

United States District Court
Eastern District of Kentucky
Northern Division at Covington

UNITED STATES OF AMERICA)
) Covington Criminal
) Action No. 11-70
 vs.)
) Covington, Kentucky
 RONALD E. WEINLAND)
) June 11, 2012
) 9:02 a.m.
)

TRANSCRIPT OF CROSS-EXAMINATION, REDIRECT
EXAMINATION, AND RECROSS-EXAMINATION OF SUSAN PALMISANO
BEFORE THE HONORABLE DANNY C. REEVES AND A JURY

Appearances of Counsel:

On behalf of the United States: ROBERT KENNEDY MCBRIDE, ESQ.
CHRISTOPHER L. NASSON, ESQ.
Assistant U.S. Attorneys
207 Grandview Drive
Suite 400
Ft. Mitchell, Kentucky 41017

On behalf of the Defendant: ROBERT C. WEBB, ESQ.
JON CHRISTOPHER COFFMAN, ESQ.
400 West Market Street
Suite 3200
Louisville, Kentucky 40202

JOHN D. CLINE, ESQ.
235 Montgomery Street
Suite 1070
San Francisco, California 94104

Court Reporter: CYNTHIA A. OAKES, CRR
Official Court Reporter
United States District Court
560 Athens Boonesboro Road
Winchester, Kentucky 40391
(859) 983-4346

Proceedings recorded by mechanical stenography,
transcript produced by computer.

1 (Whereupon, the following proceedings were had in the
2 presence of the jury.)

3 THE COURT: Thank you. Good morning, everyone.
4 Are there any issues to take up before the jury is
5 brought in?

6 MR. MCBRIDE: No, Your Honor.

7 MR. CLINE: No, Your Honor.

8 THE COURT: Thank you.

9 Bring the jury in.

10 (Whereupon, the jury entered the courtroom, after which the
11 following proceedings were had in open court.)

12 THE COURT: Thank you. Please be seated.

13 The record will reflect that the attorneys and the
14 defendant are in the courtroom, all members of the jury are
15 present at this time.

16 I will advise the jury that Juror No. 238 has been
17 excused from further participation in the trial and the first
18 alternate will take his place when you begin your deliberations
19 in this matter.

20 Let's see, when we ended on Friday, I believe Special
21 Agent Palmisano was on the witness stand.

22 And if you could come back up, please.

23 (Whereupon, the witness returned to the witness stand, after
24 which the following proceedings were had in open court.)

25 THE COURT: And I will remind the witness that she is

1 still under oath.

2 Mr. Cline, you were about to begin your cross-
3 examination.

4 MR. CLINE: Yes, sir.

5 THE COURT: You may proceed.

6 CROSS-EXAMINATION

7 BY MR. CLINE:

8 Q Agent Palmisano, good morning.

9 A Good morning.

10 Q I want to cover with you some of the areas that you covered
11 in your direct testimony on Friday, not necessarily in the same
12 order; okay?

13 A Okay.

14 Q Can you sit forward maybe just a tiny bit more so we can
15 hear you a little better?

16 A Okay.

17 Q I want to start with your training and experience, which
18 you described at the beginning of your direct testimony. Do you
19 recall that?

20 A Yes.

21 Q Have you -- over the course of your career as an agent with
22 the Internal Revenue Service, did you receive any training on
23 investigating churches?

24 A Not specifically.

25 Q What about investigating ministers or parsons of churches?

1 A The training that -- whenever you conduct an investigation,
2 there's different applications of the tax law that may apply.
3 So it's the responsibility of the agent to seek out that
4 information and guidance and research. And typically, what we
5 will do is seek the assistance of a Revenue agent who is
6 familiar with the applicable tax code in relation to those
7 areas.

8 Q All right. And actually you anticipated my next question,
9 but let me go back to the one that we were on. As far as you
10 yourself receiving training on investigating either churches or
11 ministers or parsons, I take it you yourself haven't had that
12 training?

13 A You're not given specific training as to industry, so, no.

14 Q All right. Now, there are agents at the IRS who do have
15 specific training on investigating churches or ministers; is
16 that fair?

17 A Yes.

18 Q And have you, in the course of this investigation,
19 consulted with one of those agents?

20 A Yes.

21 Q And who was it that you consulted with?

22 A Karen Schwartz.

23 Q And is she a Revenue agent?

24 A She's a Revenue agent, yes.

25 Q And I take it that she's familiar with those statutes and

1 regulations that apply specifically to churches and ministers;
2 is that fair?

3 A Yes.

4 Q And was that --

5 A That's not her specific field. There's a unit that
6 specifically deals with tax exempt organizations, but -- and I
7 did consult that unit, several different people, over the
8 course -- this is not the first minister that I've investigated,
9 and so over the course of my career I have investigated several
10 ministers and I have consulted with that particular unit.

11 Q All right. And within that unit for tax exempt
12 organizations, are there Revenue agents who specifically have
13 expertise in the laws and regulations that relate to churches
14 and ministers?

15 MR. MCBRIDE: Your Honor?

16 THE COURT: Yes, sir.

17 MR. MCBRIDE: May we approach?

18 THE COURT: Yes, sir.

19 (Whereupon, the following discussion was had between the
20 Court and counsel at the bench, out of the hearing of the jury.)

21 THE COURT: Yes, sir.

22 MR. MCBRIDE: I'm going to object to this line of
23 questioning on the grounds of relevance, Your Honor. Revenue
24 agents are not authorized in criminal investigations, and while
25 there may be expertise of all types within the Internal Revenue

1 Service that may have been available, none of them are
2 authorized to conduct criminal investigations. This is not part
3 of the standard of special agents' training and we have
4 established that she did not have specific training. I think
5 we're at a point now beyond -- we're getting into an area beyond
6 the scope of her direct and not relevant to this case.

7 THE COURT: Mr. Cline?

8 MR. CLINE: I was just going to say, I'm not
9 suggesting that the Revenue agents should have conducted the
10 criminal investigation. I'm more just trying to get at what she
11 has done to prepare for this investigation.

12 THE COURT: All right. I believe it's proper for that
13 reason. I'll overrule the objection. Of course, you may be
14 getting into asking for hearsay that you may not want, but, of
15 course, that's your prerogative if you choose to do that.

16 MR. CLINE: I understand.

17 THE COURT: There's no objection to that particular
18 question if it comes up, but for purposes of the questions that
19 have been asked to this point.

20 MR. CLINE: Thank you.

21 (Whereupon, the following proceedings continued in open
22 court.)

23 THE COURT: Thank you, Counsel.

24 And, Mr. Cline, you may continue.

25 BY MR. CLINE:

1 Q I'm trying to think where we left off. I think I was
2 asking you if, within that unit you had talked with about the
3 ultimate tax exempt organizations, there are Revenue agents who
4 specialize in church and minister statutes and regulations?

5 A I don't know if they're Revenue agents. I don't know what
6 their titles are. I have spoken with individuals in that unit
7 and I'm not sure what their specific title is.

8 Q All right. I don't want to get in at all to your personal
9 religious beliefs or background, so I just have one or two
10 questions. I take it, is it fair to say, that you have not
11 yourself operated a church?

12 A No.

13 Q No, you have not?

14 A No, I have not.

15 Q Okay. And I take it that you have not yourself been a
16 minister or a church official?

17 A Correct.

18 Q Okay. Now, back for just one second. Do your
19 consultations with the Revenue agents or the Revenue agent in
20 the tax exempt organization group -- do you know what I'm
21 talking about?

22 A No, that's not what I said. I said I have consulted with
23 that group throughout the years of investigating ministers. But
24 I specifically consulted with Karen Schwartz regarding -- in
25 relation to the parsonage allowance and other provisions that

1 are specific to ministers.

2 Q Okay. Thank you for that clarification. And without
3 getting into what Ms. Schwartz told you, was it helpful to you
4 in conducting your investigation to consult with her and to gain
5 the benefit of her expertise?

6 A Yes.

7 Q Now, I want to talk about some of the specific areas
8 involving Mr. Weinland that you talked about and I want to start
9 with the Swiss account. Are you familiar with what I'm talking
10 about?

11 A Yes.

12 Q During the period 2004 to 2008, did you find that about
13 \$290,000 was put into that account?

14 A In 2007, there were two checks, one was for 190,000 and one
15 was \$100,000 that were negotiated at the bank in Zurich.

16 Q All right. So you put those two checks together and it's
17 about \$290,000?

18 A Yes.

19 Q And that \$290,000 was included in the schedule that you
20 prepared of unreported income to Mr. Weinland; correct?

21 A It was actually in the schedule of the disposition of the
22 unreported income.

23 Q Correct. But the 290,000 -- Well, let's trace that
24 \$290,000. It came out of the Church of God account; right?

25 A There were funds that were transferred into Mr. Weinland's

1 account in 2007. They were quite -- not specifically 190,000
2 and not specifically 100,000, but over the course of 2007,
3 possibly some from 2006, there were numerous transfers and
4 deposits from the church accounts.

5 Q All right. And Mr. Weinland prepared two checks from that
6 personal account, one for 190,000 and one for 100,000; right?

7 A Yes.

8 Q And those were the checks that he took to Switzerland and
9 put into the bank account there in Zurich; right?

10 A They were negotiated there, yes.

11 Q Okay. And the money that came out of the church account
12 that was used to make up those two checks to move to Switzerland
13 you included in unreported income; right?

14 A Again, not the specific funds. There were -- there were a
15 lot of funds that were transferred into his account. When they
16 transferred in, they were not earmarked, but the checks
17 specifically saying Swiss account or anything of that nature.
18 So there was -- I did not track specifically the funds
19 designated for the Swiss account.

20 Q Let me put it this way: You included that \$290,000 on your
21 schedule of the disposition of the unreported proceeds; right?

22 A Yes, how he spent the funds, yes, that were unreported.

23 Q So you concluded that the money that made up that \$290,000
24 that was deposited in Switzerland constituted unreported
25 proceeds; right?

1 A What I did was I determined how he spent the money in 2007,
2 and I believe if you look at the schedule that we're speaking
3 of, the disposition, you will see that there was a lot of other
4 money that he spent in that year as well, and the unreported
5 income figures are actually lower than the money that he had
6 spent.

7 Q I understand. We'll talk about some of the other money,
8 but I want to focus on the money that went to Switzerland.

9 A Uh-huh.

10 Q Based on your schedule, and I think it's Government
11 Exhibit 76, you concluded that the money Mr. Weinland used to
12 deposit the \$290,000 in Switzerland was unreported proceeds;
13 right?

14 A It was money that he spent in 2007.

15 Q And that money that he spent in 2007 came from the
16 unreported proceeds; right?

17 A Some of the money, yes.

18 Q Just to be clear what we're talking about, I just want to
19 show you one thing. I want to show you the first page of
20 Government Exhibit 76. Now, this is a chart that you prepared
21 and that's in evidence, Government Exhibit 76, called Ronald
22 Weinland - Disposition of Unreported Proceeds; right?

23 A Correct.

24 Q And what you've done on this chart is take all the money
25 that you concluded Mr. Weinland did not report as income and you

1 showed how he spent it; correct?

2 A I showed how he spent -- what monies he spent in 2007,
3 which were taken from his personal checking accounts.

4 Q We'll get to that in a second. The purpose of this overall
5 chart, the whole thing, is to take all the money that you
6 concluded was unreported income to Mr. Weinland and to show how
7 he spent that money; right?

8 MR. MCBRIDE: Your Honor?

9 THE COURT: Yes, sir.

10 MR. MCBRIDE: I'm sorry, may we approach again?

11 THE COURT: Yes, you may.

12 (Whereupon, the following discussion was had between the
13 Court and counsel at the bench, out of the hearing of the jury.)

14 THE COURT: Yes, Mr. McBride.

15 MR. MCBRIDE: I understand this is cross, but this
16 repeated characterization of Special Agent Palmisano's
17 determination of the disposition of this income, the phrase
18 "that you concluded" is argumentative. She has answered that
19 question several times by saying this is not a conclusion, this
20 is the way he disposed of the money. There's no conclusion in
21 that other than she put it in a category that it went from a
22 personal account to the Swiss bank account. That's not in
23 dispute. This characterization of conclusion is becoming
24 argumentative at this point, cumulative, and it's been asked and
25 answered.

1 MR. CLINE: Your Honor, I'll be glad to take out the
2 word conclusion. It's not a trick question, I'm just trying to
3 get to the point of the 290,000. There's really nothing more to
4 it than that.

5 THE COURT: I will overrule and you can rephrase the
6 question if you choose to do so.

7 MR. CLINE: I will.

8 (Whereupon, the following proceedings continued in open
9 court.)

10 THE COURT: Mr. Cline, you may continue.

11 BY MR. CLINE:

12 Q Sorry, Agent. Excuse me. Sorry. Let me put this back up.
13 And I'm really just trying to get to the 290,000. But before we
14 get there, I want to talk about what this whole chart
15 represents.

16 A Okay.

17 Q And what it represents is the -- your assessment of the --
18 how Mr. Weinland disposed of the unreported proceeds for the
19 entire period we're talking about.

20 A Well, in 2007, the unreported income came from my schedule
21 of unreported income and it shows the specific transfers that
22 went into Mr. Weinland's personal accounts and those totals for
23 2007 were \$372,000 approximately.

24 Q Okay.

25 A This particular schedule shows how monies were spent by

1 Mr. Weinland, to include those items of unreported income. And
2 I think in 2007, if you look at the total amount that was spent
3 by Mr. Weinland in 2007, it's \$576,000 -- \$576,247, where the
4 unreported income is approximately 372,000.

