

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 TONY AND MII'S, INC., §
5 TONY THANGSONGCHAROEN, §
6 AND SOMNUEK §
7 THANGSONGCHAROEN, §
8 §
9 §

10 Plaintiffs §

11 v. § CIVIL CAUSE NO.

12 § 3:17-CV-0609-B

13 THE UNITED STATES OF §
14 AMERICA §
15 §
16 Defendant §

17 *****

18 ORAL DEPOSITION OF

19 CRYSTAL LORETTE FERGUSON

20 December 4, 2018

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34 ORAL DEPOSITION OF CRYSTAL LORETTE FERGUSON,

35 produced as a witness at the instance of the Plaintiffs,

36 and duly sworn, was taken in the above-styled and

37 -numbered cause on the 4th day of December, 2018, from

38 8:57 a.m. to 12:22 p.m., before Jennifer L. Campbell,

39 CSR in and for the State of Texas, reported by machine

40 shorthand, at the offices of Freeman Law, PLLC, 2595

41 Dallas Parkway, Suite 420, Frisco, Texas, pursuant to

42 the Federal Rules of Civil Procedure.

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2

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1 THE REPORTER: Today is December 4, 2018.
2 The time is approximately 8:57 a.m. We are located at
3 Freeman Law, PLLC, 2595 Dallas Parkway, Suite 420,
4 Frisco, Texas.

5 This is the deposition of Crystal Ferguson
6 in the matter of Tony and Mii's, Inc., Tony
7 Thangsongcharoen, and Somnuek Thangsongcharoen versus
8 The United States of America, in the United States
9 District Court for the Northern District of Texas,
10 Dallas Division, Cause No. 3:17-CV-0609-B.

11 My name is Jennifer Campbell, certified
12 shorthand reporter, representing Lexitas Legal, 6500
13 Greenville Avenue, Suite 445, Dallas, Texas.

14 Will all persons present please state their
15 appearances and whom they represent.

16 MR. FREEMAN: Jason Freeman. I represent
17 Tony Thangsongcharoen, Somnuek Thangsongcharoen, and
18 Tony and Mii's Bridal.

19 MS. YEPURI: Moha Yepuri for the United
20 States.

21 THE WITNESS: Crystal Ferguson, Internal
22 Revenue Service.

23 CRYSTAL LORETTE FERGUSON,
24 having been first duly sworn, testified as follows:
25

1 EXAMINATION

2 BY MR. FREEMAN:

3 Q. Ms. Ferguson, could you state your full name
4 for the record?

5 A. It's Crystal Lorette Ferguson.

6 Q. Thank you. My name's Jason Freeman. I
7 represent the Plaintiffs in this matter. Do you
8 understand that we're here in connection with a lawsuit
9 that my clients have brought against the United States?

10 A. Yes.

11 Q. Have you and I ever spoken?

12 A. No.

13 Q. Do you understand that you are here under oath
14 today?

15 A. Yes.

16 Q. Have you ever given a deposition before?

17 A. Personally, yes.

18 Q. Okay. Never dealing with the IRS or on behalf
19 of the IRS?

20 A. No.

21 Q. To just lay out a few ground rules with how
22 this should proceed, when I ask a question, if you'll
23 let me complete my question before you give an answer.
24 Does that make sense?

25 A. Yes.

1 Q. And when you give an answer, if you'll give a
2 verbal response rather than a, you know, head nod. If I
3 ask you a question that you don't understand, please let
4 me know, indicate that you don't understand.
5 Understand?

6 A. Yes.

7 Q. All right. And is it fair to say that if you
8 don't tell me that you don't understand the question I
9 can -- I can assume that you did understand?

10 A. Yes.

11 Q. If at any time you need to take a break --
12 restroom, water, food, anything -- please just let me
13 know. I'll just ask that you complete answering
14 whichever question we are on and then I'll be more than
15 happy to take a break.

16 A. Okay.

17 Q. Ms. Ferguson, where are you employed?

18 A. Do you mean the --

19 Q. Well, who is your employer?

20 A. The Internal Revenue Service.

21 Q. And where are you officed?

22 A. Matteson, Illinois.

23 Q. How long have you been with the IRS?

24 A. Fourteen years, little over 14 years.

25 Q. What positions have you held?

1 A. From August of nineteen -- of 2004 I was a
2 revenue officer. In December of 2011 I transitioned
3 into management. So initially I was a supervisory
4 revenue officer working in the Chicago advisory unit,
5 and in June of 2012 I became a supervisory appraiser.

6 Q. Okay. Who is your boss or supervisor?

7 A. Kenneth Scott Franks.

8 Q. And who do you manage or supervise?

9 A. I have ten employees, nine of which are
10 appraisers, and one is a secretary.

11 Q. Okay. Where are they located?

12 A. Seattle, Washington; Vancouver, Washington;
13 Phoenix, Arizona; Mesa, Arizona; Fairview Heights,
14 Illinois; Flint, Michigan; Cleveland, Ohio; Knoxville,
15 Tennessee; Farmers Branch, Texas.

16 Q. Okay. So essentially one employee in each of
17 those locations; is that correct?

18 A. Uh-huh.

19 Q. Do you -- do you oversee a particular district?

20 A. I oversee, according to our matrix -- which
21 changes every now and then -- the group is called PALS
22 West, but it is not necessarily all of the western
23 states. It is primarily the states that don't touch the
24 Atlantic Ocean, but there are a couple of blocks in
25 between, and that includes US territories in the South

1 Pacific as well.

2 Q. Okay. Then is Patty Hall the employee that you
3 supervise that's located in Farmers Branch?

4 A. Yes.

5 Q. What is the general chain of command at PALS?

6 A. My employees, they report directly to me. If
7 there's something that I'm not necessarily able to
8 resolve, I may reach out to a revenue officer or
9 manager. If we're at an impasse, then I would elevate
10 it to Mr. Franks, and he would reach out laterally to a
11 program manager from the field.

12 Q. So is he typically involved in your day-to-day
13 matters?

14 A. No.

15 Q. Is there a -- is there kind of a standard, a
16 set standard, for when something needs to rise to his
17 level?

18 A. I think I need a little bit of clarification
19 with that. Do you mean is there, like, a rule book that
20 says, Contact your manager at a particular point or
21 contact them and just let them know something's on the
22 horizon or -- that's what I'm not understanding.

23 Q. Yeah. Generally, that's what I'm asking, just
24 kind of what prompts you to -- what sort of situation or
25 what will prompt you to notify him?

1 A. They're case-by-case basis. I mean, it just
2 depends on the fact pattern. There's not a set
3 standard. If there's something that's unresolved and I
4 can't resolve it at my level, then I may need to elevate
5 it.

6 Q. Okay. But not some sort of set protocol or
7 rules that dictate?

8 A. No.

9 Q. Okay. Ms. Ferguson, what is your -- what is
10 your educational background?

11 A. I have a undergraduate degree, bachelor of
12 science, in accounting; I have a master's of business
13 administration; and then I have a master's diploma in
14 information system management.

15 Q. And do you have -- do you have any background
16 relating to -- educational background relating to
17 valuations or appraisals?

18 A. Not formally, no. In business school you do
19 learn how to value things.

20 Q. So through your undergraduate work --

21 A. Through my graduate work more so.

22 Q. Graduate work?

23 A. Yeah, with an MBA.

24 Q. Did you -- did you take any specific courses
25 dealing with valuations or appraisals?

1 A. No.

2 Q. And even more specifically, any specific
3 courses dealing with the appraisal or valuation of
4 inventory of any sort?

5 A. In cost accounting, you deal with a lot of
6 inventory valuation as part of the normal course work.
7 So no, if that's what you mean.

8 Q. And are you referring more to, you know,
9 accounting valuations, or are you referring to
10 valuations in terms of determining fair market value?

11 A. I would say more so the tools that you would
12 need to take it to the level that you're speaking.

13 Q. Fair market value --

14 A. Right.

15 Q. -- valuation?

16 Okay. I want to talk about PALS. Can
17 you -- can you tell me what that stands for, that
18 acronym?

19 A. Property Appraisal and Liquidation Specialist.

20 Q. Okay. Can you describe to me what PALS does?

21 A. They play an adviser role to revenue officers,
22 as well as assistant US attorneys with DOJ; they assist
23 with appraisals for various types of properties, real
24 and personal; and they also -- I would say they might
25 get a plan together to liquidate particular assets if it

1 comes to that based on their appraisal.

2 Q. Okay. Can you give me a little more background
3 on PALS structure, how it's organized?

4 A. It's a part of the collection division.

5 They -- all of the PALS have been revenue officers, but
6 the position came about in 2000 in response to the
7 restructuring act in '98, and it was to remove the
8 revenue officers from the sale process.

9 So the PALS are specifically part of the
10 sale, not related at all with the seizure process.

11 They're all the same grade level. There's no -- I mean,
12 revenue officers go from 5 to 13. All the PALS are
13 grade 12s.

14 Q. Okay. Are -- and how is it structured even
15 geographically kind of across the country?

16 A. They're just everywhere. There's no structure.
17 They're just where they are.

18 Q. Are there other -- are there other management-
19 level persons at your level across the country?

20 A. There's one position, but there is not a
21 manager in it. So I'm the only permanent manager.

22 Q. It's currently unfilled?

23 A. Yeah.

24 Q. And what about above that level? Is there --
25 is there one person? Are there --

1 A. There's just one. Mr. Franks.

2 Q. Okay. And who's above Mr. Franks?

3 A. The gentleman's name is Adrian Gonzalez, and
4 he's the director.

5 Q. The director of PALS?

6 A. He's the director of civil enforcement, advice,
7 and special operations.

8 Q. Who's above him? Do you know?

9 A. Darren Eyo (phonetic).

10 Q. Do you know what his title is?

11 A. Director of collection.

12 Q. Okay. Do you know who's above him?

13 A. No.

14 Q. And what is PALS' role specifically with
15 respect to seizures and sales of seized assets?

16 A. The PALS provide advice to revenue officers,
17 logistical support, depending on the type of assets they
18 are. Revenue officers are required to work with the
19 PALS prior to a seizure and to determine fair market
20 value and to actually concur on that amount, and in the
21 field, makes the decision on how to proceed based on
22 those conversations.

23 Q. It's not PALS' decision on how to proceed?

24 A. Never.

25 Q. Okay. Would it be improper for PALS to take a

1 leading role in deciding which way to proceed?

2 A. No.

3 Q. Why not?

4 A. Well, I mean, when we -- when we work with
5 revenue officers, it's generally for fair market value
6 concurrence. When we start dealing with logistical
7 matters where we may need to involve procurement or give
8 them information on particular movers that might
9 specialize with whatever or storage locations, things
10 like that, we may provide them leads, but we don't make
11 the decision at all insofar as seizing. That's not what
12 we do.

13 Q. Do you recommend --

14 A. No.

15 Q. -- seizures?

16 A. No.

17 Q. No?

18 A. That's not what we do.

19 Q. I mean, would it be improper to recommend a
20 seizure?

21 A. Yes, it would, because we are separated from
22 that process, sir.

23 Q. So PALS shouldn't have -- shouldn't be -- are
24 you saying PALS shouldn't be recommending a seizure?

25 A. No.

1 Q. No? That's no, they shouldn't, or no, that's
2 not what you're saying?

3 A. No, the PALS should not recommend when or when
4 not to seize.

5 Q. Should PALS recommend whether to do a regular
6 seizure or a perishable goods seizure?

7 A. The PALS will recommend how it will be sold and
8 which code section it will be sold under. So if there's
9 a situation where equity appears to be compromised, then
10 we would recommend that we explore a perishable as
11 opposed to an administrative sale.

12 Q. Okay. So by "explore," would you -- would you
13 or PALS be involved in that exploration?

14 A. Yeah. We would have to be.

15 Q. What sort of things would you have to explore?

16 A. Well, if we have particular assets that may
17 require expensive moving, for instance, or maybe if
18 there are particular assets that -- a machine shop, for
19 instance, those kind of things, you may not want to move
20 those, because when they're in a storage locker and not
21 plugged up, then a potential buyer doesn't know the
22 condition or fitness for use. So we would deal with
23 that sort of thing.

24 Q. So would you be involved in determining the
25 costs associated with a seizure?

1 A. We're -- we would be responsible for the costs
2 that we would incur for legal ads and so forth. We do
3 not call, necessarily, moving and storage facilities to
4 determine what it would take to move the assets.

5 Q. That's outside of your realm?

6 A. That's a revenue officer function.

7 Q. I mean, is that something that you have
8 particular expertise in determining; that is, the cost
9 of a seizure, of actually seizing the assets and storing
10 them?

11 A. No. I mean, I know that it's a cost that's
12 necessary, but you got to remember, nine times out of
13 ten, I may not have seen it or the PALS may not see
14 these assets, so we can't really say what it would --
15 what a vendor would charge them to move them. We just
16 know that it will cost something, and we know when
17 something is expensive -- when you need a rigger versus
18 two men and a truck.

19 Q. Right. So you understand there will be costs,
20 but PALS does not have expertise in determining what
21 those costs actually will be, valuing those costs.

