2004-08-02

Proceedings held August 2, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – David Harris; Cross – Mark Geragos; Redirect – David Harris; Recross – Mark Geragos; 2nd Redirect – David Harris; 2nd Recross – Mark Geragos

Day 1 of 1 for this witness

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

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

Page/line: not available (source HTML has no page or line markers)

Text below is verbatim from the source page for this date only.

Direct Examination by David Harris

HARRIS: Mr. Nienhius, who are you employed by?

NIENHIUS: I work for the City of Modesto.

HARRIS: And what is your occupation there?

NIENHIUS: Internal auditor.

HARRIS: At some point in time did the Modesto Police Department ask you to do a financial review of the financial status for the defendant, Scott Peterson?

NIENHIUS: Yes. In December of 2002.

HARRIS: And did you obtain any documents from them that they had seized and turned over to you?

NIENHIUS: Yes, I did.

HARRIS: I want to back up, before we start looking at the documents. Can you explain to the jury a little bit about your background in the financial area?

NIENHIUS: I was in, I was a banker for 28 years. And following that, when I retired from that I spent three years in city finance. At another city.

HARRIS: Did you also do bank examinations?

NIENHIUS: Oh, yes. Included in that 28 years of banking I was a bank examiner for approximately three years for the federal government.

HARRIS: What is a bank examiner?

NIENHIUS: The bank examiners go into banks, they're regulators, and examine the operations of the bank, regulatory compliance, do financial analysis for safety and soundness of the bank, look for any problem, examine the credit to make sure that the loans that they made are sound loans.

HARRIS: And after your banking industry background, you were saying that you went to work for a city?

NIENHIUS: Yes. I actually was a contractor. I did work for a small town outside of Modesto on a contract basis. They had, their finances were kind of in a shambles and I helped them reconstruct their financial systems, and assisted the city manager with other issues.

HARRIS: And then you ultimately became the auditor for the City of Modesto?

NIENHIUS: Then there was, at that point the position for the auditor opened up at the City of Modesto. I competed for that and I got the job.

HARRIS: What is it that a city auditor does?

NIENHIUS: My work consists primarily of performance audits, where we will look at programs to see if they're being run efficiently and effectively. And, additionally, we do investigations and any other projects that might assist the city.

HARRIS: Now, with regards to working for the City of Modesto, do you work for the police department as well?

NIENHIUS: No, I don't work for the police department. My position is in, it's not in the management chain in the city. I am employed by the city clerk and auditor. It's a dual role position. And that's, that position is a charter office within the city. So that the police department is under the city manager, so I'm not in that same chain of command.

HARRIS: Do you sometimes also look at other departments within the city to see how things are working financially?

NIENHIUS: Oh, yes. I, I look at any department, we have access to any department in the city in terms of doing a performance audit or to check on financial controls to make sure that the management controls are adequate, that the programs are efficient and effective. So it covers the entire city.

HARRIS: So with, so you become the city auditor, and at some point in time the police department asked you to look at these particular finances. Did you agree to do so for them?

NIENHIUS: Yes, I did.

HARRIS: And when they turn over these documents to you, can you tell us what type of documents you had for you to do your, your examination?

NIENHIUS: Well, there was quite a variety. The first three batches came early on, and there were personal financial documents. There were company financial documents. There was correspondence regarding the operation of the business. There was just a large variety of, of material that I screened through to see what was relevant.

HARRIS: Now, when you did this particular financial examination for the police department of the defendant's records, did you break that up into two basic categories?

NIENHIUS: There were, there were two objectives. One was related to Scott Peterson's financial situation. The other was the management of the company, the financial management of the company.

HARRIS: So, again, I guess what I'm asking is did you break this up in your report in terms of business and personal?

NIENHIUS: Yes. Because there were, there were two objectives there, and the, the one section, the one that I mainly dealt with, was the personal financial situation. And then the second was some recommendations that I made regarding company financial operations.

HARRIS: I want to go through this. Talking about the personal finances of the defendant. What type of documents did you obtain to do an examination of his personal finances?

NIENHIUS: There were tax returns for 2001, there were credit reports, there were payroll records, there was information about, well, there were credit card statements, there were, trying to think. Just such a variety of things. But all the, there were copies of checkbook registers. You're talking about just the personal at this point?

HARRIS: Yes.

NIENHIUS: Yes.

HARRIS: If you recall.

NIENHIUS: Yeah. Yeah. I think, I think in general those are the types of documents I saw. There were, there were also copies of medical bills. There was information about when he built his pool. Let's see. I think that, I think I've covered most of them, but I may have, it's quite an exhaustive list, actually, of items.

HARRIS: Okay. Let me go through that.

NIENHIUS: Yeah.

HARRIS: As you got these records from the police department, did you go through them and kind of catalog them or categorize those that you were going to use in this particular review?

NIENHIUS: Well, the way I went at it was I documented, for the initial batch, the ones I received earlier on, I itemized every item. And a lot of the sheets were not numbered at that point, and so for my reference I numbered them. I had categories A, B and C, and I went through them. I created my own set of page numbers for reference, and wrote down what I thought was relevant from that. And then later on, as I completed my, you know, as I was working on my report, then I went back through that to see what I thought was relevant, to review that, and to, to consolidate any information into a report.

HARRIS: When you're all done doing that kind of cat, cataloging, categorizing that you were doing, did you make notes or write some particular report at some point in time?

NIENHIUS: Well, I made, I made all those notes, and then eventually I produced a report, an investigation report, that, you know, what my findings were, what my conclusions were.

HARRIS: Now, at any point in time if you need to refer back to your notes, if you would go ahead and do that so we can get the specific information you're referring to.

NIENHIUS: Sure.

HARRIS: Now, moving on just a little bit. Did you also do the same thing with the business aspect?

NIENHIUS: Yes, I did. I received quite a batch, actually, in May. And in that case I actually went through and just, because of the time constraints, I went through and just documented, wrote down the ones that I thought were relevant. There were, there were items there that just had absolutely nothing to do with what I was dealing with, so I would just not take those, I didn't make any notes on those. But anything I thought might remotely become involved in my report writing, I catalogued those as well.

HARRIS: Now, the documents for the business TradeCorp, what kind of documents did you receive for that?

NIENHIUS: There were financial statements that were produced from the business. I think it was QuickBooks. There were communications between the accountant and the CPA firm that they used and the business. There were telephone company statements. There were tax, payroll tax items. There were credit card statements. Refer to my report. Perhaps, I may not have listed exactly all of them.

GERAGOS: Could I ask that, does your report have Bates number stamps on it? On the bottom right?

JUDGE: Is there a number stamped on there?

HARRIS: His does not.

NIENHIUS: My copy does not. I just printed that.

GERAGOS: I'll just, can I approach?

JUDGE: What are you referring to?

HARRIS: Should be 41403. 41404.

NIENHIUS: Okay. I'll, I can, I can perhaps help you by referring,

GERAGOS: I've got it.

NIENHIUS: referring to the internal numbers on there.

GERAGOS: Sure. What are you looking at?

NIENHIUS: I was going to look at this page. Starts with a B on the top.

HARRIS: That would be 41403.

NIENHIUS: Yeah.

GERAGOS: Got it. Thanks.

NIENHIUS: Okay. Okay. I listed the financial statements. MasterCard statements. There were bank statements. There was a, there were copies of a couple of credit card applications to Bank of the West. I think I mentioned the payroll tax, and I'm going to the next sheet now. Number seven there. Telephone records. And, and there was some information regarding a mailbox that had been set up for the company outside of the, outside of the normal, on the wall mailbox.

HARRIS: Looking at item number nine,

NIENHIUS: Okay.

HARRIS: on your notes there. When you were talking about taxes,

NIENHIUS: Okay.

HARRIS: are we talking about federal taxes?

NIENHIUS: Okay. There, when I refer to tax reports, that included both federal items, payroll tax, deposits. There were state payroll tax reports and forms. And there was also City of Modesto business receipts, tax gross receipts, tax filings.

HARRIS: Is that also referred to as a mill tax?

NIENHIUS: Mill tax, yes.

HARRIS: Now, I want to go through this, and we'll break it up into two big categories that we're talking about here, and talk about the personal. From all of the documents that you were able to look at, were you able to get a financial picture of what was going on with, with the defendant at that point in time?

NIENHIUS: In terms of the, you want to start with the personal?

HARRIS: Looking at the personal.

NIENHIUS: Personal. Okay. In terms of the personal, what I concluded was that,

GERAGOS: There would be an objection. There's no foundation.

JUDGE: Well, you're offering him as an expert?

HARRIS: Yes.

JUDGE: Okay. You want to voir dire?

GERAGOS: Yes.

JUDGE: Go ahead.

GERAGOS: Thank you.

GERAGOS: Good morning. It's Mr. Nienhius?

NIENHIUS: Good morning, sir.

GERAGOS: Good morning. The, how many times in your capacity as, you work in the city clerk and auditor's office?

NIENHIUS: Yes.

GERAGOS: How many times have you testified in a court as to somebody's personal financial condition?

NIENHIUS: Not, not in the city clerk and auditor's office.

GERAGOS: Have you ever qualified as an expert on the analysis of an individual's personal financial status?

NIENHIUS: I have not testified in court, although I have, well, perhaps I should take that back. There were civil actions that we as, in my banking career, where we were suing someone for nonpayment on a loan.

GERAGOS: Okay. Have you ever qualified as an expert on rendering an opinion as to someone's personal financial condition?

NIENHIUS: In a court?

GERAGOS: In a court.

NIENHIUS: Not in a court.

GERAGOS: Have you ever qualified as an expert outside of court, in a deposition setting, as an expert on analysis of an individual's financial condition?

NIENHIUS: In my career as a banker, that was everyday work.

GERAGOS: Well, who qualified you as an expert? I mean who, was there, was there somebody that deemed you to be an expert?

NIENHIUS: There, I'm not aware of any, say, standard-setting body, other than audit organizations, and...

GERAGOS: Okay. And as a banker were you somebody who basically would, were in operations?

NIENHIUS: No, I was, I was a lender. I was in credit. And when I was a bank examiner, my specialty was in credit.

GERAGOS: Okay.

NIENHIUS: And analyzing personal and business financial statements.

GERAGOS: Okay. And as far as that goes, the history that you had, I think you said 28 years in banking?

NIENHIUS: Correct.

GERAGOS: And that is as a lender. There is no occasion that you have had where anybody has ever called you to court and deemed you to be an expert, as far as you know, in the analysis of personal financial conditions?

NIENHIUS: As I said, I've testified in, in civil cases where we were going, we were trying, trying to collect money that had to do with, you know, we did, I did testify there as to the finances of a company or that person.

GERAGOS: All right. And that was generally in a collection action, is that right?

NIENHIUS: Correct.

GERAGOS: Okay. And that wasn't, and that was in an adversarial situation, right?

NIENHIUS: Correct.

GERAGOS: Adversarial meaning you're the bank, the bank is owed money, you've had to sue somebody to collect the money and you're the person who, I guess, was responsible for making the loan or your testimony is needed to lay a foundation for why you should collect the money?

NIENHIUS: Correct.

GERAGOS: Okay. Nobody ever asked you for your opinion in any of those cases as to what the personal financial health of an individual is over the objection of somebody sitting over here, like me, and offered your testimony as an expert, correct?

NIENHIUS: No. Not in that sense.

GERAGOS: I'd, I'd renew my objection.

JUDGE: Okay. I think his opinion goes to the weight rather than its admissibility. I'm going to accept the witness as an expert, and you can give his testimony, his opinion, whatever weight you feel it's entitled to, based upon his background and his testimony. Okay. Go ahead.

HARRIS: Now, going back through, just to touch on that a little bit, you're talking about being a bank examiner. That's where you would actually go into a bank as a federal examiner, pull their records out and look at them and see if they're doing what they're supposed to be doing?

NIENHIUS: Yes.

HARRIS: And you look at them to see if their, what their financial stability was?

NIENHIUS: Yeah. As to the bank, yes, we would do that. As part of the that, we would also look at the credit portfolio, loans, and sample those. And also look at those to see if those loans were safe and sound. And if the loan, if we felt they were not sound, then we would do an, an analysis of that, do a written report, and based on that, the loan would be classified accordingly, whether it was a good loan or whether it was, you know, to the other extreme, whether it should be written off.

HARRIS: Now, did you take all those years of experience in the banking industry, your prior experience with this other city and your current position with the auditor, did you take all your financial background and bring it to play with you when you were looking at the,

NIENHIUS: Absolutely. Yeah. That's the reason the police department asked me to take a look at this, because they knew that I had the background,

GERAGOS: Objection. Motion to strike. Goes to speculation.

JUDGE: Yeah. Overruled. I mean sustained. The latter part of the answer may be stricken. The jury can disregard it. But you took it into consideration in forming your opinions, all your financial background in working for the bank as an auditor and so forth?

NIENHIUS: Yes, sir.

JUDGE: Next question.

HARRIS: So going back to where we were before originally, when you conducted this particular financial examination or review, what did you find about the defendant's personal finances?

NIENHIUS: I found that, in looking at the cash flow for 2001 and then looking at cash flow for 2002, when I compared that with the, what the credit record showed, with the required payments there, plus there was, that credit report, incidentally, was for Scott Peterson and showed his credit. Also showed their joint credit. It did not show Laci's separate credit. So there may have been more. But based on what I saw, I compared the required payments for that, and

there was a statement from a commercial company, I want to say it was Pier 1, I can refer to my notes if I need to, but there was, there was a statement, a credit card statement, plus the payments for the insurance, that was a whole life, cash-value policy, so I felt that that was something that someone would want to continue payments on since there was value to it, the payments that that required were, were high in relation to the cash flow available to make those payments.

HARRIS: Now, I want to go back through that,

NIENHIUS: Sure.

HARRIS: so we all understand the definition. When you're talking about cash flow, what are you referring to?