5 Q You're getting a little bit ahead of me, but I think we're
6 on the same page; okay?

7 A Okay.

8 Q Now, I want to focus you in on the year 2007 and that's
9 this column right here where I pointed my finger. Right there.

10 A Okay.

11 Q You with me?

12 A Yes.

13 Q And here in this column right here we have a 190,000-dollar
14 figure and a 100,000-dollar figure. Do you see those?

15 A Yes.

16 Q And those are the two checks that Mr. Weinland wrote to
17 take to Switzerland; right?

18 A Right, he wrote those out of his personal account and
19 that's what this schedule is, pretty much a lot of the
20 different -- the transactions, they all came from monies that
21 came out of his personal account.

22 Q All right. And you included that \$290,000 on this chart,
23 which is titled Ronald Weinland - Disposition of Unreported
24 Proceeds; right?

25 A Yes.

1 Q Okay. Now, in the course of your investigation, you spoke
2 with a man named Johnny Harrell; right?

3 A Yes.

4 Q And you know that Mr. Harrell is -- and you know it from
5 the testimony in this courtroom, too, that Mr. Harrell is an
6 elder in the Church of God - PKG; right?

7 A Yes.

8 Q And you understand from your investigation that Mr. Harrell
9 was given signatory authority over the Swiss account; correct?

10 A I learned that after my investigation was concluded.

11 Q Okay. But sitting here today, you know that to be true;
12 right?

13 A Yes.

14 Q And he was given signatory authority over that account
15 on -- by a power of attorney that's dated June the 2nd of 2004;
16 correct?

17 A I recall seeing that in reciprocal discovery.

18 Q We'll see more of that later on in the case, but you recall
19 seeing that document; right?

20 A Yes.

21 Q All right. Now, you've also heard testimony in the trial
22 that Mr. Weinland told the church back in December of 2002 in a
23 sermon that he intended to put money in a Swiss account?

24 MR. MCBRIDE: Objection, beyond the scope of direct.

25 THE COURT: Overruled.

1 BY MR. CLINE:

2 Q Do you recall that testimony, Agent Palmisano?

3 A Yes.

4 Q And the testimony in the trial was that Mr. Weinland told
5 the church that he intended to put that money in the Swiss
6 account for the benefit of the church; correct?

7 MR. MCBRIDE: Objection, Your Honor.

8 THE COURT: I sustain.

9 MR. MCBRIDE: Move to strike, Your Honor.

10 THE COURT: The jury will disregard the last question
11 and answer.

12 BY MR. CLINE:

13 Q Let me ask it a different way. Do you recall any testimony
14 from the trial about the purpose for which Mr. Weinland was
15 putting the money in the Swiss account?

16 MR. MCBRIDE: Objection, beyond the scope of direct.

17 THE COURT: Sustained. The jury will have to recall
18 what the testimony was with respect to other witnesses in the
19 case.

20 BY MR. CLINE:

21 Q Is it your testimony, Agent Palmisano, that the money that
22 Mr. Weinland used to open the Swiss account, \$290,000 in 2007,
23 should have been included on his income tax return as income?

24 A Well, that money was not used to open the Swiss account.

25 Q I'm sorry, I misspoke, you're right. The money that was

1 deposited in the Swiss account in 2007, that \$290,000, is it
2 your testimony that that should have been included on his tax
3 return as income?

4 A The Swiss account was in Mr. Weinland's name. Based on
5 statements that Mr. Weinland made to me the checks were written
6 out of his personal account, which came from church funds,
7 written out of his account, the check was written to him and
8 then it was placed in the Swiss account by him. It was my
9 understanding that those funds, the funds that were deposited in
10 the Swiss account -- it's a typical means to hide income that I
11 have seen in my experiences as a special agent. So during the
12 course of the investigation, that was what -- how I
13 understood those -- the reason why those funds were there.

14 Q Did you consider in your investigation Mr. Weinland's
15 sermon in December of 2002 when he told the church that he
16 intended to put money in the Swiss account?

17 A I did not hear his sermon from 2002 until I believe my
18 investigation was concluded and I believe his defense attorneys
19 at that time met with IRS counsel and they brought a transcript
20 of that particular sermon at that time.

21 Q I understand. And in the course of your investigation, did
22 you talk with elders of the church about the money in the Swiss
23 account?

24 A Yes.

25 Q And did you learn from the elders that the Swiss account,

1 that they understood that the money was being put there for the
2 benefit of the church?

3 A Not specifically. They actually had very little knowledge
4 of the specifics of the monies in the Swiss account. None of
5 them knew how much was in there, none of them knew specifically
6 where it was, when it was deposited or anything.

7 Q That wasn't quite my question. My question was did you
8 understand from the elders that it was their understanding that
9 the money was put there in the Swiss account for the benefit of
10 the church?

11 A It was their understanding that there was money in a Swiss
12 account.

13 Q For the benefit of the church?

14 A There was money in a Swiss account.

15 Q But -- I'm sorry to press you, but was it the elders'
16 understanding that the money in the Swiss account was for the
17 benefit of the church?

18 A That was not my understanding. My understanding is that
19 they were aware that there was a Swiss account that was opened
20 by Mr. Weinland due to his sermon.

21 Q Did they tell you that they thought that was Mr. Weinland's
22 money?

23 A No, they just acknowledged that they were aware that there
24 was a Swiss account.

25 Q And none of them told you -- just to finish this line of

1 questioning, none of them told you that they understood from
2 Mr. Weinland's sermon that that money was there for the benefit
3 of the church?

4 A I would have to refer to my memorandums to recall
5 specifically what was stated by each elder. It's -- as I -- as
6 I stated previously, it's my understanding that they were aware
7 that there was a Swiss account that was opened by Mr. Weinland
8 and that he was depositing church funds or what he was
9 contending to be funds from the church in the Swiss account.
10 And that was back in -- I guess from his sermon in 2002.

11 Q All right. And that's something you learned in the course
12 of your investigation?

13 A Actually, I think the timing of the initial deposit into
14 the Swiss account was learned after my investigation.

15 Q All right. But in terms of the reason for depositing the
16 money there, what Mr. Weinland told the church members, that was
17 something that you learned in the course of your investigation?

18 A No, actually I probably learned that, I would say, mostly
19 during the trial in the statements of the elders.

20 Q Okay. Does it matter to you, in terms of how you
21 characterize that money, that the elders, as you've learned over
22 the course of the trial, viewed that as money for the use of the
23 church?

24 A Does it matter to me?

25 Q Yes.

1 A Well, no.

2 Q So as far as you're concerned, it's still income to
3 Mr. Weinland?

4 A Well, it's -- that is not -- those particular checks are
5 not what his unreported income is based on. And I guess -- I
6 thought we clarified that in the earlier schedules. The
7 unreported income are specific transfers into his personal
8 accounts from the church accounts. There's a schedule that I
9 prepared that lists those particular checks and transfers.

10 Q Right.

11 A The two checks going into the Swiss account are not in
12 those transfers.

13 Q Well, let me ask you this question -- and I understand your
14 point, but let me ask you this question: If Mr. Weinland had
15 taken \$290,000 out of the church account, put it in his personal
16 account, written two checks, taken them to Switzerland and put
17 them in a Swiss account for the benefit of the church, which is
18 what we've heard from the elders, would that be income to him?

19 A Could you repeat that?

20 Q Sure. If Mr. Weinland took \$290,000 out of the church
21 account, put it in his personal account, wrote two checks,
22 190,000, 100,000, took them to Switzerland, put them in the
23 Swiss account for the benefit of the church in case the U.S.
24 economic system collapsed, would that be income to Mr. Weinland?

25 A Well, the two checks in question, there was one of them,

1 and I don't recall specifically which one, but in the memo line
2 of the check it actually said "book." It didn't state that it
3 was for some other purpose. I took that to mean that that was
4 payment for the book that Mr. Weinland had written and was
5 published I believe the end of 2006 and out in 2007 since the
6 transfers were actually deposited in those years. That made
7 more sense to me than after the fact I am now told that those
8 funds were put over there for -- in preparation of end times.

9 Q Sure. And I'm not -- please understand I'm not faulting
10 you for your earlier decisions based on the information that you
11 had. I'm trying to get your view of -- based on all the
12 information we now have. Are you with me?

13 A Yeah. And I think I still make the same determination
14 based on what is written on the check. That's usually -- from
15 my experience, that's a very good indication of what the funds
16 were actually for.

17 Q Okay. So, again, just to recap here, based on everything
18 you know now, if Mr. Weinland took \$290,000 from the church
19 account, put it in his personal account, wrote two checks, took
20 them to Zurich, put them in an account, told everybody that --
21 told the church that he was doing it for the benefit of the
22 church, you would count that as income to Mr. Weinland?

23 A If the checks stated book on the memo line, I would still
24 make the same determination. Mr. Weinland never told the church
25 how much money he was putting into the Swiss account. He never

1 told the church members what bank it was in there and he told
2 the church members back in 2002 that he was going to make a
3 deposit into the Swiss account, where this is 2007, he makes
4 290,000-dollar deposits into the Swiss account, five years after
5 he told the church.

6 Q Now, I think you just said that Mr. Weinland never told the
7 church what bank he was going to put the money in?

8 A Well, from what we heard and from my investigation, no one
9 seemed to have specific knowledge of that.

10 Q Right. And that was what you thought at the time of your
11 investigation; fair?

12 A Yes.

13 Q Okay. You've learned now, sitting here today on the
14 witness stand, you know that Mr. Harrell actually had a power of
15 attorney from the bank where the money was held; right?

16 A Well, I even spoke to Mr. Harrell specifically about that
17 power of attorney and I received it through reciprocal
18 discovery, so I can only value it as what's said on the piece of
19 paper. I really have no other verification of that document,
20 when it was created or anything along those lines. I did speak
21 with Mr. Harrell, that -- he did not advise me of a power of
22 attorney at that time.

23 Q Let's just assume for purposes of my question that you're
24 ultimately satisfied that the power of attorney is valid. Would
25 you agree that that would show that a member of the church, in

1 fact an elder of the church, knew what bank the money was in and
2 actually had signature authority over the account?

3 A Obviously, he would have had to have had knowledge of what
4 bank. It doesn't mean he would have knowledge as to the
5 specific deposits.

6 Q Sure. I understand. He would have had knowledge of the
7 bank and also, again, assuming that the power of attorney is
8 valid, it would show that he had signature authority over that
9 account; correct?

10 A If it's valid, yes.

11 Q All right. Does the fact -- and again, I'm going to ask
12 you to assume this fact. I realize you need to hear more before
13 you can accept it. But assuming that the power of attorney is
14 valid and that Mr. Harrell had signature authority over this
15 account at UBS in Zurich, does that change your view of whether
16 the money that was used to put \$290,000 into that account in
17 2007 was income to Mr. Weinland?

18 A Again, the monies that were put in the Swiss account were
19 not specific to the unreported income. As I've stated and my
20 schedules show, the amounts that Mr. Weinland has been, I guess,
21 charged with that make up the unreported income are specific
22 deposits going from the church account into his personal
23 accounts; okay?

24 Q I follow you. Let me ask you this: I think you testified
25 on Friday that part of the reason you prepared that disposition

1 chart, the one I just showed you, Government Exhibit 76, was
2 because it tended to show that Mr. Weinland viewed this money as
3 personal money; right?

4 A It shows that Mr. Weinland spent more money than he
5 reported. It shows that Mr. Weinland had, through the
6 unreported income, more funds available to him to spend on
7 personal items than he reported on his tax return. In each of
8 the years he spent in excess of \$200,000 on personal items and
9 most of them are personal living expenses for himself and his
10 children that exceed his reported income of \$35,400 in the years
11 2004 through 2007.

12 Q Right. But let me focus in on my question. Part of the
13 reason you -- I think you testified on Friday, that you prepared
14 this chart showing the disposition of the proceeds, the
15 unreported proceeds, was to show that those were in fact
16 personal funds of Mr. Weinland; right?

17 A It's to show what he spent out of his personal account, how
18 he disposed of funds that were in his personal account.

19 Q All right. And \$290,000 of those funds in 2007 were put
20 into a Swiss account in Zurich; right?

21 A Yes.

22 Q Now, if we assume -- never mind. We've covered that
23 question. Let me show you another document.

24 THE COURT: What exhibit are you referencing,
25 Mr. Cline?

1 MR. CLINE: I'm sorry, Your Honor?

2 THE COURT: What exhibit number?

3 MR. CLINE: It's Government Exhibit 10 and page 66.

4 THE COURT: Thank you.

5 MR. CLINE: Can you blow that up? That's good.

6 BY MR. CLINE:

7 Q Can you see that, Agent Palmisano?

8 A Yes.

9 Q All right. Now, I want you to look -- this is a bank
10 statement for one of the Church of God accounts; is that right?

11 A I believe it's their main account, yes.

12 Q Okay. And this is December of 2008; is that right?

13 A Yes.

14 Q And if you look down the left-hand side, you see dates;
15 right?

16 A Right.

17 Q And if you look at December 19th, you see an incoming wire
18 transfer for \$400,296.44? Do you see that?

19 A Yes.

20 Q What was that for?

21 A I don't know specifically. Do you want me to make an
22 assumption?

23 Q Well, let me just ask you a couple of questions. Did you
24 investigate what that money was for?

25 A No.

1 Q Do you have reason to believe sitting here today that it
2 was money coming back from the Swiss account?

3 A Based on statements that were made, I believe that that's a
4 possibility that, yes, those were funds coming back from the
5 Swiss account. I was told by Mr. Weinland's attorneys at some
6 point after my investigation had concluded that the Swiss funds
7 were brought back to the United States in December of 2008.

