Witness: Jeffrey John Coleman

Date: 2004-08-02

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Called by: People (prosecution)

Phase: Guilt

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

Day 1 of 1 for this witness

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

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Direct Examination by David Harris

HARRIS: Mr. Coleman, what is your occupation?

COLEMAN: I'm a CPA with Grimbleby Coleman CPAs.

HARRIS: And does that firm have some connection to TradeCorp?

COLEMAN: Yes, we are the corporate accountant for TradeCorp.

HARRIS: I want to take you back in time. When was it you first became involved with TradeCorp?

COLEMAN: Our involvement with TradeCorp began in October of 2000.

HARRIS: What was it, your firm's or your involvement at that point in time?

COLEMAN: At that point we, we attended the incorporate, the original incorporation meeting with the corporate attorney and with the corporate officers.

HARRIS: And the corporation that was formed, do you recall specifically what the name of that corporation was?

COLEMAN: I believe its formal name is Espana TradeCorp USA.

HARRIS: And TradeCorp USA, is that how you kind of generically refer to it?

COLEMAN: Yes, I refer to it as TradeCorp.

HARRIS: The, other than the involvement of being there at that particular point in time, did you have much dealing with the parent company or the ownership of TradeCorp USA?

COLEMAN: No.

HARRIS: When you, you said that your firm was the corporate accountant. Did you actually do work for them at that point in time, in October of 2000?

COLEMAN: In October of 2000 our, our services were limited to just simply being at the original incorporation agreement, or the original incorporation meeting. And some very minimal work associated with that meeting.

HARRIS: Now, at that particular meeting did you meet the defendant, Scott Peterson?

COLEMAN: Yes, I did.

HARRIS: And was it your understanding from what was going on that he was the person who was going to be doing the financial, or accounting for the business?

COLEMAN: Yes.

HARRIS: And if you, he needed assistance, he was going to be in touch with you?

GERAGOS: Objection. Leading.

JUDGE: Sustained.

HARRIS: What was your understanding of what would happen in terms of if the defendant needed assistance with financial items?

COLEMAN: Well, our understanding was, or our understanding was that we would be contacted, as needed, to provide additional accounting and tax services.

HARRIS: So moving forward from October of 2000, did the defendant ever contact you about those services?

COLEMAN: Eventually he contacted us about those services. Not in 2000.

HARRIS: So in year 2000 did you have any real accounting or financial dealings with TradeCorp?

COLEMAN: Nothing of any significance, other than what we did associated with the original incorporation meeting.

HARRIS: In 2001, did you have any interaction with the defendant about TradeCorp?

COLEMAN: Very limited.

HARRIS: What would be the limited interaction that you did have?

COLEMAN: In 2001 really the only involvement I had is that from time to time I, I would place a call saying How's it going, we hadn't heard from you, do you need any services.

HARRIS: Did the defendant ever bring anything or provide anything to your firm?

COLEMAN: To my knowledge not in 2001.

HARRIS: At, so did this progress this way for most of 2001?

COLEMAN: Yes.

HARRIS: Towards the end of 2001, beginning of 2002, did you have more interaction with the defendant?

COLEMAN: Yes. At that time we, we prepared for and prepared the 2001 tax return. Early in 2002.

HARRIS: When you say tax return, was this for the defendant personally? Or for TradeCorp as a business?

COLEMAN: This is, this is the corporate tax return for TradeCorp as the business.

HARRIS: When you say that you prepared for it, how did you prepare for it? Was there an interaction where the defendant brought you anything?

COLEMAN: We received a QuickBooks, which is an accounting software, disk from the defendant, and then worked with that disk to get the financial statements in, in an order to be able to perform the, to, to be able to prepare the corporate tax return.

HARRIS: From the documentation, this QuickBook, this floppy or file or whatever it was that you received, were you able to go ahead and prepare the corporate tax return?

COLEMAN: Yes.

HARRIS: Moving into 2002, you said that was in the early part of 2002 that you prepared that?

COLEMAN: Yes.

HARRIS: Did you start to have more interaction with the defendant in 2002?

COLEMAN: Yes, we did. As 2002 progressed.

HARRIS: Did something ever come up about payroll taxes in 2002?

COLEMAN: In October of 2002 we prepared the payroll tax returns for the first three quarters of the year.

HARRIS: Now, you say in your preparing for the first three quarters. Was there a problem?

COLEMAN: Well, they had not been filed at that point. So, so the original two, or the first two quarters were overdue at that point. The third quarter we were meeting the filing deadline, since we were doing it in October.

HARRIS: Did you have any discussions with the defendant about timeliness of the payroll filings?

COLEMAN: Well, I know that after preparing the three quarters' worth of payroll tax returns, and a, a notice was received by TradeCorp and we were asked to help respond to the notice, and at that point I left a message with Mr. Peterson in regard to the overdue nature of the payroll tax returns. Our bookkeeper involved with the account would have also had a discussion in regard to the overdue nature of the payroll tax returns,

GERAGOS: Objection. Hearsay.

JUDGE: Sustained. That part may be ignored by the jury and stricken. Go ahead.