NIENHIUS: Okay. In terms of, well, 2002 is probably the easiest to deal with because it, there's a, there are payroll stubs, and these payroll stubs show what his gross pay is, then the deductions for taxes, and then his net income. So essentially that's, that's the easiest concept to deal with. Look at what, what is the take-home pay in relation to the required debt payments.

HARRIS: What was, what were you finding was his take-home pay after taxes?

NIENHIUS: For 2002,

HARRIS: He wants to look,

NIENHIUS: Oh, the page? Okay. This is,

GERAGOS: I see. Top was four?

NIENHIUS: Yeah.

HARRIS: You can go ahead and,

NIENHIUS: Okay. I'd be glad to give you a reference if you, if you aren't sure where I'm looking.

GERAGOS: I, it's, unfortunately we're operating from Bates numbers stamped on the bottom. You don't have those.

NIENHIUS: Yes, but I can orient you to where, where in the report I am anytime you're not sure.

GERAGOS: I assume you're looking at the page, the one I'm looking at, I've got a number four paragraph on the,

NIENHIUS: Correct, and it's Conclusion on the bottom.

GERAGOS: Yes.

NIENHIUS: Okay. I just want to make sure we're all on the same page here.

HARRIS: Bates 41402.

NIENHIUS: Okay.

GERAGOS: Correct.

NIENHIUS: Okay. The question was what was his pay?

HARRIS: Take-home pay.

JUDGE: Take-home pay.

NIENHIUS: Take-home pay. The average for 2002 I calculated 3694.

HARRIS: And is that per day, per week, per month?

NIENHIUS: That's per month.

HARRIS: All right. Now, when you, when you were doing this, you had the tax returns from 2001. Were you showing any, any other income during 2002 for the defendant and Laci Peterson?

NIENHIUS: For 2002?

HARRIS: For 2002?

NIENHIUS: No. All I had was Scott Peterson's.

HARRIS: Now, when you, you were going through this, explaining cash value, talking about his net income and all these other things, not being a financial person,

NIENHIUS: Okay.

HARRIS: let me see if I can I understand that. So that's his net pay. That's what he brings home after taxes,

NIENHIUS: Correct.

HARRIS: every month. Then you were telling us about how much was he paying out every month.

NIENHIUS: Okay. The percentage for 2002, the percentage that those payments represented, okay, let me give you a dollar figure. I calculated $2543. That's in number four on the page. Okay. And if you do the ratio, drop down to number six, item number six, the monthly obligations in relation to the income, that was 69.7%.

HARRIS: So almost 70% of his income just to pay the credit card and fixed debts?

NIENHIUS: Correct.

HARRIS: Does that include things like utilities or gas?

NIENHIUS: No. None of that.

HARRIS: Food?

NIENHIUS: This was just debt payments and the, the insurance premium.

HARRIS: Did you do some type of, did you make some comparison for 2002 and 2001?

NIENHIUS: Yes, I did. For 2001 I used the tax return, and I had to develop an approximate for things like social security, and so forth, because I didn't have pay stubs. But using the normal percentage that is deducted, I calculated that the cash flow, amount available to pay his, to pay all his obligations and other expenses during the month, was 4335 per month.

HARRIS: Did you do that same kind of ratio calculation?

NIENHIUS: I did the same kind of ratio on that. Then it came up to 58.7% of that cash flow being required to make payments.

HARRIS: So in 2002, was the debt ratio going up or going down?

NIENHIUS: It was going up from, from the material I had. It was going up.

HARRIS: And it had gone up about 11% in one year?

NIENHIUS: Yes.

HARRIS: Okay. When you looked to, just so the, I'm clear about this. When you're talking about these big service debts, these are like a house payment or mortgage payment?

NIENHIUS: Those were things like credit cards, mortgage payment, yeah. Basically, and car loan. Those type, you know, the typical consumer debt.

HARRIS: And a lot of, some of this information was coming off of this credit report that you had for December 2002?

NIENHIUS: Yes. There was an Experian credit report that detailed those out.

HARRIS: Did you also find monthly bills or some of the monthly statements from these credit cards?

NIENHIUS: Along the way I saw some of those as well, but the credit report is really the most, that was the most current. That was at the beginning of two, December 2002.

HARRIS: Now, the credit card payments, did you also look at the balances on some of them?

NIENHIUS: Yes.

HARRIS: Did you find any, anything of significance about the balances on some of these credit cards?

NIENHIUS: Well, one of them, as I recall, it was about 12,000 some-odd dollars on a credit card. A bank card.

HARRIS: That was a balance on that card?

NIENHIUS: That was the balance.

HARRIS: And when you had, again, sometimes it seems like a silly question, but we have to put it in for the record.

NIENHIUS: Sure.

HARRIS: When you have a credit card, does the company that's loaning you or letting you use the credit card charging you interest too?

NIENHIUS: Oh, yes.

HARRIS: So the interest is in addition to whatever that balance is they're changing you for how long that balance is on there?

NIENHIUS: Oh, yes.

HARRIS: Is that something that factors into whether you should pay the balance down or not?

NIENHIUS: Oh, yes. Anytime that you can pay down a high interest rate balance on a credit card or loan it's to your advantage, because it

HARRIS: Did you, when you were looking at the credit card balances, and you've already told us about kind of what the outside sides of this box are. When you start looking at the individual credit card statements, were large sums being paid, minimum sums being paid? What was happening?

NIENHIUS: I'm not sure at this point. I don't recall exactly, but it was not being, the balance was definitely not being cleared.

HARRIS: When you say the balance was not being cleared,

NIENHIUS: In other words, he wasn't making a twelve thousand dollar payment.

HARRIS: Did you look at the timeliness of payments as well?

NIENHIUS: I looked at the timeliness on the credit report, and the credit report didn't show any delinquency history.

HARRIS: Now, did you find something in the actual documents that you noticed in terms of timeliness of payments?

NIENHIUS: Are you, okay, are you referring to the credit card,

HARRIS: No.

NIENHIUS: items? Anything that I saw. Okay. There were, okay. This is on the same page, number eight. I noticed that there were several medical bills that were not being paid timely. There were bills for lab work and, and so forth that were remaining unpaid. They were for service I believe in July, and it was October/November and they were still unpaid. There was also a bill for Blue Shield medical insurance premiums that there were notifications from Blue Shield that the premiums were not paid and that they had to be paid by the 3rd of January, 2003. And those were finally paid on the 23rd of December. But it, you know, they were well past due at that point.

HARRIS: Now, when you say they were paid on the 23rd, did that,

GERAGOS: Be an objection, a motion to strike. There's no foundation. It calls for speculation.

JUDGE: They were paid?

GERAGOS: Yeah. No, they were past due. There's no indication of that.

JUDGE: Well, I don't know if there is. Is there any, I'll sustain the objection, so maybe you can clear that up.

HARRIS: The documents that you were looking at, did they have notations in them whether they were, things were due or not?

NIENHIUS: Yes, they did.

HARRIS: And that's where your statement comes from, looking at the actual records?

GERAGOS: Well, there's absolutely no foundation for him to testify as to what other corporations' or entities' payments requirements are.

JUDGE: Well, if he used it in forming his opinion, he can testify to it. He testified as to the defendant's financial picture, and these are the things he's relying on in forming his opinion. So you can cross-examine him on it. Objection's overruled.

GERAGOS: Thank you.

HARRIS: Did you also indicate that there was a check register that was found?

NIENHIUS: Yes.

HARRIS: And as part of your review process, did you go through the check register?

NIENHIUS: I went through the check register, yes, to see if there was anything that related to this.

HARRIS: Now, the payment that you were just talking about, that Blue, Blue Shield payment, did you find a check from the 23rd out of that register or in the register for Blue Shield?

NIENHIUS: There was a notation in the register that that was paid on, on that date.

HARRIS: Now, based on, let's move on. We'll talk about the business and then we'll come back to the personal together. You told us that you got a bunch of records for TradeCorp. Did you look at the, this overall business to try and find out what kind of business this was?

NIENHIUS: Yes. I looked at the original documents that were, you know, the incorporation documents, looked at financial statements. I've looked, I saw a lot of material that showed that this was a business that was selling a specialized type of fertilizer and was trying to get into the market with that.

HARRIS: Now, from looking at these documents, did you find out in looking at them that the defendant was significantly involved in doing the accounting of this business?

NIENHIUS: It appeared to me that the, the defendant was, was doing the work, the accounting work, and that there was communication with their accounting firm, that the accounting firm would receive a disk and would do the, the basic financial statements and would give him advice.

HARRIS: Now, you said receive a disk. Going through the documentation, did you see that there was computer records that indicated that books were being done on kind of an over-the-counter commercial product?

NIENHIUS: QuickBooks.

HARRIS: And this was being done by the defendant, from what you could tell?

NIENHIUS: Yes.

HARRIS: Now, this was a kind of a startup company, is that,

GERAGOS: Objection. Leading. Called for speculation.

JUDGE: Sustained. Sustained.

HARRIS: Was this a startup company?

NIENHIUS: This was a new company. The documentation showed that it was formed in, I believe the corporation was formed in 2000.

HARRIS: And you were looking at the documents for 2000, 2001 and 2002?

NIENHIUS: Correct.

HARRIS: Had the business made a profit?

NIENHIUS: No.

HARRIS: I want to go through this. You're talking about saying, you said that it was a specialized kind of product that they were selling. Did you look at the, the product that they were selling, costs they were selling it for, versus what it was costing them to sell it?

NIENHIUS: Yes, I did, and from, let me just refer to the report, and then I'll indicate what page I'm on, too, so everybody knows where we are. The final page is the one I'm looking at, so that everybody knows. Just above my signature block. And I'm looking at item number eight.

HARRIS: Okay.

NIENHIUS: Okay. There I indicate that the ratio of the cost of goods sold appeared quite high to the actual sales. From the accounting records that I saw, it appeared that it was running about 86%. Then, additionally, there were shipping costs. And so that the sales were really unprofitable at that point.

HARRIS: What does that all mean in lay person's terms?

NIENHIUS: They weren't making enough money to, they weren't making money. It was not a profitable business at that point.

HARRIS: Did it appear that there was something, let me just back up and ask it this way. If the company is selling a product and they're not making a profit on selling that profit, product, what does that mean in financial status for a company?

NIENHIUS: Well, it's, it's the same whether it's a company or an individual. If, in the end, if you're laying out more money than you're receiving, you go broke.

HARRIS: And what were the indications about this particular business? Were they going broke?

NIENHIUS: Well, item number ten in the, on that page in the report, at the end of September, September 30, 2002 financial statement, for the, for the nine months there it showed a net

operating loss of 136,000 and some dollars.

HARRIS: You said a loss?

NIENHIUS: A loss. A net operating loss. And do you want me to get into the,

GERAGOS: Be an objection. Non-responsive.

JUDGE: Sustained.

HARRIS: In that same particular paragraph, do you have other things in there in terms of what the status of the business was?

NIENHIUS: Yes. The, the capital of the business at that point showed a negative. In other words, the firm owed more, had more liabilities than it had assets by 47,000. And the, the working capital, the, this gets a little bit into accounting concepts, so I'll try and keep it very basic. The current assets of the business, you know, things that are expected to be converted to cash within a twelve month period, or, are the current assets, be cash, inventory, receivables, those types of things, that in comparison to the debts that had to be paid, bills that had to be paid out of that within the next 12 months, at the, at the point of September 30th, that was negative. In other words, there were more current debts than there were assets by almost 64,000.

HARRIS: From looking at all of that and what you've just been describing to us, what was the, what condition was the business in at that point in time?

NIENHIUS: Well, it was not, not in good shape financially. It would have required considerable injection of additional capital to keep going at that rate.

HARRIS: When you talk about injection of additional capital, was there anything that you saw about that particular business that they had that capital available to them? Or did they have to be dependent upon some other business or company?

NIENHIUS: They were a subsidiary of a company out of Spain. The parent company. And that parent company would have had to put in additional capital, put more cash into the business to keep it going.

HARRIS: Did you also look at, again, just so where clear. There's a parent company, and that was Trade, TradeCorp like Espana or TradeCorp International?

NIENHIUS: Right.

HARRIS: And there was the company you were looking at, the one that the defendant was managing, and that was TradeCorp USA?

NIENHIUS: Correct.

HARRIS: Did you look at TradeCorp USA to see how they were conducting their kind of day to day operations, paying the bills?

NIENHIUS: What struck me, and these, these are issues that I raised because they concerned me, but I couldn't dig too far back into them because their accountant probably has a better concept of just exactly what was going on,

GERAGOS: There would be an objection as to anything he's going to testify to because it's irrelevant and speculation, 352.

JUDGE: Yeah, I think so. Be sustained.

HARRIS: Now, did you, did TradeCorp USA have an accountant?

NIENHIUS: Yes.

HARRIS: Do you happen to know who the accountant is?

NIENHIUS: Jeff Coleman.

HARRIS: And did you receive documents from Mr. Coleman as part of the review process?

NIENHIUS: I received documents from the police department that Mr. Coleman had provided them.

HARRIS: Did you look at the actual documents in terms of looking at, let me back up. Did TradeCorp USA have credit cards?

NIENHIUS: Yes, they did.

HARRIS: Did you look at those actual statements and credit card account information?

NIENHIUS: Yes, I did.

HARRIS: What did you find out about those documents?

NIENHIUS: Well, something that struck me was that,

GERAGOS: There would be an objection. Anything he's going to testify to as TradeCorp, he just testified, you sustained the objection that the accountant is in a better position. The accountant is here. It's pure speculation.

JUDGE: Yeah, I think so. You've got the accountant here?

HARRIS: We do, but he's talking about documents he actually looked at and did a review of.

JUDGE: Provided by TradeCorp?

HARRIS: Provided by TradeCorp.