8 Q All right. And we see an incoming wire transfer of
9 400,000-plus dollars; right?

10 A Yes.

11 Q And you don't have any reason to think this bank statement
12 is inaccurate or anything like that?

13 A No. No. I did not see the specific backup documentation
14 for the wire. I'm assuming that what his attorneys told us is
15 accurate.

16 Q Right. You don't have --

17 A So that would make sense.

18 Q You don't have any reason to doubt that that's the money
19 coming in from Switzerland; right?

20 A If you say so, no.

21 Q Well, I'm not saying anything. You're the witness. In
22 January of '09 there was another 85 or \$86,000 that was wired
23 into the Church of God account as well; right?

24 A When?

25 Q In January of '09?

1 A I didn't look in January of '09. That was outside the
2 scope of my investigation. My investigation concluded -- it
3 encompassed only through December 31st, 2008.

4 Q Okay. Does this 400,000-dollar figure that we see on
5 Government Exhibit 10 at page 66 show up on any of your charts
6 anywhere?

7 A No. It's a deposit into a church account, so I did not
8 analyze the specific deposits of the church account. It was
9 irrelevant if they did not go into Mr. Weinland's personal
10 accounts.

11 Q And just to finish with this exhibit, when you were
12 computing the unreported income for Mr. Weinland, you didn't
13 reduce it by this \$400,000; right?

14 A It didn't go into his personal account. Again, I looked at
15 deposits into his personal account and funds flowing out of his
16 personal account. So this went into the church account, so --

17 Q And I understand your answer. I just need it clear for the
18 record. In your calculation of Mr. Weinland's unreported
19 income, you didn't reduce it by this \$400,000; right?

20 A Why would I?

21 Q I'm just asking the question.

22 A No.

23 Q Okay. Now, I want to ask you about Laura Weinland's
24 travel.

25 A Okay.

1 Q Hold on one second, please. I want to show you real
2 quickly here what's in evidence as Government Exhibit 78. These
3 are the personal credit card expenditures. You have broken them
4 down here by category; right?

5 A Yes.

6 Q And the first category we see there is airfare for family
7 members and vacations. Do you see that?

8 A Yes.

9 Q And the total for that category is \$103,174.96; right?

10 A Yes.

11 Q And you considered that entire amount to be income to
12 Mr. Weinland; right?

13 A Indirectly, yes. Again, the items of specific income to
14 Mr. Weinland were checks and transfers from Church of God
15 accounts into his personal accounts.

16 Q All right.

17 A And I have a specific schedule of each of those checks,
18 which were -- the majority of those checks were titled in the
19 memo line reimbursements for expenses.

20 Q All right. Just -- and I understand that that was the
21 money coming from the Church of God account into the personal
22 account; correct?

23 A Yes. And then I reduced those funds by business expenses.
24 What was left were what were determined not to be business, so
25 they are personal, and of those personal expenses that were on

1 the credit cards, those were the amounts.

2 Q All right. To the extent you concluded or -- sorry about
3 that word. To the extent you thought your investigation showed
4 that funds were reimbursement to Mr. Weinland for business
5 expenses or church expenses that he had incurred, you didn't
6 count those as income; right?

7 A The business expenses, no, they were deducted.

8 Q So this figure that we have here, this \$103,174.96 of
9 airfare for family members and vacations, that was travel that
10 you concluded was not a proper church expense; fair?

11 A Yes.

12 Q And included in that travel is a considerable amount of
13 travel by Laura Weinland?

14 A Who's not an employee of the church, yes.

15 Q I understand. You included Laura Weinland's travel in that
16 category; right?

17 A Yes, as well as Jeremy's travel and that of his wife and
18 Audra.

19 Q I understand. And you included Laura Weinland's travel
20 regardless of the purpose of that travel; is that fair?

21 A Well, the purpose of that travel, from what I was told from
22 witnesses, was to accompany her husband.

23 Q Let me ask my question again. You included Laura
24 Weinland's travel in that category regardless of its purpose;
25 right?

1 A No, it was with an understanding of the purpose of her
2 travel.

3 Q Let's suppose that -- Well, let me ask it this way: In
4 terms of you deciding whether to include her travel in the
5 personal category or the church category, what difference did it
6 make to you what the purpose was?

7 A Because it makes a difference. There's different
8 provisions under the tax code that would -- are very specific.
9 In certain occasions a spouse's travel could be considered a
10 working condition, fringe benefit. So you have to evaluate the
11 purpose of the travel, you have to evaluate how much time was
12 spent on pleasure and how much time was actually spent
13 conducting some type of service, and that's -- typically, it is
14 for an employee of the employer. However, when it is a spouse
15 of an employee. There's very specific I guess documentation
16 that should be made, there's very -- there's very specific
17 regulation under the tax code that the purpose of the trip is
18 very key to if it is considered a taxable event to the employee
19 or if it is not. And each trip should be evaluated separately.
20 It is not a general evaluation, so it's very specific.

21 Q All right. And in deciding to include Laura Weinland's
22 travel in the personal category rather than the church category,
23 did you analyze those trips under the provisions that govern
24 working conditions, fringe benefits?

25 A Well, I took the statements from the other church members

1 that were interviewed and the statements of Mr. Weinland and my
2 understanding of the purpose of her traveling, I was told that
3 she was his companion. I was told that by Mr. Weinland and by
4 pretty much every other member that was interviewed.

5 Q Now, we've heard testimony in this courtroom about
6 Mrs. Weinland's -- Laura Weinland's travel with Mr. Weinland;
7 correct?

8 A Yes.

9 Q And, of course, the jury's recollection controls, but would
10 you agree with me that there was testimony from Mr. Wrosek, for
11 example, to the effect that the husband and the wife function as
12 a team when counseling and going places for spiritual purposes?

13 A I recall a witness did state that. I don't know if it was
14 specifically Mr. Wrosek or not, I would have to look at my
15 notes.

16 Q But you recall testimony to that effect in this court?

17 A A witness did state that, yes.

18 Q All right. If we assume that that testimony is correct and
19 that -- which, of course, is not your decision or mine, it's the
20 jury's, would that change your assessment of whether Laura
21 Weinland's travel was for -- was a working condition, fringe
22 benefit, or not?

23 A Well, because the taxpayer determines that his wife is a
24 team member of his doesn't necessarily make it a tax deductible
25 event. There's -- that's why there's very specific code

1 regulations related to those types of expenses.

2 Q And I take it that in determining whether to include those
3 as personal expenses or church expenses, you considered those
4 very specific code regulations?

5 A I think you have to look at them. I think -- a large
6 majority of us that are married would think that our spouse is a
7 team member and we like to do things together, that's why you're
8 married, so it's not unusual that, you know, someone that
9 travels a lot would like to take their spouse with them. It
10 doesn't mean that it's not a taxable event.

11 Q Sure, I understand. In the general course, I would love to
12 be able to have my wife travel with me and not pay tax on it.
13 But here we're talking about a church; right?

14 A Yes.

15 Q And we're talking about a church that has certain beliefs
16 and practices; right?

17 A Yes.

18 Q And again, there's been testimony in the court that one of
19 those practices was for the husband and the wife to function as
20 a team for spiritual purposes; right?

21 A Yes.

22 Q And that wasn't anything Mr. Weinland said, that came from
23 the witnesses on the stand; right?

24 A The first time I had heard it was in the courtroom, yes.

25 Q And I understand. I'm not faulting you for anything that

1 happened before we got to trial.

2 A Uh-huh.

3 Q Does that testimony, now that you heard it, change your
4 assessment of whether Laura Weinland's travel ought to be
5 considered income to Mr. Weinland or a working condition, fringe
6 benefit?

7 A No, it should be income.

8 Q And is that true in your view regardless of the role that
9 Mrs. Laura Weinland played when she accompanied her husband on
10 church business?

11 A From my understanding, she was there as a companion to
12 Mr. Weinland. Mr. Weinland was the employee of the church.

13 Q Well, again, I understand what you learned during your
14 investigation. I want to focus a little more on what we learned
15 in court.

16 A Uh-huh.

17 Q I think there was testimony that, for example, when a
18 minister of the church, an elder of the church, counseled a
19 female member, another female member should be present. Do you
20 remember that testimony?

21 A I believe that's their preference.

22 Q Okay. And I think there's been testimony that -- about
23 Laura Weinland counseling people when she traveled with
24 Mr. Weinland. Do you recall that?

25 A Yes.

1 Q All right. So that's a little different than just being a
2 companion, wouldn't you agree?

3 A Well, no, because she could provide that counseling through
4 other means as well.

5 Q I'm not sure I follow you.

6 A I think we also heard testimony that she could also provide
7 that testimony -- or that counseling on the phone and I think
8 Mr. -- it may have been Mr. Wrosek that actually stated that she
9 did provide counseling to him on the phone, either to him or his
10 wife.

11 Q All right. So, again, in your view, where Mr. Weinland
12 went wrong here was he should have either claimed
13 Mrs. Weinland's travel as income or had her counsel on the
14 phone; are those the choices?

15 A Well, you know, that's why there's specific tax codes to
16 address certain issues, because taxpayers do not get to
17 determine based on how they may choose to conduct their
18 practices whether it's taxable income to them or not. The tax
19 code -- there's legislation that actually determines that. And
20 I think in this situation, Mr. Weinland now -- I was told
21 throughout the course of the investigation that Mrs. Weinland
22 was there as a companion. Now, after the fact, when
23 Mr. Weinland is indicted on tax evasion charges, now they're
24 justifying what -- or they're telling us a different story as
25 far as what Mrs. Weinland's purpose was. And even if that was

1 her purpose, that she assisted with some counseling of church
2 members, she could have done that without traveling all over the
3 world with Mr. Weinland on a pretty regular basis. I think her
4 travels were more geared towards her lifestyle and that is why
5 that would not be a working condition, fringe benefit. You have
6 to look at how much time she actually spent conducting any type
7 of service and if that service could be conducted in any other
8 manner and then you also have to look at how much time was spent
9 for entertainment, shopping, and other items. And as well,
10 Mr. Weinland's travels, I was actually very conservative and
11 gave him --

12 Q I'm not asking you about his travel at this point.

13 THE COURT: I'm sorry, she can continue to answer the
14 question.

15 You may continue.

16 THE WITNESS: Okay. Mr. Weinland's travels, I was
17 very conservative and I allowed him all of his travel expenses
18 without taking into consideration what aspect of each of those
19 trips was personal. And some of those trips were I'd say
20 predominantly personal where he would travel, especially
21 overseas, where he may not have -- he may have only attended --
22 or provided a service on Saturday, but he traveled the full week
23 with -- where he was given a deduction for all of those
24 expenses, like I said, that were predominantly personal.

25 BY MR. CLINE:

1 Q All right. Let's go back to Mrs. Weinland, because that's
2 what I want to focus on here. Out of that \$103,000, how much of
3 that is for Mrs. Weinland's travel?

4 A I would have to look at the specific transactions and then
5 add them up to determine that.

6 Q Do you have a rough idea?

7 A I don't know. I mean, if you throw something out there, I
8 may be able to tell you if that seems right or not, but --

9 Q More than half?

10 A More than half.

11 Q More than three-quarters? If you get to a point where you
12 don't know, that's fine.

13 A I would have to look at it. I would say you're -- more
14 than three-quarters might be accurate.

15 Q All right. And that -- if it's more than three-quarters,
16 more than half, whatever, that represents a series of trips that
17 Mrs. Weinland took; right?

18 A Yes.

19 Q Did you look at each of those trips individually and look
20 at Mrs. Weinland's activities on each of those trips
21 individually to find out whether she was predominantly engaging
22 in pleasure activities or predominantly engaging in church
23 activities?

24 A Well, again, she was not an employee of the church. So the
25 church paying for her travel expenses when she was clearly a

1 companion to Mr. Weinland, based on his statements and the
2 statements of, you know, every other church member that I spoke
3 to, I would say that doesn't matter.

4 Q Okay. So that's really the point I wanted to get to. From
5 your perspective, it didn't matter whether she spent a
6 hundred percent of her time on the trip on church -- working on
7 church matters --

8 A No.

9 Q -- or whether she spent a hundred percent of the time lying
10 in the sun?

11 A Well, I know she didn't spend a hundred percent of her time
12 on church matters. I would say it was the latter.

13 Q But my question is, did it matter to you in making your
14 determination whether it was personal or church?

15 A It would have mattered to a very limited scope.

16 Q I take it that you -- Back to my original question in the
17 sequence. I take it you have not gone trip by trip and looked
18 at Mrs. Weinland's activities trip by trip to determine whether
19 it was mostly one or mostly the other; is that fair?

20 A Well, like I said, it doesn't matter based on the other
21 factors, but I also did look at the expenses trip by trip by
22 trip. I looked at the activities, because I seen the expenses,
23 the shopping trips, the other personal services that were
24 charged on the credit cards during those trips. It was clear
25 there was a lot of personal attributes to all the travels for

1 Mr. Weinland as well.

2 Q But, again, I want to focus on Mrs. Weinland. Did you do
3 any sort of trip-by-trip analysis to see how much of her time on
4 that trip -- of course, she did go shopping or whatever, but how
5 much of the time was spent on church business on those trips?