22 A. Well, no. We're not movers. So no, we
23 wouldn't know.

24 Q. Okay. Have you ever had training with valuing
25 wedding gowns?

1 A. Specific?

2 Q. Yes, ma'am.

3 A. No.

4 Q. Have you ever had training with valuing --
5 well, strike that.

6 Have you ever had training with perishable
7 goods seizures?

8 A. Yes.

9 Q. When was that?

10 A. The training for that is ongoing. We get
11 course work sometimes with our annual CPE.

12 Q. Is that in-person CPE?

13 A. No, sir.

14 Q. Have you ever taken any courses dealing with
15 perishable goods seizures?

16 A. Seizures?

17 Q. Yes, ma'am.

18 A. No.

19 Q. Have you ever taken any courses dealing with
20 perishable goods sales?

21 A. Yes.

22 Q. When were those?

23 A. I don't recall.

24 Q. Do you know who taught them or where you took
25 them?

1 A. I have taught perishable. That would have been
2 in -- actually, last month.

3 Q. Last month?

4 A. Right.

5 Q. Have you done it besides that?

6 A. It -- I may have touched on it years ago in
7 revenue officer unit training. I'm also a certified
8 instructor.

9 Q. Okay. But you don't recall when that was or
10 where?

11 A. No.

12 Q. And it wasn't a course specifically with that,
13 maybe just tangentially?

14 A. Our classes have several lessons because they
15 span over several weeks, so it would be a topic inside
16 of an overall course.

17 Q. The course you taught last month, where was
18 that taught and to who?

19 A. It was taught to the PALS and advisers, and it
20 was through SABA.

21 Q. What is SABA?

22 A. SABA is a educational tool, electronic
23 educational tool, virtual.

24 Q. Like a webinar or something like that?

25 A. Yeah. But it's -- it's live, so you can

1 interact. So it's not just people watching; you're able
2 to interact with the participants.

3 Q. Are those recorded?

4 A. I don't know.

5 Q. Going back to the training that you've actually
6 had on it, do you recall any courses that you took
7 specifically dealing with perishable goods sales?

8 A. Not specifically. Again, it would be a topic
9 incorporated with.

10 Q. Okay. Have you ever had any training with
11 respect to Section 6336 of the Internal Revenue Code?
12 And that is the code section dealing with perishable
13 goods.

14 A. Again, yes, but not -- it would have been
15 incorporated with something else.

16 Q. Okay. You understand that we're here today
17 about a seizure that took place on March 4th, 2015?

18 A. Yes, sir.

19 Q. Have there been any changes in the protocol
20 that you or the IRS follows dealing with perishable
21 goods seizures since that time?

22 A. The change that I'm familiar with, there has
23 been some interim guidance. I'm not sure if the IRM
24 itself has been updated. But the IRM has a requirement
25 for a four-way conference call that is now a six-way

1 conference call.

2 Q. So who has been added as a necessary party?

3 A. The program managers or territory managers for
4 both PALS and for revenue officers.

5 Q. Specifically on the topic of preparation for
6 this deposition, did you do anything to prepare for this
7 deposition?

8 A. I spoke with my team.

9 Q. And who is your team?

10 A. Curtis, Moha.

11 Q. Okay. Just your attorneys?

12 A. Yes.

13 Q. Did you speak with anyone else?

14 A. No.

15 Q. I'm going to ask. Wait and see if there is any
16 objection to it, but I'd like to know what specifically
17 was discussed in preparation for your deposition.

18 MS. YEPURI: I'm going to object. That
19 information's privileged.

20 MR. FREEMAN: Objecting privilege?

21 MS. YEPURI: Yes.

22 Q. I'm going to ask a couple of items. Wait to
23 see if there's an objection to these, but I need to get
24 an objection on the record if there is one. Did you
25 discuss the valuation of the inventory at issue?

1 MS. YEPURI: Objection, attorney-client-
2 privileged.

3 Q. Did you discuss the Government's expert's
4 valuation of that inventory?

5 MS. YEPURI: Same objection.

6 Q. Did you discuss the topic of using a perishable
7 goods procedure as part of your preparation for the
8 deposition?

9 MS. YEPURI: Put down the same objection,
10 please.

11 Q. Did you discuss your interactions with, you
12 know, any other IRS person or your conversations that
13 you've had with other IRS persons about this case?

14 MS. YEPURI: Objection, attorney-client-
15 privileged.

16 Q. Did you review any documents in preparation for
17 this case?

18 MS. YEPURI: You can answer.

19 A. Yes.

20 Q. Okay. Were those reviewed to -- I know it's
21 been a while -- refresh your memory about kind of what's
22 happened in this case?

23 A. Yes.

24 Q. Were those reviewed, I guess, for purposes of
25 informing your testimony here today?

1 A. Perhaps for clarification.

2 Q. So for the purpose of preparing for this
3 deposition?

4 A. (Moving head up and down.)

5 Q. Did you bring any of those documents with you?

6 A. No.

7 Q. Where are those documents?

8 A. With my attorneys.

9 Q. Did anyone tell you anything to say here today
10 or not to say?

11 A. No.

12 Q. Nobody did?

13 Okay. With respect to this case, why did
14 the IRS conduct a perishable goods seizure and sale?

15 MS. YEPURI: I'm going to object to the
16 form of the question.

17 Q. But you can answer it.

18 A. Okay. I can't speak to the seizure part of it
19 because I'm not part of that decision.

20 Q. Okay. What about the sale -- the perishable
21 goods sale?

22 A. Having been approved and it met the criteria,
23 so our method for selling, it's different under this
24 code section, so that's why that determination was made.

25 Q. And what are those criteria?

1 A. Well, if the expenses exceed the potential
2 equity in the assets, then it would certainly meet
3 that -- one of the conditions, it would meet that
4 criteria. In this case, that's what it was.

5 Q. So is that sufficient to justify doing a
6 perishable goods sale?

7 A. Yes.

8 Q. Okay. Who makes the determination that it met
9 that criteria?

10 A. Advisory and collection, field collection. Not
11 us.

12 Q. Not PALS?

13 A. Huh-uh.

14 Q. Okay. Is there -- does PALS produce any kind
15 of memos or anything setting forth that justification
16 for it?

17 A. Yes. It's a sales plan based on information
18 between the PALS and the revenue officer working
19 together beginning with the fair market value of the
20 assets where they agree, and the revenue officer would
21 explore moving and storage expenses. Then the PALS
22 would consider other expenses, such as legal ads or
23 potential locksmiths or things like that.

24 And they create a memo, the memo comes to
25 me, and I review it. And if the bottom line is a

1 negative number, meaning the fair market value minus the
2 expenses, if that number is negative, then it has met
3 the criteria, and I would approve the memo. And then it
4 goes back to the revenue officer to be associated with
5 their seizure file as they send it up their chain for
6 approvals.

7 Q. Okay. Now, you said "they" create a memo. Who
8 is "they"?

9 A. The PALS and the revenue officer.

10 Q. Okay. Do you have any input on the contents of
11 that memo before it's produced?

12 A. Not of the actual numbers, but during our
13 four-way conference, or six-way conference as it is now,
14 there is input or questions that I may ask or -- to just
15 provide direction in maybe making sure that, you know,
16 the I's are dotted and the T's are crossed where maybe
17 they didn't think about asking this question or
18 something like that.

19 Q. Okay. What does your approval signify of that
20 memo? What does that prompt?

21 A. That it would be a sale of that particular
22 nature. That's it.

23 Q. Okay. Have you ever used a perishable goods
24 seizure besides this case?

25 A. What do you mean?

1 Q. Well, have you ever -- have you ever invoked
2 and used Section 6336, a perishable goods sale or
3 seizure, in another -- in another case?

4 A. I'm not really sure what you're asking. We
5 don't invoke it. If -- so that's not --

6 Q. Have you ever -- have you ever been involved in
7 a perishable goods sale?

8 A. Yes.

9 Q. Okay. I don't want to know any particular
10 taxpayers or anything like that, but approximately how
11 many?

12 A. Approximately five.

13 Q. Since you've been with PALS or across your 14
14 years with the IRS?

15 A. Since I've been with PALS.

16 Q. Okay. Were you ever involved in one as a
17 revenue officer?

18 A. No.

19 Q. Okay. Did you have any concerns about using a
20 perishable goods process in this case?

21 A. No.

22 Q. No? No concerns whatsoever?

23 A. Okay. So I think I would need a little more
24 clarification.

25 Q. At any point in time, did you have any concerns

1 about whether the perishable goods process was
2 appropriate in this case?

3 A. No.

4 Q. None.

5 A. No.

6 Q. Not at any point in time.

7 A. No.

8 Q. Did you discuss any concerns that anyone else
9 might have had with whether the perishable goods process
10 was appropriate?

11 A. There was -- there was discussion as far as the
12 fair market value. And because of the fair market
13 value, it met the criteria for 6336.

14 Q. But someone voiced concern about the fair
15 market value?

16 A. I don't know that the concern was so much our
17 fair market value appraisal. That was not specific to
18 me. But I just think that it was just getting an
19 understanding of our appraisal process and how we
20 arrived at that figure.

21 Q. Okay. Were there any other concerns voiced
22 about whether the perishable goods process was
23 appropriate?

24 MS. YEPURI: Objection, form.

25 You can answer.

1 THE WITNESS: What?

2 MS. YEPURI: You can answer.

3 THE WITNESS: Okay.

4 A. Ask me the question again. I'm sorry.

5 Q. Did anyone else in the IRS at any point in this
6 process raise any other concern about whether the
7 perishable goods process was appropriate?

8 A. I think there was a concern, but I can't say
9 factually because what you're asking me was not -- that
10 wasn't directed to me about it being appropriate.

11 Q. What do you mean by "can't say factually"?

12 A. I know that there was discussion about it, but
13 the discussion was not focused around whether the
14 perishable was appropriate. It was always appropriate
15 based on the facts.

16 Q. Okay. Were -- did someone voice concerns to
17 somebody else that were not directed at you but you were
18 aware of?

19 MS. YEPURI: Object to the form of the
20 question.

21 A. I would say that because of the lapse of time
22 it's clear that there was a concern, but those concerns
23 were not directed to me. I just went on with my work.

24 Q. And when you say "it's clear that there was a
25 concern," who had those concerns?

1 A. It could have been in the revenue officer
2 approval path. I don't know.

3 Q. How do you know that it's clear there was a
4 concern?

5 A. Because we started the process in August and we
6 didn't execute the sale until March. So with that
7 length of time, you know, there's something that's --
8 has to be there, but I'm not aware of it.

9 Q. Were you involved in any discussions during
10 that length of time about concerns about this process?

11 A. The only discussion I had was on the evening of
12 March 2nd. And during that day, it was called to my
13 attention that they had got the writ of entry, but the
14 seizure package itself had not been approved.

15 Q. Did they say why?

16 A. The concern they had was understanding the fair
17 market value.

18 Q. Was this voiced by the area director?

19 A. Yes.

20 Q. Was it voiced by the territory manager?

21 A. Yes.

22 Q. Was it voiced by the revenue officer?

23 A. No.

24 Q. Not at that time?

25 A. (Moving head side to side.)

1 Q. I'll come back to that call.

2 The concerns that you had -- and again, it
3 could be in that call or others -- about the fair market
4 value, what specifically were the concerns?

5 MS. YEPURI: Objection, form.

6 A. It was the original fair market value derived
7 by the revenue officer and what the fair market value
8 was based on the PALS appraisal.

9 Q. So what do you mean by the fair market value
10 originally derived by the revenue officer?

11 A. It was -- she determined -- the revenue officer
12 determined that the assets were worth a hundred thousand
13 dollars. So when she reached out to the -- to the PALS
14 for the concurrence, they didn't meet mentally with
15 that. So my employee actually made a field visit --
16 well, she did -- she did some cursory research and
17 determined that, you know, in this particular industry,
18 you know, here's a range of what these assets may be
19 worth. So since she lives in the area, she made a field
20 visit to the location to actually physically look at the
21 assets, and it was at that time that she determined that
22 they were worth \$10,000.

23 Q. She didn't determine that before that time?

24 A. She couldn't because she hadn't seen the
25 assets.

1 Q. I mean, so would it be impossible to value it
2 before seeing the assets?

3 A. Well, I mean, you would get a better idea when
4 you actually physically look at them.

5 Q. So is it generally best practice to view the --
6 view the assets being valued?

7 A. It depends. In this case, they're specialized,
8 so you know, they would -- they would need to be -- if
9 it were a skid-steer, you know, and a bulldozer, you
10 told me what year it was, I could probably come pretty
11 close; but when you say something like this that's so
12 very specialized, I would feel more comfortable looking
13 at it.

14 Q. So run-of-the-mill, like, typical assets, you
15 might not need to actually view them to get a pretty
16 good idea what their fair market value is.