GERAGOS: Which he got from the accountant. The accountant is here. Let the accountant testify to it,

JUDGE: Well, I think the accountant is better qualified to testify. Since you have the accountant here, let him testify to it.

HARRIS: Well, I think this witness is qualified as well. Counsel is just wanting me to do it through another witness. If this witness looked at it and did,

JUDGE: Well, can you tell me what he's going to testify to? What's going to be the end result?

HARRIS: He's going to talk about the credit application, that had problems with it. He's going to testify,

JUDGE: Credit application from whom that he had problems with?

HARRIS: That, from the defendant setting up, trying to apply for two credit cards. That there were the, how they were paying the bills on the credit cards. These are things that he looked at in terms of the overall picture.

JUDGE: Did you look at this stuff personally yourself,

NIENHIUS: Yes, sir.

JUDGE: in forming your opinion?

NIENHIUS: Yes, I did.

JUDGE: Okay. Well, then I'll overrule the objection. Go ahead.

HARRIS: So going back to the credit cards, did you look at the actual credit card statement information?

NIENHIUS: Yes, I did.

HARRIS: Talking about the credit card information for the business, what did you find when you were examining that?

NIENHIUS: The firm was making essentially minimal payments, was making some payments, but was carrying balances rather than paying off the balance on a monthly basis.

HARRIS: Now, let's, just to go through this. This was a corporate credit card?

NIENHIUS: Corporate credit card.

HARRIS: And what kind of balances was it running?

NIENHIUS: I don't recall right now. I'd have to really dig into my documents to come up with that one.

HARRIS: Now, in your opinion, from your bank audit experience, is it a good financial practice to run balances,

GERAGOS: Objection. What is the relevance of whether it's a good financial practice?

JUDGE: Because it goes to the financial status of the business, whether or not,

GERAGOS: The business isn't owned by him.

JUDGE: Pardon me?

GERAGOS: The business isn't owned by him.

JUDGE: Well, the credit cards are being used by him, isn't that,

GERAGOS: And we've got an accountant here. Let's find out from the accountant,

JUDGE: I already overruled the objection. Go ahead.

HARRIS: Is it a good financial practice for a business to run balances on credit cards?

NIENHIUS: No. It, it's normal practice in a firm to pay off the credit cards monthly so as to not incur an interest charge, keep the costs under control.

JUDGE: These are TradeCorp USA credit cards?

NIENHIUS: Yes, sir.

JUDGE: All right. Go ahead.

HARRIS: Did you notice if there were any,

GERAGOS: 352.

JUDGE: Overruled.

GERAGOS: Thank you.

HARRIS: Did you notice if there were any applications for additional credit cards?

NIENHIUS: I believe these are the original applications for those credit cards. There were two applications, one for Scott Peterson, one for Eric Olson.

HARRIS: And do you recall who completed these applications?

NIENHIUS: They were signed by Scott Peterson.

HARRIS: When you looked at the Scott Peterson application and the Eric Olson application, did you notice that there were any differences?

NIENHIUS: There were, let me find my place here a second. This is on the previous page, number five. Of my report.

HARRIS: That's Bates 41403.

JUDGE: Okay.

NIENHIUS: Okay. The two applications, one application showed an annual net profit of $150K. That's the way it was worded.

HARRIS: Let me just,

NIENHIUS: Sure.

HARRIS: Which application was that one?

NIENHIUS: This was the, the one for, for Scott, I'm sure, because it, it was the original application.

HARRIS: Okay.

NIENHIUS: And the other one was definitely for Eric Olson. So by the process of elimination, it had to be the other one.

HARRIS: And it said $150,000 net profit?

NIENHIUS: Net profit.

HARRIS: Did you ever find any records that showed that the business had been running a profit?

NIENHIUS: No.

HARRIS: The second application, that was the one for Eric Olson?

NIENHIUS: Yes. It showed that the annual revenue for the firm was 500,000.

HARRIS: Did you ever find any records that established that?

NIENHIUS: No.

HARRIS: Now, as part of the, did the defendant have a contract as part of his employment with the company?

NIENHIUS: There was an employment contract, yes.

HARRIS: And as part of his employment contract, was, was he given goals or kind of things that he had to meet to remain with the company?

NIENHIUS: Yes. For that year it called for 422,000 in sales.

HARRIS: Did he meet that?

NIENHIUS: There was a spreadsheet that showed that at the end of November he was at approximately 23% of his goal.

HARRIS: When you were going through the credit card information, did you notice, did you find anything unusual about the credit card usage?

NIENHIUS: Well, something that struck me, and I, I thought it would be good for me to mention in my report so that the firm, the parent company, accountant, somebody could take a look at this to find out whether this was appropriate, I noticed that there were some what appeared to be personal charges that were made at, at some firms that had just struck me as not being the normal travel expenses. Traders Joe. There was a grocery store. Marshalls, which is a clothing store. And it kind of struck me that these might be personal expenses, but the accountant could probably confirm that.

HARRIS: Okay. When you wrote this report, did you include recommendations, based on everything that you saw with the business, that TradeCorp conduct their own audit, after you were done?

NIENHIUS: Yes. This was the second half of my report. Really dealt with items that I thought would bear some further investigation and, by the parent company and their accounting firm, just to make sure that everything was appropriate.

HARRIS: Now, besides the credit card and kind of running balances, I want to talk about something else in that kind of general area. Did TradeCorp USA have an insurance package?

NIENHIUS: I don't know about that. That's not something I would know.

HARRIS: Were they, in your review of the records, did you ever find that they were paying, that there was payments being made for insurance,

NIENHIUS: No.

HARRIS: for the business?

NIENHIUS: I don't recall seeing that.

HARRIS: Did you look at the defendant's reimbursement from TradeCorp?

NIENHIUS: The one area,

GERAGOS: Objection. Vague.

JUDGE: Yeah. I have the same problem. Reimbursement for what?

HARRIS: Did the defendant submit, or let me try this again. Was the defendant reimbursed for mileage?

NIENHIUS: Yes. The contract, his employment contract called for 35 cents a mile reimbursement. And at October 31st of 2002, the financial records show that for the year there had been $12,050.70 paid to him, which if you do the math comes out to 34,430.571 miles, so that doesn't come out even. That struck me as a little strange. I wondered where that number came from, and I thought the accountant should take a look at that, see if there was support for the mileage figures.

HARRIS: As you were going through the process of looking at the business records, seeing that the defendant was responsible for doing those, other than giving those disks to the CPAs as you already testified to, did you notice there was communication with the CPA and the defendant as to being problems with taxes?

GERAGOS: Objection. Hearsay.

JUDGE: Sustained.

HARRIS: Did you find financial documents that indicated there was a problem with taxes?

NIENHIUS: There, there were, there was quite a bit of communication between the, between the accountant and the, and management, Mr. Peterson, who, or as to the withheld taxes due to the state.

HARRIS: Let me stop you there. Withheld taxes?

NIENHIUS: Okay. These are the payroll taxes. Well, not only the withheld, but also the employer's portion. So, in other words, when someone is employed by a company, you know, anybody who has had a paycheck will see that there's a certain amount of federal and state taxes withheld from that. Social security. And the employer also pays a portion of social security taxes. These taxes were not being paid. The accountant was, was urging that those be paid,

GERAGOS: Objection. Hearsay.

JUDGE: Sustained. What the accountant told him, sustained. As far as your examination of the records showed they were not being paid, correct?

NIENHIUS: Correct.

JUDGE: Next question.

HARRIS: Now, the, the documents that would indicate this was not being paid, you found this in the financial paperwork that was provided to you?

NIENHIUS: Yes.

HARRIS: Was there also, you had mentioned earlier about business tax for the city, and it's also referred to as mill tax. Was there also an issue with mill tax?

NIENHIUS: Yes. The business receipts tax, as they call it in the city, mill tax, the one report that was filed in October showed a flat $15,000 having been earned in sales. Just a round number rather than a specific down to the dollar type of a figure, which is a little strange. And then there was a, the city received a, approximately a hundred twenty-four, another report later that showed about $124,000 total. So it, it struck me that the firm had been making sales up to that point. So that $5,000 figure was not accurate. It calls for quarterly reporting of the sales.

GERAGOS: Objection. Speculation. There's no foundation.

JUDGE: Yeah. I'm going to sustain the objection because we're getting into, farther afield. Now we're getting into the city rules and regulations now. We're just, I think he's being offered just to tell us what his financial status was based on the examination of the records, without getting into all this minutia. All right. Sustained.

HARRIS: The,

GERAGOS: Motion to strike.

JUDGE: All right. Motion may be granted. Next question.

HARRIS: After you'd looked at all of the business records and the personal records of the defendant, I want to go, kind of put it in total perspective at this point in time. Based on what you were seeing of the business, was the defendant's job in jeopardy?

GERAGOS: Objection. That calls for speculation.

JUDGE: Sustained.

GERAGOS: This is absurd.

JUDGE: Yes. How would he know that? Sustained.

HARRIS: From your review of the financial records, what you saw with the business, did you indicate in your report that TradeCorp should do an audit?

NIENHIUS: Yes. The things that I, I saw that concerned me, I thought it would be wise for the parent company and the accounting terms to do an audit and, and really look at the management practices.

HARRIS: Now, referring specifically to one particular item about that, was there, did you become aware from looking at the documents that there was another employee by the name of Eric Olson?

NIENHIUS: Yes.

HARRIS: And you saw the payroll records for him, so you knew he was an employee?

NIENHIUS: Right.

HARRIS: Did you find something else that indicated payments to him in some other capacity?

NIENHIUS: Yes. I, I indicated in my report, and I don't know what your number is on that one, but it's the page that starts with B.

HARRIS: That would be 403.

GERAGOS: 41403.

NIENHIUS: Okay. I commented there that every payday, which was twice a month, there was a $375 payment to Eric Olson for professional services. And Eric Olson was an employee. That struck me as something that needed to be looked at, because typically an employee does not get a separate cash payment that doesn't run through the payroll records. Because, if you're on a payroll, then the IRS needs to have an income reported.

HARRIS: These particular, all the payments made by TradeCorp USA, these were checks that were being written by the defendant?

NIENHIUS: Yes.

HARRIS: The People have no other questions.

Cross Examination by Mark Geragos

GERAGOS: Yeah, I've got just a few. Let's start off with the fact did you ever ask anybody what that 375 was for?

NIENHIUS: No. That's why I recommended that the accountant and the firm, the parent company take a look at that, to see what that was about.

GERAGOS: Did you know that that was a prepaid commission for Eric Olson?

NIENHIUS: I saw nothing about that.

GERAGOS: Well, if it was a commission, if he's a salesperson, were you aware that he was a salesperson?

NIENHIUS: Yes.

GERAGOS: Were you aware that salespeople get paid both a salary and a sales commission? Had you ever heard of that concept?

NIENHIUS: Sure, but I don't know what the arrangement was there.

GERAGOS: So you just thought it was suspicious that he's got a salary and he gets a check for 375?

NIENHIUS: I just thought that someone should take a look at it, see whether it was appropriate.

GERAGOS: Okay. It didn't stop you from coming to the conclusion that you thought that there was something strange or suspicious about it, did it?

NIENHIUS: I just didn't, I had no, no indication as to what that was about, and I thought it should be looked at.

GERAGOS: Okay. You did have an indication, however, of Scott Peterson's credit report, correct?

NIENHIUS: Correct.

GERAGOS: Okay. I've got a document which looks like it's 16 pages. Is this the credit report. The Experian credit report that you looked at?

NIENHIUS: That's the one.

GERAGOS: Okay. Can I mark this as defendant's next in order?

JUDGE: Okay. This would be number D5E.

GERAGOS: Now, this credit report was given to you by the police, correct?

NIENHIUS: Correct.

GERAGOS: And this is something they told you was recovered from either one of the searches and they obtained it in one of the searches?

NIENHIUS: Right.

GERAGOS: And then you went through and took a look at this credit report, right?

NIENHIUS: Correct.

GERAGOS: Now, the first page of this credit report has got Scott Peterson's name on it. The second page shows a December 16th date, correct?

NIENHIUS: Correct.

GERAGOS: Okay. Now, on this credit report it lists the credit cards to the left, is that right? Or if it's, if it's not a credit card, it's also what the source of the credit is?

NIENHIUS: Correct.

GERAGOS: Okay. So let's just start off. The first one is American Express, right?

NIENHIUS: Okay.

GERAGOS: Is that correct?

NIENHIUS: Correct.

GERAGOS: Okay. What's the status of it?

NIENHIUS: It's paid.

GERAGOS: And what's it say right next to the,

NIENHIUS: Never late.

GERAGOS: Never late. What's that mean, never late?

NIENHIUS: It's paid on time.

GERAGOS: Means it gets paid on time? This guy that's got this high debt ratio has paid on time?

NIENHIUS: Correct.

GERAGOS: How about this one for AMEX? What's that status? Paid, never late?

NIENHIUS: Correct.

GERAGOS: How about Bank of Stockton? Status paid, never late?

NIENHIUS: Correct.

GERAGOS: Let's go to page three of 16, by the way, did this make it into your report anywhere? All of these credit lines status? Looks to me like Capital One Bank, what was it?

NIENHIUS: Paid, never late.

GERAGOS: How about Chase?

NIENHIUS: Same thing.

GERAGOS: Status open, never late, right?

NIENHIUS: Right.

GERAGOS: Okay. And what is it, a revolving hundred and eighty-three bucks?

NIENHIUS: $380 a month.

GERAGOS: Okay. Capital One, what's the balance on that?

NIENHIUS: Zero.

GERAGOS: By the way, on the first page, AMEX, just so that we're clear here, it shows what he's got to pay. What does he have to pay for the AMEX card?

NIENHIUS: Nothing on that one.

GERAGOS: Zip. How about for this one?

NIENHIUS: Nothing on that one.

GERAGOS: Nada?

NIENHIUS: Nothing on that one.

GERAGOS: How about the Bank of Stockton?