HARRIS: Now, you said there was some, some notice received. What type of notice are we talking about?

COLEMAN: A notice from the Internal Revenue Service.

HARRIS: And that was sent to TradeCorp saying what?

COLEMAN: That, that You're overdue with the payment of your payroll taxes, here's the amounts due, here's the penalty assessed.

HARRIS: Now, from your understanding, having been at that early meeting in October of 2000, who was responsible for doing the accounting and paying these things?

COLEMAN: Scott Peterson was.

HARRIS: After this notice was received, did you, as you were indicating, did you notify the defendant that he had to stay on top of this?

GERAGOS: Objection. Leading.

JUDGE: Overruled. If you recall.

COLEMAN: Pardon?

JUDGE: If you recall.

COLEMAN: My, the gist of my message that I left on, on December 20th would have dealt with,

GERAGOS: I'm sorry, what date?

JUDGE: December 20th.

COLEMAN: December 20th would have dealt with the fact that the payroll taxes were overdue.

HARRIS: Okay. So that I understand this, you filed, your firm filed for the first three quarters in October. Did you offer or do anything to help the defendant pay for it or set this up in December?

GERAGOS: Objection. Vague. I'm,

JUDGE: I don't think the witness even understands the question.

HARRIS: Let me try that one again. After you, you've, this problem arose, whatever it was, so the first two quarters, going into the third quarter of the 2002, the payroll taxes were not paid and you said that your firm was taking care of it and paying it in October of 02. Did you do something to help the defendant pay for it or be able to pay for the payroll taxes for the next quarter?

COLEMAN: Well, we, in regard to, we certainly didn't provide the funds for them to pay the payroll taxes. We, in doing the payroll taxes to that point, we would have brought it current. So that would have required less effort because he wouldn't have had to have been cleaning up what was, what was, existed in the past. We did not take over his payroll records.

HARRIS: For, for the defendant to take care of the payroll for December, that last quarter in December of 02, did you, had you provided him with the documentation of how to do it back in October?

COLEMAN: I'm sorry, I misunderstood your question. We, at that point, after the three quarters were completed in October, we did the final quarter's payroll tax returns for TradeCorp.

HARRIS: And who did you give them to?

COLEMAN: To Scott Peterson.

HARRIS: And it was his responsibility then to take the money and pay it?

COLEMAN: Right.

HARRIS: Did you get noticed that it wasn't paid?

COLEMAN: I don't, I can't honestly remember if we had received the notice during the next three months. In, when we received the corporate records in April of 2003, the payroll tax returns for the fourth quarter were, were in those records.

HARRIS: Had they been paid on time?

COLEMAN: They had not been paid. They had not been filed.

HARRIS: Now, the corporation that we're talking about, TradeCorp, TradeCorp USA, it was in the business of selling a product. Was there a responsibility for it to report its sales?

COLEMAN: Yes. Its domestic sales?

HARRIS: Yes.

COLEMAN: Yes.

HARRIS: And is there something referred to as a mill tax that it had to report?

COLEMAN: There's a mill tax that the City of Modesto assesses on gross sales.

HARRIS: And at some point in time did your firm also get involved in assisting or taking over that particular aspect of it?

COLEMAN: We prepared the mill tax return for the fourth quarter of 2002.

HARRIS: Now, to go back through this, when you were looking at your records, did you report for just that quarter or,

COLEMAN: Actually, we were, we were under the understanding that no other payroll, or no other mill tax returns had been filed, so we took the entire year's worth of sales at that point and included it on the mill tax return filed at that point.

HARRIS: So when you filed for the year ending basically December of 02, what did you report was the, the sales for TradeCorp USA?

COLEMAN: They were roughly a hundred and twenty-four thousand dollars.

HARRIS: And was there, was that all of the last quarter? Or how was that spread out?

COLEMAN: Well, it, it was reported as if it were in the last quarter, because that was the only reporting period open at that point. Per the detail in the general ledger, no, those, some of those sales had occurred other than the fourth quarter.

HARRIS: Do you recall in the first quarter how many, how much sales there were, 2002?

COLEMAN: In the first quarter?

HARRIS: Yes.

COLEMAN: No, I don't.

HARRIS: Second quarter?

COLEMAN: No, I don't.

HARRIS: Third quarter?

COLEMAN: By the third quarter there was roughly between 60 and 70,000 dollars' worth of sales that had occurred, to my recollection.

HARRIS: Now, going through this, if somebody had reported 15,000 dollars' worth of sales in the third quarter, October of 02, that would not be an accurate statement?

COLEMAN: That would not be, that would not be a statement that would be supported by the general ledger.

HARRIS: When you're saying the general ledger, that's kind of the financial books of TradeCorp?

COLEMAN: Right. By the accounting activity of the company that had been recorded.

HARRIS: Now, you indicated that you took over and did the year-end for the mill tax. Did you have any interaction with the defendant at that point in time about getting the documentation, getting the software or the disks?

COLEMAN: Well, during that, during that point we were performing more accounting services, so there were discussions in regard to getting the general ledger disk and when we would get it. There were also discussions that I can't speak to that would have occurred by our bookkeeping staff.