17 A. Yes.

18 Q. But in this case, they were particularly
19 specialized?

20 A. Yes.

21 Q. So you would need to go and actually physically
22 view them to value them?

23 A. It would be a good idea. You need to see the
24 volume, and you need to -- you know, it could be a large
25 store with a lot of open space or it could be a small

1 store that you're, you know, crawling through. So you
2 need to get an idea of what's there because that also
3 determines potentially expenses as well and time.

4 Q. Why not rely upon the observations of the
5 revenue officer?

6 A. Because they don't have the same training in
7 appraising assets as we do.

8 Q. Okay.

9 A. And they also don't have the experience in
10 selling assets like we do.

11 Q. So would it be -- and would it be improper in
12 this particular case with these specialized assets to
13 determine a value of the inventory before going to view
14 it?

15 A. It would be inappropriate to do so.

16 Q. Okay. So that's a yes. Let me ask you another
17 case. If -- strike that.

18 Going back to these concerns about the fair
19 market value of the inventory, did you have specific
20 discussions with Jonathan Say?

21 A. I did. One discussion.

22 Q. What did that discussion entail?

23 A. The specialized nature of the assets and
24 basically how we determined the fair market value to be
25 \$10,000.

1 Q. Did he agree with that valuation?

2 A. Yes.

3 Q. He did?

4 Did he ever object to it?

5 A. No. He understood clearly. Well, he indicated
6 so in our telephone call.

7 Q. Okay. Did you have any discussions about the
8 fair market value with Jeffrey Daniels?

9 A. He was on the call as well.

10 Q. And did -- what concerns did he have about the
11 fair market value?

12 A. Again, specifically, they wanted to know how we
13 determined that the inventory was worth \$10,000. And I
14 gave them several answers: the assets were specialized,
15 market was extremely limited, there's not a lot of
16 people that we can sell them to. And they understood.

17 Q. Okay. Did he ever object to using a perishable
18 goods seizure?

19 A. No, not to me.

20 Q. No?

21 Did he ever -- to the best of your
22 knowledge, whether to you or anyone, did he ever
23 indicate that he was not going to approve this?

24 A. No.

25 Q. Never withheld approval.

1 A. I don't know because I'm not part of that
2 process, so you would have to verify that with him.

3 Q. Okay. Did you ever have discussions about
4 concerns with LaDonna Eastep?

5 A. Me?

6 Q. Uh-huh.

7 A. No, sir.

8 Q. Did you ever have discussions about concerns
9 about the perishable goods process with Joseph Roberts?

10 A. No. That's the revenue officer manager. No.

11 Q. So you didn't.

12 Did you ever have discussions about
13 concerns about the perishable goods process with Darlene
14 Coleman?

15 A. No.

16 Q. With anyone else at the IRS?

17 A. (Moving head side to side.)

18 Q. Was --

19 A. I'll say no. I'm sorry. I shook my head.

20 Q. Was there pressure from anyone to do a
21 perishable goods seizure or sale?

22 A. Oh, not at all, sir.

23 Q. Was the revenue officer hesitant at any point
24 in time to do one?

25 A. I didn't really work directly with the revenue

1 officer. That's not my role, so I can't speak to that.

2 Q. Did you ever hear that she was hesitant to push
3 for a perishable goods?

4 A. No.

5 Q. What other meetings were you involved in
6 regarding this case?

7 A. We had a four-way conference call between the
8 revenue officer and Patricia Hall, myself, and
9 Mr. Roberts.

10 Q. Okay. Were there any other meetings or
11 conference calls?

12 A. Not other than --

13 Q. March 2nd?

14 A. -- March 2nd.

15 Q. But that was all --

16 A. That I recall.

17 Q. Okay. We'll come back to those.

18 Was there -- was there any kind of debrief
19 after the seizure?

20 A. There's the normal debrief. We had -- TIGTA
21 was involved, and so at the very end after everything
22 was removed that night, we did a -- you know, a round
23 circle, and we debriefed on the activities of the day as
24 it related to employee safety. And there were concerns
25 and a couple of incidents in which TIGTA was involved in

1 and some of which I was involved in, so we debriefed for
2 that. But we do not debrief after seizures -- well,
3 certainly not after seizures or sales. That's not part
4 of what we do.

5 Q. What were the incidents that you referred to?

6 A. The landlord had a -- he was very upset. He
7 was owed a lot of money from the debtors, and he was
8 just upset that we were selling all of their assets that
9 he would have wanted to -- and of course, now there's
10 not going to be any way for him to recover any of the
11 moneys due him. And so he wanted to say, you know, he's
12 the landlord and we don't have a right to be here, so I
13 had to work with him the best way I could, but he was
14 very loud and threatening and -- in his conduct, and so
15 TIGTA had to deal with him, and it was for most of the
16 day. I mean, it was pretty bad.

17 And then the other incident was the
18 debtors' son stated that some of the items were his, but
19 he failed to show that they were, so . . .

20 Q. How much time was he given to prove that?

21 A. He had all day. I mean, up until sale time,
22 which was at 1:00 p.m.

23 Q. What kind of items was he claiming ownership
24 over?

25 A. Electronics, game systems, television, things

1 of those nature, stereo equipment.

2 Q. Are those things that you would typically see
3 in a bridal gown store?

4 A. Well, that's sort of like a hypothetical,
5 because anything could be anywhere, right?

6 Q. Well, I suppose anything in the world is
7 possible, but are those things that would typically be
8 carried by a bridal gown store?

9 A. I mean, on its face, maybe not.

10 Q. Are you aware that he's since come forward with
11 receipts for a number of those items?

12 A. Well, he had receipts that day; it's just that
13 the items were addressed to the bridal shop, in the name
14 of the bridal company, so there wasn't a way for us to
15 determine through the receipt that it was him that
16 purchased them. They're receipts.

17 Q. And are you aware he's come forward with
18 receipts in the names of other entities, perhaps an
19 entity that he owned, that had purchased items that
20 you're referring to?

21 A. I'm not aware of any actions with any of them
22 beyond March the 4th.

23 Q. Was there any kind of investigation into this
24 seizure? Any kind of internal investigation or
25 governmental investigation?

1 A. Not to my knowledge.

2 Q. Did you receive any kind of recognition for the
3 seizure or sale?

4 A. I did.

5 Q. What kind of recognition did you receive?

6 A. That it was a successful sale, that I did a
7 great job with my team.

8 Q. Mostly congratulatory statements or e-mails
9 or --

10 A. Yes.

Q. Was there any kind of formal recognition?

12 A. No.

Q. No sort of formal award or anything?

14 A. Oh, no.

15 Q. Let me show you what is -- we'll mark as
16 Exhibit 16. Ms. Ferguson, I've handed you what's marked
17 as Exhibit 16. Do you recognize this document?

18 (Exhibit 16 marked.)

19 | A. No, not at all.

Q. You've never seen this?

21 This letter, as you can see, is a -- is a
22 letter from me in 2015. It's what's generally known in
23 our world as a litigation hold letter instructing
24 every -- it's addressed to Darlene Coleman, but
25 instructing her to safeguard and hold all correspondence

1 related to this case. Was this letter ever sent to you,
2 to the best of your knowledge?

3 A. Not to the best of my knowledge.

4 Q. Okay. Thank you.

5 Ms. Ferguson, have you ever texted with
6 anyone regarding this case?

7 A. Not to my knowledge.

8 Q. So is that a -- is a no?

9 A. It's a no.

10 Q. Okay. What kind of correspondence have you had
11 related to this case?

12 A. From the very beginning?

13 Q. Uh-huh.

14 A. E-mails. Some e-mails were just forwarded to
15 me as information. And at least one e-mail I
16 corresponded with Ms. Coleman on my views and thoughts,
17 and that was in the very beginning stages of the case.

18 Q. Okay.

19 A. That's about it.

20 Q. Most of it would be by e-mail?

21 A. Uh-huh.

22 Q. As far as text messages, you never had a -- any
23 text exchange with Patty Hall?

24 A. No. At that time, I don't even think I had her
25 personal phone number.

1 Q. No text messages with the revenue officer?

2 A. Oh, no. I don't even -- I probably haven't
3 even talked to Darlene since that day.

4 Q. Any text messages with your management or
5 anyone above you?

6 A. I correspond with my manager sometimes via
7 text. Just not certain about that particular day.

8 Q. Would you still have those text messages if so?

9 A. It's possible.

10 Q. Have you been asked whether you had those --
11 any text messages?

12 A. Huh-uh.

13 Q. Not been asked?

14 Are you aware that we've requested those?

15 A. No.

16 Q. Would you have any problem turning those over
17 to your attorneys after this deposition and -- making a
18 search for them and turning them over to your attorneys?

19 A. Okay.

20 Q. Okay. I'd like to -- let me ask you on that.
21 Which of your managers would you correspond with by
22 text?

23 A. Mr. Franks is the only one.

24 Q. Okay. So I would like to talk about the calls
25 that you had on March 2nd or on or about March 2nd of

1 2015. Going back to that, what concerns were
2 specifically raised? You mentioned fair market value.

3 A. Yeah. They wanted to understand prior to
4 approving it how it went from a hundred thousand dollars
5 to 10.

6 Q. How did it?

7 A. I don't know how the revenue officer arrived at
8 her figure. That's -- you would have to ask her that.
9 I just know how we arrived at our figure, the 10,000, so
10 I just explained that.

11 Q. Okay. But you don't know how the RO did?

12 A. No. I have no idea.

13 Q. How were these concerns or issued resolved?

14 A. I just explained that, again, these assets are
15 extremely specialized, and just based on the industry
16 standards, our market was going to be extremely limited.

17 Q. Were there any other explanations given?

18 A. I mean, there may have been discussion as far
19 as industry standards are concerned.

20 Q. What do you mean by "industry standards"?

21 A. An example would be like David's Bridal. They
22 don't buy inventory and store it in their locations. A
23 tire shop, they don't buy \$300,000 worth of tires and
24 hope you have -- you know, someone comes in with that
25 size car. They work with more of a just-in-time

1 inventory system or they work with a particular
2 distributor. And so when they sell a particular item,
3 that's when they actually would pay for it, because a
4 carrying cost for an inventory like that, I mean, if you
5 had a hundred thousand dollars worth of dresses just
6 hanging up, you know, where is your revenue -- your
7 revenue stream?

8 So those are important points because it's
9 not done in that manner. So we would have to -- in
10 order to sell these dresses, we would have to find a
11 wholesaler that doesn't have credit with a designer -- a
12 particular designer or more up-to-date fashions. These
13 are outdated dresses, severely. Some are damaged, even.
14 They'd been hanging for so long they're dry-rotted.

15 So --

16 Q. You're telling me there were dry-rotted
17 dresses?

18 A. Some dresses, yes, sir.

19 Q. Who else saw dry-rotted dresses?

20 A. This would've been part of Patricia's
21 assessment.

22 Q. Okay. Would you be surprised if Ms. Hall
23 didn't describe anything like that?

24 A. Yeah, I don't know what she would've said.

25 Q. Okay.

1 A. And I don't --

2 Q. Give me some idea --

3 A. -- know that she --

4 THE REPORTER: Wait.

5 Q. -- of how much of this was dry-rotted.

6 A. Maybe some. Not a lot. A very small
7 percentage.

8 Q. All right. I want to ask you -- you're under
9 oath today.

10 A. Yes, sir.

11 Q. I want to know. There were dry-rotted dresses
12 in this store?

13 A. Some of the dresses on the racks, you could
14 tell that they had been hanging there for a very long
15 time, maybe the ones close to the window, the front
16 window, the storefront.

17 Q. So that's going to be a small handful of them.

18 A. Right. But when we look at it, we look at the
19 overall condition. So when Patty went to view the
20 assets, she did not look at the assets as carefully as
21 maybe we would have doing the inventory.

22 Q. The inventory during the sale?

23 A. Prior to the sale.

24 Q. Was an inventory taken prior to the sale?

25 A. Yes.

1 Q. Who took that?

2 A. Revenue officers and another PALS.

3 Q. Okay. And that's when it would've been looked
4 at more carefully?

5 A. Well, right. I mean, you could see things real
6 clearly when you're looking -- I mean when you're
7 touching them and -- you know, I know that they counted
8 and that sort of thing.

9 Q. So is that going to be the detailed inventory
10 that actually counted up all the items? Is that what
11 you're referring to?

12 A. Yes, sir.

13 Q. Okay. That's when they would be expected to
14 make a more in-depth inspection about the inventory?

15 A. Not necessarily. These would just be
16 observations that come in as you're reviewing the stuff.

17 Q. But that's important stuff for, like, a revenue
18 officer who's involved in that, to come back and give an
19 indication of the condition of the dresses?

20 A. No.

21 Q. No.

22 What about the PALS person involved in
23 that?

24 A. I mean, we look at them. I wasn't involved in
25 the entire inventory, but I could see that there was

1 damage to some things. Some things were faded. Some
2 things were, again, not completely shredded, dry-rotted,
3 but you can tell that the beginning stages of that. So
4 the condition of some of the dresses were very poor.