NIENHIUS: Nothing on that one.

GERAGOS: Does that mean that he has credit lines that are available to him that he could use if he wanted to? Let me explain it to you. See that? That's his credit limit, okay?

NIENHIUS: Right.

GERAGOS: That means that he's got a line of credit that goes up to 8500 bucks, right?

NIENHIUS: Right.

GERAGOS: Okay. See this? It says zero. Do you know what that means?

NIENHIUS: It's paid off.

GERAGOS: Right. So what's his credit line? 8550 minus zero equals?

NIENHIUS: 85.

GERAGOS: Thank you. Now, what about page four of 16? Let's see. First USA Bank. What is it? Status closed. What does that mean? That he had that account?

NIENHIUS: He had that account.

GERAGOS: Right. And what happened while he had that account?

NIENHIUS: Paid it on time.

GERAGOS: Which means he was never late?

NIENHIUS: Right.

GERAGOS: How about First USA Bank?

NIENHIUS: Same thing.

GERAGOS: Well, it looks to me like First USA Bank he's got a $16,500 credit limit, right?

NIENHIUS: Uh-huh. Correct.

GERAGOS: How much was on that card?

NIENHIUS: Zero.

GERAGOS: Zero. Which means he's got 16,500 in credit available to him, right?

NIENHIUS: Correct.

GERAGOS: And, by the way, he's paid it, and was he ever late?

NIENHIUS: No.

GERAGOS: How about Fleet? Status paid, never late?

NIENHIUS: Correct.

GERAGOS: $3,000 credit line. Zero, right?

NIENHIUS: Right.

GERAGOS: Okay. Ford Motor Company. This is his car, presumably his car, right? We know that because it's got Installment, 48 months, 643 bucks, right?

NIENHIUS: Right.

GERAGOS: Okay. Now, the original balance when he bought the car was 30,878, right?

NIENHIUS: Right.

GERAGOS: Okay. Now, it's down to 22,000. Presumably he's paying his payments, right?

NIENHIUS: Right.

GERAGOS: And we know that because it's open and it's never been late?

NIENHIUS: Right.

GERAGOS: How about MBNA America Bank, or that, actually let's go first. How about this Gottschalks right here? Is that inactive? What does that mean?

NIENHIUS: It's not being used.

GERAGOS: Okay. And they've had that apparently since 1993 or 94, correct?

NIENHIUS: Correct.

GERAGOS: Never been late?

NIENHIUS: No.

GERAGOS: How about Household Bank? This is page five, looks like credit that he's got outstanding is zero, status paid, never late?

NIENHIUS: Right.

GERAGOS: Household Bank, status inactive, never late, right?

NIENHIUS: Right.

GERAGOS: Household Bank, status closed. Looks like paid. When he had that account, never late?

NIENHIUS: Right.

GERAGOS: How about Lowes MBGA? Never late?

NIENHIUS: No. Never late.

GERAGOS: How about MBNA America Bank, status open, never late, is that correct?

NIENHIUS: Right.

GERAGOS: Okay. That's joint with Laci, correct?

NIENHIUS: Yes.

GERAGOS: $13,385 line of credit, right? Is that right?

NIENHIUS: Let's see. I can't quite read the heading there, if that's...okay.

GERAGOS: Now, he can do whatever he wants with his credit cards, right? As long as he's paying them, correct?

NIENHIUS: Sure.

GERAGOS: There's no, there's no restriction to how you use a credit card, is there?

NIENHIUS: No.

GERAGOS: Okay. Let's go to page six. Looks like we've got a GAP credit line of some kind, correct?

NIENHIUS: Correct.

GERAGOS: Status open, never late? Pier 1, status open, never late, right?

NIENHIUS: Right.

GERAGOS: Pier 1, status open, never late?

NIENHIUS: Uh-huh.

GERAGOS: Principal Residential Mortgage. What is that?

NIENHIUS: It's his house loan.

GERAGOS: Okay. Looks to me like this guy who had this high debt ratio apparently, jointly with Laci Peterson, is paying the loan of 168, it's already down to 166, and it's never been late, correct?

NIENHIUS: Correct.

GERAGOS: Okay. As a banker, so far this guy is looking pretty good for a loan, isn't he?

NIENHIUS: In terms of credit history.

GERAGOS: Well, that's what you look at, isn't it?

NIENHIUS: Also look at debt service capacity.

GERAGOS: Okay. Well, we'll get to that in a second. Let's just take it one step at a time. By the way, what's his FICA score on here? Do you know? Did you ever look at that?

NIENHIUS: I don't know where it is on there.

GERAGOS: Well, let me just show you. Did you ever, did you ever do any inquiry, by the way, you're a banker, right? You spent 28 years in a bank?

NIENHIUS: Right.

GERAGOS: You run a credit report for what reason?

NIENHIUS: To see what the credit history is.

GERAGOS: Right. And then they give you a score, don't they?

NIENHIUS: The last few years they do.

GERAGOS: Okay. When you were working in banking did they give you a score, a FICA score?

NIENHIUS: Yes, the last few years.

GERAGOS: Okay. And the FICA score determines what the interest rate the bank's going to charge, isn't it?

NIENHIUS: Mortgage lenders do that.

GERAGOS: Okay. Well, mortgage lenders, generally most people, what's their biggest debt?

NIENHIUS: House.

GERAGOS: What's their biggest personal debt? It's a house?

NIENHIUS: House.

GERAGOS: That's their mortgage, right?

NIENHIUS: Right.

GERAGOS: So your credit determines what your rate's going to be on your mortgage, right?

NIENHIUS: Right.

GERAGOS: Do you know what his FICA score was?

NIENHIUS: Not offhand.

GERAGOS: Well, wouldn't that have interested you to determine whether or not this guy had a high or a low FICA score? No?

NIENHIUS: Well, it would be of interest, but it wasn't what I was looking at.

GERAGOS: It wasn't what you wanted to find.

HARRIS: Objection. Argumentative.

JUDGE: That may be stricken. The jury can disregard it.

GERAGOS: How about this right here, the Express. Status open, never late, is that correct?

NIENHIUS: Correct.

GERAGOS: That's a retail store, is that right?

NIENHIUS: I don't know what it is.

GERAGOS: Let's give you last one that's on page eight. Structure, inactive, never late, is that correct?

NIENHIUS: Correct.

GERAGOS: All right. You told me, I'm going to show you the document. Can you show me where the FICA score is on here?

JUDGE: What are you showing him, Mr. Geragos?

GERAGOS: That's the document that I just marked.

JUDGE: That's the one you just marked, okay.

GERAGOS: Looks like D5E, Judge. Is that what you have?

JUDGE: Yeah.

NIENHIUS: I must be looking past it.

GERAGOS: You can't find it?

NIENHIUS: No.

JUDGE: Is it on there?

GERAGOS: I'm asking him. He's the banker.

JUDGE: Okay.

GERAGOS: The, tell me something. You had this report that you prepared, this investigation summary?

NIENHIUS: Uh-huh.

GERAGOS: Now, did you look at tax returns? We were talking about the individuals. The first part where Mr. Harris was asking you was about Scott and Laci's individual income and personal finances, correct?

NIENHIUS: Correct.

GERAGOS: Okay. Now, in your report, if I remember correctly from your testimony, you said that they were making, in the year 2002, their monthly cash flow was 3694, is that right? I'm referring you to your number five. Right. Is that, how did you come up with that?

NIENHIUS: What was the number you asked me about?

GERAGOS: I asked you if you said the monthly cash flow for 2002,

NIENHIUS: Yes.

GERAGOS, was 3694, is that right?

NIENHIUS: Right.

GERAGOS: Okay.

NIENHIUS: That's based on, based on pay stubs.

GERAGOS: Well, you had the tax return, didn't you?

NIENHIUS: Not for 2002.

GERAGOS: How about for 2001?

NIENHIUS: Correct.

GERAGOS: Okay. What was your calculation for the monthly cash flow for 2001?

NIENHIUS: 4335.

GERAGOS: Okay. How did you calculate that?

NIENHIUS: I took the annual gross income, added back the non-cash deduction that was on the form, took out for the state and federal income tax and social security, and came up with 4335.

GERAGOS: Now, did you show that in 2001, or did they show, that Scott's gross income, combined with Laci's, was how much?

NIENHIUS: I, I started my calculations with the adjusted gross income, 63,829.

GERAGOS: 63,000?

NIENHIUS: Yes.

GERAGOS: Okay. Now, did any of that include Laci?

NIENHIUS: Yes. There was some, some of hers there.

GERAGOS: Over 14,000?

NIENHIUS: I don't recall exactly what the number was.

GERAGOS: Okay. The amounts that you calculated for this cash flow of $4335 in the year 2001, did you do an analysis of his tax return?

NIENHIUS: In terms of?

GERAGOS: What the income was, what the deductions were, things of that nature, where they were coming from?

NIENHIUS: I was developing a cash flow based on the income, less the taxes, add back the non-cash K1 for a partnership. That wasn't a cash thing I deducted out of there.

GERAGOS: Okay. Let me just ask you a couple questions.

NIENHIUS: Yeah.

GERAGOS: You did some analysis, and you said you were, I think in one portion of your, said that you showed these consumers, you said they had, despite a good credit history, and I'm looking at your paragraph seven.

NIENHIUS: Okay.

GERAGOS: That they had a high ratio that shows a financially difficult situation for a consumer without secondary financial resources.

NIENHIUS: Okay.

GERAGOS: Okay. That was one of your conclusions, right?

NIENHIUS: Uh-huh. Okay.

GERAGOS: They had a good credit history, right?

NIENHIUS: Right.

GERAGOS: Outstanding, in fact, wasn't it?

NIENHIUS: Yeah. Yeah, it was good.

GERAGOS: Okay. Now, your concern was Hey, these people are spending money and I don't know if they've got any secondary financial resources, correct?

NIENHIUS: Correct.

GERAGOS: Okay. In their, you reviewed the tax return, correct?

NIENHIUS: Uh-huh.

GERAGOS: Now, was there a K1 in the tax return?

NIENHIUS: Yes, there was.

GERAGOS: And what was the K1? What entity was it from?

NIENHIUS: It was from the Rocha Family LP.

GERAGOS: Okay. Did you do any, did you inquire at all as to what the Rocha Family LP was?

NIENHIUS: No, I wouldn't have had any way to do that.

GERAGOS: You wouldn't have had any way of doing that? You could have reviewed the testimony from Brent Rocha in this trial. Did anybody provide with you that?

NIENHIUS: That wasn't available at that point.

GERAGOS: How about right now? Did anybody give that to you before you came here to testify?

NIENHIUS: No.

GERAGOS: Okay. Did anybody bother to tell you that Brent Rocha indicated in his testimony that anywhere from a $140,000 to a $160,000 was due to Laci from the sale of the house that was in that LP or one of the related entities? Did you know that?

NIENHIUS: No.

GERAGOS: Okay. How would $140 to $160,000 going to Laci Peterson have affected their secondary financial resources?

NIENHIUS: Well, you're asking me to kind of speculate on that because,

GERAGOS: Well, wouldn't,

NIENHIUS: Yeah, that would have, yeah, that would have been good, but I didn't have anything in that material I had to review that indicated there was any such amount coming due.

GERAGOS: You didn't have anything about that? Do you know, have you ever heard of a city attorney in the City of Modesto, let's see if I can find her name. Miss Craig I think is her name? The city attorney? Are you familiar with her?

NIENHIUS: No.

GERAGOS: Okay. Were you aware that the city attorney's office in Modesto, at the same time you were given documents, were given the trust documents in this case?

NIENHIUS: No.

GERAGOS: Did anybody ever tell you that there was a trust?

NIENHIUS: I, I assumed there was based on that K 1 being in there, but

GERAGOS: Okay.

NIENHIUS: I didn't have any details.

GERAGOS: Were you told at all that there was a house that was sold for 485,000? And I'm referring specifically to page 9182 of the trial transcript in this case. That there was $485,000 that had been sold and was in a trust and was going to be distributed to Laci and her brother and sister?

NIENHIUS: I saw nothing about that in the material that I had.

GERAGOS: Now, you said you could speculate what would happen if she got $140 or $160,000. I can speculate, too. That would mean their financial condition would be better, wouldn't it?

NIENHIUS: If they got it.

GERAGOS: Okay. What if they got a $100,000 in jewelry that month before she disappeared? Would that help their financial condition if they got $100,000 worth of jewelry?

NIENHIUS: It could.

GERAGOS: It could?

NIENHIUS: If it was, if it was liquid.

GERAGOS: Well, if it was liquid, if you'd put on it eBay and try to sell it, if you took it to a pawn shop and sold it, if you took it a jewelry store and gave it to them? Say you just wanted to take out of that $100,000, $50,000 worth and make it into a wedding ring,

JUDGE: That's a compound question if I ever heard one.

GERAGOS: It's also argumentative.

JUDGE: That, too, but I didn't get to that.

GERAGOS: The, isn't it true that there's, if she has 45,000 dollars in new money,

NIENHIUS: Uh-huh.

GERAGOS, comes in, what's the total amount of debt they have? And I'm not including the mortgage. We know the mortgage is a $160,000, right?

NIENHIUS: Yeah. I'd have to dig back and get, get a total.

GERAGOS: Well, just can you give me roughly what the total debt was without, without digging? I show, you show in,

NIENHIUS: Let's say 45,000. Ballpark.

GERAGOS: 45,000, right?

NIENHIUS: Ballpark.

GERAGOS: Okay.

NIENHIUS: Outside the mortgage.

GERAGOS: If I told you she got $100,000 worth of jewelry,

NIENHIUS: Uh-huh.

GERAGOS, she was going to keep 55, that would give you, the value somewhere in the neighborhood of 100,000. Then she's got 45,000 coming to her, okay? If she were to liquidate it. Wouldn't that have paid off all of her debt, excluding the house?