HARRIS: Now, in terms of your firm, just so we all understand this, you're the CPA at the firm?

COLEMAN: I'm one of the CPAs at the firm, yes.

HARRIS: And you have other individuals underneath you that are bookkeepers?

COLEMAN: Yes. There are bookkeepers, there are accountants that have not yet received their CPA designation, and then there are CPAs. There are also two enrolled agents at our firm.

HARRIS: And what is that?

COLEMAN: An enrolled agent is someone who's not a CPA but has the right to represent a taxpayer in front of the Internal Revenue Service, just like a CPA does.

HARRIS: And is your firm, this firm representing TradeCorp as the corporate CPA, did you make all of these resources available to the defendant?

COLEMAN: Yes.

HARRIS: Now, in terms of the time that we're talking about, from when TradeCorp first starts in October of 2000 until December of 2002, had this particular business ever shown a profit?

COLEMAN: No.

HARRIS: Were they kind of in a hole capital-wise?

GERAGOS: Objection. Vague. Unintelligible. Calls for speculation.

JUDGE: Sustained. Got to rephrase it.

HARRIS: What was the financial status of TradeCorp USA?

COLEMAN: In the first year they lost, I want to say about 40,000 dollars. In 2001 they lost another, probably, about 200,000.

HARRIS: And what was, how were they looking in 2002?

COLEMAN: In 2002 they continued to lose money.

HARRIS: From the overall time in the time period we're talking about, from October of 2000 until, at some point in time did you take over and take over the accounting for TradeCorp?

COLEMAN: Well,

GERAGOS: Objection. Asked and answered.

JUDGE: What?

GERAGOS: Asked and answered.

JUDGE: I don't think so. Overruled. Go ahead. He's asking him personally. Did you personally take over?

COLEMAN: Well, we, we, our services increased around April, they increased over time as there were greater desires by TradeCorp to use our services. And at the point that Mr. Peterson was detained, we took over all the bookkeeping functions associated with the corporation.

HARRIS: Did TradeCorp USA ever show a profit?

COLEMAN: No.

HARRIS: Were they, when you took over during that last time period you're referring to, were they still in the hole?

GERAGOS: Objection.

COLEMAN: Yes.

GERAGOS: Withdrawn.

JUDGE: Well, "they" is TradeCorp.

GERAGOS: What?

JUDGE: "They" is TradeCorp, okay? Go ahead.

HARRIS: I have no other questions.

Cross Examination by Mark Geragos

GERAGOS: Good afternoon, Mr. Coleman.

COLEMAN: Hi, Mr. Geragos.

GERAGOS: How are you?

COLEMAN: Good. And you?

GERAGOS: Very good. I have a document here. You have glasses with you?

COLEMAN: I have contacts.

GERAGOS: Okay. So do I, but they don't work too well on these. See this document here? Do you recognize that?

COLEMAN: I do not recognize the document.

GERAGOS: The bottom portion, do you know what it is, what it purports to be?

COLEMAN: What appears to be an income statement.

GERAGOS: Okay. Are you familiar with the business plan for TradeCorp USA?

COLEMAN: No.

GERAGOS: Have you ever seen the business plan for TradeCorp USA?

COLEMAN: Not to my knowledge.

GERAGOS: Okay. Would it be unusual for a, by the way, who owns TradeCorp USA?

COLEMAN: I believe the, the company in Europe that owns it is, is called Espana TradeCorp.

GERAGOS: Okay. And who owns that?

COLEMAN: SAPEC my understanding is a European conglomerate that owns TradeCorp and other entities.

GERAGOS: Okay. I'm showing you something that I got off the Internet today. Can you take a look at that and tell me if that appears to be the annual report for a company called SAPEC, which is a multinational conglomerate that owns TradeCorp? And, Judge, while he's looking at that D 5 G, which I marked this morning

JUDGE: Yes.

GERAGOS: Is one page that I've taken,

JUDGE: Taken out of TradeCorp.

GERAGOS: I'm going to ask you, Mr. Coleman, when you've got a chance, to take a look at this document as well.

COLEMAN: The first document you gave me seems to be what I would consider an annual report. This appears to be maybe the, the, came off their web site?

GERAGOS: That's correct. The annual report, does that include, and I'm going to show you something that I already marked as D 5 G, says Key Figures. Can you tell me does that appear to be a financial summary, if you will, of, and picture of this corporation?

COLEMAN: Which, which corporation?

GERAGOS: SAPEC. If I told you that was in the, I had pulled that out of the documents that you looked at.

COLEMAN: Okay. I'm sorry. Then I don't understand your question. If you, you pulled these documents out of here, and you're wondering if they are in here?

GERAGOS: No, no. I'm sorry. This page right here that I've marked, which is a, says Key Figures, was contained within the annual report, what you just identified as the annual report.

COLEMAN: Okay.

GERAGOS: Okay. Can you tell me what, what is that document, that 5 D G? What is that?

COLEMAN: Well, it looks to be key financial figures associated with an entity.