5 Q. Give me some idea of what percentage of the
6 dresses were in poor condition.

7 A. I can't quantify that for you, sir.

8 Q. Did you take pictures or do anything to
9 document these dresses that were not in good condition?

10 A. No, sir.

11 Q. Why not?

12 A. That's not part of what we do.

13 Q. Who --

14 A. We have an open house, and people that want to
15 buy them can review and make a determination as to
16 whether or not they want to purchase them.

17 Q. Who else would have seen dresses that were not
18 in good condition?

19 A. I can't speak to that.

20 Q. You're not aware of anybody else who saw
21 dresses in bad condition.

22 A. I can't --

23 MS. YEPURI: Objection, form.

24 A. I can't speak to that.

25 Q. Are you or are you not aware of anyone else who

1 saw dresses that were not in good condition?

2 A. I am aware that there are -- there are others
3 that would have seen.

4 Q. Who are those people?

5 A. The other PALS, Robert Biluk, my other
6 employee.

7 Q. Okay.

8 A. And he actually led the charge on completing
9 the inventory.

10 Q. When did he complete that inventory?

11 A. After the seizure was executed up until we
12 provided the equity letter to the debtor.

13 Q. Okay.

14 A. He was the auctioneer that day.

15 Q. What discussions did you have with him about
16 the condition of the dresses?

17 A. We never -- we never changed our fair market
18 value. And upon entering the premises, we were --
19 because we had a writ of entry, we were able to go to
20 areas in which Patty was not able to go to, and so there
21 were other assets there besides just the dresses that
22 were in the front. So we determined that because of the
23 condition we would not change the value, even with the
24 additional items. We left it at \$10,000.

25 Q. How many additional items were there?

1 A. There were the electronics, there were sewing
2 machines, garment steamers.

3 Q. Some nondress items?

4 A. Right.

5 Q. Okay.

6 A. And supplies, like threads and fabrics, that
7 sort of thing.

8 Q. Okay. So on your -- on the call to -- you
9 know, March 2nd, on or about that date, you indicated
10 that the explanations you gave were that it was a
11 specialized industry, you talked about industry
12 standards, and that it was a limited market of
13 purchasers?

14 A. Yes, sir.

15 Q. Is that the universe of explanations to
16 justify?

17 A. That -- I also mentioned that, you know, the --
18 a dress that's on a rack under plastic is going to have
19 a different value than a dress that's in a box folded
20 over.

21 Q. Which one will have a greater value?

22 A. The dress that's hanging on a rack where people
23 could actually see it. And that was a very important
24 factor as well.

25 Q. Now, does that go more to the value that could

1 be realized from a -- from an auction of the item or to
2 the item's fair market value in the normal sense?

3 A. Well, we have to take out of the equation for
4 us -- we do not have a willing buyer and seller
5 situation ever. There's never that. So we're already,
6 you know, compromising part of the value.

7 Q. So do you mean that PALS does not give an
8 actual fair market value appraisal?

9 A. We do do a fair market value, but it also
10 depends on other circumstances. So for the purposes of
11 the dress, we never considered what the fair market
12 value would be if it were an individual bride-to-be that
13 purchased it. We had to consider the fair market value
14 based on a wholesale market. Does that make sense to
15 you?

16 Q. That makes sense.

17 A. Okay. So it's --

18 Q. Not agreeing with it, but it makes sense.

19 A. Yeah. But it -- so it's a -- it's two
20 different numbers that -- you know, that we would be
21 dealing with.

22 Q. So were you trying to determine the fair market
23 value from a wholesale standard --

24 A. Yes.

25 Q. -- of the dresses?

1 A. Yes.

2 Q. Is that what PALS was opining on?

3 A. Well, that's -- that was our market.

4 Q. Was that the \$10,000 figure?

5 A. Yes.

6 Q. Okay. And there's two figures here. There's a
7 \$6,000 and a \$10,000 figure.

8 A. Yeah. That is the difference between the fair
9 market value and the forced sale value.

10 Q. Can you explain that to me?

11 A. So for the \$10,000, we would take off
12 25 percent for a variety of reasons, one of which I
13 mentioned before: We don't have a willing buyer and
14 seller situation. And there are other factors as well.
15 And then whatever that product is, then there's another
16 20 percent taken off, which is effectively 40 percent,
17 and that is because of -- you know, there's no warranty,
18 there's no "I don't like it, can I take it back and
19 return it," and it's cash now. There's no credit cards.
20 It's just a -- an array of things.

21 Q. Okay.

22 A. You don't get a real receipt; you get a
23 certificate of sale, so . . .

24 Q. Back to one of the items you mentioned -- or
25 I'll go through them again. You mentioned the

1 specialized industry, industry standards, the limited
2 market, and that some of the dresses -- the difference
3 between some of the dresses being in plastic bags rather
4 than in a box. Industry standards, I did not quite
5 understand what you meant by that.

6 A. And some of bridal shops use distribution
7 channels or they have designers that they work directly
8 with, so they don't actually go out and buy a lot of
9 dresses and hang them in their store and tie up a lot of
10 money. They may work with their designers, and as they
11 sell dresses and -- you know, that's kind of the way
12 they would work through that. I'm not familiar with
13 every single bridal shop in the country, as you would
14 know, but if they buy them wholesale, you know -- and
15 again, they're specialized, so they've got to be able to
16 sell it. So it's hard to -- for them to just go out and
17 just buy a bunch of dresses and hang them in their shop.
18 So it's not customary for them to hold several hundred
19 thousand dollars worth of wedding dresses.

20 Q. What informed your understanding that that is
21 the industry standard?

22 A. Just personal knowledge and just working --
23 just doing what we do.

24 Q. I mean, were there particular resources or
25 materials that informed that understanding?

1 A. I've worked with other bridal shops, you know,
2 that do things very differently. You just collect the
3 information together. But there's nothing written in
4 concrete. But we look at every industry for every asset
5 that we sell.

6 Q. You're aware that there are many different
7 types of business models in the --

8 A. Yes.

9 | 0. -- same industry.

10 A. Exactly. Exactly.

11 Q. Right. And so you're telling me your
12 understanding at the time was that bridal gown stores
13 don't hold several hundred thousand dollars worth of
14 inventory?

15 A. That is not exactly what I'm saying. What I'm
16 saying is that when we look at what our potential market
17 is, how -- who can we sell these to if they're seized,
18 and so we made that determination just based on the
19 factors in that local market.

20 (Exhibit 17 marked.)

21 Q. I'll hand you, Ms. Ferguson, what's marked as
22 Exhibit 17.

23 A. Okay.

24 Q. And this is really for more purposes of perhaps
25 jogging your memory over the March 2nd phone call.

1 A. Okay.

2 Q. So just take a minute to read through that.

3 Does that raise any other recollection of anything else
4 that was discussed in that March 2nd phone conversation?

5 A. It does not. I am aware of this possible
6 alternative, I should say, and that's because Patricia
7 Hall forwarded me an e-mail from Ms. Coleman that stated
8 that this would possibly be her next plan. But this was
9 not discussed with Mr. Say and Mr. Daniel during my call
10 that evening.

11 Q. And what do you mean other plan?

12 A. Looks like she was going to seize it
13 administratively.

14 Q. Rather than through the writ?

15 A. No. Rather than perishable if she was using
16 movers.

17 Q. Okay.

18 A. So that's what I deduct, you know, from that.

19 Q. So you're referring to the costs that she
20 forwarded to you on March -- or that were forwarded on
21 March 2nd, 2015, regarding the costs to seize and hold
22 the assets?

23 A. Yes. And that she was looking to see if the
24 vendors were available on March the 4th.

25 Q. Okay.

1 A. But I did not have a discussion with her or
2 anyone else regarding this plan.

3 (Exhibit 18 marked.)

4 Q. Ms. Ferguson, I'll hand you what's marked as
5 Exhibit 17 -- 18, excuse me. Do you recognize this
6 document?

7 MS. YEPURI: Do you have another copy?

8 Thank you. Now, her copy is two pages long.

9 MR. FREEMAN: Excuse me.

10 MS. YEPURI: No problem. So Exhibit 18's a
11 two-page document?

12 MR. FREEMAN: Yes, it is.

13 MS. YEPURI: Okay.

14 Q. Ms. Ferguson, do you recognize what this is
15 generally? By that, I mean is this an entry from
16 someone at the IRS into the ICS history transcript?

17 A. Oh, yes.

O. Does this someone appear to be Darlene Coleman?

19 A. I can't tell because the date and the user
20 identification is redacted from the top of this
21 document.

22 Q. Does it appear it might be Patty Hall? Can you
23 tell?

24 A. Patty Hall generally puts her footprint in the
25 beginning of her history. All of my employees do. And

1 I could also see Patty Hall's number, so I can't tell
2 for sure.

3 Q. So I'm going to read this to you, if you'll --
4 if you'll tell me whether it's been -- I'm reading it
5 correctly. The entry is: "I called and spoke with PALS
6 manager and advised of the status. After PALS manager
7 contacted collection TM and AD, further discussion
8 resulted in determination it was still a perishable
9 goods seizure, and the current estimated fair market
10 value is \$10,000. PALS manager advised the RO would
11 need to update memo, but AD agreed to the perishable
12 goods seizure."

13 Does that appear to indicate that the
14 perishable goods seizure had actually been called off?

15 A. The perishable goods seizure had -- at this
16 stage, it had not been approved. So I wouldn't classify
17 it as being called off; I would just say that it had not
18 been approved.

19 Q. Okay.

20 A. And so apparently the territory manager and
21 area director, Mr. Say, Mr. Daniel, needed some
22 additional information, which I provided.

23 Q. And what information was that?

24 A. How we came up with the \$10,000 fair market
25 value.

1 Q. Okay. There's an indication there that the
2 "PALS manager" -- I assume that refers to you?

3 A. Yes, sir.

4 Q. -- "advised the revenue officer would need to
5 update memo." What memo is that referring to?

6 A. It probably refers to her approval memorandum
7 through her management chain, which is where the
8 approval occurs.

9 Q. Okay. Would you recognize a copy of that memo
10 if you saw it?

11 A. Possibly.

12 Q. Okay. Did you ever view that memo?

13 A. I didn't view it. It was part of our
14 discussion that we had. And so her approval memo had a
15 hundred thousand dollars on it, and our information had
16 \$10,000 on it, and so that's where the disconnect
17 occurred. And so for her, her memo needed to be updated
18 to reflect \$10,000, not a hundred thousand dollars.

19 Q. I thought you said that she was the one who
20 makes the decision about the value.

21 A. The revenue officer?

22 Q. Right.

23 A. No, no, no.

24 Q. Who makes that?

25 A. We appraisers. That's our official title, and

1 that's what we do.

2 Q. So if she disagrees with your appraisal?

3 A. We usually elevate it, you know, to go through
4 the manager -- the front line managers first. If we
5 can't come to an agreement, then it goes through -- you
6 know, just goes on up to the territory manager level.

7 The concurrence part of it is not something
8 that is statutory. It is required that we concur on the
9 front end because the revenue officer is responsible for
10 equity determination prior to seizure, because if there
11 was not sufficient equity, then it would be a prohibited
12 seizure. And so the concurrence factor is important,
13 but it is not a statutory requirement. So they were at
14 a -- obviously at an impasse between Darlene and
15 Patricia, but that doesn't stop the process from moving
16 forward.

17 Q. Okay. Is her statement of the equity --
18 estimated equity in the assets a different standard from
19 the fair market value of those assets?

20 A. The equity could be different from the fair
21 market value. There could be encumbrances. There could
22 be any number of -- the expenses would vary. So the
23 equity is different from fair market value.

24 Q. Do they start from the same valuation?

25 A. They should.

1 Q. So if there are no encumbrances, should the
2 equity be equal to the fair market value?

3 A. In most cases that would never happen because
4 there will be some expenses.

5 Q. So you take -- am I understanding the formula
6 correctly, that you take the fair market value and
7 reduce it by the associated expenses necessary to seize
8 it in order to determine the equity?

9 A. Yes.

10 Q. Okay.

11 A. So in this case, the expenses to pack and move
12 and store these items so that we could sell them in a
13 regular auction would exceed the value of the \$6,000,
14 which is a forced sale value.

15 Q. Okay. So again, this statement refers to the
16 need for the RO to update the memo. What kinds of
17 updates needed to be made to that memo?

18 A. It was just strictly the dollar amount where
19 she valued the assets at a hundred thousand dollars and
20 we valued them at 10.

21 Q. No discussion of other changes necessary --

22 A. Oh, no, sir.

23 Q. -- with respect to the memo?

24 A. No. No, sir.

25 Q. No discussion of a need to change the

1 description of the assets?

2 A. I don't recall anything related to that.

3 Q. Just the figures themselves.

4 A. Yeah. It was the amount that we came up with
5 versus the amount that she came up with.

6 Q. Did you see various drafts of this memo?

7 A. Oh, no. I don't see the seizure files at all.

8 Q. So you have no involvement in changes to the
9 draft of the memo?

10 A. No, sir.

11 Q. Yes, ma'am?

12 A. Can I ask her a question?

13 Q. Do you want to go off the record?

14 A. Yes.

15 Q. Do you need to have a private discussion with
16 your attorney?

17 A. I just have a question.

18 MS. YEPURI: Let's go off.

19 MR. FREEMAN: Yeah, can we go off the
20 record for just a second?

21 (A break was taken from 10:18 a.m. to
22 10:19 a.m.)