NIENHIUS: If, if that materialized, yeah.

GERAGOS: Okay.

NIENHIUS: I don't know anything about it. I haven't seen anything of that.

GERAGOS: Well, you're testifying here as an expert, so I can ask you hypotheticals.

NIENHIUS: Yeah, sure.

GERAGOS: In this case they're grounded exactly on the facts of the case. So I'm asking you, you're telling me that they've got two hundred and ten thousand dollars in total debt, right?

NIENHIUS: Approximately.

GERAGOS: Okay. That includes their house?

NIENHIUS: Right.

GERAGOS: Now I'm telling you that assume for a minute that she gets a hundred thousand dollars' worth of jewelry, and she gets 140 to 160,000 from the estate.

NIENHIUS: Uh-huh.

GERAGOS: That exceeds their total amount of debt, doesn't it?

NIENHIUS: Right.

GERAGOS: Puts them in a pretty good position, doesn't it?

NIENHIUS: It would, if it materialized.

GERAGOS: If it materialized, what position would they be in? They'd be debt free, they'd have the assets of the house in Modesto, they'd have whatever income that Scott is making, and they would be sitting pretty, wouldn't they?

NIENHIUS: If that happened, yeah.

GERAGOS: If that happened. What would be your opinion then as to their financial situation if they received the money from the trust and if they received the jewelry that was worth $100,000? What would your opinion be?

NIENHIUS: I'd feel better about it if it had happened and I could see it on paper, but if, if,

GERAGOS: I told to you assume it.

NIENHIUS: Yeah, if you assume it, yeah, that would be good. Nice to have it.

GERAGOS: It would be great, wouldn't it?

NIENHIUS: That'd be a nice thing to happen.

JUDGE: Mr. Geragos, "good" or "great" is argumentative. It's better than it was before.

GERAGOS: Well, certainly, well, let's, let's ask you one other question about that.

NIENHIUS: Yeah.

GERAGOS: If they've got those two items, the jewelry and they've got the money that's coming in on the trust,

NIENHIUS: Uh-huh.

GERAGOS, there's certainly not going to be any cause for concern from you, correct?

NIENHIUS: Not, not if that's what I had seen, I expect.

GERAGOS: You wouldn't even be here testifying, would you? I mean as to having any kind of a,

HARRIS: Objection.

GERAGOS: Thought about, well, I'm asking him.

JUDGE: That's argumentative. He may still be here testifying anyway.

GERAGOS: Given this DA he would.

HARRIS: Objection.

JUDGE: Well, the jury can ignore that comment also.

GERAGOS: The, if you had known this, did, by the way, when is the last time anybody gave you any information regarding this case?

NIENHIUS: Regarding this report?

GERAGOS: Regarding this case in terms of Here, here's some additional information we want you to factor in?

NIENHIUS: Oh, I haven't had any specific, you know, Here's some more evidence. No, nobody's given me more evidence at this point.

GERAGOS: So is it a fair statement that the last time you looked at any documents or conducted any kind of a financial analysis was May 16th of 2003?

NIENHIUS: Yeah. That's, that's about when my, when this project ended, uh-huh.

GERAGOS: Okay. Now, if, I was going to go into the business, if you want to take the break right now.

<recess>

GERAGOS: Mr. Nienhuis, there is, one of the things you looked at was Mr. Peterson's tax return, correct?

NIENHIUS: Yes.

GERAGOS: And he filed jointly with Laci in the year 2001?

NIENHIUS: Right.

GERAGOS:. And one of the things you also looked at was the W-2 form?

NIENHIUS: Right.

GERAGOS: Is that correct? In the W-2 form it shows that Scott Peterson had state income tax withheld of $1573?

NIENHIUS: Correct.

GERAGOS: Is that correct? And his other 2001 W-2, that was from another, that one was from Techno Crop, correct?

NIENHIUS: Correct.

GERAGOS: Then there was from Trade Corp shows that $891 for state income tax was paid, is that correct?

NIENHIUS: Correct.

GERAGOS: Now, on the tax return that was filed jointly, and then also Laci had taxes that, she had state income tax that she paid as well, correct?

NIENHIUS: Correct.

GERAGOS: Now, on the tax return, I'm going to show you this page. In fact, I'll mark it. If I could just put it up next in order.

JUDGE: That will be next in order. That's D5G, D5F. Pardon me.

GERAGOS: If I could it's, one is a Schedule A, and then I've got a W-2 from Techno Crop, and a W-2 from Trade Corp, and then three W-2s for Laci Peterson. So it will be four pages total.

JUDGE: All right. D5F-1 through 4.

GERAGOS: The first one is the schedule A from his tax return. On the schedule A you have a specific spot right here for state and local taxes, correct?

NIENHIUS: Correct.

GERAGOS: And then you have one here for personal property taxes, correct?

NIENHIUS: Correct.

GERAGOS: Okay. Did he put in state and local taxes, or deduct any personal property taxes?

NIENHIUS: There is nothing there, no.

GERAGOS: Okay. And you looked at the return. There is no other spot where he has that, is that correct?

NIENHIUS: Correct.

GERAGOS: Does that mean that, given the fact that I just showed you two W-2s, he paid, state taxes was withheld?

NIENHIUS: It was withheld.

GERAGOS: And it was withheld for him and for Laci, correct?

NIENHIUS: Correct.

GERAGOS: So, actually, he overpaid his federal income tax, didn't he, by not deducting right here for the state and local taxes, he actually overpaid his federal income tax, didn't he?

NIENHIUS: Looks that way.

GERAGOS: In fact, he overpaid to the extent that his state income tax was $1573, $891, that would indicate that he had in excess, whatever Laci is making right there, that would indicate that they had close to three thousand dollars in deductions that they could have taken right off the top, correct?

NIENHIUS: Un-hun.

GERAGOS: They didn't do that?

NIENHIUS: Right.

GERAGOS: Which means that I could probably file an amended return for him and get back some money, doesn't it?

NIENHIUS: I would think so.

GERAGOS: I'm going to just mark this. These are the, 1099 Forms

GERAGOS: This is D5F-5. Those are Laci's 1099's?

NIENHIUS: Yes.

GERAGOS: It looks like she paid state and local tax, correct?

NIENHIUS: Correct.

GERAGOS: It was withheld?

NIENHIUS: Withheld.

GERAGOS: DF5-3, that was the same? It's the Trade Corp, showing that there was 891 bucks he could have deducted and not paid tax on, correct?

NIENHIUS: That was withheld, yes.

GERAGOS: D5F-2, $1573.50 that could have paid, tax that he did have withheld that he could have deducted that he overpaid tax on?

NIENHIUS: Correct.

JUDGE: What's 4?

GERAGOS: I think 4 I mismarked because it was blank, one supplemental. I'm not going to offer that one.

JUDGE: 4 you are not. 4, okay.

GERAGOS: Now, the other thing you took a look at, you said that he had paid apparently in December of 2002 a medical payment, is that correct?

NIENHIUS: For Blue Shield?

GERAGOS: For Blue Shield.

NIENHIUS: Right.

GERAGOS: That was for Laci, is that right? Would that be right here, the check register, looks like on 12-16 right here next to Pier 1 Import payment, right? 12-16. I'm showing you quadruple K-1. And then right here, 12-23, the day before she goes missing he pays for her Blue Shield insurance?

NIENHIUS: Correct.

GERAGOS: Now, the company, this Trade Corp, it's your understanding that Trade Corp is owned by another corporation?

NIENHIUS: Out of Spain, yes.

GERAGOS: Are you aware that the parent company is called S-A-P-E-C, SAPEC?

NIENHIUS: I don't recall that.

GERAGOS: Are you aware that SAPEC is a multi-billion dollar multi-national corporation?

NIENHIUS: I don't have any background on that at all.

GERAGOS: I went on line yesterday to look at SAPEC on the internet, and found some material on it. Did you ever go to take a look and see what SAPEC was doing with Trade Corp?

NIENHIUS: The only thing I did was I looked online to see if I could come up with that Espana, whatever it is, the parent company's name. But I never came up with that name at all.

GERAGOS: This is a SAPEC Group, which apparently owns Trade Corp which they acquired in 2000. Does that look to be what you were trying to do on the internet?

HARRIS: Objection. Compound. Misstates the,

GERAGOS: I'm asking him.

JUDGE: Wait a minute. Wait a minute. What's the objection?

HARRIS: Compound. Misstates the evidence.

JUDGE: I don't think he's testified to that yet. I think he's cross examining. Overruled. Go ahead.

GERAGOS: You went on to try and find something about the parent company, correct?

NIENHIUS: I went to try to find something about them, see who they were, but I couldn't find anything.

GERAGOS: Okay. I have what appears to be a document that's entitled SAPEC, and that has information regarding Trade Corp that is from an annual report. Does that appear to be the parent company?

NIENHIUS: I'd have to read it to be sure.

GERAGOS: What information did you have on the parent company?

NIENHIUS: As far as their financial condition or anything?

GERAGOS: Yes.

NIENHIUS: I really couldn't come up with anything.

GERAGOS: Did you, you got the accountant's records, correct? You got the records from somebody who provided the accounting records to you, correct?

JUDGE: He is talking about Mr. Coleman.

NIENHIUS: I got some records from him, not everything.

GERAGOS: Okay. Did you look at the records, specifically I'm going to show you, these are some that I believe that were in the package that, you saw these, correct?

NIENHIUS: I saw those.

GERAGOS: This is a letter from a law firm in Modesto, or that has one office in Modesto?

NIENHIUS: Correct.

GERAGOS: Okay. And talks about Espana Trade Corp USA, correct?

NIENHIUS: Correct.

GERAGOS: And it talks about the fact that in October of 2001 they are trying to get this company up and running, correct?

NIENHIUS: Correct.

GERAGOS: In there they talked about the business of the corporation, correct?

NIENHIUS: Correct.

GERAGOS: And what the corporation's duties were, they would import agricultural products from Spain?

NIENHIUS: Uh-huh.

GERAGOS: Okay. Then did you, in the, when you were looking through these, did you talk to this company or this law firm Curtis and Arata?

NIENHIUS: No, I did not.

GERAGOS: A-r-a-t-a, just for the reporter.

NIENHIUS: Sure.

GERAGOS: Did you ever call them up and say, what is this parent company?

NIENHIUS: No.

GERAGOS: Did you ever find out, would it surprise you if this parent company had revenues in the year 2001, revenues of 400 million Euros? Is that a lot of money?

NIENHIUS: I don't know. It depends.

GERAGOS: You don't know that 400 million Euros is a lot of money?

NIENHIUS: I know that is a lot of money. There is bigger companies than that.

GERAGOS: Okay. But there is a lot of smaller companies than that too, aren't there? That's true?

NIENHIUS: Sure.

GERAGOS: That's a pretty good sized company, correct?

NIENHIUS: I suppose, yes.

GERAGOS: So a company such s that which wholly owns Trade Corp USA, do you think that a company that's got annual revenues in 400 million Euros, what is that, half a billion dollars?

NIENHIUS: Approximately.

GERAGOS: If you have got half a billion dollars in revenues, and you are trying to start up a concern in the USA, is that sufficient backing, half a billion dollars in revenues a year, in order to start up this operation, Trade Corp?

NIENHIUS: That's gross revenues. That doesn't say what the bottom line is.

GERAGOS: Okay.

NIENHIUS: I have no idea what their financial condition is, what an operating statement would look, have to look at their statements to really say anything on that.

GERAGOS: Did you look at, or did you find anything that shows their operating statement?

NIENHIUS: Parent company.

GERAGOS: Yeah.

NIENHIUS: No, I say nothing that I recall.

GERAGOS: Okay. If I were to show you the operating statement from the Annual Report, would be able to take a look at that, tell me whether or not that company is sufficient to fund the operation here? I'm going to show you a document, which I'll represent I got online, which is the parent company's, I'm going to ask you hypothetically, does that look like Key Figures Relating to the Group's Development?

NIENHIUS: I'm not sure what, these are all different, a little different terminology than I'm used to seeing. But net cash flow, this is in millions. Looks like they are probably pretty decent.

GERAGOS: Does it look to you if this document, I'll mark this as next in order, if that's accurate, if that's the parent company, does that look more than sufficient to sustain the growth of this Trade Corp USA during the time that it's getting up and running?

NIENHIUS: It appears so.

JUDGE: What was the identification of that document?

GERAGOS: It's called Key Figures Relating to the Group's Development Global Data

GERAGOS: And when you took a look at that, you looked at sales and return for 2001 and 2002, correct?

NIENHIUS: Correct.

GERAGOS: And then you looked at the net result for the share of the group, correct?

NIENHIUS: Correct.

GERAGOS: And then the balance sheet totals, right?

NIENHIUS: Okay.

GERAGOS: Okay. And it appears, based on that, even though the numbers are in a slightly different form than you are used to, that this company, if this is, the company that is the parent group for Trade Corp USA is more than capable of sustaining a one hundred thousand dollar loss

while it's getting a company up and running, correct?

NIENHIUS: Oh, yeah.

GERAGOS: Is it a fair statement that you were given, nobody gave you any information, as far as you know, in terms of whether or not the company, you didn't know who the parent company was, correct?

NIENHIUS: I saw a name, but I couldn't come up with any information on that company.

GERAGOS: And nobody told you to contact or follow up, or we have got the law firm's records here, see if they can give you information on the parent company, correct?

NIENHIUS: Correct.

GERAGOS: And you had actually gone on your own on to the internet to try to find some documentation, correct?

NIENHIUS: To see if I could figure out who they were, what they were, yeah.

GERAGOS: Couldn't find that, correct?

NIENHIUS: Correct.

GERAGOS: But if you had that at your disposal, this information about the parent company, that would have allowed you to have made a more informed decision, or draw a more informed conclusion as to what the financial wherewithal of the parent company was, correct?

NIENHIUS: As far as the parent company.