6 A Again, it didn't matter.

7 Q That's really what I wanted to get to. It didn't matter;
8 right?

9 A Right.

10 Q It sounds as though maybe the most important determination
11 or factor for you here was that Mrs. Weinland was not an
12 employee of the church; is that right?

13 A That's a considerable factor, yes.

14 Q All right. If Mrs. Weinland had been an employee of the
15 church and had traveled with Mr. Weinland on church business,
16 would her travel expenses have been deductible just as his were?

17 A No. And actually, like I said, I was very conservative
18 with Mr. Weinland and allowed him all of his travel expenses,
19 100 percent, where it seemed the easier course -- in criminal
20 matters, that's just typically standard procedure. You don't
21 get caught up in the specifics. But if they were both traveling
22 and if Mrs. Weinland -- you know, you have to make a lot of
23 assumptions to answer your question. If Mrs. Weinland was
24 receiving a fair salary and paying taxes on that salary and she
25 was incurring some legitimate expenses for her -- serving her

1 church in her capacity as an employee, then you would have to,
2 again, look at how much of those trips were considered where she
3 was actually performing church -- a church function and how much
4 was pleasure.

5 And I would also have to look at Mr. Weinland's trips under
6 that same scope, and I think if we looked at Mr. Weinland's
7 trips under that same scope, his income or his expenditures
8 related to credit cards would be much higher on the personal
9 side than that of the business. So I gave Mr. Weinland the
10 benefit and just gave him those trips 100 percent as a church
11 expense.

12 Q I understand. But, again, I want to go back to
13 Mrs. Weinland. If she had been an employee of the church and if
14 she had traveled with Mr. Weinland on church business and
15 performed church business herself on that travel, would that
16 have changed your assessment of whether the travel expenses were
17 church or personal?

18 A It would have changed the manner that I looked at both of
19 those travels.

20 Q All right. Who made the employment decisions of the
21 church?

22 A Mr. Weinland.

23 Q All right. So, again, if I'm understanding you right, if
24 he had made Mrs. Weinland an employee and she had traveled with
25 him on church business, that would have changed the assessment

1 of whether her expenses, her travel expenses, were church or
2 personal; is that fair?

3 A It would have changed his as well.

4 Q I want to ask you a few questions about the jewelry that
5 we've heard about in this case.

6 A Okay.

7 Q And again, we've heard some testimony in court that at
8 least some of the jewelry -- that there were jewelry purchases
9 that you considered to be for personal purposes; correct?

10 A Yes.

11 Q And we've heard some testimony in court that the Weinlands
12 purchased jewelry to use for barter purposes if the end time
13 came as they believed. Do you recall that testimony?

14 A Yes.

15 Q If the jury were to conclude, if it were the case, that
16 Mrs. Weinland or Mr. Weinland purchased jewelry for the church's
17 use, would that change your assessment of whether it was
18 personal or business?

19 A Those purchases were personal.

20 Q I beg your pardon?

21 A They were personal.

22 Q But I'm asking you now to look at it a little different.
23 If the purchases were made for the benefit of the church and the
24 jewelry was held by the Weinlands for the benefit of the church,
25 in your opinion, would that make it a church expense?

1 A I don't believe the jewelry was held for the church
2 purposes.

3 Q I understand that you have formed conclusions about this
4 and I accept your view. I don't agree with you necessarily, but
5 I accept that you formed that view. I'm asking you to look at
6 it from a different perspective.

7 If the jewelry was held by the Weinland's for the benefit
8 of the church, would that count as income to the Weinlands?

9 A Yes.

10 Q Even if it was held for the benefit of the church?

11 A Yes.

12 Q And do you have an IRS -- a tax code provision or
13 regulation that you rely on to form that conclusion?

14 A It's a personal item. It's no different than if you buy a
15 suit, you may be buying a suit to give a sermon, but you can
16 also use that suit in your personal life, so therefore, it's not
17 tax deductible. The same thing, it's a personal article.

18 Also, we heard testimony that Mr. Weinland was purchasing
19 jewelry to give as gifts to family members and other things of
20 that nature, giving the jewelry to his daughter as well. So,
21 you know -- and Mrs. Weinland wore that as a personal article,
22 that she wore jewelry on her person also.

23 Also they were not -- you know, they didn't have just loose
24 stones. I mean, they were also incurring costs to have items
25 made, the actual craft of developing the piece of jewelry that

1 she was wearing. So like I said, it's a personal article.

2 Q Are you familiar with the concept of a trust, someone holds
3 something in trust for someone else or another entity?

4 A Yes.

5 MR. MCBRIDE: Your Honor?

6 THE COURT: Yes.

7 MR. MCBRIDE: Objection, beyond the scope of direct.

8 THE COURT: Sustained.

9 BY MR. WEBB:

10 Q If Mr. Weinland were holding -- or Mrs. Weinland were
11 holding -- and I'm not talking about the jewelry that was gifts,
12 that was a personal thing. But assuming that Mr. Weinland or
13 Mrs. Weinland was holding jewelry for the benefit of the
14 church --

15 MR. MCBRIDE: Objection, Your Honor.

16 THE COURT: Sustained.

17 BY MR. CLINE:

18 Q Let's talk about the credit cards a little bit. All of the
19 credit cards that we've been talking about here were personal
20 credit cards; right?

21 A Yes.

22 Q There were no church credit cards; right?

23 A Correct.

24 Q And Mr. Weinland and Mrs. Weinland made personal charges on
25 those personal cards; right?

1 A Yes.

2 Q They also made charges for church expenses on those credit
3 cards; right?

4 A Yes.

5 Q And church money was put into the personal bank accounts;
6 right?

7 A Yes.

8 Q And is it fair to say that to the extent church money was
9 used to reimburse those church expenses that were charged on the
10 personal cards, you didn't consider that to be income to
11 Mr. Weinland?

12 A Can you repeat that?

13 Q Sure. To the extent that church money that was put into
14 the personal accounts was used to reimburse Mr. Weinland for
15 church expenses that he had incurred on cards, you didn't count
16 that to be income; right?

17 A No, he was given a reduction for the amounts that were
18 church.

19 Q Now, I want to talk a little bit about the percentages of
20 personal versus church as you have determined; okay?

21 A Yeah.

22 Q Let me get my chart. I'm going to show you what's in
23 evidence as Government Exhibit 77. Do you see that?

24 A Yes.

25 Q And I just want to run through these with you. For 2004 --

1 And again, all of these charges are on a personal card; right?

2 A Yes.

3 Q Okay. So for 2004, 33 percent of the charges on the
4 personal card were personal and 67 percent, by your
5 determination, were church; right?

6 A Yes.

7 Q And for 2005, 38 percent of the charges on these personal
8 cards were personal and 65 percent were church; right?

9 A Actually, it's 65 on the chart. Actually, it's 62 percent.
10 There was an error, a typographical error, where he incurred an
11 expense of \$70.98 in the year of 2005 and it was typed in
12 7,000 -- 7098. So that kind of puts the percentage off by about
13 \$7,000. But it's to Mr. Weinland's benefit, so it was not
14 correct. But I thought it was more important to get you the
15 final numbers the week prior to trial.

16 Q Yeah, that's fine. I see adding those two figures up would
17 come to 103 percent.

18 A Right. Yeah. Yeah.

19 Q It was only a hundred percent; right?

20 A Yeah. It's \$7,000 off, yeah.

21 Q So it's 38 percent personal and 62 percent church on the
22 personal card; is that right?

23 A Yeah. But he's give an extra deduction, yeah.

24 Q Now, in 2006, it's 46 percent personal on the personal
25 cards and 54 percent church; right?

1 A Yes.

2 Q In 2007, 29 percent personal on the personal cards and
3 71 percent church; right?

4 A Yes.

5 Q And in 2008, when we had the Google expenses, it's
6 five percent personal on the personal cards and 95 percent
7 church; right?

8 A Yes.

9 Q And the allover figure, which isn't on this chart, but I
10 think you've calculated it elsewhere, is 17 percent personal
11 over this whole period on the personal cards and 84 percent
12 church; right?

13 A I think that might be on one of my schedules.

14 Q Do you want me to show you to refresh your recollection?

15 A I've got it up here. That looks correct, yes, 17 percent
16 personal, 84 church.

17 Q Now, that comes to 101 percent. I take it that's just a
18 rounding issue?

19 A Yes, probably. And some of that, too, is going to have to
20 do with the error, but, yes.

21 Q Can we say, then, 17 percent personal, 83 percent church
22 over the whole period?

23 A Or vice versa, yeah.

24 Q Okay. Now, I want to talk with you a little bit about
25 Mr. Weinland's salary and about these accounts. The credit

1 cards you found in your investigation were paid out of
2 Mr. Weinland's and Mrs. Weinland's personal bank accounts;
3 correct?

4 A The majority of them were. There were some that were paid
5 directly by the church.

6 Q But the majority were paid out of their personal accounts;
7 right?

8 A Yes.

9 Q And sometimes they were paid by check and sometimes they
10 were paid by an electronic transfer of some kind; right?

11 A Yes.

12 Q So I want to talk about the money that was in the personal
13 account; all right?

14 A Okay.

15 Q Your investigation covered the period from January 1st of
16 '04 through December 31st of '08; is that right?

17 A Yes.

18 Q As of January 1st of '04, was there any money in the
19 Weinland's personal accounts?

20 A I'm sure there was.

21 Q Do you know how much?

22 A No. Off the top of my head, no, I would have to look at
23 the bank statements.

24 Q All right. But there was some amount of money in their
25 personal accounts?

1 A Sure.

2 Q Now, each month, Mr. Weinland got a salary from the church;
3 right?

4 A Yes.

5 Q And the money from the salary would go into those personal
6 accounts; right?

7 A Yes.

8 Q And how much was the monthly salary?

9 A 5900 for 2004 through 2007 and then 8,750 for 2008.

10 Q And that amount each month would be deposited into the
11 account?

12 A Yes.

13 Q Now, there was also, as your schedule shows, Church of God
14 money that would be transferred from the Church of God account
15 into the personal account; right?

16 A Yes.

17 Q And that money, the money, whatever it was that was in the
18 accounts at the beginning of '04, Mr. Weinland's salary and the
19 Church of God money, was all mixed together in the personal
20 account; is that how it worked?

21 A Yes.

22 Q I think you used the word commingled, but that's --

23 A There was extensive commingling and primarily in the credit
24 cards, but also in the personal accounts.

25 Q And commingling is a term that we used, but it means it was

1 all mixed together; right?

2 A Right.

3 Q And then the credit cards would be paid out of those
4 accounts; right?

5 A Out of his personal accounts, yes.

6 Q Now, I want to show you some of the -- just a couple of the
7 receipts that we looked at as part of Joint Exhibit 2. Do you
8 recall that, I think when Mr. -- I'm trying to think who the
9 witness was, Mr. Dalrymple maybe, was being asked about some
10 receipts. Do you recall that?

11 A Yes.

12 Q And we put in Joint Exhibit 2 and it has a series of
13 receipts. Do you recall those?

14 A Yes.

15 Q All right. I just want to show you a couple of these to
16 ask you basically the same question. This is one from -- I
17 don't see the date -- July 25th of '04, deep tissue massage, it
18 looks like \$84, something like that. Do you see that?

19 A Yes.

20 Q Now, looking at this receipt, can you -- and based on your
21 investigation, can you tell us whether this particular charge
22 was paid with Mr. Weinland's salary money or the money that was
23 already in the account, the personal accounts, at the beginning
24 of '04 or whether it was paid with Church of God money?

25 A You can't determine. You know, the money in his account is

1 not earmarked when he pays out a bill. You've got -- you look
2 at funds that were available to him, it's -- which included the
3 majority of the Church of God accounts and then you look at how
4 he spent the money. His personal expenses far exceeded his
5 salary that was deposited into his account. So, you know, if
6 you look at what he spent for personal items and it exceeded the
7 income he had available as claimed on his tax return, there's a
8 very large excess amount that was spent. Where did that money
9 come from? Obviously, it came from the funds from the church
10 that were deposited into his account.

11 Q And I had a much simpler question than that. For this
12 particular receipt, the massage, are you able to determine
13 whether that charge was paid for out of Mr. Weinland's salary or
14 whatever existing money he had in that account or out of that
15 church money that went into that account?

16 A I believe --

17 MR. MCBRIDE: Objection, asked and answered.

18 THE COURT: Sustained.

19 BY MR. CLINE:

20 Q Let me show you another receipt here. Here's a receipt,
21 part of Joint Exhibit 2, July 19th of '05 -- I'm sorry, that's
22 not centered very well. Can you see that?

23 A Yes.

24 Q It looks like it's some kind of a --

25 A Fashion show in Vegas.

1 Q Fashion show or something.

2 A Uh-huh.

3 Q Same question, are you able to determine whether that
4 receipt, that charge, was paid for out of Mr. Weinland's
5 personal money, his salary and existing money he may have had,
6 or out of Church of God money?

7 A I think I would have to give the same answer.

8 Q Which is you can't really tell; right?

9 A Well, you can --

10 MR. MCBRIDE: Objection to the characterization.

11 MR. CLINE: I'm just trying to get a yes or no really.

12 THE COURT: Sustained.

13 Ma'am, unless an expense exceeded the annual income
14 declared, would you be able to make that determination for any
15 of these expenses?