GERAGOS: Okay.

COLEMAN: In Euros.

GERAGOS: In Euros. And does that show the size and the revenues for this financial entity?

COLEMAN: This shows the gross sales of the financial entity. It shows cash flow in Euros, in millions of Euros. It shows equity capital in millions of Euros, and it shows, when it says Balance Sheet Total, I assume that's probably total assets.

GERAGOS: Okay. What kind of assets does this company show in Euros?

COLEMAN: Well, what this shows is 322.6 million in what it calls Balance Sheet Total.

GERAGOS: Okay. And what would that translate into, if that was in Euros, into dollars?

COLEMAN: I'm not familiar with the translation of that.

GERAGOS: Okay. If the dollar, if the gross sales, how much are the gross sales?

COLEMAN: The gross shipment sales shown here is 443.6 million.

GERAGOS: Okay.

COLEMAN: Euros.

GERAGOS: And that's for what period of time?

COLEMAN: That's for 2002.

GERAGOS: Okay. Now, SAPEC, which owns, as you said, Espana TradeCorp, correct?

COLEMAN: That's my understanding. I'm, I'm not truly conversant on the structure.

GERAGOS: Okay. In the annual reports that I just pulled out, you saw some areas that were yellow highlighted?

COLEMAN: Right.

GERAGOS: And does that indicate also that SAPEC owns TradeCorp?

COLEMAN: Yes.

GERAGOS: Okay. And is it your understanding that TradeCorp's function, you were at the original meeting that put TradeCorp into business, correct?

COLEMAN: Correct. TradeCorp USA.

GERAGOS: USA

COLEMAN: Right.

GERAGOS: And was the desire with the function of TradeCorp USA the promotion of or establishing some kind of a foothold in America for the products that the parent company had, was manufacturing?

COLEMAN: Yes.

GERAGOS: What did the parent company manufacture?

COLEMAN: Fertilizer.

COLEMAN: And was this TradeCorp USA or Espana TradeCorp USA set up so that the manufacturer in Europe could try to get a distribution network set up in the U.S?

COLEMAN: They were set up, to my knowledge, to, to have a exposure or a position in the United States fertilizer market.

GERAGOS: And was it your understanding that prior to setting it up they had none in the U.S?

COLEMAN: I would assume so.

GERAGOS: Okay. Nothing in that meeting in October of 2000, is that when it was?

COLEMAN: October of 2000.

GERAGOS: So nothing in that meeting in October of 2000 led you to believe that SAPEC, or the parent company, had made any attempts or inroads into the U.S. prior to setting up this company, correct?

COLEMAN: Nothing in that meeting gave me the understanding that, that SAPEC or TradeCorp had previously attempted to establish a position in the United States.

GERAGOS: Okay.

COLEMAN: Is that answering your question?

GERAGOS: That does.

COLEMAN: Okay.

GERAGOS: This is a company that's obviously a multinational, meaning they're in many different countries, correct?

COLEMAN: Okay. Which,

GERAGOS: The SAPEC? And the parent company?

COLEMAN: It appears so.

GERAGOS: Okay. And you know, you do have first-hand knowledge that they appear to be based out of Madrid, Spain?

COLEMAN: Yes.

GERAGOS: And you know that because you've had some communications via e-mail, or at least the firm has, your firm has?

COLEMAN: Yes.

GERAGOS: And the definition of a multinational corporation is one that is in multiple nations, right?

COLEMAN: Yes.

GERAGOS: And this is a, a conglomerate is a company that owns many different businesses, correct?

COLEMAN: Correct.

GERAGOS: So when we say a multinational conglomerate, it's a company that's operating in many different nations and owns the different businesses?

COLEMAN: SAPEC is, to my knowledge.

GERAGOS: Now, they, they want to, or the goal is, in this October meeting, to set up a company by which you can then promote the product, market the product in the U.S., correct?

COLEMAN: Yes.

GERAGOS: So one of the goals was, was to get some name identification, correct?

COLEMAN: I would assume so, yes. I wasn't familiar with their, or party to their marketing plan, but I would assume so.

GERAGOS: Okay. And one of the ways you do this is establish the company here and have somebody go out and try to promote the company itself and the name and the identity, correct?

COLEMAN: Correct.

GERAGOS: That's part of, based upon your experience as an accountant, that's something that one does or that would be good business in order to expand a market or try to penetrate a market, correct?

COLEMAN: Yes.

GERAGOS: Now, in this case, when Mr. Harris was asking you Well, did it make money this year, did it make money that year, you've never seen a business plan that shows what the expectation of the company was, do you?

COLEMAN: Correct.

GERAGOS: Business plans for companies that are just starting, what's typically called a startup company, many times will not make money for many years; isn't that correct?

COLEMAN: Correct.

GERAGOS: In this case this is not truly a startup company, correct? In the sense that there is, it's a hybrid in the sense that they exist in another market and they are trying to just penetrate a different one; isn't that correct? Different than a traditional startup?

COLEMAN: In that regard it would be different than a traditional startup.