GERAGOS: You would want to know, because I think you were being asked questions by Mr. Harris, you know, look, if this company is losing money, I need to know whether or not there is somebody going to infuse cash into it, correct?

NIENHIUS: Correct.

GERAGOS: Okay. So you would want to know if the parent company had cash to infuse, correct?

NIENHIUS: Correct.

GERAGOS: And if you didn't know that, that's why you are kind of left in the woods with the, as you indicated, kind of questions or concerns, correct?

NIENHIUS: Right.

GERAGOS: Okay. You wouldn't have as many questions or concerns if you knew that the parent company had a substantial, or was a substantial multinational corporation operating as a conglomerate with half a billion dollars worth of revenues a year, correct?

NIENHIUS: I'd feel better about it.

GERAGOS: The other items that you had mentioned on direct, I believe you said that there were some credit cards, or there was one credit card that you looked at that had an interspersing of personal, and what you thought may be business, is that correct?

NIENHIUS: Could be.

GERAGOS: I'm going to show you what looks like an MBNA card. And this is 8615 and 8613. Is this one of the cards you looked at, one of the statements?

NIENHIUS: I'm not sure. I don't recognize it right offhand.

GERAGOS: Okay. Do you know if it looks to you like that's a personal credit card?

NIENHIUS: This appears to be personal.

GERAGOS: Okay. Now, I have yellow highlighted some items on there.

NIENHIUS: Uh-huh.

GERAGOS: In your opinion, are those yellow highlighted items on his personal credit card, are those things that arguably could be business-related expenses?

HARRIS: Objection. Speculation.

GERAGOS: That's, his testimony has been, he saw things he thought,

JUDGE: Two things. One, he didn't consider that in forming his opinion. It's improper to cross examine him on it. He said he doesn't recognize it.

GERAGOS: Well, do you not recognizance it, or you don't remember?

NIENHIUS: I don't think I have seen these.

GERAGOS: Well,

JUDGE: You can cross examine him about anything that he used.

GERAGOS: Weren't you, could you show me which credit cards you used? Show me which ones.

NIENHIUS: Are you asking on the business, what I indicated that was,

JUDGE: I think he testified on the Trade Corp credit cards there were what he considered to be personal,

GERAGOS: I'll clear that up.

JUDGE: Sure.

GERAGOS: Didn't you testify on direct that you had examined my client's credit or debt? Didn't you say, in fact, in your conclusion of your report, you talked about that he had a 168,000 roughly on the mortgage, correct?

GERAGOS: Okay.

GERAGOS: That the remaining debt lines were credit card debts, correct?

NIENHIUS: Right. And the vehicle.

GERAGOS: Right. And the vehicle. So he had a 168t on the house, 22 on the vehicle, which gives you about what, 190, ballpark? What is the credit card?

NIENHIUS: MBNA

GERAGOS: Okay. And wasn't that what I just showed you? MBNA?

NIENHIUS: Okay.

GERAGOS: Okay?

NIENHIUS: May be a statement. I don't recall seeing that specific one.

GERAGOS: Well, the, let's break it down. You had a total of 210,000 and change as debt, right?

NIENHIUS: Correct.

GERAGOS: Okay. Out of that 210,000, there was 168 that was the mortgage, right?

NIENHIUS: Right.

GERAGOS: There was 22 which was the Ford Credit Union. We saw that was the car?

NIENHIUS: Okay.

GERAGOS: There was a credit card, right?

NIENHIUS: And a Chase credit card.

GERAGOS: What was the balance on the MBNA?

NIENHIUS: 12,210 on that credit report.

GERAGOS: Okay. That's on the credit report. What is the balance on the MBNA card, the two pages that I just gave you?

NIENHIUS: 12,267.

GERAGOS: So that would include the finance charge on that 12,210?

NIENHIUS: Right.

GERAGOS: Is that the credit card that you took the statement, that you took a look at that had expenses that you thought were business related?

NIENHIUS: I looked at the credit report again. I don't know if I have seen that particular statement.

GERAGOS: If the credit report that you just had that's connected to the MBNA, you said was MBNA, correct?

NIENHIUS: Yes.

GERAGOS: I want to mark this as next in order

JUDGE: D5H.

GERAGOS: If I told you there were business expenses on the personal credit card,

NIENHIUS: Okay.

GERAGOS: And that the agreement that he has with the business is that gets reimbursed at the end of the month?

NIENHIUS: Okay.

GERAGOS: Okay. For business related expenses. Would that, it's two pages. Just I'll staple it. Would that lower the debt ratio?

NIENHIUS: If those are, if the business, whoever approves the reimbursement says those are business expenses, it could.

GERAGOS: That would lower the debt ratio?

NIENHIUS: Somewhat.

GERAGOS: Because he's not responsible for it?

NIENHIUS: Right.

GERAGOS: Is it a fair statement that this total debt that we're talking about, this 210,000, basically comes down to, he's got a mortgage on his house, right?

NIENHIUS: Okay.

GERAGOS: He's got a payment on his car?

NIENHIUS: Uh-huh.

GERAGOS: He's got 12,210 on a credit card, of which maybe there is some business related expenses, right?

NIENHIUS: Okay.

GERAGOS: And then what else, what's this other?

NIENHIUS: There was a Chase card.

GERAGOS: For how much?

NIENHIUS: About 9000, ballpark balance. And Pier 1 Imports, about 1200.

GERAGOS: Okay. And so that's the debt? That's the extent of the debt?

NIENHIUS: Right.

GERAGOS: Okay. Now, so he's got 12,000 on a card, 9,000 on this card and 1200 at Pier 1 Imports?

NIENHIUS: Uh-huh.

GERAGOS: Other than that, it's the house and the car, right? So we got roughly $23,000 on his credit cards, roughly?

NIENHIUS: Ballpark, yeah.

GERAGOS: Of which, we don't know, but it looks quite possibly like some of that was business related, correct?

NIENHIUS: Could be.

GERAGOS: Were you aware that in December, specifically December 2nd, that he had paid $23,000, he and Laci, for a membership in the Del Rio Country Club?

NIENHIUS: I wasn't, I didn't see anything. I saw a couple of payments to Del Rio, but they were not of that magnitude.

GERAGOS: Do you know what Del Rio Country Club is?

NIENHIUS: Yes, I do.

GERAGOS: What is Del Rio Country Club?

NIENHIUS: It's a country club where there is golf, and there is a restaurant, and lot of nice houses around there.

GERAGOS: Okay. And you have to pay to join, correct?

NIENHIUS: Correct.

GERAGOS: You had said that you didn't have any information as to what other assets they had in one of your, I think the notes to your letter, is that correct?

NIENHIUS: Right.

GERAGOS: One of the assets that you didn't know they had, that they had just purchased in the month of December was $23,000 for the golf membership, or membership at the Del Rio Country Club, correct?

NIENHIUS: Correct.

GERAGOS: If you had known that, that would have, would that have made a difference to some of your conclusions if they had secondary assets to support a payment or a purchase of $23,000, which is the exact same amount as to what's on the credit cards, for a golf membership?

NIENHIUS: Well, that membership could be sold, but that would be, I didn't see anything in the information that I had received about that. That's why I didn't, I couldn't take it into account.

GERAGOS: Were you aware that the golf membership was sold prior to you issuing your report, you issued your report on May 16th, correct?

NIENHIUS: Correct.

GERAGOS: On May 16th, did anybody bother to supply you with the records showing that that golf membership was sold prior to May 16th?

NIENHIUS: No, I have no knowledge of that.

GERAGOS: If you had known that, that would have made a difference to your conclusions, isn't that correct? Because that was a liquid asset.

NIENHIUS: That would have been a liquid asset, but I don't know what the disposition of the proceeds would be.

GERAGOS: Well, one of the dispositions of the proceeds, if somebody was having problems financially, was, they could take the $23,000 for the golf membership, they could sell that, correct?

NIENHIUS: Uh-huh.

GERAGOS: They could just pay off the $23,000 in credit card debt?

NIENHIUS: They could.

GERAGOS: If they did that, then all he would be left with is a car payment and house payment, correct?

NIENHIUS: If that's what he did.

GERAGOS: If that's the case. And then if they had jewelry, they could pay off and proceeds from the sale of the house, they could pay off the rest of the debt, correct?

NIENHIUS: If they had that, yes.

GERAGOS: Then they would have no debt, right? If they had no debt, what would their ratio be?

NIENHIUS: Zero.

GERAGOS: Is that good?

NIENHIUS: That would be nice.

GERAGOS: Okay. Now, the investigation report you had suggested that they conduct an audit, the parent company, is that correct?

NIENHIUS: Correct.

GERAGOS: You said that the evidence that they supplied to you did not include any information other than $1,361 in investments, is that right?

NIENHIUS: That's all I found, yes.

GERAGOS: Obviously the things I have been talking to you about today are news to you, is that right?

NIENHIUS: Right.

GERAGOS: Now, given, you put, given the age of the information and no subsequent quarterly statements, no investment assets are assumed to exist.

NIENHIUS: Right.

GERAGOS: That would mean that anything, whether it's jewelry, whether it's the trust, whether it's proceeds flowing from the trust, whether it's the golf membership, anything else, you assumed that they didn't exist in your analysis, financial analysis?

NIENHIUS: Right. It would have been an assumption on my part to, just would have been speculation, really, on my part to say, well, I have heard this, or I have heard that. Wouldn't have made sense.

GERAGOS: And you didn't have, nobody gave you any information?

NIENHIUS: No.

GERAGOS: Modesto Police Department certainly didn't give you any of this information?

NIENHIUS: No.

GERAGOS: Now, the, you said that the information above, meaning whether there was any other investments or assets, is relevant in determining the exact cash flow and cash resources available for debt services, is that right? I'm looking at the third paragraph from the bottom on the one where it says investigation results. Actually it starts with methodology. Got it?

NIENHIUS: Got it.

GERAGOS: Okay. Right below, I just talked to you about the evidence. Now I'm looking at this paragraph here.

NIENHIUS: Right.

GERAGOS: You said the information above that would be whatever investment assets, correct?

NIENHIUS: Correct.

GERAGOS: That would be relevant for you to make a determination as to cash flow and cash resources available?

NIENHIUS: Cash resources, right.

GERAGOS: Okay. And cash resources mean you have money that you can use to help service whatever debts you are incurring, right?

NIENHIUS: Secondary source of repayment.

GERAGOS: Okay. You would want to know that. That's specifically why you put it in the report, right? Is that correct?

NIENHIUS: I would like to know that, sure, if I'm doing this kind of project.

GERAGOS: Somebody is giving you this project. At the time it was highly confidential, correct?

NIENHIUS: Correct.

GERAGOS: Okay. You were given this by the Modesto Police Department Investigative Services Division, correct?

NIENHIUS: Correct.

GERAGOS: Specifically who contacted you?

NIENHIUS: The initial contact?

GERAGOS: Which detective was the initial,

NIENHIUS: It was Mike Hermosa

GERAGOS: Now, and when he gave you this information, do you remember the date?

NIENHIUS: It was right before the end of the year. I don't remember the specific date right offhand.

GERAGOS: Would it have been December of 2002?

NIENHIUS: I'm going to guess it was the 30th, possibly 31st.

GERAGOS: Of?

NIENHIUS: December, 2002.

GERAGOS: Okay. And December 30th of 2002, you were aware, independently from the news, that search warrants had already been executed, weren't you?

NIENHIUS: From the news, uh-huh.

GERAGOS: Well, you knew that part of the documents that you had received had been picked up via search warrant, correct in?

NIENHIUS: Correct.

GERAGOS: And were you ever informed that there were items that were picked up in the search warrant that had any indications as to other investment assets?

NIENHIUS: No, I didn't have anything in that.

GERAGOS: Did anybody give you any information as to the specific, well, let me take you back. You are given this stuff in December of 2002. You don't write a report until May, correct?

NIENHIUS: Right. I got some more in early January, then I got a batch in early May.

GERAGOS: And then you did a cash flow analysis based on what you were given?

NIENHIUS: Right.

GERAGOS: Okay. Now, we have established I think here that you didn't know about any of the other cash resources, right?

NIENHIUS: Right.

GERAGOS: Now, I'm going to go on to, you then did a cash flow analysis for the year 2002, right?

NIENHIUS: Uh-huh.

GERAGOS: Year 2002 you had no tax return available to you?

NIENHIUS: Correct.

GERAGOS: You did have, in 2001, a tax return available to you?

NIENHIUS: Uh-huh.

GERAGOS: Yes?

NIENHIUS: Right.

GERAGOS: Your cash flow projection Mr. Harris was asking you about, you said that the cash flow projection was 4,000 and change in 2001, correct, per month?

NIENHIUS: Right.

GERAGOS: And then you estimated it, because you didn't have that, the cash flow was less than that in 2002, is that right?

NIENHIUS: Well, for 2002 I used the pay stubs or the payroll information.

GERAGOS: One of the things that was in the tax return in 2001 was Laci Peterson's income, right?

NIENHIUS: Right.

GERAGOS: That was about $14,000, right?

NIENHIUS: Right.

GERAGOS: It's about a little over a thousand dollars a month, $1,200 a month?

NIENHIUS: Something like that.

GERAGOS: Okay. What was the difference in cash flow analysis between 2001 and 2002? Let me ask you. I just did a quick, some quick math. I show that you, that you had monthly cash flow at 4,335 in 2001, and then in 2002 it was 3,694?

NIENHIUS: Okay.

GERAGOS: So the difference is 641 bucks, right?

NIENHIUS: Looks good.

GERAGOS: So you had their income in 2002 going down by 641 bucks, right?

NIENHIUS: Right.

GERAGOS: But that was based on the fact that you are just using Scott's payroll stubs, right?

NIENHIUS: Right.

GERAGOS: You didn't have any information at your disposal that showed how much money Laci made in 2002?

NIENHIUS: I think I counted on that in my report, that I didn't have any information whether she had earned any money.