23 MR. FREEMAN: We are back on the record.

24 Q. (BY MR. FREEMAN) Ms. Ferguson, did you need to
25 change anything with respect to any of your testimony --

1 A. No.

2 Q. -- so far?

3 Okay. Ms. Ferguson I'd like to talk about
4 this four-way conference call that occurred in August
5 of 2014.

6 A. Okay.

7 Q. Who all was on this conference call?

8 A. Patricia Hall, my employee; Joseph Roberts --
9 that's Darlene's manager --

10 Q. Okay.

11 A. -- and myself, so it was a four-way call.

12 Q. And Darlene was on this call as well?

13 A. Yes. I'm sorry.

14 Q. Okay. What was discussed on this call?

15 A. The results of Patricia's field visit to view
16 the assets and basically some logistical planning.
17 We -- typically -- and I think in this case as well --
18 we talk about marketing, and so in cases such as this,
19 we do what's called a presale marketing where we have
20 generic ads that might have a photograph and a
21 inquiry -- fill-in-the-blank form where we tell people,
22 you know, one day in the future we're going to sell some
23 things, and then they -- you know, and that's how we
24 collect potential bidders, so we talked about that. And
25 we talked about the revenue officers who would be

1 assisting us. We discussed the potential threat
2 assessment and whether or not TIGTA would need to be
3 involved. That's part of the discussion always. And
4 the writ, the need for a writ of entry.

5 Q. Did y'all discuss the fair market value of the
6 assets?

7 A. Yes. And the potential moving expenses and the
8 need to complete the perishable goods sale plan in
9 which -- that comes to me through my employee.

10 Q. Okay. With respect to the moving expenses --
11 and you mean storing and moving expenses by that?

12 A. Yes.

13 Q. Did the revenue officer have those expenses
14 estimated at that point in time?

15 A. Yes.

16 Q. Do you recall what those were, roughly?

17 A. Not off the top of my head, no.

18 Q. Was there a problem with those figures?

19 A. What do you mean "a problem"?

20 Q. Was there some reason that the numbers that she
21 had at the time of that call were not sufficient?

22 A. Not to my knowledge. I didn't vet the numbers.
23 I never do. It's the -- it's basically a sales plan
24 that gets included into her seizure file.

25 Q. Now, the basis that this went forward on, if

1 those costs were less than the reduced forced sale value
2 of the inventory, if those costs were less, would a
3 perishable goods seizure have been appropriate?

4 A. No.

5 Q. No?

6 A. No.

7 Q. Did y'all make a decision at the time of this
8 call that a perishable goods seizure was appropriate?

9 A. We did based on -- when the -- after Patricia
10 went -- actually looked at the assets, I think there
11 was -- that the volume -- it's hard to estimate what's
12 going to be there on the day of seizure. But I think
13 some of the estimates initially were based on just a
14 thousand items. Were there other items in there -- and
15 that there were more than a thousand dresses that would
16 have needed to be packaged and boxed and carried out, so
17 that would make it more.

18 An administrative seizure also includes
19 other expenses that aren't related to a perishable, such
20 as the statutory requirement to run legal ads and so
21 forth. So it would have been more expenses than what
22 would have been shown there, so there should have been
23 some expenses that Patricia included for her statutory
24 requirements.

25 Q. Okay.

1 A. In addition to the moving and storage.

2 Q. She would've had those at the time of this
3 call?

4 A. She would've estimated them, yes.

5 Q. Okay. Were there any jokes made about this --
6 you know, this bridal gown store or the need to do a
7 perishable goods?

8 A. As a joke?

9 Q. Yeah.

10 A. Not to my knowledge.

11 Q. And would it be inappropriate to joke about
12 this?

13 MS. YEPURI: Objection to the form of the
14 question.

15 A. It would be inappropriate, yes.

16 Q. I mean, were there any discussions about, you
17 know, using the term "bridezillas" --

18 A. Yes.

19 Q. -- during this call?

20 A. Not -- I'm not sure if it was during that call,
21 but I know that I had used that word.

22 Q. What does that mean?

23 A. Brides-to-be, thousands of them, coming to our
24 sale, which is another reason why it would not -- we
25 could not sell them in the individual marketplace.

1 Q. So y'all were aware that it was -- that there
2 could possibly be many, many people coming to this sale?

3 A. The -- it could potentially, but the bottom
4 line with bridal gowns, if an individual bride-to-be
5 came, she wants to try it on, she wants to take pictures
6 in it, she wants to go get feedback from other people.
7 We don't sell things in that manner. So that's -- we
8 never would have been able to do it that way.

9 Q. Would those people likely pay more for a dress?

10 A. Well, if you take it to the retail market,
11 certainly. But we don't have the option to do that
12 because of the time that it would take for us to sell
13 that many lots. We couldn't even do it in three or four
14 days. So it's not even feasible that --

15 Q. So the IRS didn't have the ability to sell it
16 in a way that would --

17 A. Well, we're not retailers, so no, we cannot
18 sell it the same way that a typical bridal store does.
19 We cannot do anything that retail does. We don't take
20 credit cards.

21 Q. So the IRS didn't have the ability to sell this
22 in the manner that would garner the most money.

23 MS. YEPURI: Objection to the form of the
24 question.

25 Q. Is that correct?

1 A. Correct.

2 Q. This term "bridezillas," what exactly does that
3 mean?

4 A. It just meant -- it's directly connected to the
5 television show --

6 Q. Okay.

7 A. -- of brides-to-be and the anxiety and things
8 that people go through when purchasing a wedding gown.

9 Q. Okay. What did it mean with respect to this
10 store?

11 A. Just that, that, you know, we wouldn't do it
12 that way because we couldn't even handle the capacity of
13 just inquiries and to have to turn people away because
14 we can't take forms of payment that they would need, we
15 can't allow them to try things on and any of that.

16 Q. So you're telling me y'all were concerned that
17 there was going to be a whole lot of interest in the
18 dresses at this store?

19 A. No, that was not a concern at all because --

20 Q. Well, what does "bridezillas" mean, then?

21 A. That -- just what I explained to you. It was
22 just a joke just about the nature of the assets, that
23 they were bridal gowns.

24 Q. Were y'all taking this process seriously?

25 A. Yes.

1 Q. Were y'all looking out for the taxpayers'
2 rights as well?

3 A. Yes.

4 Q. Okay. Do you believe it's appropriate to say
5 jokes like that in this context?

6 A. Hindsight, no.

7 Q. I mean, you're aware this has completely
8 financially ruined a couple. Are you aware of that?
9 Are you aware this couple built this business over the
10 course of 35 years and all of their equity was --

11 A. I am not aware --

12 Q. -- stored in the inventory?

13 A. -- of any of the history with the taxpayer at
14 all, sir.

15 Q. Are you aware that Mii now has dimension and
16 Alzheimer's?

17 A. No.

18 Q. Are you aware that Tony underwent a quadruple
19 bypass surgery shortly after this?

20 A. No.

21 Q. Do you have any idea or do you have any concept
22 of what this process does to an elderly couple? I'll
23 ask you, was the use of the term "bridezillas"
24 appropriate in this context?

25 A. That word was used with my manager, Mr. Franks.

1 It was not used --

2 Q. Did Mr. Franks use that word?

3 A. It was not used in the -- at any point with the
4 taxpayers or anyone associated with them.

5 Q. Did Mr. Franks ever use that word?

6 A. I don't think he used it. I used it.

7 Q. Were there any instructions to the revenue
8 officer to revise her cost estimates during this call?

9 A. Which call, sir?

10 Q. Her cost of seizing and storing the assets.

11 A. In the four-way conference call?

12 Q. During this four-way conference call.

13 A. I don't recall. But because that call happened
14 after Patricia viewed the assets, it's possible.

15 Q. Would it be -- would you be surprised if she
16 e-mailed you revised cost estimates that same day?

17 A. To me?

18 Q. Yes.

19 A. Oh. I wouldn't be surprised.

20 Q. But there was no instruction for her to --

21 A. Not given from me, no, sir.

22 Q. Was it given from anyone else?

23 A. I don't recall.

24 Q. You don't recall any discussion about that?

25 A. I only remember they discussed expenses. I

1 didn't see the stuff. Patty did. And I know that they
2 talked about that part of it. So -- and I know she had
3 various quotes. There was more than one vendor that she
4 reached out to.

5 Q. She had them at that time?

6 A. Yes.

7 Q. And those quotes, in fact, were below the
8 reduced forced sale value, were they not?

9 A. They may have been.

10 Q. Yet y'all still determined that a perishable
11 goods seizure should be approved?

12 A. Coupled with the other expenses, yes. And her
13 estimates were based on just a thousand dresses. And
14 there were more than a thousand dresses in there when
15 Patty went to view them. So the revision would've been
16 based on that. Because they didn't give her, like, a
17 flat quote. They gave her, you know, per item or -- you
18 know, it wasn't clear like the whole job is going to be
19 \$3,500 or whatever. That's not how her quote was.
20 Her -- and then she just calculated it out based on a
21 thousand dresses.

22 Q. Okay. Was that ever because she didn't believe
23 it was going to be necessary to seize all of the
24 dresses?

25 MS. YEPURI: Objection, form.

1 A. I'm not sure what her thought pattern was.

2 Q. Did she ever express that there were -- the
3 value of the dresses was such that she would not need to
4 seize all of the dresses to pay off the tax debt?

5 A. She didn't express that to me. I am aware that
6 the liability was less than what her initial fair market
7 value was, which means that if we had sold it
8 administratively, then it -- that would have been the
9 minimum because that would have been the Government's
10 interest in those assets.

11 Q. The outstanding tax debt?

12 A. Uh-huh.

13 Q. Would that amount have been recovered in an
14 administrative sale?

15 A. I doubt it.

16 Q. Why do you doubt it?

17 A. Our estimate was really close to reality. We
18 had several months to advertise. We would not have had
19 that amount of time had she done it administratively.
20 And even with that amount -- and we were actually able
21 to attract a lot of potential bidders, and --

22 Q. How many bidders did you have?

23 A. I don't remember. I was not registering
24 bidders and did not operate the database that day.

25 Q. So removing the agent who was one of the agents

1 that seized it and bid on them, were there like five
2 bidders outside of that?

3 A. There was not an agent that bid on anything.
4 That did not happen, sir.

5 Q. Okay. Removing Steven Jedlowski, who was
6 present there as part of the seizing force and who
7 purchased assets --

8 A. That was not his position, sir. He was a local
9 police officer, and TIGTA, in their operations plan,
10 requested his presence, so he was not part of the
11 seizure team at all. TIGTA was not part of the seizure
12 team. The only people that were part of the seizure
13 team were the revenue officers.

14 Q. So would it have been appropriate for TIGTA
15 agents to purchase items at the auction?

16 A. No. They're Treasury employees. It's
17 prohibited.

18 Q. But it was appropriate for someone they brought
19 along as part of their task force --

20 A. I don't --

21 Q. -- to purchase items?

22 A. I don't know that they --

23 Q. I'm -- you're under oath, and I'm asking you
24 for the truth here. I want your best testimony. Would
25 it have been appropriate for an agent that the TIGTA

1 officers brought along as part of their task force to
2 seize the assets, would it have been appropriate for
3 that officer to purchase assets at this auction?

4 A. The officer --

5 Q. It's a yes or no question.

6 A. I would say no in the context that you stated
7 your question.

8 Q. And my context corresponds to the reality of
9 what happened in this matter.

10 A. I don't know because I -- he -- I didn't see
11 their operational plan.

12 Q. Who allowed him to buy these assets?

13 A. Who allowed him to register?

14 Q. Right.

15 A. Whoever was registering bidders.

16 Q. Would that have been Patty Hall?

17 A. Patty was operating the database.

18 Q. Is his registration as a bidder, does that cast
19 any -- I mean, does that -- does that demonstrate a lack
20 of judgment in the execution --

21 A. He was --

22 Q. -- of this sale?

23 A. -- a civilian when he came back to the sale.

24 He was off duty in street clothes. He was no longer
25 part of that operation.

1 Q. But you're telling me he was there to seize the
2 assets, he left and changed clothes, and came back --

3 A. He wasn't --

4 Q. -- and bought assets.

5 A. -- part of the seizure, sir.

6 THE REPORTER: Okay. Wait. One at a time.

7 Q. Are you telling me he was present at the
8 seizure, correct?

9 A. I'm not certain as to when he got there.

10 Q. But he was there at the invitation of TIGTA?

11 A. Yeah. I mean, we didn't bring him.

12 Q. And he was reflected on the agenda that was
13 prepared by the revenue officer as one of the people who
14 would be present, was he not? You saw that agenda?