GERAGOS: Okay. In this sense, or in that sense, that it's different than a traditional startup, would it surprise you or would it be unusual if the company, SAPEC, had expected in their business plan to not be profitable for four years? Would that be unusual?

COLEMAN: That would not surprise me.

GERAGOS: Okay. And is the reason for that that, while you're trying to penetrate a market or increase market share, that you know that you're going to have to set aside a certain amount of money that's going to be used to do that very promotion and do the kind of leg work, so to speak, that you will eventually get to profitability?

COLEMAN: Yes.

GERAGOS: Now, was there, in the year 2000, there would have only been roughly, let's see, it started in October, so October, November, December; is that correct?

COLEMAN: Right. They were calendar year-end.

GERAGOS: Okay. So then the year 2001 you were not doing much accounting services, correct?

COLEMAN: Correct.

GERAGOS: Did you end up filing a corporate return?

COLEMAN: Yes.

GERAGOS: And was the documentation that you used for the corporate return given to you by Scott Peterson?

COLEMAN: Yes.

GERAGOS: Okay. Now, when Mr. Harris was asking were you making your services available to TradeCorp, you were doing, when, and you said yes, you were offering to do their accounting work, correct?

COLEMAN: Correct.

GERAGOS: And you wanted to do more of their accounting work, correct?

COLEMAN: Correct.

GERAGOS: And I assume you're a profitable ongoing concern, right?

COLEMAN: We try to be.

GERAGOS: Okay. I assume you don't do your accounting work for free?

283. We try not to.

284. You try to charge, don't you?

COLEMAN: Yes, we do charge.

GERAGOS: If you do more work, what happens to the client? He pays more money?

COLEMAN: That, the client pays us more money.

GERAGOS: Right. So if the client does more work, that means you don't get paid as much money, of the accounting work, correct?

COLEMAN: If we're, if the client does more of their own accounting work, then obviously they wouldn't pay us to do that, yes.

GERAGOS: Okay. And that would save the client that, whatever percentage of time that the accounting firm would have spent on the books, correct?

COLEMAN: Yes. Of course, we always try to point out to the client that if they have, sometimes it is more cost efficient to have us do it than to have them do it themselves, but...

GERAGOS: I use that line on my clients, too. Okay.

COLEMAN: Does it work for you?

GERAGOS: I've been sitting here for seven months, so I don't know. The, the fact of the matter is that when Scott Peterson was there and you met him in that October meeting, that was the first time you had met him, correct?

COLEMAN: You know, I, I honestly can't recollect if I, I know I had conversations with Scott before the October meeting.

GERAGOS: Okay.

COLEMAN: I don't know if I had met him face-to-face.

GERAGOS: Okay. And during the year of 2001, he basically would use a, what was it, a QuickBooks program?

COLEMAN: Yes.

GERAGOS: Okay. And that's a standard, I think it was characterized by the DA as an off-the-shelf program, but that's a very common program used by small businesses, isn't it?

COLEMAN: It is very common.

GERAGOS: Okay. Would you even go so far as to say it's probably the most prevalent bookkeeping software?

COLEMAN: You know, I don't know what its market share is. If it isn't the first, it's probably the second. It is now owned by Intuit, and that's a very large entity.

GERAGOS: Okay. There's nothing wrong with using that software, I would assume, for a business, correct?

COLEMAN: It has its limitations, like any software would have its limitations, but it is not an inherently problematic software.

GERAGOS: Okay. And by using that software you can keep track of certain expenses and income and then turn it over to your accountant and to some degree save yourself or the company some money, correct? I mean if I come in with a grocery bag full of my receipts,

COLEMAN: Okay. I'm sorry, I didn't see where you were getting. So, so well, go ahead and ask me.

JUDGE: In other words, if the client accumulates all the information themselves, you don't have to sit down with the client and drag it out of them, right?

COLEMAN: Right.

JUDGE: It's presented to you in this QuickBook and from that you can prepare the returns?

COLEMAN: Yes.

JUDGE: All right. Go ahead.

COLEMAN: From that we can prepare the returns, with, with certain questions, obviously.

GERAGOS: Okay. Now, the losses you were talking about that, that the company showed, you were filing these as corporate returns, correct?

COLEMAN: Correct.

GERAGOS: And the corporate returns would then go to the owners, correct? I mean they would get a copy of it?

COLEMAN: Oh, I assume they would. We provided our returns to Mr. Peterson.

GERAGOS: Okay. And you have, also I was, when we were in the hallway, you have your client file from 2003 that I took a look at, correct?

COLEMAN: You took a look at the client file, yes.

GERAGOS: Okay. And that client file shows that you also communicate with the people in Spain who are the principals, correct?

COLEMAN: At this point, yes.

GERAGOS: Now, they've had access to your file and anything you have in it, correct? The principals, if they want something, it's their file, technically. They can have it, right?

COLEMAN: Well, technically the work papers are owned by us.

GERAGOS: You don't have a problem with showing it to them if they want it?

COLEMAN: No, I don't have a problem.

GERAGOS: Okay. You've dealt with Ross Lee, who is a lawyer in Modesto, correct?