GERAGOS: Right. But on your direct testimony you weren't asked about that, were you?

NIENHIUS: I don't think so.

GERAGOS: Now, one of the things that would change is, if you knew how much Laci earned in 2002, say she worked nine months in 2002, if she worked nine months in 2002, and she was making roughly the same as she did in 2001, which is $14,000?

NIENHIUS: Okay.

GERAGOS: So if she is making three quarters of that, she is going to be making about ten grand, right?

NIENHIUS: Okay.

GERAGOS: If you add ten grand into your calculations for 2002, what does that do to the cash flow?

NIENHIUS: It increases it.

GERAGOS: By approximately how much?

NIENHIUS: About $800 a month gross.

GERAGOS: Actually if you had access to what Laci Peterson worked in the year 2002, then the cash flow, instead of going down under your analysis, actually would have gone up, correct?

NIENHIUS: If she worked. I had no information that she did.

GERAGOS: Nobody gave you any W-2s on Laci Peterson?

NIENHIUS: No.

GERAGOS: Nobody told you that Laci did work for a period of time in 2002?

NIENHIUS: No.

GERAGOS: So you were just, based on old expression garbage-in-garbage-out, you can only deal or analyze with what information you are given, correct?

NIENHIUS: Right.

GERAGOS: Now, did you also do specifically a, let's see. You did cash flow projections that we just talked about, and then those percentages that Mr. Harris was asking you about?

NIENHIUS: Right.

GERAGOS: Those were based on these projections, right?

NIENHIUS: Right.

GERAGOS: Okay. If there was a difference in the amount of money that was actually being brought in, that would affect, obviously, the ratio, correct?

NIENHIUS: Barring there being additional debt that I was not aware of.

GERAGOS: Now, the other things that you specifically asked that the corporation look into were mileage reimbursement, is that right?

NIENHIUS: That's one of them.

GERAGOS: Okay. You also asked about, let's see, looks like a speeding ticket that Scott had paid for, is that correct, out of the company's funds?

NIENHIUS: Right.

GERAGOS: You thought that it was suspicious that the company would pay for a speeding ticket?

NIENHIUS: I don't know if I used the word "suspicious". Just question whether that was proper.

GERAGOS: Whether a company should pay for a speeding ticket?

NIENHIUS: Yes.

GERAGOS: Do you know what the policy of the company was if somebody gets a ticket while they are driving,

NIENHIUS: No, I didn't.

GERAGOS, on company business? Does the, does the applications, you talked about these applications from the banks. They were specifically done at, one alleged 150K net profit, right?

NIENHIUS: Right.

GERAGOS: The other said annual revenue is 500K, right?

NIENHIUS: Correct.

GERAGOS: Now, net profit is different than annual revenue, right?

NIENHIUS: Yes.

GERAGOS: And you don't know, as you sit here today, what the parent company's financial wherewithal is correct?

NIENHIUS: Not the parent company.

GERAGOS: And the parent company stands behind this company, do they not? Do you know what their relationship,

NIENHIUS: I don't know whether they guaranteed that card or not.

GERAGOS: Okay. As you sit here today, based upon the information you have, these are just questions you are raising. You don't have the information at your disposal to know whether or not any of these concerns are legitimate?

NIENHIUS: I'm just raising them because I was concerned that the company and their accounting firm should look into these things.

GERAGOS: Okay. And you didn't know whether or not, in fact, there was anything to it, correct?

NIENHIUS: Right. I wasn't. I was not performing audit. I wasn't in a position to do that.

GERAGOS: Another one of your concerns was telephone records showed that the firm Trade Corp has a toll-free number?

NIENHIUS: Okay.

GERAGOS: A 1-800 number?

NIENHIUS: 888 something or over.

GERAGOS: And it showed calls coming in at various times and dates from all over the U.S.

NIENHIUS: Right.

GERAGOS: And from areas where shipments of product are received from Spain, is that right?

NIENHIUS: From areas other than.

GERAGOS: I'm going to show you, there is a paragraph where shipments of product are received from Spain?

NIENHIUS: Most, well, outside the trade area, outside of the locations,

GERAGOS: Doesn't say outside of locations?

NIENHIUS: That's, that was the intent.

GERAGOS: Your intent was to say outside the locations of where shipments of product are received from. Do you know where the shipments of products are received from?

NIENHIUS: There was quite a bit of communication with somebody in New Jersey, for instance. But these were from all over the country.

GERAGOS: Okay. Do you know if those were business related?

NIENHIUS: Did a little bit of reverse directory work. And one was a Ford dealership. There were individuals in Louisiana and New England. Didn't appear to me, just made me wonder what this was about.

GERAGOS: Right. Did you follow up on it?

NIENHIUS: No. I thought the parent company and their accountant should.

GERAGOS: Okay. Now, you also said the ratio of costs of goods sold appeared high to the sales, which means what they sell 87,000 roughly, and it costs them $75,000, is that right?

NIENHIUS: Yeah.

GERAGOS: Okay. Which is means that 87 minus 75 is about $12,000 profit before you take into account the shipping costs?

NIENHIUS: Yes.

GERAGOS: Okay. Do you know whether the shipping costs were being booked to the parent company or to Trade Corp?

NIENHIUS: No, I don't. Again, that's something that the accounting firm really should look at. It could be a misclassification. That's why I didn't go any farther into it.

GERAGOS: So you don't know if the company was profitable or not profitable. It depends on whether the accounting is being done, or who is booking the shipment, isn't it?

NIENHIUS: Well, that specific, in that specific item, the question was not profitability. It was, I mean, yes, it was, the sales appear unprofitable, but, in other words, gross profit. But,

GERAGOS: Gross profit was $12,000, right?

NIENHIUS: Not if you throw in the shipping cost.

GERAGOS: What if the shipping costs were booked to the parent company, then what was the gross profit?

NIENHIUS: That's a what-if, this particular one.

GERAGOS: You are an expert. You are allowed to answer what-ifs?

NIENHIUS: Well, this shipping cost figure, as I recall, came from the accounting records. So it was not, so if that shipping cost is on the company's books, then it's not being booked on the parent company. Otherwise there would be a duplication.

GERAGOS: Do you know how much of the liabilities that were on Trade Corp were booked as liabilities to the parent company?

NIENHIUS: Yes. Those substantial amounts.

GERAGOS: How much?

NIENHIUS: I want to say they owed the parent, the company judge in the ballpark of a hundred ninety thousand.

GERAGOS: Right. So, basically, this company is owned by the parent company, correct?

NIENHIUS: Correct.

GERAGOS: And the debts that you are talking about is the debts on the books that this company owes the parent company, right?

NIENHIUS: Right.

GERAGOS: The parent company is starting this company up?

NIENHIUS: Right.

GERAGOS: They are saying, okay, well, we start the company up, we're investing in it. When it becomes profitable, you are going to pay us back, right?

NIENHIUS: That appears to be the relationship. But I don't know.

GERAGOS: Okay.

NIENHIUS: I don't know how they, what kind of arrangement they had on that.

GERAGOS: The debts, clearly the debts the Trade Corp had were just to the parent company Espana, right? The overwhelming majority of debt?

NIENHIUS: Biggest chunk.

GERAGOS: And that's because Espana in started this company up, Scott Peterson, as far as you know, was the sole employee here working the company originally, correct?

NIENHIUS: Okay.

GERAGOS: Now, did you ever follow up after you, was there an audit done on any of this? I mean I assume you said you requested that the parent company do some kind of an audit.

NIENHIUS: I suggested they should do something like that, but I don't know whether they did or not.

GERAGOS: Okay. Did you ever ask, before you got here to testify today, whether they did this?

NIENHIUS: No, I didn't ask.

GERAGOS: Okay. Do you know that, the accountant is here today to testify right after you. Did you see him today?

NIENHIUS: Yes.

GERAGOS: Did you talk to him about it?

NIENHIUS: I didn't think it would be appropriate to dig into it that way.

GERAGOS: Did you ever make an inquiry of the DA or the Modesto Police Investigative Services Division, ask them whether there was an audit to determine whether or not, before you get up and testify, you will know whether these concerns are valid or not?

NIENHIUS: I didn't ask them that.

GERAGOS: You also talked about an analysis as to whether there were taxes being reported to the city, correct?

NIENHIUS: Correct.

GERAGOS: Is the warehouse in the City of Modesto?

NIENHIUS: They are doing business, I don't know where the warehouse is right there, the county and the city, the line is real close there. I'm not sure exactly where the line is.

GERAGOS: If the warehouse at 1047 North Emerald is not in the City of Modesto, do you have to pay a mil tax?

NIENHIUS: If they are doing business in the city.

GERAGOS: I'm asking you if it's located,

NIENHIUS: If it's located outside.

GERAGOS: Outside of the city.

NIENHIUS: Warehouse is outside the city?

GERAGOS: If it's outside the city?

NIENHIUS: They wouldn't be liable for mil tax, no.

GERAGOS: So this mil tax that we talked about, he wouldn't be liable for it if 1047 North Emerald, the location of the warehouse, is outside the City of Modesto?

NIENHIUS: Right.

GERAGOS: May I have just one moment, your Honor? <pause> And the company is the one who is liable for the mil tax, correct?

NIENHIUS: Correct.

GERAGOS: And the company is the one that's liable for payroll tax, correct?

NIENHIUS: Correct.

GERAGOS: The manager is not liable for payroll taxes. You don't have any indication here there was a collection action instituted do you?

NIENHIUS: No.

GERAGOS: Okay. And a collection action is when you don't pay the taxes, IRS, state agency, whoever is responsible, comes in and initiates sends you nasty letters sends you over to collections at their department. Next thing you know you have go a lien somewhere, right?

NIENHIUS: Right.

GERAGOS: That wasn't done in this case, right?

NIENHIUS: Not that I saw.

GERAGOS: As far as you know, the corporation ended up paying the payroll taxes, isn't that correct?

NIENHIUS: Yes. I heard that they had paid them. I heard everything was current.

GERAGOS: And as far as you know, as you sit here today, you don't even know if the mil tax is due unless this warehouse is in the City of Modesto, correct?

NIENHIUS: Right.

GERAGOS: If it's not in Modesto, it's not selling fertilizer in Modesto, no mil tax?

NIENHIUS: Right.

GERAGOS: No further questions.

Redirect Examination by David Harris

HARRIS: Let's start with the mil tax. Did the business report to the city that they had $123,000 worth of sales for the year?

NIENHIUS: The business reported that. I don't recall the exact date. I want to say early January.

HARRIS: That answers that question. All right. Let's move on. You were asked a bunch of hypotheticals. The nice thing about hypotheticals, counsel says it's kinds of those what-ifs. So let's go back through those. He was asking you what if this, what if that, what if this, if that would change any of your findings. So let's go back, starting with the basics, talking about Laci Peterson's income. Now, the documentation that you had, this is all the stuff that was gathered from the search warrants as counsel asked you. Did you find any pay stubs for Laci Peterson?

NIENHIUS: The only thing you found was 2001 1099's, I think they were.

HARRIS: That was associated with the tax return?

NIENHIUS: Right.

HARRIS: So there was no pay stubs, or cancelled checks, or deposits showing any income?

NIENHIUS: Not for 2002.

HARRIS: We have already heard from, again hypothetically to ask you those, we have already heard from witnesses that said she was not going back to work in 2002. So factoring that in, would you believe that your estimate of her having no income would be an accurate estimate?

NIENHIUS: I'm not sure that I heard that she was not going back to work.

HARRIS: I'm talking about hypothetically, from what has been presented here already, if witnesses have said she was not working in 2002,

GERAGOS: Objection. That misstates the evidence. No witness has said she was not working in the year 2002. And I defy him to point to a witness who, anybody has testified to that.

NIENHIUS: I may have misunderstood the question.

HARRIS: Okay. We'll do it a different way. If witnesses had said she was not working during the summertime, she was not planning on working after she got pregnant, was not planning on returning to work, you asked, counsel,

GERAGOS: Objection. There is no foundation for any of that.

JUDGE: Hypothetical. Overruled. Go ahead, he can ask them that based upon something. I think that was the testimony. The jury has heard the testimony. I think that was the testimony. She was pregnant, she was not planning on going back to work.

GERAGOS: Back to work refers to 2003. He's talking about cash flow analysis of 2002. He's making up apples and oranges. He's doing a cash flow analysis from 2001 to 2002.

JUDGE: 2002. I don't know what she worked in 2002. Nobody has testified to that, as far as I know.

HARRIS: Did you find any records in 2002 that Laci was working?

NIENHIUS: No.

HARRIS: Now, in terms of hypotheticals, talking about testimony in this particular case, counsel is raising that particular issue, and he asked you about this $140,000 sale of this house, whether that money was going to Laci. I want you to consider that she had these assets available to her. What he didn't include is the fact that Brent Rocha said that none of that was going to be able to even go to Laci Peterson,

GERAGOS: Objection. If he wants to ask a hypothetical then it's a hypothetical.

JUDGE: I think that is part of the question being asked.

HARRIS: Until her 30th birthday, which would not be until the year 2005. So that was the testimony that we have already heard in this hypothetical. So, therefore, that $140,000 is not an asset and available to her.

GERAGOS: Objection the hypothetical is improper. He can ask if it was, but he can't give the conclusion.

JUDGE: It's the way it's being asked.

HARRIS: I'll try a different way.

HARRIS: If the information you received was that she wouldn't receive this inheritance until she was of the age of 30, would that affect your opinion as to whether or not there was a sufficient cash flow? If we take out 140,000, it's not available to Laci, according to the facts, until 2005, we take that out, does that affect your analysis?

NIENHIUS: Yeah, that would confirm what I thought, that there were no, there was no secondary source of repayments of that type.