16 THE WITNESS: No.

17 MR. CLINE: Thank you, Your Honor. Better question
18 than mine.

19 BY MR. CLINE:

20 Q Did you find in the course of your investigation who it was
21 who set Mr. Weinland's salary?

22 A I'm sorry, what, now?

23 Q Sorry, I switched topics a little bit there. Based on your
24 investigation, who established Mr. Weinland's salary?

25 A Mr. Weinland.

1 Q All right. If he had wanted to raise his salary, he could
2 have, is that fair, based on your investigation?

3 A Yes, and then he would have had to have paid higher tax on
4 the salary.

5 Q Sure. He could have raised it -- was there any limit that
6 you're aware of, based on any investigation that you did, on
7 where he could have set his salary?

8 A No.

9 Q Let me switch to food and beverage expenses. Let me start
10 with Government Exhibit 78. This is just to get us oriented
11 here a little bit. We're talking about personal credit card
12 expenditures. Do you see that?

13 A Yes.

14 Q And you've got a category here called daily food and
15 beverage. Do you see that?

16 A Yes.

17 Q And the figure is \$69,584.72; right?

18 A Yes.

19 Q Okay. And that's all -- that's the total of the daily food
20 and beverage during the period we're talking about that you
21 included in personal income to Mr. Weinland; correct?

22 A Well, it's daily when he was local, home. It's also
23 groceries from Kroger, dining out on a daily basis, sometimes
24 three times a day locally. That does not include when he was
25 out of town traveling.

1 Q And I'm going to ask you some questions about that. I just
2 want to sort of set the stage here. That \$69,000 is for the
3 entire period we're talking about, 2004 to 2008?

4 A Yes.

5 Q Daily food and beverage that you considered to be personal
6 to Mr. Weinland; right?

7 A Yes.

8 Q Okay. Now to get to your point. The way you arrived at
9 that, and correct me if I misunderstood, for the most part,
10 out-of-town food and beverage you counted as business; right?

11 A Yes, for the most part. There was some Las Vegas trips I
12 did not, because based on witness statements, those were
13 personal trips. And then there may have been a few other that I
14 was -- you know, during the course of the investigation it was
15 determined that they were personal.

16 Q Just from looking at your chart, tell me if I've drawn the
17 right conclusion. It looks to me as though the out-of-town
18 trips that you intended to count as personal were some Las Vegas
19 trips, some Hawaii trips, and there's some winery charges; is
20 that --

21 A Correct, yeah. I think that -- and the winery charges, I
22 went back in after I got -- we were prepping for trial and we --
23 actually, we gave the majority of them if they were around the
24 holy days.

25 Q So non-holy day related winery charges would have been

1 counted as personal?

2 A Yes.

3 Q Okay. I want to just show you a couple of items and just
4 ask you -- maybe that you just overlooked them or maybe that
5 there's a reason for including them in this chart; okay?

6 A Okay.

7 Q I'm going to be referring you to Government Exhibit 74 and
8 I want to start with page -- Do you have that up there?

9 A Yes.

10 Q Okay. And I want to start with page 47. Are you with me?

11 A Okay.

12 Q Do you see about -- a little more than halfway down the
13 page -- Let's see if I can expand that. Do you see HMS host,
14 Los Angeles, California?

15 A Yes.

16 Q Is that included on there for any reason or is that just
17 one that you missed?

18 A That's -- well, and let me explain what happened with the
19 food and beverage. Initially, prior to trial, food and beverage
20 was -- it was not given to him when he was traveling 100 percent
21 because he had Mrs. Weinland with him. So, obviously, some of
22 the food and beverage charges out of town would have been
23 attributable to Mrs. Weinland, which would not have been
24 excluded as a business expense. And so what I did is I had
25 those items and I reduced them by 50 percent, food and beverage

1 by 50 percent. We're prepping for trial, preparing for trial,
2 to simplify things for the jury and to be conservative and give
3 Mr. Weinland a greater benefit, I changed them and gave the
4 out-of-town food and beverage purchases as a deductible church
5 expense. So this particular one, I must have missed, but, you
6 know --

7 Q Okay. That's all right. I just wanted to make sure there
8 wasn't something special about this one. It's one that you
9 missed?

10 A Yeah.

11 Q Let me show you a couple of others. They may fall in the
12 same category. Can you go to page 49? Are you with me?

13 A Yeah.

14 Q Okay. And if you look down here towards the bottom of the
15 page, 5-11-06, Cracker Barrel, Meadville, Pennsylvania?

16 A Yeah.

17 Q Another one --

18 A Probably, yeah, I would say. I don't know anything
19 specific about that particular trip, but, again, really all the
20 travel -- the food and beverage should have been only given a
21 50 percent reduction where he was given a hundred percent.

22 Q Sure. But this one entry here, Cracker Barrel, Meadville,
23 Pennsylvania, that's probably just an oversight?

24 A Yes.

25 Q I just have a couple more. I just want to make sure we're

1 not -- there's nothing special about them. Look at page 57,
2 please. Are you with me?

3 A Yes.

4 Q Look up here at the top. It looks like Sunset Food Mart,
5 Spokane, Washington, \$35. Do you see that?

6 A Yes.

7 Q Anything special about that one or is that probably just
8 one that you missed?

9 A Well, I would think that's one that I missed, but we could
10 go back and just give him 50 percent of those if that would be
11 easier.

12 Q I understand. But I'm just trying to -- in terms of your
13 methodology here, that was one that you probably intended to
14 take off but just overlooked?

15 A Yes.

16 Q I just want to show you one more. Page 65. Will you look
17 up there at the top of the page? Do you see those Texas
18 charges?

19 A Yes.

20 Q Same thing?

21 A Well, I'm not exactly sure where Addison, Texas, is. I
22 would think so. But I do want to point out, though, the
23 Corpus Christi trips to see Laura's mother, those were all given
24 to them as well. And I'm not sure if Addison, Texas, is close
25 in relation to that, but this would have been -- it's possible

1 that that may have been related to one of those trips. But I
2 would say that it's probably an oversight.

3 Q Okay. And I don't want to spend a lot of time on this, but
4 is it fair to say that if we come across on this chart --
5 Government Exhibit 74, if we come across out-of-town charges
6 other than the categories we've talked about, Las Vegas, Hawaii,
7 and wineries not around the feast days, those were probably ones
8 that you meant to take off and just overlooked?

9 A I would say that they're probably pretty few. I think you
10 probably found all of them. And like I said, we could just give
11 him the 50 percent. I think the conservative approach and the
12 benefit to Mr. Weinland would be to do it the way that I did it.

13 Q Now, I want to talk a little bit about some of the local
14 food charges. And again, I want to make sure I've understood
15 your methodology. Is it fair to say that any local food charge
16 counted as a personal expense?

17 A The majority, yes.

18 Q Were there any exceptions?

19 A If there was an elder meeting or something to that effect
20 and I was told that and there was a specific date, I would have
21 given that as a church expense.

22 Q Other than that circumstance, if you just had a charge for
23 a restaurant locally and no one specifically told you that it
24 was for an elders meeting or anything like that, you treated
25 that as a personal expense?

1 A Yes.

2 Q Okay. I want to look at a few of those, or at least one,
3 one representative one. Do you still have Government Exhibit 74
4 up there?

5 A Yes.

6 Q If you could go to page 43. And I've picked this one just
7 as sort of an example to talk about your methodology, nothing
8 special about it.

9 Do you see up there near the top 4-21-05, Cafe Istanbul,
10 Newport, Kentucky?

11 A Yes.

12 Q And then you follow that across, food and beverage,
13 \$216.63. Do you see that?

14 A Yes.

15 Q Now, that's included on the list of personal expenditures;
16 right?

17 A Yes.

18 Q And I want to show you Defendant's Exhibit 205, which is a
19 receipt which I think is in evidence.

20 MR. CLINE: There's no objection to it?

21 MR. MCBRIDE: No.

22 THE COURT: I think it's a stipulated exhibit, Your
23 Honor.

24 MR. CLINE: Your Honor, I'll offer Exhibit 205 in
25 evidence.

1 THE COURT: I don't see it on the list of stipulated
2 documents, so we'll need to --

3 Mr. McBride, is there a stipulation as to this
4 particular document?

5 MR. MCBRIDE: Your Honor, I would have to check our
6 list.

7 THE COURT: It's not on the original list. I'm not
8 sure if the parties stipulated sometime thereafter.

9 MR. MCBRIDE: Your Honor, I think it's a -- what this
10 is is a document within the page range of the stipulated
11 exhibits, Your Honor. But I think for this purposes, perhaps
12 counsel has marked it separately. So since it is within the
13 range of the stipulated documents, we do not have an objection.

14 THE COURT: Very well. It can be displayed to the
15 jury.

16 MR. CLINE: Thank you.

17 BY MR. WEBB:

18 Q So, Agent Palmisano, let me show you Defendant's
19 Exhibit 205. Do you see that?

20 A Yes.

21 Q And does that look like the receipt that corresponds to the
22 entry on Government Exhibit 74 that we looked at a moment ago?

23 A Yes.

24 Q Okay. Now, do you know based on your investigation what
25 this 216-dollar meal was?

1 A Food and beverage purchase.

2 Q I understand that. But do you know whether it was Mr. and
3 Mrs. Weinland having a night out or whether it was, for example,
4 Mr. Weinland meeting with church members to talk about church
5 business?

6 A I don't know. But if it was the latter, that would be
7 considered entertainment, it's only 50 percent tax deductible.
8 And again, instead of -- you know, you're kind of splitting
9 hairs here. And, you know, I gave the more conservative method
10 where I just gave him all his travel in that 100 percent where
11 really those charges too should have been 50 percent to him.
12 Also, with anything that may have been considered entertainment
13 for church purposes, that would have been subject to a
14 50 percent reduction as well. So Mr. Weinland's ahead the way
15 that I did it.

16 So, you know, you can't have it both ways. I mean, I can
17 either give him the conservative approach or we can go in and we
18 can split hairs and pull very specific receipts, and the way
19 that I did it benefits him more.

20 Q All right. Let me just get a clear answer to the question
21 that I asked you. For this particular charge, do you know
22 whether this was Mr. and Mrs. Weinland having a night out or
23 whether it was Mr. Weinland meeting with church members for
24 church business of some kind?

25 A I don't know, but I didn't --

1 MR. MCBRIDE: Asked and answered, Your Honor.

2 THE COURT: Overruled.

3 THE WITNESS: I didn't have that receipt when I did
4 the classifications either and so, you know, to know one or the
5 other, I wouldn't have known, and that's one of the reasons why
6 I took the approach that I did.

7 BY MR. CLINE:

8 Q Sure, and I understand, I'm not faulting your
9 investigation, I'm just asking you as you sit here today whether
10 you know one way or the other.

11 A It doesn't really matter. I think he got the better
12 benefit.

13 Q And I don't want to do this, but if I were to go through
14 the receipts for the local food and beverage restaurants, I'm
15 not talking about grocery stores and things like that, I'm
16 talking about restaurants locally that you included in personal,
17 is it fair to say that if I asked you the same series of
18 questions about any number of those receipts, you wouldn't be
19 able to tell me whether it was Mr. and Mrs. Weinland having a
20 nice night out or whether it was Mr. Weinland meeting with
21 church members?

22 A I don't think that's a fair -- no, I don't think that's
23 accurate, because a lot of the purchases were small. It seems
24 logical to conclude that it was, you know, two people in the
25 morning, afternoon, evening. I talked with church members, it

1 was rare that the church paid their food and beverage. I think
2 we even heard testimony to that effect here, that the church did
3 not provide meals to the members, that they did not go out and
4 dine with the Weinlands. So, no, I don't think it would be fair
5 to -- if we looked at each receipt to be able to make that
6 determination. I think the statements that were made make that
7 determination more so.

8 Q All right. Let me ask it this way: You -- and again, I'm
9 not faulting you for this, but you didn't take this receipt or
10 the credit card statement for that matter that had Cafe
11 Istanbul, \$216.83, and try to track down for each of those meals
12 what was going on; is that fair?

13 A Well, I didn't have the receipts, okay, to do that until
14 three weeks prior to trial. And then that would -- that's
15 why -- when you commingle extensively your personal and business
16 matters, it makes it very difficult, and so that is why I
17 gave -- I determined food and beverage the manner that I did, to
18 the benefit of Mr. Weinland, and I gave him 100 percent of all
19 the travel where it would have been subject to only 50 percent,
20 as well as any entertainment expenses. But I think overall,
21 from the witnesses that were interviewed that stated that the
22 church did not pay for their meals, I think that it's fair to
23 assume that the majority of these were personal.

24 Q All right. Mr. Weinland lives in the local area; right?

25 A Yes.

1 Q Although he does travel quite a bit; right?

2 A Yes.

3 Q He also does church business locally; right?

4 A I would assume so.

5 Q All right. And it is not unreasonable to conclude that
6 some of that church business is done over meals, over coffee;
7 right?

8 MR. MCBRIDE: Objection.

9 THE COURT: Sustained.

10 MR. CLINE: I'm sorry?

11 THE COURT: Sustained.

12 BY MR. CLINE:

13 Q Do you know whether, based on your investigation, some of
14 that church business is done over meals or coffee?

15 A Based on statements that were made to me during the
16 investigation, church members told me that they would pay their
17 food and beverage. So it's --

18 Q That's not part of my question. When Mr. Weinland was
19 local and he was doing church work locally, do you know whether
20 he would sometimes do that work over meals or coffee locally?