15 A. I did not.

16 Q. No?

17 A. We do sale plans, so I'm not sure what the
18 revenue officer prepared.

19 Q. At any rate, it's your testimony he was present
20 during part of the seizure.

21 A. He was present during part of the inventory.

22 Q. And he was there at the request of TIGTA
23 agents?

24 A. We, the PALS, did not request his presence.

25 Q. Did you request the presence of TIGTA?

1 A. The revenue officer did.

2 Q. Okay. And TIGTA requested his presence.

3 A. I didn't see their operational plan.

4 Q. TIGTA requested the presence of several TIGTA
5 agents?

6 A. Yes.

7 Q. Okay. He was present at the sale.

8 A. Yes. He left --

9 Q. And he purchased assets at the sale.

10 A. Yes. An asset. I'm not sure what --

11 Q. And your testimony is that is appropriate or
12 not appropriate in retrospect?

13 A. Well, as a private citizen, it's a public
14 auction, and it's okay for him to be there.

15 Q. Would it have been okay for you to purchase
16 items at this sale?

17 A. No.

18 Q. Would it have been okay for Darlene Coleman to
19 purchase items at this sale?

20 A. No.

21 Q. Would it have been okay for Patty Hall to
22 purchase items at this sale?

23 A. No.

24 Q. Would it have been okay for Shane Gilmore to
25 purchase items at this sale?

1 A. No. Treasury employees are strictly
2 prohibited. This guy's not a -- he's not a Treasury
3 employee.

4 Q. Shane Gilmore's not?

5 A. No. The police officer.

6 Q. Steven Jedlowski is not?

7 A. Yes, sir. Yes.

8 Q. What's required to invoke a perishable goods
9 sale?

10 A. What's required?

11 Q. What are the criteria, your understanding of
12 them?

13 A. Items that are likely to perish, which could be
14 spoilage or rot; or the asset itself -- the equity in
15 the asset could perish; items that can't be kept without
16 great expense, that sort of thing, that's where it
17 starts.

18 Q. Okay. Was this the type of asset that would be
19 likely to perish?

20 A. Yes, sir.

21 Q. It was.

22 A. The equity, because the value diminishes from
23 when it is on a rack where you could look at it and see
24 it as opposed to it being in a box in the corner on the
25 floor.

1 Q. Okay. So was that the basis upon which it was
2 -- the perishable goods --

3 A. No. That's --

4 Q. -- seizure sale was justified?

5 A. That's what begins the conversation is the
6 nature of the asset.

7 Q. So I'm asking, within the context of the
8 standards that will allow for a perishable goods seizure
9 or sale, was this the type of asset that was likely to
10 spoil or perish?

11 A. The equity would perish, and yes. And it could
12 not be kept without great expense and -- compared to the
13 value of the asset.

14 Q. Was one of those or -- was one of those the
15 justification that was used?

16 A. Could not be kept without great expense, if I
17 recall.

18 Q. I think your recollection is correct, but I
19 want to know, was the other standard used as a
20 justification for this?

21 A. No. But we consider all of it when we run
22 through our four-way conference call.

23 Q. Okay.

24 A. Everything is considered.

25 Q. What rules govern the way that you consider

1 this?

2 A. You mean other than the Internal Revenue
3 Manual?

4 Q. Is that all you look to?

5 A. Well, we look to -- again, to the nature of the
6 assets, we make a determination as to, you know, kind of
7 which one of those three criterias really fit this
8 situation and based on estimated expenses.

9 Q. What steps have to be completed from that
10 point?

11 A. An appraisal and then vendor estimates. I
12 usually ask revenue officers to, you know, shop two to
13 three potential vendors. Sometimes that works,
14 sometimes it doesn't. But I know that she had more than
15 one for that purpose.

16 Q. Okay. Any other steps that must be completed
17 after that to proceed with a perishable goods seizure
18 sale?

19 A. Oh, yeah. I mean, there's an entire approval
20 process in which we're not involved in at all.

21 Q. So from your perspective, those were the only
22 steps?

23 A. Well, for us, yeah, is to get that memorandum,
24 the sell plan memorandum approved by me, goes back to
25 the field, and then they do their thing.

1 Q. Okay. Numerically speaking, what valuation was
2 necessary here to justify a perishable goods sale?

3 A. You mean what number for the fair market value?

4 Q. Right.

5 A. I'm not sure.

6 Q. Do you have a ballpark figure?

7 A. No. I don't approach it that way. I know that
8 my employees don't either, so . . .

9 Q. Let me ask it a different way. If these assets
10 had been valued at a hundred thousand dollars as Darlene
11 Coleman stated the equity was, would a perishable goods
12 seizure and sale have been appropriate?

13 A. Well, of course, that's hypothetical, so --

14 Q. Well, it happened. So I'm asking, based on
15 those facts, would it have been appropriate?

16 A. Hypothetically speaking, it would -- it would
17 not have met the criteria for a perishable goods sale.

18 Q. So --

19 A. So if we had done that, what would've happened,
20 the taxpayer would've had an enormous amount of money
21 charged to their account, all of their merchandise
22 would've been moved off site, and we would've walked
23 away and released it back to them. They'd had to figure
24 out how to get it back over there. We never would've
25 sold those assets for that value.

1 Q. If those assets had been valued at \$90,000,
2 would it have -- would it have been appropriate to
3 conduct a perishable goods seizure or sale?

4 A. It would not have met the criteria.

5 Q. So it would have been improper to conduct a
6 perishable goods seizure or sale --

7 A. Yeah --

8 MS. YEPURI: Excuse me. You're asking her
9 several hypothetical questions that are beyond the scope
10 of her testimony authorization.

11 MR. FREEMAN: All right. If we're going to
12 have an issue with that, I'm going to object. I'm going
13 to continue to ask those questions.

14 MS. YEPURI: You can ask. I'm just
15 reminding her she's bound by her testimony
16 authorization, so . . .

17 MR. FREEMAN: So are you instructing her
18 not to answer that? If so, I'm going to go ahead and
19 notify the Chambers and we can have a call about it. I
20 want to ask those questions.

21 MS. YEPURI: Can we have the question read
22 back? I'd like to hear it again.

23 MR. FREEMAN: Sure.

24 | Can you read that back?

25 | (Requested portion was read.)

1 MS. YEPURI: I'm just going to instruct her
2 to answer stating that it's a hypothetical question.

3 THE WITNESS: I think I did.

4 A. Hypothetically speaking, no, because it would
5 not meet the criteria.

6 Q. So under those facts, a perishable goods
7 seizure and sale would have been improper.

8 A. In a hypothetical such as this, it would have
9 been improper.

10 Q. If the value of those assets had been \$35,000,
11 would it have been proper to conduct a perishable goods
12 seizure or sale?

13 A. Since that figure -- and again, hypotheticals
14 here. We would have to evaluate it in the same manner
15 that we evaluated it in the beginning.

16 Q. And so if the value of the inventory had been
17 \$35,000, would a perishable goods seizure have been
18 appropriate under that valuation?

19 A. I can't say specifically to that because there
20 are other factors, and that number is a lot closer than
21 the hundred thousand dollar hypothetical you gave me.

22 Q. Okay. What are the other factors?

23 A. The expenses and what would have actually been
24 seized on the day of the seizure, what the moving
25 expenses would have been, what the storage expenses

1 would have been.

2 Q. So you're telling me at \$35,000 a perishable
3 goods seizure would have been appropriate?

4 A. No. I'm telling you that we would have to be
5 certain. This is completely hypothetical, so I don't
6 know every single factor, but it -- that number is a lot
7 closer than your previous two figures.

8 Q. But the only additional factor you're raising
9 there is that you would look more closely at the
10 expenses?

11 A. We would have to. And remember, it's limited
12 to the Government's interest in the assets.

13 Q. What do you mean by that?

14 A. What the debtor owes, not what the assets are
15 valued at. We can't sell them -- we can't offer them
16 for sale above that amount.

17 Q. So what is the standard -- I want to understand
18 exactly. What is the standard that is supposed to be
19 used to determine whether a perishable good -- to
20 determine the value of inventory that you're considering
21 for a perishable goods seizure? By that, I mean is the
22 standard a fair market value standard? Is it a more
23 refined standard? Is it reduced forced sale value?
24 What is the appropriate standard?

25 A. The fair market value standard is established

1 for all assets. It doesn't matter if they're perishable
2 or administrative. There -- it's the same standard in
3 valuations.

4 Q. And what does that standard mean?

5 A. The fair market value of an asset between a
6 willing buyer and seller, what is that fair market
7 value.

8 Q. So that was the standard that should be applied
9 or should've been applied to value this inventory in
10 order to determine whether a perishable goods seizure
11 may be appropriate.

12 A. It was applied, sir.

13 Q. That is the definition?

14 A. Right. But it's the market.

15 Q. And your definition there is the price that
16 would be --

17 A. It was the wholesale market, not the retail
18 individual market.

19 Q. So your understanding of what should've been
20 applied there was the wholesale value that would be
21 realized in a transaction between two willing parties?

22 A. Yes.

23 Q. Are either of those parties under any
24 compulsion to sell or buy under your standard?

25 A. Not necessarily.

1 Q. So just the value that would be realized at
2 wholesale -- in a wholesale context between a willing
3 buyer and seller.

4 A. It would be the value of what the items would
5 be offered for, not necessarily realized.

6 Q. Okay. Was this the standard that Patty Hall
7 applied in valuing the inventory?

8 A. Yes. To my knowledge.

9 Q. Would she be incorrect if she applied a
10 different standard? I mean, this ought to be a simple
11 question. I'm not asking you to try to bolster somebody
12 or -- you know, I'm asking you, what's the correct
13 answer? Would she be incorrect if she used a different
14 standard than that?

15 A. She would be.

16 Q. I mean, I'd like to hope there's some
17 systematic reasonable approach to the rules y'all use.
18 If she used a different standard, her standard would've
19 been improper.

20 A. It may have inflated the numbers.

21 Q. Inflated the numbers how so?

22 A. I mean, if you -- if you use a different
23 standard and you come -- say -- let's say it came up to
24 75,000. That would be incorrect.

25 Q. But her number came to 10,000, correct?

1 A. That number was spot-on.

2 Q. Okay. But if she used a different standard
3 than that -- I'm not saying she did. If she used a
4 different standard than that, would it be -- that
5 standard would've been improper.

6 A. Yes.

7 Q. Okay. Have you ever used a different standard
8 for valuing inventory in other seizures?

9 A. I don't -- I don't value. That's the PALS'
10 job. They do appraisals; I do not.

11 Q. Has Patty ever sat in on any of your continuing
12 education courses?

13 A. Yes.

14 Q. Have you ever -- has she ever sat in on a
15 course where y'all discussed the standard for valuing
16 assets?

17 A. I haven't taught that course.

18 Q. But your testimony is it would've been
19 appropriate to look to the -- to look at the fair market
20 value in the context of a wholesale market.

21 A. Yes, sir.

22 Q. Okay. So you would start from a wholesale
23 value.

24 A. Yes.

25 Q. Okay. Did you actually appraise the property?

1 A. This property?

2 Q. Yes, ma'am.

3 A. No, sir.

4 Q. Does PALS actually give an appraisal on the
5 property? Is there some formal appraisal document?

6 A. In this context, no.

7 Q. Okay. Why is that?

8 A. I don't know. That's a policy issue.

9 Q. What exactly does it mean to appraise the value
10 of property?

11 A. To determine the value of the asset.

12 Q. And that would be the value that you just
13 referenced in terms of the fair market value in the
14 wholesale context?

15 A. In this particular case, yes.

16 Q. Okay. In this case, did you determine or did
17 PALS determine the value of the inventory before or
18 after it was seized?

19 A. Before.

20 Q. Before. Not after?

21 A. No.

22 Q. Okay. And just to be clear, what was that
23 appraised value?

24 A. \$10,000.

25 Q. 10,000?

1 Does PALS list the specific steps it takes
2 to value a property in some sort of memo or document?

3 A. No.

4 Q. No?

5 Why not?

6 A. It's not a requirement.

7 Q. So there's no obligation to list out the steps
8 justifying the valuation.

9 A. (Moving head side to side.)

10 Q. Is that a no?

11 A. No.

12 THE WITNESS: I'm sorry.

13 Q. I'd like to go through the steps -- your
14 understanding of the steps that PALS took to arrive at
15 the valuation of this inventory. What did it do?

16 A. To get to the value?

17 Q. Yes, ma'am.

18 A. Patty would have to answer those specific steps
19 for you because I was not present when she -- she gave
20 Darlene an initial analysis of what she thought they
21 were worth and then she went and visited the store, so
22 how she derived at those figures I don't know. You
23 would have to ask her directly.

24 Q. Let me ask it more as a what steps should be
25 taken in this context. Would it be appropriate to look

1 at comparable products?

2 A. Yes.

3 Q. To look at what those comparable products might
4 sell for at wholesale?

5 A. Yes.

6 Q. Do research on the products?

7 A. Yes.

8 Q. Would that be appropriate?

9 Consult with someone with expertise in the
10 bridal gown market?

11 A. Yes.

12 Q. Consult the revenue officer's inventory?

13 A. I need to be clear when you say "the revenue
14 officer's inventory."

15 Q. The inventory conducted by Darlene Coleman in
16 this case. The 18-page inventory that was conducted.

17 A. I never saw that.

18 Q. Would that be, in valuing this, something that
19 should be looked at?

20 A. It should certainly be considered if it's part
21 of the request, yeah.

22 Q. Would it be accurate to say that what the
23 taxpayer paid for the inventory would be more in line
24 with the fair market value?