HARRIS: And in terms of that trust that you were asked about, again going back to the rest of Mr. Brent Rocha's testimony, if his testimony was that the trust, all of the assets that were there went into paying for the care and maintenance of the grandmother, Miss Rocha, and the grandfather, Mr. Rocha, and he did not pass until December of 2003, again, so those trust assets are not available, would that kind of confirm your basic information?

NIENHIUS: Yes, it would.

HARRIS: With regards to another one of these assets that were supposedly available this, 22,000 or $23,000 payment to Del Rio. If the facts were that that was a gift from the Petersons, the parents of the defendant, to him for this membership, would that an asset available to him?

NIENHIUS: I would certainly want to know whether what the deal was on that. I mean if they sold it, would it go back to them, then would it be his, that would be relevant.

HARRIS: So this 22 or $23,000 that counsel is talking about, he has these secondary assets, that's only an asset after his parents buy him that membership?

NIENHIUS: Yes.

HARRIS: Now, in terms of payments, you said you didn't include it into your monthly statement what their bills were. But did you see that the defendant was making a monthly payment to Del Rio Country Club?

NIENHIUS: No, I didn't see anything there.

HARRIS: Do you know if there is a membership payment, a monthly basis for the country club?

NIENHIUS: I saw some checks to Del Rio, but I didn't know what it was. Just an isolated check. Maybe two checks. And I didn't know what the circumstances were on that, if those were payments, or what.

HARRIS: And if this membership was purchased at the beginning of December of 2002, would you have expected many payments at that point in time, this monthly kind of payment?

NIENHIUS: I would have expected some kind of an, either annual or monthly payments for dues.

HARRIS: Now, going back to these, see if he can find those. You were shown all of these credit, the credit statement?

JUDGE: D5H.

HARRIS: Counsel was asking you about the fact that these would be balances that would be, that, look at this first one here.

JUDGE: This is D5F.

HARRIS: This would be D5E. Looking at, number one, American Express. This was one he was showing you. He asked you if he had this credit available to him. I want to go over, all the way over to the line he showed. I'll show you the portion, paid, never late. Now, is there a comment exception under that?

NIENHIUS: Shows that the account was closed at consumer's request in both instances.

HARRIS: So when he was asking you about these particular credit cards and the balances available, these accounts were closed, weren't they?

NIENHIUS: Those are closed.

HARRIS: So if there is no cash, or there is no credit, there is nothing available, is there?

NIENHIUS: Not on those.

HARRIS: Now, counsel was showing you this thing about the company that he found on the internet. This one right here, Key Figures. Can you tell from even looking at this what company this relates to?

NIENHIUS: No, I really can't.

HARRIS: So this is one of those hypotheticals and you just have to assume that to be true?

NIENHIUS: Right. I would he need to review the entire report.

HARRIS: And then you would have to see what company that relates to?

NIENHIUS: Correct.

HARRIS: Then you would have to have something that would connect it up to Trade Corp?

NIENHIUS: Right.

HARRIS: You were talking about the documents that you had, that you found, that you went through, had the parent company as being Trade Corp Espana, or something along those lines?

NIENHIUS: Right.

HARRIS: Not this, whatever it is,

GERAGOS: SAPEC, SAPEC. S-A-P-E-C.

NIENHIUS: Yeah.

HARRIS: I have no other questions.

Recross Examination by Mark Geragos

GERAGOS: Would you like to take a look at what I found on the internet, tell me whether or not,

NIENHIUS: That's a lot of reading.

JUDGE: It's a lot of reading. We don't have the time now.

GERAGOS: He can take it with him. I'll give it to you. Take a look. Can you tell when you got that, whether or not you came across the fact that Espana Trade Corp USA is the name of the company, isn't that the name of the company that Scott Peterson was running?

NIENHIUS: That's the company here.

GERAGOS: Right. That's the company here.

NIENHIUS: Right.

GERAGOS: SAPEC, clear this up with the next witness, is the company that owns Espana Trade Corp USA, isn't that correct?

NIENHIUS: There was a different name. It was very similar to the Trade Corp name. That's the one I kept seeing.

GERAGOS: Okay. Well, you had the corporate documents at your disposal, didn't you? Did you have the corporate documents at your disposal?

NIENHIUS: For the domestic,

GERAGOS: Yes.

NIENHIUS: Yes.

GERAGOS: Okay. Did you do anything to follow up on that?

NIENHIUS: No.

GERAGOS: Did you do anything to see if, in fact, the company SAPEC was, or the Espana Trade Corp Inc. was actually doing business as Trade Corp? Specifically I'll show you the application for employee identification number that was in the corporate records from the law firm that you were given.

NIENHIUS: That's the name that I would expect to see, and I didn't relate that to this SAPEC.

GERAGOS: Okay. Now, Mr. Harris asked you about the fact that the trust had 140,000 as Laci's share, a hundred forty to a hundred sixty thousand as Laci's share of the proceeds from the sale of the house. Do you remember those questions?

NIENHIUS: Okay.

GERAGOS: Is that any less of an asset if she gets it in December, or if she gets it in two years? Does that make the asset not worth any money?

NIENHIUS: It's a longer term asset. In other words, it wouldn't be as liquid, as available, in case of a problem.

GERAGOS: What kind of liability is a mortgage?

NIENHIUS: That is a long term.

GERAGOS: If she got that in two years, she's got a long term asset?

NIENHIUS: Uh-huh.

GERAGOS: That's roughly almost exactly the same in value as her long term liability, correct?

NIENHIUS: Okay.

GERAGOS: That's a fair statement, right?

NIENHIUS: Right.

GERAGOS: Mr. Harris didn't ask you on redirect, what about the hundred thousand dollars in jewelry? Did anybody give you any information as to whether or not that was, does that constitute a liquid asset?

NIENHIUS: I'm not a jewelry expert. I would assume that normally gold jewelry could be liquid.

GERAGOS: In the records that you received, did you see the one that was the house payment, is that correct from Principal?

NIENHIUS: Right.

GERAGOS: Now, now this mortgage statement, which I'd like to mark as next in order.

JUDGE: D5I.

GERAGOS: This is the debt that is listed as $168,000, is that correct? Right up here.

NIENHIUS: Yes.

GERAGOS: Okay. Tell me something. Each month when he's making an interest payment, is he also doing something else?

NIENHIUS: Principal is being reduced.

GERAGOS: What does that mean?

NIENHIUS: Balance is going down.

GERAGOS: Why? Does it look to you like this person who you thought had, at least based on the limited information you had, who had a high debt ratio is, in fact, not only making a payment, but each month is also paying extra principal to pay the loan down? That what that appears to be?

NIENHIUS: Looks like they may be on a 15-year schedule, or something of that nature.

GERAGOS: This loan on a 15-year schedule, that mean they are paying more money?

NIENHIUS: Right.

GERAGOS: Than they have to, right?

NIENHIUS: Right.

GERAGOS: And by paying more money than they have to, they are actually, in effect, reducing their debt each month, right?

NIENHIUS: Right.

GERAGOS: That is a prudent thing to do, isn't it?

NIENHIUS: Oh, sure.

GERAGOS: Then the item on the key resources that I showed you that showed the global data, the one that Mr. Harris asked you about,

NIENHIUS: Okay.

GERAGOS: Now, this came from the package that I gave you, which we were flipping through together, correct?

NIENHIUS: Uh-huh.

GERAGOS: And if this is, in fact, what their global data or key figures are, that would indicate to you all of the questions I asked you on cross, and the answers you gave, were still valid, correct?

NIENHIUS: Yes. Substantial company.

GERAGOS: With substantial assets?

NIENHIUS: Uh-huh.

GERAGOS: And the wherewithal to certainly keep a startup company in business for a period of time while they are making get a foothold in the U.S.

NIENHIUS: If that's what they want to do, yes.

GERAGOS: You also, Mr. Harris was asking you about 2003, and whether Laci Peterson was going to work, or didn't work, or things like that. You didn't do a cash flow analysis for 2003, did you?

NIENHIUS: No, no.

GERAGOS: So the only cash flow analysis that you did was for the year 2001 and 2002?

NIENHIUS: Correct.

GERAGOS: Okay. So anything about what was going to happen in 2003 was not part of your opinion as you sit here today?

NIENHIUS: Right.

GERAGOS: In fact, what, you looked at Scott Peterson's contract did you not?

NIENHIUS: Yes, I did.

GERAGOS: It provided for him to get a raise there 2003, did it not?

NIENHIUS: I believe it did. I think they were annual increases.

GERAGOS: Okay. Do you know how much of a raise it provided for?

NIENHIUS: Not off the top of my head no.

GERAGOS: Do you know how much of a bonus he was entitled to get in the year 2003?

NIENHIUS: I don't recall that either.

GERAGOS: There was specific language in there where he would, get at certain goals, bonuses, isn't that correct?

NIENHIUS: If he had attained certain goals.

GERAGOS: Nobody ever asked you until today, when you are testifying, to do any analysis that related in any way, shape, or form to the year 2003.

NIENHIUS: Not to 2003, no.

GERAGOS: So I understand correctly, your sole testimony today, the sole parameters of it were the cash flow from 2001, 2002, and how that related to debt and other assets, correct?

NIENHIUS: Right.

GERAGOS: As far as you know, before today, when you testified, you were unaware that there was any $140,000 trust assets that was coming to Laci Peterson, whether it was in December or within 24 months of that, is that correct?

NIENHIUS: I didn't know anything about it.

GERAGOS: Nobody told you anything about it, correct?

NIENHIUS: I heard some rumors, stuff out there, but you can't, you don't know what to rely on there, so,

GERAGOS: Certainly nobody from Modesto?

NIENHIUS: No facts, no facts.

GERAGOS: No Modesto Police Investigative Services person?

NIENHIUS: No.

GERAGOS: Nobody handed you Brent Rocha's testimony so you could read it yourself?

NIENHIUS: No.

GERAGOS: Nobody handed you any of the reports that were done, interviews with Brent Rocha?

NIENHIUS: No.

GERAGOS: And you certainly never talked to anybody, the City Attorney from the City of Modesto, regarding her analysis of the trust documents?

NIENHIUS: No.

GERAGOS: I'm sorry, I used before the break. I had asked about Assistant City Attorney. I had the name wrong. It's actually Phaedra, P-h-a-e-d-r-a, last name Norton?

NIENHIUS: Phaedra Norton.

GERAGOS: Do you Phaedra Norton?

NIENHIUS: Yes, I do.

GERAGOS: Did you know that Phaedra Norton had been supplied with legal documents that Brent Rocha had given her?

NIENHIUS: No, I didn't.

GERAGOS: Did you, did you know that Phaedra Norton, who is Phaedra Norton?

NIENHIUS: She's one of the attorneys in the City Attorney's staff.

GERAGOS: And is she a competent lawyer?

NIENHIUS: I'm not, she's licensed, so I assume she is.

GERAGOS: Okay. She works for the City of Modesto?

NIENHIUS: Yes.

GERAGOS: Right, as a lawyer?

NIENHIUS: Yes.

GERAGOS: Were you aware that the documents, Brent Rocha's documents and the trust documents were given to the City Attorney's office to specifically review them and provide an opinion as to their meaning in laymen's terms?

NIENHIUS: No, I didn't know that.

GERAGOS: Were you aware that was done on January 10th of 2002?

HARRIS: Objection, foundation. Witness has already said,

GERAGOS: I'm asking if he is aware.

JUDGE: He doesn't know any of that stuff. Sustain the objection.

GERAGOS: Now, did you at any time, have you, to this day, ever talked to Phaedra Norton about the documents that she may or may not have been given?

NIENHIUS: I would have had to know the basis to discuss anything about that, because I didn't know she had them.

GERAGOS: May I have just one moment, your Honor?

JUDGE: Yeah. You can have five minutes.

GERAGOS: Thank you. I have no further questions.

2nd Redirect Examination by David Harris

HARRIS: You were asked about the bonuses that might be coming in 2003. You also mentioned that they were tied to something. Is that part of that contract you were testifying earlier the goals that the defendant had?

NIENHIUS: Right.

HARRIS: That was the goal that he was only at 23%?

NIENHIUS: Correct.

HARRIS: For 2002, end of November?

NIENHIUS: Yeah.

HARRIS: So he needed to make up whatever, that would be another 77%?

GERAGOS: I'm going to object. There is no foundation as to whether he knows that.

JUDGE: Well

GERAGOS: He's got the

JUDGE: He said he was only 23% of his goal. So that means, figure out what the goal must have been. The objection is overruled. Go ahead. So he had to do 77 persons more to catch up, right?

NIENHIUS: Right.

HARRIS: Now then counsel asked you about, again, about in trust, whether this would be an asset. If the trust is a separate legal entity, and it keeps all of the assets after the sale of this house, and it doesn't disburse them, is that any benefit to Miss Peterson?

GERAGOS: Objection. Calls for legal opinion.

HARRIS: Did you

JUDGE: Sustained.

HARRIS: Did you ever see any of these documents that says Miss Peterson got $140,000?

NIENHIUS: No.

HARRIS: No other questions.

2nd Recross Examination by Mark Geragos

GERAGOS: Do you know if the documents you looked at or were pre or post October of 2002 in regards to his bonuses?

NIENHIUS: I'm not sure. I'd have to pull that copy out.

GERAGOS: Do you know if his contract was renegotiated in October of 2002?

NIENHIUS: I don't know that off the top of my head, no.

GERAGOS: Do you know if what you testified to was the current contract or the preexisting contract?

NIENHIUS: I'd have to refer to my notes.

GERAGOS: And, specifically, as to the asset of Laci Peterson's for 140,000, you didn't know about it? Nobody ever discussed it with you before you got to court here today, correct?

NIENHIUS: Like I said, I just heard some rumors that there was something out there, but I discounted it. I didn't know what it was about. I saw nothing factual.

GERAGOS: Nobody showed you anything?

NIENHIUS: No.

GERAGOS: Thank you. No further questions.

JUDGE: This will be it for this witness? Mr. Nienhius, thank you very much.