COLEMAN: Yes.

GERAGOS: Ross Lee is the lawyer for TradeCorp, right?

COLEMAN: Yes.

GERAGOS: Okay. And you've worked in conjunction with him, correct?

COLEMAN: Yes.

GERAGOS: In addition to that, and these returns that you filed, or the, you also apparently did some payroll tax returns; is that right?

COLEMAN: Yes, we did.

GERAGOS: Okay. Now, the payroll tax returns, the person who asked you to do that, was Scott Peterson, managing this company, correct?

COLEMAN: Yes.

GERAGOS: Okay. When you got a notice from the IRS that you said the payroll taxes are due, who gave you that?

COLEMAN: When we got a notice that the payroll taxes were overdue, that came from Scott.

GERAGOS: Okay. And he handed it to you and said We need to do the return, correct?

COLEMAN: And that came to the firm, I can't exactly tell you if it was handed to me directly or to one of the bookkeepers involved.

GERAGOS: Right. So he supplied that and then you prepared three payroll tax, federal, quarterly federal tax returns, right?

COLEMAN: No, we had already previously prepared the payroll tax returns for those three quarters.

GERAGOS: Okay.

COLEMAN: The notice came after that.

GERAGOS: Okay. And Scott gave you the notice?

COLEMAN: Yes.

GERAGOS: Okay. Now, the payroll taxes were paid; is that correct? They ended up getting paid?

COLEMAN: Uh, yes, eventually they were paid.

GERAGOS: And who pays them?

COLEMAN: Well, at that point we paid them when we took over the, the accounts receivable and accounts payable.

GERAGOS: Okay. Well, you didn't pay them out of your monies from the, your firm, right? Somebody,

COLEMAN: Correct.

GERAGOS: paid you to pay them, correct?

COLEMAN: Correct. Funds were provided to us.

GERAGOS: Right. That's what I'm getting at. I mean, you'd be a great accounting firm if you paid our taxes.

COLEMAN: Yeah, but we wouldn't last long.

GERAGOS: Right. The fact of the matter is that the owner of the company gave you the money to pay the taxes, right?

COLEMAN: Right.

GERAGOS: Who was the owner of the company?

COLEMAN: The, we received the money from, from SAPEC or from, from TradeCorp International.

GERAGOS: Because SAPEC or TradeCorp International is the one who owes the taxes, correct?

COLEMAN: Well, indirectly that they own the, that they are the sole shareholders of TradeCorp USA, then they have the ultimate responsibility.

GERAGOS: Okay. Now, the, after the payroll taxes were issued or were paid, then you discussed about a mill tax; is that correct? Did you fill out something for a mill tax?

COLEMAN: We did a mill tax return for, yeah, the

GERAGOS: 2002 year-end?

COLEMAN: 2002, I believe. Yes, that's what it was.

GERAGOS: And is it your understanding, and I'm not going to beat around the bush. The previous gentleman who just testified, I think you saw him in the hallway, Nienhius, do you know him?

COLEMAN: I've met him.

GERAGOS: He testified that if you're not in the City of Modesto, and you're not selling in Modesto, you're not liable for the mill tax. Is that your understanding?

COLEMAN: You know, there's a lot of controversy right now in Modesto in regard to mill taxes. There's a question as to whether the solic, it hinges on where the solicitation occurred, so, you know, it's sort of an expanding area.

GERAGOS: You mean the city's trying to get more tax revenue?

COLEMAN: I wouldn't say they're trying to get more, they're probably just trying not to get less at this point.

GERAGOS: Well, isn't it a fact that if they're not, I mean, do you find businesses who try to pay less taxes?

COLEMAN: I'm sorry, I didn't hear you.

GERAGOS: Do businesses, clients of yours, try to pay less taxes?

COLEMAN: Oh, they certainly do.

GERAGOS: That's why they come to you, right?

COLEMAN: Right.

GERAGOS: Okay. Now, if there's a reasonable interpretation, I'll ask you. Is it a reasonable interpretation that if you're not in the City of Modesto and your sales do not originate there, then under that particular taxing authority you don't have to pay a mill tax?

COLEMAN: If you're not in the, in the City of Modesto, it would probably never come up.

GERAGOS: Okay. And do you know where the warehouse, 1027 North Emerald, is located?

COLEMAN: Roughly.

GERAGOS: And you're not sure as you sit here if that's in the City of Modesto,

COLEMAN: I really don't know.

GERAGOS: or the County of Stanislaus?

COLEMAN: No, I don't.

GERAGOS: Now, the issue of the mill return, you said you filed a year-end mill return; is that correct?

COLEMAN: Well, we filed a mill return for the fourth quarter.

GERAGOS: And you listed all the sales for the whole year?

COLEMAN: Right.

GERAGOS: Okay. Now, when you listed all the sales for the whole year, were you being conservative in taking the position that the mill tax was owed?

COLEMAN: We were certainly taking the position that the mill tax was owed.

GERAGOS: And as you sit here today, you, it's still your testimony that if the warehouse was not in the City of Modesto, or if the sales did not originate in the City of Modesto, that it would be a reasonable position to take that the mill tax was not owed?