21 A I don't know.

22 Q Okay. Now, I want to ask you about --

23 MR. CLINE: Your Honor --

24 THE COURT: Would this be a good place to take our
25 morning break?

1 MR. CLINE: That's fine. Sure.

2 THE COURT: We'll take a recess at this time.

3 Ladies and gentlemen of the jury, please keep in mind
4 the admonition that you've been given several times not to
5 discuss the case among yourselves while we are in recess. Of
6 course, don't allow anyone to approach you to discuss the case,
7 and if that should happen, of course, you should report that to
8 the Court promptly.

9 We'll take a 15-minute recess at this time.

10 (Whereupon, the jury retired from the courtroom, after which
11 the following proceedings were had in open court.)

12 THE COURT: Thank you.

13 Counsel, any matters to take up outside the presence
14 of the jury?

15 MR. CLINE: No, Your Honor.

16 MR. MCBRIDE: Not a this time, Your Honor. Thank you.

17 THE COURT: All right. Thank you. We'll be recess
18 for 15 minutes.

19 (Whereupon, the jury returned to the courtroom, after which
20 the following proceedings were had.)

21 THE COURT: Thank you.

22 The record will reflect that all members of the jury
23 are present. The defendant and all attorneys are also present
24 in the courtroom. Let's see, I will remind Special Agent
25 Palmisano that she's still under oath.

1 And you may continue with your cross-examination.

2 MR. CLINE: Thank you, Your Honor.

3 BY MR. CLINE:

4 Q Agent Palmisano, I want to move to the category of retail
5 expenses. Do you know what I'm talking about?

6 A Yes.

7 Q I want to focus you on Government Exhibit 74, which is the
8 one we've been talking about; right? And there's a category in
9 Government Exhibit 74 which is just these personal expenses that
10 you have presented on this chart that covers retail; right?

11 A I grouped them, yes, as retail.

12 Q All right. And the total of that is about \$197,819.48;
13 right?

14 A I would have to look at the chart, but --

15 Q Take a look at Government Exhibits 78. I think that will
16 help you out.

17 A Yes.

18 Q All right. Now, I just want to take a couple of examples
19 from Government Exhibit 74 and talk with you about them, the
20 retail expenses. And let me start with page 85 of Government
21 Exhibit 74. And I'll show you on the Elmo here what we're
22 talking about. I'm on page 85 of Government Exhibit 74. And
23 I'm showing you -- whoops. Do you see -- for April 23rd, 2004,
24 you see a Home Depot expense?

25 A Yes.

1 Q And that's for \$11.33. Do you see that?

2 A Yes.

3 Q And again, this is included on the personal charges that
4 you determined to be personal; right?

5 A Yes.

6 Q Now, I want to show you a receipt. This is Defendant's
7 Exhibit 180.

8 MR. CLINE: Your Honor, I think this is in that same
9 range, and so I'll offer Defendant's Exhibit 180.

10 THE COURT: All right.

11 MR. MCBRIDE: No objection, Your Honor.

12 THE COURT: You're moving for its admission or just to
13 show it to the --

14 MR. CLINE: I would like to have it admitted, Your
15 Honor.

16 THE COURT: Very well.

17 No objection?

18 Defendant's Exhibit 180 will be admitted.

19 BY MR. CLINE:

20 Q Agent Palmisano, let me put Defendant's Exhibit 180 up on
21 the screen and I'll blow it up a little bit. Now, just take a
22 look at that and take a look at Government Exhibit 74 and tell
23 us if that is the receipt that corresponds to that Home Depot
24 entry that we looked at a minute ago.

25 A It appears to be.

1 Q All right. And based on the receipt, you see that what's
2 being paid for here is duct tape; right?

3 A Yes.

4 Q Now, is it fair to say that if that duct tape was going to
5 be used to seal a leak in Mr. Weinland's bedroom, that would be
6 a personal expense; right?

7 MR. MCBRIDE: Objection, calls for facts not in
8 evidence, Your Honor.

9 THE COURT: Sustained.

10 BY MR. CLINE:

11 Q Do you know what the purpose of that duct tape was?

12 A Well, based on witness statements, no, I don't.

13 Q And would you agree with me that if it was for a church
14 purpose, it would be a proper church expense?

15 A If the individuals that I interviewed, when they reviewed
16 the list, if they identified that as a church expense, it would
17 have been given as a church expense.

18 Q Again, looking specifically at this receipt for duct tape
19 on whatever day this was, you don't know whether it was duct
20 tape for the church or duct tape for some personal use; right?

21 A I didn't have that receipt, so looking at it now, no.

22 Q All right. Let me show you another expense in the retail
23 category. I want you to look at page 87 of Government
24 Exhibit 74. Do you see up there near the top there's a
25 June 18th, 2004, expense at Mall Queen?

1 A Yes.

2 Q And it's in Carrollton, Texas; right?

3 A Yes.

4 Q And it's for, it looks like, if I'm following the line
5 correctly, \$370.55?

6 A Yes.

7 Q And that's -- again, that's included on your list of
8 personal expenses; right?

9 A It was not identified by members of the church as a church
10 expense, yes.

11 Q Now I want to show you a receipt.

12 MR. CLINE: Your Honor, this is Defendant's Exhibit
13 183, it is also within the numbered range. I would ask that it
14 be admitted.

15 THE COURT: All right. Any objection?

16 MR. MCBRIDE: No, sir.

17 THE COURT: Defendant's Exhibit 183 will be admitted
18 and may be displayed if you wish to do so.

19 MR. CLINE: Thank you, Your Honor.

20 BY MR. CLINE:

21 Q So let me show you what's been admitted as Defendant's
22 Exhibit 183. Take a look at that receipt. And does that
23 receipt appear to you to correspond with that Mall Queen entry
24 we looked at on Government Exhibit 74?

25 A It appears to be.

1 Q Okay. And it's a little bit hard to make out what's being
2 purchased there, but it looks like it is a whole series of
3 baskets of some kind. Would you agree with me?

4 A It could be.

5 Q It could be buckets, it could be baskets, something that
6 had B-K-T as the initials; right?

7 A Yes.

8 Q Do you know why the Weinlands were purchasing a whole
9 series of baskets or buckets in Carrollton, Texas?

10 A I don't know. You have to understand whenever you
11 commingle extensively your personal and business expenses, it's
12 an effective way to hide income, but it also takes a great deal
13 of investigation to get it 100 percent accurate. So there's
14 always a small margin of error. So if these were church
15 expenses or if any of the other items were church expenses, it's
16 minimal in comparison to the items that are personal based on
17 witness statements and evidence gathered during the
18 investigation.

19 Q Sure, I understand. But I'm just focusing on this receipt
20 for right now. I take it you don't know what the purpose was of
21 buying all the baskets or buckets or whatever they are?

22 A I was not told by a church member that it was a church
23 expense, that particular item. Of course, I did not have the
24 receipt either.

25 Q Sure. And if a -- looking at the retail category, if a

1 church member did not tell you that something was a church
2 expense, did you then put it in the personal category? Is that
3 how it worked?

4 A In general, yes, other than if there was documentation that
5 I received during the investigation that was also considered,
6 not just the witness statements as far as the operations of the
7 church. And had -- you know, I summonsed those records when I
8 interviewed Mr. Weinland for church-related records pertaining
9 to his income and expenses of the church and was never provided
10 them.

11 Q Well, you were provided them, but late by your -- in
12 your -- shortly before trial?

13 A Very shortly, yes.

14 Q And I understand the difficulty that causes you. You did
15 obtain fairly early on in your investigation credit card
16 statements; right?

17 A Yes.

18 Q And those statements would list where the charges were
19 incurred; right?

20 A For the most part. Some of them would have location. I
21 would say a large majority of them had additional information.

22 Q All right. So, for example, there would have been a
23 Weinland credit card statement that you obtained fairly early in
24 your investigation that showed that the Weinlands incurred a
25 370-dollar charge at Mall Queen in Carrollton; right?

1 A Yes.

2 Q And if you had had the resources and the time, you could
3 have gone to those retail outlets that were listed on the credit
4 card statements and obtained receipts; right?

5 A I suppose, but that's not the method that we use.

6 Q All right. That's fine. But it is a method by which those
7 receipts could have been obtained; right?

8 A Well, you could obtain receipts, but the salesperson would
9 not know the purpose of those -- that purchase either.

10 Q Oh, I understand. But just in terms of getting that piece
11 of paper.

12 A Okay.

13 Q It would have been possible to go to Mall Queen in
14 Grapevine Mills Mall in Texas and obtain the receipt; right?

15 A It would have been more appropriate that it be provided
16 based on the summons for those records, too.

17 Q I understand. My question is a little different. It would
18 have been possible for you to go to Mall Queen and obtain the
19 document; right?

20 A It's a possibility.

21 Q Now, let me show you another example and this is on page
22 124 of Exhibit 74.

23 MR. CLINE: Your Honor, if I may have a moment, I was
24 looking for my spot here. There it is.

25 BY MR. CLINE:

1 Q Agent Palmisano, you have that in front of you there? Can
2 you see it on the screen?

3 A Yes.

4 Q And you see maybe a little more than halfway down there's a
5 2-13-06 Harry & David charge in Nashville, Tennessee?

6 A Yes.

7 Q And just running across the page, it's a retail item,
8 \$137.89. Do you see that?

9 A Yes.

10 MR. CLINE: Your Honor, I would like to offer
11 Defendant's Exhibit 227, it's another of these receipts that's
12 within the range.

13 THE COURT: Any objection?

14 MR. MCBRIDE: No, Your Honor.

15 THE COURT: All right. Exhibit 227 will be admitted.
16 In case I neglected to admit it earlier, 205 I believe was the
17 first document that you had shown in this series and it may be
18 admitted as well.

19 MR. CLINE: Thank you, Your Honor.

20 BY MR. CLINE:

21 Q Agent Palmisano, let me put up Exhibit 227, and this one is
22 long, so it might be a little bit hard to make out, but I'll
23 focus you on the top part. This is a Harry & David receipt,
24 Nashville, Tennessee. It looks like -- I think it's got the
25 date on it, 2-13-06, and it's for a total of \$137.89. Does that

1 look like the receipt that corresponds to that entry we saw a
2 moment ago?

3 A I believe so.

4 Q Now, if we look at this receipt, we see a number of items.
5 Up at the top we see some Moose Munch; right?

6 A Yes.

7 Q Several packages or however they come of Moose Munch;
8 right?

9 A Yes.

10 Q You ever had any Moose Munch?

11 A Yes, I have.

12 Q Oh, really?

13 A It's good stuff, yeah.

14 Q Okay. A little further down we see nuts, mixed, deluxe.
15 We see several packages of those; right?

16 A Yes.

17 Q And then further down we see a bunch of packages of nuts,
18 smoked almonds; right?

19 A Yes.

20 Q Okay. Based on your investigation, do you know why the
21 Weinlands were purchasing a number of packages of Moose Munch,
22 mixed nuts, and smoked almonds?

23 A Specifically, no.

24 Q All right. I want to shift gears for a little bit.

25 MR. CLINE: And, Your Honor, may I hand these -- just

1 to keep good housekeeping, may I hand these exhibits up, not to
2 the witness, but just to the Clerk?

3 THE COURT: Yes.

4 BY MR. CLINE:

5 Q I want to talk with you, Agent Palmisano, a little bit
6 about the interview of Mr. Weinland. Do you recall that?

7 A Yes.

8 Q And that was on July the 2nd of 2008?

9 A Correct.

10 Q Now, you conducted that interview with another IRS agent;
11 right?

12 A Another special agent, yes.

13 Q And just to make sure everybody understands, you're a
14 special agent; right?

15 A Yes.

16 Q And that means that you conduct criminal tax investigations
17 on behalf of the IRS; right?

18 A Yes.

19 Q That other category of agents, the Revenue agents, they do
20 more of the civil audit-type work; correct?

21 A Correct.

22 Q And is it true also that occasionally the Revenue agents
23 will be assigned to a criminal investigation to provide
24 particular tax expertise?

25 A Yes.

1 Q That hasn't happened here, there's no Revenue agent
2 specifically assigned to this investigation; is that fair?

3 A During the investigation, no.

4 Q So you and another special agent went to the Weinlands'
5 home; right?

6 A Yes.

7 Q Did you call ahead and tell them you were coming?

8 A That's not our procedure, no.

9 Q So you didn't; correct?

10 A No.

11 Q So you showed up at their house, the two of you, and
12 Mr. Weinland was there; right?

13 A Yes.

14 Q Mrs. Weinland was there?

15 A Yes.

16 Q Anybody else there, either of the children there?

17 A Not that I was aware of.

18 Q Okay. Mr. Weinland invited you in, I take it?

19 A Yes.

20 Q You sat at his table. Now, you showed him your
21 credentials, the badge that you displayed to the jury; right?

22 A Yes, and my federal ID.

23 Q And if I understood you right, you did have a gun, but it
24 was in your purse; right?

25 A Yes.

1 Q And the other agent -- the other agent was a male; correct?

2 A Yes.

3 Q So he wasn't carrying a purse that day?

4 A No.

5 Q Did he also have a gun?

6 A I don't specifically recall. I think he typically carries
7 his, yes.

8 Q And you may not remember, but was his carried in some open
9 way or was it hidden as well?

10 A It would have been hidden. That is actually our procedure,
11 we're not allowed to wear it open.

12 Q Okay. Now, you told Mr. Weinland when you came that he was
13 under criminal investigation; right?

14 A Yes.

15 MR. CLINE: Excuse me just one second.

16 BY MR. CLINE:

17 Q Do you have your memo up there of the interview with
18 Mr. Weinland?

19 A Yes, I do.

20 Q And I mentioned to you this morning the notes. Do you have
21 those as well?

22 A Yes, I brought them.

23 Q All right. And just so the jury understands how this
24 works, when you go to interview somebody, Mr. Weinland or
25 anybody else, you don't take a tape recorder, do you?