25 A. If that information is available to us. It's

1 not information that was available to me.

2 Q. Okay. I want to go back to the condition of
3 the inventory. What kind of condition was this
4 inventory in generally?

5 A. Generally, it was in fairly good condition.

6 Q. And there was a small percentage of it that was
7 not in as good of condition; is that correct?

8 A. Yes, sir.

9 Q. And that was based upon your personal viewing
10 of the inventory?

11 A. It was just an observation. I did not analyze
12 these assets. There was not time for that.

13 Q. Just what you saw at the date of the --

14 A. Right.

15 Q. -- sale?

16 A. Right.

17 Q. Did anyone in your office have experience
18 valuing wedding gowns or dresses?

19 A. In my office?

20 Q. Yes, ma'am.

21 A. No.

22 (Exhibit 19 marked.)

23 Q. Ms. Ferguson, I'll hand you what's been marked
24 as Exhibit 19.

25 MR. FREEMAN: Can we go off the record for

1 just a second?

2 (A break was taken from 10:59 a.m. to
3 11:09 a.m.)

4 MR. FREEMAN: We're back on the record.

5 Q. (BY MR. FREEMAN) Can you tell me why the
6 valuation of the inventory changed over time?

7 A. I cannot. It did not change from my figure and
8 what my employees' figure was.

9 Q. And that was the \$10,000 figure?

10 A. Yes, sir.

11 Q. What is the process for determining the costs
12 necessary to seize and store this kind of asset?

13 A. That is a revenue officer function.

14 Q. Not something that should be done by PALS?

15 A. It is not.

16 Q. What say does PALS have over the process?

17 A. The PALS may offer a familiar vendor in a
18 particular area, particularly if it needs to go through
19 procurement because it eases that process. There may be
20 specialized equipment needed, and we may have
21 relationships with certain vendors for that purpose.

22 Q. Okay.

23 A. But other than that, getting quotes and such,
24 no.

25 Q. How do you understand these cost estimates to

1 have changed over time?

2 A. You mean as it relates to this particular case,
3 of course.

4 Q. Yes, ma'am.

5 A. I don't. That's -- I wasn't involved in that.

6 Q. What does it mean the statement "property
7 cannot be kept without great expense"?

8 A. It means that -- great expense in relation to
9 the value of the assets themselves. So it may not be
10 real expensive, but it compromises the equity in the
11 asset.

12 Q. And what does it mean to be great with respect
13 to the asset?

14 A. It means that it would compromise the equity in
15 it.

16 Q. Won't it always compromise the equity in it to
17 some degree?

18 A. No. Compromising the equity means that there
19 is no more equity. That's how we understand --

20 Q. So by that, you mean eats up all --

21 A. Exactly.

22 Q. -- of the equity.

23 So it needs to exceed --

24 A. It makes it a negative --

25 THE REPORTER: Wait. One at a time,

1 please.

2 Q. By that, you mean that the costs would need to
3 exceed it, exceed the value of the equity --

4 A. Yes.

5 Q. -- to be great.

6 A. Yes. The forced sale value.

7 Q. Okay. I will hand you what I'm marking as
8 Exhibit 20. Ms. Ferguson, do you recognize this
9 document?

10 (Exhibit 20 marked.)

11 A. Yes.

12 Q. And what is this document?

13 A. It's an e-mail thread between Patricia and
14 Darlene.

15 Q. And are you on this e-mail thread?

16 A. I'm at the end.

17 Q. And what is the date and time of this e-mail?

18 A. Friday, August 15th, 2014, 7:42 p.m.

19 Q. Okay. And this e-mail from Darlene Coleman
20 states in the second sentence: "Also, I had them double
21 the quote, and he's e-mailing it now."

22 What did she mean by that?

23 A. That's -- Darlene's the author of that. I
24 don't have --

25 Q. You don't know --

1 A. No, sir.

2 Q. -- the answer? Okay.

3 Ms. Ferguson --

4 A. Yes.

5 Q. -- I will hand you what's been marked as
6 Exhibit 22 -- 21, excuse me. Ms. Ferguson, do you
7 recognize this document?

8 (Exhibit 21 marked.)

9 A. I do.

10 Q. And what is this generally? Is it an e-mail
11 thread?

12 A. Oh, yes, sir. Yes.

13 Q. And at the top, is the e-mail thread to you
14 from Patricia Hall?

15 A. Yes. So Darlene sent her manager, Mr. Roberts,
16 information and then it appears that she forwarded it to
17 Patricia without any explanation, and Patricia forwarded
18 this information to me without any explanation.

19 Q. Is it abnormal to get an e-mail without any
20 explanation?

21 A. Not from my employees, sir, no.

22 Q. Does that typically occur when you know what
23 the e-mail is about?

24 A. No. It's when they are -- it's for
25 informational purposes. They're not asking me to

1 respond.

2 Q. Okay. I notice here in a highlighted portion
3 about midway through that Ms. Coleman indicates that she
4 contacted AB Movers and spoke with them and discussed
5 packing and moving the entire store on March 4th, 2015,
6 and here are the results of that conversation. And
7 right below that she states that he advised that he can
8 do it -- he can move on that date at \$7,120. Is that
9 the date she obtained that cost estimate?

10 A. I don't know when she obtained the cost
11 estimate. She provided the information to her manager
12 on March 2nd.

13 Q. Do you know why she forwarded this to Patricia
14 Hall?

15 A. I do not.

16 Q. Do you know why Patricia Hall forwarded it to
17 you?

18 A. No. We didn't talk about that. I just --

19 Q. Was there a request for this information?

20 A. From me?

21 Q. Yes, ma'am.

22 A. Huh-uh.

23 Q. But you don't know why she would be sending it
24 on that date, two days before the seizure?

25 A. Well, she would've wanted me to have the

1 information, obviously. And judging by the time of
2 night, I don't know that I even saw it.

3 Q. Okay. With respect to all of the documents in
4 your possession related to this case, did you do
5 anything to locate all of the documents related to you?

6 A. I mean, yes. I have folders in my Microsoft
7 Outlook.

8 Q. Okay. Is that where you store all of your
9 files related to this case?

10 A. I don't have files. I only have e-mails.

11 Q. Okay. Is that where you store all of your
12 e-mails related to this case?

13 A. Yeah. There's not many e-mails originated by
14 me, but the perishable goods sale plan would be one of
15 the things that I would have in my e-mail.

16 Q. Okay. But no other files that you kept with --

17 A. I don't keep --

18 Q. -- respect to this matter?

19 A. -- files at all for any case.

20 Q. Okay. Did you do anything to locate all of
21 your e-mails for this case for production in this case?
22 Were you asked to locate all of your files or all of
23 your e-mails?

24 A. My computer was imaged.

25 Q. Okay. When was that done?

1 A. I don't remember. I'd have to look it up.

2 Q. Round about?

3 A. This summer.

4 Q. This summer?

5 A. Might have been in July.

6 Q. Summer of 2018?

7 A. Yes, sir.

8 Q. Do you know if any e-mails were missing at that
9 time?

10 A. No one has said anything about that, and I
11 don't delete e-mails.

12 Q. You don't delete any e-mails?

13 A. Huh-uh. Relevant e-mails.

14 Q. By "relevant," would that be any e-mails
15 related to a case?

16 A. Or correspondence between me and my employees
17 more so.

18 Q. Did you delete any documents related to this
19 case?

20 A. I don't have any documents related to this
21 case. I have a couple of e-mails.

22 Q. Did you delete any documents or e-mails related
23 to this case?

24 A. No.

25 Q. Didn't delete any documents related to this

1 case.

2 A. Not to my knowledge.

3 (Exhibit 22 marked.)

4 Q. Ms. Ferguson, I'll hand you what I'm marking as
5 Exhibit 22. Ms. Ferguson, do you recognize this
6 document?

7 A. Yes.

8 Q. And what is this?

9 A. This is the perishable goods criteria and sales
10 plan.

11 Q. Okay. And was this a document you were
12 involved with creating?

13 A. No.

14 Q. Was it created by one of your employees?

15 A. Yes, sir. Patricia Hall.

16 Q. And what is the date on this document?

17 A. August 25th, 2014.

18 Q. And down below there are several items related
19 to the selection of perishable goods sale criteria. And
20 do I understand that that is the selection of the
21 perishable goods criteria to support going forward with
22 a perishable goods seizure or sale with respect to Mii's
23 Bridal?

24 A. That is not true, sir.

25 Q. What is it?

1 A. This is the selection of the criteria that
2 begins the analysis of whether or not we would move
3 forward to actually go to sale or not.

4 Q. Okay. So this reflects the basis upon which
5 you would proceed going forward to possibly conduct a
6 perishable goods --

7 A. This is --

8 Q. -- seizure or sale?

9 A. This is where we would select the criteria to
10 begin the analytical work to make that determination.

11 Q. And what was the criteria that was selected in
12 this case?

13 A. That assets cannot be kept without great
14 expense.

15 Q. And so there were three to choose from. One is
16 that it was liable to perish. That was not selected,
17 correct?

18 A. Right.

19 Q. The other is that it is liable to become
20 greatly reduced in price by value or keeping. That was
21 not selected either, correct?

22 A. Correct.

23 Q. The third criteria is that it cannot be kept
24 without great expense, and that is the criteria that
25 appears to be selected on this letter, correct?

1 A. Correct.

2 Q. Is this document -- would this document have
3 been changed over time?

4 A. I only remember approving it once, this
5 document.

6 Q. When did you approve it?

7 A. Can't read the date, but it's on there.

8 Q. Is there a reason that the date of your
9 signature is in February of 2015?

10 A. Don't know.

11 Q. Is there a date -- is there a reason that the
12 date of your signature is several months after the date
13 reflected on this letter?

14 A. The author of this document would have to
15 answer why this date is there. When it was presented to
16 me for approval, I approved it.

17 Q. Did you subsequently approve a different
18 version of this memo?

19 A. I do not know. I do not recall.

20 Q. You don't recall that?

21 A. Huh-uh.

22 Q. Don't recall any discussion about that? Was,
23 in fact, some information inserted into this document?

24 A. Don't know.

25 Q. If this document was changed after the

1 August 25th, 2014, date reflected on the front of this
2 document, would it have been proper to change the date
3 of the memo?

4 A. Absolutely. But again, I'm not the author of
5 the memo. So --

6 Q. Is there a practice of back-dating documents in
7 your office?

8 | A. Absolutely not.

9 0. Would that be wrong?

10 A. Hypothetically speaking, that would be
11 inappropriate.

12 Q. If this document contained different
13 information than was on the version of this document
14 that was presented on August 25th, 2014, would it be
15 improper to subsequently insert that information into
16 this memo and continue to reflect the same original
17 date, hypothetically speaking?

18 A. Yes.

19 Q. Ms. Ferguson, I want to show you another
20 exhibit which I will mark as Exhibit 23. Do you
21 recognize this document?

22 (Exhibit 23 marked.)

23 A. I do not.

O. You've never seen this document before?

What does this document appear to be?

1 A. Some supporting documentation for a writ
2 request.

3 Q. What is the date of this document?

4 A. August 26th, 2014.

5 Q. And who authored this document?

6 A. Darlene Coleman.

7 Q. Would you turn to page 2 of this document. I'm
8 going to read from the paragraph there, paragraph 6,
9 which refers to the inventory in this case and states
10 that, "Pictures were taken of all assets listed.
11 Revenue officer believes the asset listed are in retail
12 sell condition except the sewing and pressing machine,
13 which will be" -- "which will sell at used sale prices."
14 Did I read that correctly?

15 A. Yes.

16 Q. Yes?

17 A. Yes.

18 Q. Do you agree with that description of the
19 assets? As a general matter.

20 A. Yeah, that would kind of be an opinion. She
21 obviously saw the stuff several months before I did, so
22 I don't know what was there.

23 Q. No reason to believe that's an incorrect
24 statement or she's wrong?

25 A. No. I don't -- one way or the other, no.

1 Q. Okay. Paragraph 7 states that, "Equity in the
2 business property assets is approximately \$100,000."
3 Did I read that correctly?

4 A. Uh-huh.

5 Q. And again, the date of this memo was August 26,
6 2014; is that correct?

7 A. Correct.

8 Q. So this was after your four-way conversation
9 regarding this case.

10 A. Right.

11 Q. Okay. Did anyone disagree with the -- with the
12 descriptions contained in this memo, to the best of your
13 knowledge?

14 A. No. This memo doesn't come through my program
15 at all.

16 Q. Okay. But you don't recall anyone actually
17 disagreeing with those sorts of descriptions?

18 | A. No. That's not part of our discussion.