COLEMAN: I, I don't want to limit my knowledge here, but, but I'm not an expert on mill taxes. I know there's a great deal of controversy in, in regard to location and all that. And so I can't really expand upon how that works. In general, if you are in the City of Modesto and doing business and you have gross receipts, then you're assessed a mill tax.

GERAGOS: And it's a great deal of controversy is that a number of businesses in Stanislaus County are disputing whether they have to pay the mill tax, correct?

COLEMAN: Yes.

GERAGOS: That certainly is not any, you've characterized it as a large controversy; it is something that goes on day in, day out in Modesto, correct?

COLEMAN: It's something that to my understanding is still not completely settled.

GERAGOS: Settled in terms of, as we sit here today, there are many businesses that take the position that they don't have to pay it and the City of Modesto obviously is taking the position that they do?

COLEMAN: That is, in essence, the controversy.

GERAGOS: Now, did you ever, by the way, how much, based upon you filing for this mill tax, and listing a hundred and whatever it was some-odd thousand dollars, how much,

COLEMAN: It's one percent.

GERAGOS: So if it was a hundred and twenty grand, it was twelve hundred bucks?

COLEMAN: Yeah.

GERAGOS: So if you were successful in not paying the mill tax, you would save the company twelve hundred bucks, correct?

COLEMAN: Yes.

GERAGOS: Now, the, there were also, I believe, a, you had indicated that prior to you filing there had been no other mill tax returns filed?

COLEMAN: Judging from the fact that when we prepared the return there we took the entire year's worth of receipts, there would have been a conversation that occurred to, in essence, did any other, have any other sales been reported. And we would have been told, you know, no, they haven't, and so we, we don't normally include more than is necessary.

GERAGOS: Is there a alternative method for computing a mill tax that's based upon payroll amount?

COLEMAN: I don't know.

GERAGOS: Okay. Do you know that the payroll amount for the payroll tax returns that was filed, or prepared by you, did you list the, the October 31st ones? You know which ones I'm talking about? The three payroll tax returns that you prepared? All three of those listed the payroll amount as 15,000, correct? Total wages, tips, and other compensation?

COLEMAN: Okay. So you have 15,000 in the quarter ended March of 02, 15,000 in the quarter ended June of 02, and 21,362 in the quarter ended September of 02.

GERAGOS: Okay. Did you prepare those documents?

COLEMAN: Our firm prepared these documents.

GERAGOS: Do you know who at your firm prepared them?

COLEMAN: It was one of our bookkeeping staff. I think at that point it was Galen Grimm.

GERAGOS: Last name spelled?

COLEMAN: G-R-I-M-M. But that is just simply a recollection.

GERAGOS: Is the company right now in a suspended status? TradeCorp? It has not been dissolved, correct?

COLEMAN: It has not been dissolved.

GERAGOS: And as it sits right now, is there a technical accounting term that you use for what its current status is?

COLEMAN: No.

GERAGOS: And the company can be revived at any time?

COLEMAN: Revived?

GERAGOS: Revived in the sense it could be, if somebody comes to work for the company, as of right now there is no employee?

COLEMAN: Correct.

GERAGOS: But the company has not been taken out of commission, so to speak? It hasn't been terminated, the corporation has not been suspended?

COLEMAN: The company has not been terminated.

GERAGOS: Okay. And if you were, there is a mechanism for doing that, correct?

COLEMAN: Yes.

GERAGOS: And it's some kind of a wind-up or dissolution procedure?

COLEMAN: Right.

GERAGOS: And that has not been done in this case?

COLEMAN: Not to my knowledge.

GERAGOS: You haven't received any instructions, I'm not asking what they are, I'm just asking did you receive any instructions to wind up or dissolve this corporation?

COLEMAN: No.

GERAGOS: If you had you would have done so, correct?

COLEMAN: Well, no, that would be performed by the attorney.

GERAGOS: Okay. Do you know to the best of our knowledge if that has been done?

COLEMAN: To the best of my knowledge it has not been done.

GERAGOS: Are you familiar with Mr. Peterson's employment contract?

COLEMAN: No.

GERAGOS: Are you familiar with the, whether or not he was due for a raise in 2003?

COLEMAN: He received a raise in 2003.

GERAGOS: Do you know when that, when he received the raise?

COLEMAN: I believe it began in January.

GERAGOS: Do you know how much his raise was?

COLEMAN: I believe his monthly went from 5,000 to 5350, or 5300.

GERAGOS: Thank you. I have no further questions.

Redirect Examination by David Harris

HARRIS: Mr. Coleman, the, just to go through this mill tax real briefly. The, counsel is making it seem like there's this big dispute about that, so I want

GERAGOS: Objection. That's argumentative. He's the one that characterized it

JUDGE: Commenting on the evidence. The jury can disregard it. Just ask the question.