1 A No.

2 Q You bring notepads; correct?

3 A Correct.

4 Q As the person is being interviewed, you take notes; right?

5 A Correct.

6 Q Both you and the other special agent who was with you took
7 notes on this occasion; right?

8 A Yes.

9 Q And then when you get back to your office, you take those
10 notes and you turn them into a memorandum; right?

11 A Yes.

12 Q You don't -- just as a matter of your procedure, you don't
13 show that memorandum to the person you've interviewed; correct?

14 A Uh-huh.

15 Q So in the course of your investigation at least, you didn't
16 display this memorandum that you've been referring to to
17 Mr. Weinland; correct?

18 A That would be inappropriate, yes.

19 Q Contrary to your procedures?

20 A Right. Correct.

21 Q The same for the notes, you don't show those to the person
22 you're talking to?

23 A Right. I would show this to the other witnessing agent
24 that was with me and he would sign it.

25 Q Right. And, in fact, the memorandum that you've been

1 referring to, both you and the other agent did sign it; correct?

2 A Yes.

3 Q Okay. Now, Mrs. Weinland was there and I think you said
4 she copied some documents for you?

5 A The 2006 and 2007 tax returns.

6 Q And the questions that you asked Mr. Weinland answered;
7 right?

8 A For the most part. When I was asking specific questions
9 related to the church, he was not answering those questions.

10 Q Okay. And he -- I think you mentioned before that he got a
11 little argumentative with you about being asked questions about
12 the church; right?

13 A Yes.

14 Q Other than that, he answered the questions that you asked;
15 right?

16 A Yes.

17 Q And was Mrs. Weinland present while the questions were
18 being asked?

19 A For the majority of the time, not the whole time. I think
20 initially when we started she was not sitting there, she came
21 sometime shortly thereafter. And then when she got up to make
22 copies of the '06 and '07 tax returns, she was not there. She
23 might have gotten up one other time, but I think she may have
24 been, you know, in the same area of the home.

25 Q And were you asking her questions as well or was it just

1 Mr. Weinland?

2 A More so directed at Mr. Weinland.

3 Q Would he occasionally, if she was present, turn to her for
4 confirmation or information, something like that?

5 A I believe he might have once or twice.

6 Q Okay. Now — and by the way, I think this goes without
7 saying, but he didn't have a lawyer there or anything like that;
8 right?

9 A No, but he was advised that he could.

10 Q Sure. But he proceeded without a lawyer?

11 A Yes.

12 Q Now, in the course of the interview, Mr. Weinland told you
13 that he had signature authority on accounts in Switzerland;
14 right?

15 A Yes.

16 Q And if you want to refer to your memo, I'm talking about
17 paragraph 10. He told you that the funds in that account
18 belonged to the Church of God; right?

19 A Yes, and they were church funds.

20 Q And he told you that the Swiss account was at a bank called
21 UBS; right?

22 A I think in my notes I may have the actual church name.

23 Q You mean bank name?

24 A Oh, yeah, I'm sorry, bank name. Actually my notes do not
25 have that.

1 Q I think they may. Let me see if I can --

2 MR. CLINE: Your Honor, may I approach the witness?

3 THE COURT: She can look through her notes first.

4 MR. CLINE: Okay.

5 THE COURT: This is to refresh her memory; is that
6 correct?

7 MR. CLINE: It's just to refresh her memory.

8 BY MR. CLINE:

9 Q Agent Palmisano, take a look at -- there are two sets of
10 notes that you're looking at there; right?

11 A No, I've just got mine.

12 MR. CLINE: Can we have the notes handed up, Your
13 Honor?

14 THE COURT: Yes.

15 BY MR. CLINE:

16 Q Now, Agent Palmisano, I don't want you to read those to us,
17 I just want you to look at them, see if they refresh your
18 recollection. There's a -- at the top of the first set of notes
19 in that collection, I think there's a fax line that has the fax
20 number nine. Do you see that?

21 A The first set of notes --

22 Q Yeah.

23 A -- did you say?

24 Q Yeah.

25 A It has a fax number of nine?

1 Q Yeah.

2 MR. CLINE: Your Honor, it might speed things up if I
3 could go up and show her.

4 THE COURT: All right. Come on up.

5 THE WITNESS: Okay, yeah.

6 MR. CLINE: Thank you, Your Honor.

7 BY MR. CLINE:

8 Q All right. Agent Palmisano, have you had a chance to look
9 at that document?

10 A Yes.

11 Q And does that refresh your recollection that Mr. Weinland
12 mentioned to you that the bank was UBS?

13 A Yes.

14 Q And for anyone who doesn't know, UBS is a bank in
15 Switzerland; correct?

16 A Correct.

17 Q Now, you asked Mr. Weinland some questions during this
18 interview about church expenses; right?

19 A Yes.

20 Q And he told you that the credit card bills were paid from
21 personal accounts; right?

22 A Yes.

23 Q And he told you that the personal accounts were funded from
24 Church of God accounts?

25 A Yes.

1 Q And he told you that Mrs. Weinland, Laura Weinland,
2 typically paid the credit card bills; correct?

3 A Yes.

4 Q All right. You can set that aside. That's all the
5 questions I have about the interview.

6 I want to ask you a few questions now about the 2008 tax
7 return. You with me?

8 A Okay.

9 Q Now, the deadline after extension for Mr. Weinland's 2008
10 tax return was October 2009; correct?

11 A Yes.

12 Q And he didn't file a return by that deadline; right?

13 A Correct.

14 Q He did file a return considerably after that; right?

15 A Yes.

16 Q Now, by the time that that October 2009 deadline came,
17 you -- Mr. Weinland had been under criminal investigation more
18 than a year; right?

19 A Yes.

20 Q And he had hired a lawyer; right?

21 A Yes.

22 Q And when October 2009 came around, that deadline came
23 around, the lawyer -- Do you remember the lawyer's name?

24 A At that time?

25 Q Yes.

1 MR. MCBRIDE: Your Honor, can we approach?

2 THE COURT: Yes, sir.

3 (Whereupon, the following discussion was had between the
4 Court and counsel at the bench, out of the hearing of the jury.)

5 MR. MCBRIDE: Your Honor, I believe under *McDaniels*
6 it's inappropriate for an agent to be cross-examined about the
7 statement that's on this 2008 tax return. It's rather a
8 self-serving statement. It was admitted by the United States as
9 part of its case as a party opponent, but I think it's
10 inappropriate to question the agent about that statement.
11 *McDaniels* does not permit the defendant to get in hearsay
12 statements through other witnesses.

13 MR. CLINE: Your Honor, I actually wasn't going to ask
14 her what the lawyer said in the letter, just that there was a
15 letter with the payment.

16 THE COURT: I think you actually were asking about the
17 attorney's statement. I'll sustain the objection as it relates
18 to statements made by third parties.

19 MR. MCBRIDE: Thank you, Your Honor.

20 MR. CLINE: If I did, I'm sorry, Your Honor. What I
21 intended to do was to simply ask whether the lawyer sent in a
22 letter by the deadline without saying what was in the letter.

23 MR. MCBRIDE: We would object to that as outside the
24 scope of direct and hearsay, Your Honor.

25 THE COURT: It is outside the scope of direct. I

1 assume that you may be presenting some evidence in your case on
2 this?

3 MR. CLINE: We will.

4 THE COURT: I've allowed you some latitude, but I
5 believe we're getting far afield on this particular issue, so
6 I'll sustain the objection.

7 MR. CLINE: One other question just because I don't
8 want to have to come back up. I was going to establish that by
9 the deadline he made a fairly significant payment, it was about
10 \$26,000.

11 MR. MCBRIDE: The record shows that the United States
12 put in that payment was made, if not -- if it's not already in,
13 we intend to put it in through Kenton Pillow, but -- and it was
14 before the deadline, but, again, it's beyond the scope of direct
15 for this witness.

16 THE COURT: I'm going to allow this particular
17 question. It may also go towards guilt, but that's a separate
18 matter to take up at a separate time. But I'll allow that
19 question, that a payment was made by a certain date if she's
20 aware of it.

21 MR. CLINE: If she's aware.

22 THE COURT: Yes.

23 MR. CLINE: Thank you, Your Honor.

24 (Whereupon, the following proceedings continued in open
25 court.)

1 THE COURT: All right. Thank you, Counsel. We'll
2 give counsel just a moment.

3 You may proceed.

4 BY MR. CLINE:

5 Q Agent Palmisano, I want to just focus on what you know. Do
6 you know whether on or before that October 2009 deadline
7 Mr. Weinland made a payment toward his 2008 tax liability?

8 A I would have to look at the records, the IRS records, to
9 know if he -- when the payment was actually made. I know there
10 were payments made on the 2008 year, one was for 20,000, another
11 one, I believe the payment was 2300, and then, of course, his
12 amounts that were withheld from his salary were roughly 4,000, I
13 think. I would have to look at the actual transcripts of the
14 account to determine and I don't recall when those payments were
15 made.

16 Q All right. But what you do recall, putting aside when they
17 were made, is that the total was between -- the two payments,
18 the 2300, the 20,000, and the withholding came to roughly
19 26,000; does that sound right?

20 A If my memory is correct. I would prefer to look at the
21 actual transcripts to know.

22 Q All right.

23 MR. CLINE: Your Honor, that's all the questions I
24 have for Agent Palmisano.

25 THE COURT: Thank you, Counsel. Does she have any of

1 your documents, Mr. Cline?

2 MR. CLINE: I beg your pardon?

3 THE COURT: Do you have any of Mr. Cline's documents
4 that were not admitted?

5 THE WITNESS: Did you want the notes back?

6 THE COURT: I'm not sure whose copies those were.

7 MR. CLINE: It is my copy. May I approach, Your
8 Honor?

9 THE COURT: Yes.

10 Mr. McBride, do you need those for your redirect?

11 MR. MCBRIDE: No, Your Honor.

12 THE COURT: You can come on up and grab those, that
13 would be fine. I want to make sure nothing gets put in the
14 wrong file here, we've had a lot of documents.

15 MR. CLINE: Thank you, Your Honor.

16 THE COURT: All right. Mr. McBride, you may question
17 the witness on redirect.

18 MR. MCBRIDE: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. MCBRIDE:

21 Q Special Agent Palmisano, I'm going to try to work back over
22 some of the issues that Mr. Cline talked to you about.

23 A Okay.

24 Q I want to start with you provided some testimony to the
25 Court about payments made towards the 2008 tax liability;

1 correct?

2 A Yes.

3 Q All right. When did you interview Mr. Weinland? What was
4 the date?

5 A July 2nd, 2008.

6 Q Do you know whether the payments were made before or after
7 that date?

8 A After. I believe well after.

9 MR. MCBRIDE: Could we have the Elmo on, please?

10 BY MR. MCBRIDE:

11 Q I'm going to show you some of the receipts that Mr. Cline
12 showed you. This is Defense Exhibit 227. What is Moose Munch?

13 A It's popcorn, could be drizzled with caramel or chocolate
14 and nuts.

15 Q It's food?

16 A It's food.

17 Q This is Government's -- or pardon me, Defense Exhibit 183.
18 Do you remember seeing this the baskets?

19 A Yes.

20 Q In the course of your investigation, did any of the church
21 members you spoke to or testify provide for you any reason why
22 the church would be using baskets?

23 A No.

24 Q This is Defense Exhibit 180. This is the -- do you
25 remember seeing this receipt Mr. Cline showed you?

- 1 A Yes.
- 2 Q Do you know what duct tape is?
- 3 A Yes.
- 4 Q What is duct tape?
- 5 A It's just a sticky tape you use for -- it's multipurpose.
- 6 Q Home repair, that sort of thing?
- 7 A Yes.
- 8 Q The church doesn't have a building, does it?
- 9 A No.
- 10 Q Do you remember seeing the receipt Mr. Weinland showed you
- 11 for the Istanbul Cafe in Newport?
- 12 A That Mr. Cline showed me, yes.
- 13 Q Have you ever been to the Istanbul Cafe?
- 14 A Yes.
- 15 Q What is it?
- 16 A It's food and beverage, restaurant, Newport on the levy.
- 17 Q Is it a nice restaurant?
- 18 A Yes.
- 19 Q I'm not going to show them to you, but do you remember
- 20 Mr. Cline went over with you some food and beverage items?
- 21 A Yes.
- 22 Q And you told him, let's see, we had the HMS, the host entry
- 23 for \$15, correct, on page 47?
- 24 A Yes.
- 25 Q Do you remember that?

1 A Yes.

2 Q And then we had an item for \$31.55 on page 49. Do you
3 remember that?

4 A Yes.

5 Q Do you remember there was one on page 57 for \$35? Do you
6 remember that?

7 A Yes.

8 Q Do you remember there were two on page 65, one for \$201.06
9 and one for \$7.23? Do you remember that?

10 A Yes.

11 Q Could you tell the ladies and gentlemen of the jury the
12 process you went through when you received the reciprocal
13 discovery to update that chart?