HARRIS: In terms of the mill tax dispute that's going on there, if a company that's supposed to be paying this doesn't want to, or they have some dispute, do they usually notify the city? Is there some type of documentation

GERAGOS: There would be an objection. There's no foundation. When I was asking him about this he clearly stated that he wasn't an expert on it, but just

JUDGE: Well, he may know whether or not. He does the accounting for people that file mill taxes. He can answer the question. Overruled.

COLEMAN: I believe the way it's working is that the city is requiring for the, for the mill tax return to be filed, and then, subsequent to that, refund requests are made.

HARRIS: And in your experience with TradeCorp, was that ever done?

COLEMAN: No.

HARRIS: In terms of the, you were asked about the business plan. Did I hear you correctly that you were not aware of TradeCorp's business plan?

COLEMAN: I am not at all conversant on TradeCorp's business plan.

HARRIS: Now, you did say in, and let me just ask you again. The company that you were, or the corporation that you were the CPA for, or your firm was, that was TradeCorp USA?

COLEMAN: Right.

HARRIS: And when that was set up, and you participated, and that was set up by TradeCorp Espana, which is kind of TradeCorp International?

COLEMAN: Yes.

HARRIS: And it's your understanding that this SAPEC is the owner of TradeCorp International?

COLEMAN: At this point, yes. It's my understanding that, that SAPEC is, is the owner of TradeCorp International.

HARRIS: Now, you say at this point in time. At the time that you dealt with the individuals that were setting this up

COLEMAN: Oh, I don't believe SAPEC was involved at that point.

HARRIS: So when you were setting this up or involved in the formation, it was TradeCorp International and TradeCorp USA that was created?

COLEMAN: That's, that's my remembrance, yes.

HARRIS: So when counsel was asking you about TradeCorp or SAPEC paying the taxes that were owed, and he was asking you about they were the ones responsible for it, the corporation that owed the money was TradeCorp USA, correct?

COLEMAN: Yes.

HARRIS: And if TradeCorp USA had the money, wouldn't they be responsible for paying the taxes?

COLEMAN: TradeCorp USA is responsible for paying the taxes.

HARRIS: But instead of them paying it, it was paid for by TradeCorp International?

COLEMAN: Yes.

HARRIS: I have no other questions.

Recross Examination by Mark Geragos

GERAGOS: On the books I noticed that TradeCorp USA had some liabilities; is that right?

COLEMAN: Could you...

GERAGOS: Is there, the TradeCorp USA has liabilities, correct?

COLEMAN: Oh, yes.

GERAGOS: Who were those liabilities to?

COLEMAN: Liabilities exist with the vendors that it used.

GERAGOS: And also,

COLEMAN: Grimbleby Coleman at one point was a liability.

GERAGOS: And what about the parent corporation?

COLEMAN: There was a, an amount due to the parent corporation also.

GERAGOS: How much is that?

COLEMAN: I don't remember.

GERAGOS: Is that reflected in how much money the parent corporation invested in this company?

COLEMAN: The TradeCorp USA purchased the product from the parent corporation.

GERAGOS: So that they could distribute the product,

COLEMAN: So they could sell the product.

GERAGOS: Right. And the, they're setting up, so I've got it right. You've got the parent company manufactures it, correct?

COLEMAN: The parent company manufactures the product.

GERAGOS: They set up another company here so that that company can sell it or distribute it, correct?

COLEMAN: The parent company was selling the product to TradeCorp USA.

GERAGOS: Right. Which they also own?

COLEMAN: Yes.

GERAGOS: Okay. So my right hand is selling to my left hand, and then my left hand owes the money to my right hand?

COLEMAN: Right.

GERAGOS: The, as you sit here today, are you aware whether or not SAPEC was the owner back in October 31st of 2000?

COLEMAN: I, I, I don't recollect whether they were the owner. My, my recollection is that the owner at that, at that point was TradeCorp International.

GERAGOS: Did you see the portion here that was yellow highlighted?

COLEMAN: Yes.

GERAGOS: Okay. Does that refresh your recollection as to,

COLEMAN: Well, it doesn't refresh my recollection, but what this says is that TradeCorp, the company, acquired in 2000.

GERAGOS: And when was the company formed?

COLEMAN: The company was formed in October of 2000.

GERAGOS: Okay. So if SAPEC acquired it, it would have acquired it within 90 days of it being formed?

COLEMAN: If, if they had. If they were not the owner at that point, it sounds like they would have acquired it in 2000.

GERAGOS: Right. Which, and this was formed on October 31st?

COLEMAN: I believe it was October 31st.

GERAGOS: So if they weren't the owners on October 31st they certainly were the owners within 60 days?

COLEMAN: According to that.

GERAGOS: Mark this as defense next in order, by reference only at this point.

JUDGE: Okay. That's D 5 J.

GERAGOS: Thank you. I have no further questions.

2nd Redirect Examination by David Harris

HARRIS: Just one brief question.

JUDGE: All right.

HARRIS: Mr. Coleman, that document that counsel just showed you, does it make a distinction between TradeCorp International and TradeCorp USA?

COLEMAN: It just simply says TradeCorp.

HARRIS: No other questions.

JUDGE: Okay. May Mr. Coleman be excused?

COLEMAN: Okay. Thank you.