14 A I reviewed all the documents that were provided, which
15 contained a lot of different receipts, and we made some
16 decisions on a conservative method to compute the unreported
17 income, and one of the determinations was to allow what was
18 previously -- you know, we gave Mr. Weinland a 50 percent
19 benefit for the meals for food and beverage. So I went in and I
20 had to change all the food and beverage items that were not --
21 that were from out-of-town purchases and reclassify them as
22 business expense.

23 Q And you had some of these receipts that Mr. Cline has been
24 showing you, didn't you?

25 A Yes.

1 Q How long before trial did you get those receipts?

2 A Approximately three weeks.

3 Q Can you estimate for the jury how many receipts you went
4 through?

5 A Out of the 14 -- approximately 14,000 pages of reciprocal
6 discovery that we received, I would say probably 10,000 of those
7 pages were receipts.

8 Q Mr. Cline asked you --

9 A Just an estimate. I'm sorry.

10 Q I'm sorry.

11 A Just an estimate.

12 Q I didn't mean to cut you off, I apologize.

13 Mr. Cline asked you about the possibility of going and
14 talking to each -- or going and getting records from each retail
15 outlet. Do you remember that?

16 A Yes.

17 Q In your opinion, was that -- as an investigator, was that a
18 reasonable method to obtain those receipts?

19 A No. It wouldn't help, because the individual that would be
20 providing those receipts would have no knowledge. So the
21 approach to do it is to talk to individuals that do have
22 knowledge related to the transactions and the operations of the
23 business and have them tell us what is a permissible business
24 expense and what is not, and that's the method that was used
25 here as well. That's how that's determined. It's not very

1 efficient or cost effective for the government, when someone is
2 attempting to commingle their business and personal expenses to
3 hide their income, for us to go out and track down every penny.
4 It's -- you know, it's absurd to actually expect the government
5 to do that.

6 Q Okay. Mr. Cline asked you some questions about
7 Mr. Weinland's salary. Do you recall that?

8 A Yes.

9 Q And he asked you about whether you could tell whether
10 certain things were paid out of the money that was his salary or
11 out of church monies. Do you remember that?

12 A Yes.

13 Q And it seemed that you -- I think you told the jury you
14 were unable to distinguish between the two; correct?

15 A Yes.

16 Q Explain why.

17 A Well, because the -- it was all in the same pot. It was
18 all in the personal account. It was very obvious that
19 Mr. Weinland spent more money than he had from his salary alone.
20 So it was very apparent that some of those expenses were paid
21 for by the church funds that were transferred into his account
22 just because they were such in excess of items that he was
23 purchasing.

24 Q Now, I think you acknowledged to Mr. Cline that the checks
25 for the most part written for what we're calling Mr. Weinland's

1 salary were written out of Mr. Weinland's personal account;
2 correct?

3 A His salary? I'm sorry.

4 Q His paychecks?

5 A Oh, his paychecks?

6 Q Yes.

7 A They were written out of church accounts.

8 Q Out of church accounts?

9 A Yes.

10 Q And then placed in his personal accounts; correct?

11 A Correct.

12 Q Just as the other money was transferred from the church
13 accounts and placed in his personal accounts?

14 A Correct.

15 Q You had some questions from Mr. Cline about Mrs. Weinland's
16 travel; correct?

17 A Yes.

18 Q And I believe you told the jury that one important
19 consideration was that she was not an employee of the church;
20 correct.

21 A Yes.

22 Q She was, however, a member of the church, was she not?

23 A Yes.

24 Q All right. And in your investigation, have you encountered
25 other members who volunteer their time for the church?

1 A The majority.

2 Q And are they reimbursed or compensated in any way?

3 A No.

4 Q Are there any special rules for ministers and their spouses
5 regarding travel and whether or not that can be income in the
6 context of this case?

7 A Yes.

8 Q Can you describe how those rules played into your analysis
9 here?

10 A Spouse's travel are considered taxable to the employee.

11 Q Are there circumstances where there are exceptions to that?

12 A There are minor exceptions, yes.

13 Q Are any of those exceptions applicable in this case?

14 A No.

15 Q Mr. Cline asked you quite a bit about the Swiss account.
16 Do you recall that?

17 A Yes.

18 Q I want to ask you some questions about what your
19 investigation revealed. Where did the money -- from what
20 accounts did the money that went into the Swiss account come
21 from?

22 A All the accounts that Mr. Weinland had available to him --
23 or I should say that the large majority were from church
24 accounts. They were church funds.

25 Q They were church funds, but what accounts were the checks

1 written in?

2 A I'm sorry, his personal account ending in 8993.

3 Q Whose name was the Swiss account in?

4 A Mr. Weinland told me that it was in his name.

5 Q Now, you later learned that there was a power of attorney
6 assigned to the account; correct?

7 A Yes.

8 Q When you interviewed Mr. Weinland on July 2nd of 2008, did
9 he tell you that?

10 A No.

11 MR. MCBRIDE: Judge, those are all the questions I
12 have.

13 THE COURT: All right. Thank you.

14 MR. CLINE: May I ask just one follow-up question,
15 Your Honor?

16 THE COURT: Yes, sir.

17 MR. CLINE: It might actually be two, but on the same
18 topic.

19 RECROSS-EXAMINATION

20 BY MR. CLINE:

21 Q You mentioned that there are these special rules for travel
22 by ministers and their spouses. Do you remember that just now?

23 A Travel by individuals and their spouses, yes.

24 Q And you're referring to the working condition, fringe
25 benefit, rules that we talked about when I was asking you

1 questions?

2 A Actually, it's -- first you have to go through the --
3 what's considered a business expense. There's a particular code
4 section under that and it would not be applicable under that
5 code section, it would be excluded, specifically excluded.
6 Spouse's travel is excluded as a business deduction under that
7 section. Then to look further to try and give the taxpayer
8 every benefit, there are certain provisions under the working
9 condition, fringe benefits, yes.

10 Q And those things you just described, those are the rules
11 that you were referring to when Mr. McBride was asking you
12 questions just a second ago?

13 A Yes.

14 MR. CLINE: Okay. That's all my questions, Your
15 Honor.

16 THE COURT: Anything else?

17 MR. MCBRIDE: No, Your Honor. Thank you.

18 THE COURT: Thank you. You may step down. You can
19 take your personal notes if they weren't admitted into evidence.

20 MR. CLINE: Your Honor, before the next witness is
21 called, may we approach for a moment?

22 THE COURT: Yes, sir.

23 (Whereupon, the following discussion was had between the
24 Court and counsel at the bench, out of the hearing of the jury.)

25 THE COURT: Yes, sir. Mr. Cline.

1 MR. CLINE: Your Honor, I just wanted to renew my
2 objection and make a motion to strike Agent Palmisano's
3 testimony to the extent she's offering a view on whether
4 particular expenses are personal versus church related. My
5 objection is based on Rule 701, the lay opinion testimony rule.
6 I think it became clear from her testimony that her opinions
7 were not rationally based on her perception, number one; and,
8 number two, that they were based on technical or specialized
9 knowledge, including, just as an example, the rules that she
10 just described near the end of her testimony. So I would move
11 to strike those opinions.

12 THE COURT: All right.

13 MR. MCBRIDE: Your Honor, on direct, her testimony is
14 based on her observations of an investigation, which would
15 include interviews of the members of the church, including
16 elders and Mr. Weinland, an extensive review of the
17 documentation, a breakdown of the review, a common sense
18 determination of business versus personal expenses, and then a
19 confirmation of those expenses with the church members
20 themselves. In addition, it included a review of documentation
21 that was provided by the defendant in reciprocal discovery. The
22 questions that the agent answered on cross that had specialized
23 knowledge were solicited by the defense. They essentially
24 qualified her as an expert witness and they are, therefore,
25 admissible.

1 THE COURT: I was expecting this issue to be brought
2 up after the original cross-examination, because at that point
3 Mr. Cline did ask the witness questions that did include an
4 amount of hearsay that was not brought out on direct. He also
5 brought out a number of areas on cross-examination that would go
6 to her specialized knowledge over and above the various issues
7 she testified to on direct. It is not information that was
8 solicited on direct.

9 Inasmuch as Mr. Cline brought it out, Mr. McBride, I
10 would expect you would go into those areas or ask the Court
11 permission to do that. Of course, you didn't do that.

12 But I would deny the motion at this time based upon
13 the fact that any areas that would constitute expert opinion
14 were solicited by Mr. Cline. I will advise the parties that
15 based upon those questions, I will provide the jury an
16 instruction that would include her as an opinion witness based
17 upon those questions that were brought up on cross-examination,
18 but the motion is denied at this point.

19 MR. MCBRIDE: Thank you, Your Honor.

20 MR. CLINE: Oh, I'm sorry. While we're all up here,
21 as I understand it the next witness is going to be the agent who
22 will take her numbers and calculate the income.

23 MR. MCBRIDE: Correct --

24 MR. CLINE: -- that was due and owing. It's
25 Mr. Webb's witness, but rather than having to leap up and

1 object, may we just incorporate the objections we have made for
2 to Agent Palmisano's testimony into --

3 THE COURT: I don't really -- it's like a continuing
4 objection? That basically gives you carte blanche to object to
5 anything after the fact and it doesn't give me a chance to rule
6 on it. So I don't -- necessarily would not agree with a
7 continuing objection. I don't know what he's going to say.

8 Has he been listed as an opinion witness?

9 MR. MCBRIDE: Yes, Your Honor, he has. This is a
10 Revenue agent, who at the core of his testimony what he's going
11 to say is I took the tax returns that were filed by the
12 defendant and then I took the additional income as determined by
13 Special Agent Palmisano and then he calculated the tax due.

14 MR. CLINE: And I guess, Your Honor, the objection I
15 wanted to have made, but we can make it orally --

16 THE COURT: It's to the basis of the information that
17 go into his opinions. You disagree with her calculations and,
18 therefore, you would disagree with his conclusions based upon
19 that.

20 MR. CLINE: For the same reason we objected to her
21 opinions, we would object to his testimony.

22 THE COURT: All right. Now, an expert, of course, can
23 rely upon information that would include hearsay. So to the
24 extent that there's other information that he would consider, of
25 course, that may be the subject of another objection, but based

1 upon what I understand to be the objection, he relies upon
2 information that she calculates and you disagree with her
3 calculations for the reasons that you've stated, then you do
4 have an objection to that.

5 MR. CLINE: Right.

6 THE COURT: But if it's above and beyond that, we need
7 to take them up separately.

8 MR. CLINE: Thank you.

9 (Whereupon, the following proceedings continued in open
10 court.)

11 THE COURT: All right. Thank you, Counsel.

12 Mr. McBride, we can either take our lunch break at
13 this point and then we'd resume at 1:00 or we can proceed with
14 your next witness and go until 12:00 or a little bit after.
15 I'll leave that to you. What's your preference?

16 MR. MCBRIDE: Your Honor, I might suggest that we take
17 the lunch break now as I think the cross will go more than an
18 hour.

19 THE COURT: All right. Very well.

20 Ladies and gentlemen, we will -- as indicated, we will
21 take our lunch break at this time until 1:00 this afternoon.
22 Please keep in mind all of the admonitions that you have been
23 given previously. Of course, don't discuss the case among
24 yourselves while we are in recess. Don't allow anyone to
25 approach you to discuss the case. Don't speak with any of the

1 parties, attorneys, or witnesses that you've heard about or that
2 may have testified in this case. Don't read, watch, or listen
3 to any accounts of the case if there should be any. Don't do
4 any type of research or investigation and, of course, don't make
5 up your mind about the case until it is finally submitted to
6 you.

7 With that admonition, the jury will be excused until
8 1:00 p.m. this afternoon.

9 (Whereupon, the jury retired from the courtroom, after which
10 the following proceedings were had in open court.)

11 THE COURT: Thank you, Counsel. If you can be seated
12 for just a moment and we'll check on our schedule.

13 Mr. McBride, do you anticipate your -- will this be
14 your final witness you anticipate?

15 MR. MCBRIDE: It will, Your Honor.

16 THE COURT: Approximately an hour, thereabouts?

17 MR. MCBRIDE: I think the direct will be 35 or 40
18 minutes and then there will be cross.

19 THE COURT: And then we'll have cross-examination. So
20 the defendant should be prepared to present some proof this
21 afternoon if we -- unless we misestimate quite a bit on this
22 next witness?

23 MR. CLINE: We'll have witnesses; right.

24 THE COURT: Anything else we can take up outside the
25 presence of the jury?

1 MR. MCBRIDE: Not at this time, Your Honor.

2 THE COURT: All right. Thank you, Counsel. We'll
3 resume at 1:00. We'll be in recess.

4 (Testimony concluded at 11:44 a.m.)

5 C E R T I F I C A T E

6 I, Cynthia A. Oakes, certify that the foregoing is a
7 correct transcript from the record of proceedings in the
8 above-entitled matter.

9
10 6/11/2012 s/CYNTHIA A. OAKES
11 DATE CYNTHIA A. OAKES, RPR, RMR, CRR

12
13 I N D E X

	<u>PAGE</u>
14	
15 Testimony of SUSAN PALMISANO:	
16 Continued Cross-Examination by Mr. Cline:	3
17 Redirect Examination by Mr. McBride:	84
18 Recross-Examination by Mr. Cline:	92

19 E X H I B I T S

<u>Defendant's</u> <u>Exhibit No.</u>	<u>Identified</u>	<u>Page</u> <u>Admitted</u>
20		
21		
22 180	64	64
23 183	66	66
24 205	57	70
25 227	70	70