19 Q. Okay. Ms. Ferguson, I'll hand you what I'm
20 going to mark as Exhibit 24. Ms. Ferguson, do you
21 recognize this document?

22 (Exhibit 24 marked.)

A. No. Again, it's the same.

24 Q. Look like the same or a different version,
25 perhaps, of the document we just looked at?

1 A. Yes, sir.

Q. And what is the date on this document?

3 A. September 4th, 2014.

4 Q. And who is the author of this document?

5 A. Darlene Coleman.

6 Q. Okay. And if you'll look to page 2 of this
7 document, there's again a description from the revenue
8 officer of the inventory at issue, and there in
9 paragraph 6, she states: "Revenue officer believes that
10 all of the dresses for retail sale are new and are in
11 good condition. The furniture, one couch and one chair,
12 are in average condition and can be sold at used sale
13 prices." Did I read that correctly?

14 A. Yes, sir.

15 Q. Did you ever have any discussion with her about
16 those descriptions?

17 A. No.

18 Q. Ms. Ferguson, I'll hand you what we are marking
19 as Exhibit 25. Do you recognize this document?

20 (Exhibit 25 marked.)

21 A. This -- we don't see this document in the
22 process.

Q. So you've never seen this document?

MS. YEPURI: Counsel, this is Exhibit 252.

25 MR. FREEMAN: Yes, ma'am.

1 Q. Can you tell me what this document is?

2 A. This is a approval request from the revenue
3 officer through her management chain to conduct a
4 perishable goods seizure.

5 Q. And what is the date on this memo?

6 A. February the 2nd, 2015.

7 Q. And this memo appears to be signed digitally by
8 Jonathan Say, LaDonna Eastep, and Joseph Roberts,
9 correct?

10 A. Yes.

11 Q. Okay. And the subject line of this document is
12 perishable goods sale and seizure --

13 A. Yes.

14 Q. -- is that correct?

15 A. Uh-huh.

16 Q. If you'll turn to the third page of this
17 document, there is a description of assets, and it
18 states that the approximate fair market value, \$100,000
19 for entire store, and zero dollar encumbrances; is that
20 correct?

21 A. Yes, sir.

22 Q. This appears to reflect an indication of a fair
23 market value of \$100,000, at least from the revenue
24 officer.

25 A. Right.

1 Q. If you'll look at the fifth page, there is an
2 indication of the estimated equity in the assets, and it
3 states \$100,000; is that correct?

4 A. Yeah, that's what it states here, sir.

5 Q. And then below that, there's a paragraph with
6 the acronym "FMV," which stands for, I believe, fair
7 market value.

8 A. Uh-huh.

9 Q. And it states that, "This was determined by the
10 valuation of similarly related businesses and the
11 specialization of the bridal shop market. It was
12 determined that the value of said assets would be
13 greatly reduced if moved from the store location prior
14 to seizure. The amount determined for estimated value
15 of all assets at \$100,000 was lowered to \$10,000 with a
16 reduced forced sale value of \$6,000." Is that correct?

17 A. Yes, sir.

18 Q. Did you have any discussion about anything
19 reflected in that paragraph?

20 A. Well, yes. I mean, I've discussed the \$10,000,
21 but I'm not the person who gave her the information that
22 she used for this. That would be Patricia Hall.

23 Q. Okay. At the bottom, there's a statement that,
24 "It has been determined that the expense of moving and
25 storage would significantly diminish the remaining

1 equity; therefore, a perishable goods sale would be the
2 best option for the service to receive proceeds
3 necessary to full pay the tax liability."

4 Do you agree with that statement?

5 A. I can't say I agree or disagree with it. This
6 is --

7 Q. Why is that?

8 A. I mean, this is Darlene's document.

9 Q. You can't say whether you agree or disagree
10 with it?

11 MS. YEPURI: You can answer his question.

12 THE WITNESS: Okay.

13 A. Well, I personally disagree with it.

14 Q. Why is that?

15 A. Where she states that "a perishable goods sale
16 would be the best option for the service to receive
17 proceeds necessary to full pay the tax liability."

18 Q. What is it you disagree with in that statement?

19 A. That entire statement. That is not the
20 criteria for determining whether or not a perishable
21 goods sale should be considered at all.

22 Q. Why is that? Why is that not the criteria?

23 A. The tax liability doesn't have anything to do
24 with the determination to seize or not to seize, or
25 should not. I'm no longer a revenue officer, but that

1 should never, ever come into play, and it's definitely
2 not something that we consider as a PALS.

3 Q. Yet it's contained in this memo dated
4 February 2nd, 2015, that is signed off by Jonathan Say,
5 the territory manager; LaDonna Eastep, the seizure
6 adviser; Joseph Roberts, the group manager. Is that
7 correct?

8 A. Yes, that's correct.

9 Q. Did you ever discuss that language with anyone?

10 A. No. I hadn't seen it prior to, so I didn't --
11 you know, I don't see the seizure files ever.

12 Q. Except now?

13 Okay. Thank you.

14 A. Uh-huh.

15 (Exhibit 26 marked.)

16 Q. Ms. Ferguson, I'll hand you Exhibit 26.

17 Ms. Ferguson, have you ever seen this document?

18 A. No, sir.

19 Q. And what does this document appear to be?

20 A. A revision of the previous document.

21 Q. Another version of the memo that we looked at
22 in Exhibit 25?

23 A. Yes, sir.

24 Q. And what is the date of this document?

25 A. March 2nd, 2015.

1 Q. And who is the author of this document?

2 A. Darlene Coleman.

3 Q. Okay. And the subject line of this document is
4 perishable goods sale or seizure?

5 A. Yes.

6 Q. So this appears to be, again, another version
7 of the document -- the memorandum supporting the use of
8 the perishable goods procedure.

9 A. Yes.

10 Q. And if you'll look to the third page of this
11 document --

12 A. Okay.

13 Q. -- there is a paragraph listing assets. And it
14 states: "Approximate fair value \$100,000 for entire
15 store and zero dollar encumbrances"; is that correct?

16 A. Correct.

17 Q. So that is the fair market value that is being
18 used as of March 2nd, 2015, two days before the
19 perishable goods seizure? I'll go on to read the rest,
20 but --

21 A. Oh, okay.

22 Q. That's what's stated in that --

23 A. That's what's stated in that sentence yes, sir.

24 Q. It states: "However, this valuation is based
25 on mere visual inspection of said assets and the volume

1 of those assets. PALS then determined a more closely
2 related valuation of those assets with that particular
3 market and determined a fair market value of \$10,000
4 with a reduced forced sale value at \$6,000"; is that
5 correct?

6 A. Yes.

7 Q. What does "more closely related valuation"
8 mean?

9 A. I don't know. You would have to ask the author
10 of the document.

11 Q. Did you have any discussions about this
12 language?

13 A. No.

14 Q. Any discussions that you are aware of that may
15 have prompted this change in the language?

16 A. No.

17 Q. You also look on page 5 of this document, it
18 lists the estimated equity as \$10,000 with a RFVS of
19 \$6,000.

20 A. Uh-huh.

21 Q. That is a change from the paragraph in
22 Exhibit 25 that we just looked at.

23 You also notice the fair market value
24 paragraph on this page of Exhibit 26 states that, "This
25 was determined by the valuation of similarly related

1 businesses and the specialization of the bridal shop
2 market. It was also determined that the value of said
3 assets would be greatly reduced if moved from the store
4 location prior to seizure. The amount determined for
5 estimated value of all assets is \$10,000 with a reduced
6 forced sale value of \$6,000." Did I read that
7 correctly?

8 A. Yes.

9 Q. And again, in this memo, which is Exhibit 26
10 and is dated March 2nd, 2015, two days prior to the
11 seizure, at the bottom of this page, it states that, "It
12 has been determined that the expense of moving and
13 storage would significantly diminish the remaining
14 equity; therefore, a perishable goods sale would be the
15 best option for the service to receive proceeds
16 necessary to full pay the tax liability." Did I read
17 that correctly?

18 A. Yes.

19 (Exhibit 27 marked.)

20 Q. Ms. Ferguson, I'll hand you what's being marked
21 as Exhibit 27.

22 MR. FREEMAN: Moha, I don't know that I've
23 got another copy of this one.

24 MS. YEPURI: I'll look on with her if it's
25 all right with you.

1 Q. Is that all right with you?

2 A. Oh, yeah, it's okay.

3 Q. All right. This Exhibit 27, do you recognize
4 this document?

5 A. No. Again, this is a -- part of the seizure
6 file.

7 Q. Does this appear to be another version of the
8 document that we just looked at in Exhibit 25 and 26?

9 A. It does.

10 Q. And what is the date of this document?

11 A. March 2nd, 2015.

12 Q. And this document appears to be signed by
13 Jeffrey Daniel, Jonathan Say, and Joseph Roberts,
14 correct?

15 A. Correct.

16 Q. And the subject line of the document is
17 perishable goods sale?

18 A. Uh-huh.

19 Q. And seizure?

20 A. Uh-huh.

21 Q. If you look on the second page to the
22 Description of Property to Be Seized, it merely states:
23 "Business personal property that includes wedding
24 dresses, bridesmaid dresses, prom dresses, shoes, bridal
25 veils, and pillows, miscellaneous furniture, sewing

1 machine, and pressing machine"; is that correct?

2 A. Correct.

3 Q. No other language appears to be in that
4 paragraph?

5 A. No.

6 Q. And then on the third page of this document,
7 there is a paragraph entitled "Assets." The assets
8 paragraph states: "The taxpayer is a retail bridal
9 shop, and the original market value was calculated at
10 the retail amount. The taxpayer does not have a high-
11 end clientele, and her dresses are lower quality and
12 cost dresses. The approximate fair market value is
13 based upon the wholesale value of the dresses
14 considering their original cost and the fact that a
15 large part of the inventory is dresses and accessories
16 that are not from the current upcoming bridal season."
17 Did I read that correct?

18 A. Yes.

19 Q. It goes on to state a little bit lower: "Also
20 considered is the fragility of the inventory as the
21 dresses have been in the taxpayers' shop for more than
22 one season and the fact that when moved the inventory
23 value will drop. Based upon this set of circumstances
24 and based upon sales of similar merchandise, the value
25 of the inventory is considered to be \$10,000."

1 That's very different from the description
2 contained in the exhibit we just looked at, is it not?

3 A. It is.

4 Q. Yet they bear the same date, correct?

5 A. Correct.

6 Q. Do you know why these changes were made?

7 A. I do not.

8 Q. Were you involved in any discussions regarding
9 the changes in these -- in this paragraph?

10 A. I was not involved in any discussions related
11 to this memorandum at any time.

12 Q. Do you know who would have been?

13 A. I mean, she has a manager, you know, so I don't
14 know.

15 MS. YEPURI: I think the originals go to
16 the court reporter.

17 MR. FREEMAN: Yes.

18 (Exhibit 28 marked.)

19 Q. Ms. Ferguson, I'll hand you what's marked as
20 Exhibit 28. Do you recognize this document? This
21 appear to be an e-mail strand?

22 A. Uh-huh.

23 Q. And are you included on this e-mail strand?

24 A. Looks like it, yes.

25 Q. At the top, it appears to be an e-mail from you

1 to a number of IRS persons?

2 A. It's my team.

3 Q. Okay. And it's dated October 10th, 2014?

4 A. Yes.

5 Q. Could you go to the second page of this
6 document? There is an e-mail from October 9th, 2014,
7 from Patty Hall, and it states: "I am having problems
8 with the fillable 4585 form that was revised 8/20/14."
9 Do you know what that is referring to?

10 A. It was a recently revised document. This
11 particular document is used in a 6335 seizure and sale.
12 They're required to get approval from me of this
13 document, and it gets issued to the debtor as it
14 establishes the minimum bid for an asset that's offered
15 for sale.

16 Q. Okay. Do you -- what is this particular
17 document?

18 A. The forty --

19 Q. Does it have a title? Yeah.

20 A. Yeah. The minimum bid worksheet or something.
21 I don't know the exact title, but . . .

22 Q. Okay.

23 A. So it had a glitch in it, and that's what she
24 was referring to.

25 Q. Okay. Could this be referring to the memo that

1 was from Patty Hall on -- in August of 2014?

2 A. No. Because this --

3 Q. This is a different document.

4 A. -- document -- this document would not be used
5 in a perishable sale at all.

6 Q. Okay.

7 A. So that's completely irrelevant.

8 Q. Why is she working on a document that would not
9 be used on a perishable sale?

10 A. Because they work several cases simultaneously.

11 Q. So is this related to a different case, then?

12 A. I'm sure.

13 Q. Okay.

14 A. She was using it to do a 4585.

15 Q. Okay. Hand you what's marked as Exhibit 29.

16 Do you recognize this document? Is this document an
17 e-mail from Patricia Hall to you dated February 6, 2015?

18 (Exhibit 29 marked.)

19 A. Yeah. She's requesting approval of the memo
20 that her and Darlene worked on for the perishable goods
21 sale plan.

22 Q. Why is she requesting approval in February
23 of 2015?

24 A. That's when she was prepared for me to approve
25 it, apparently. I don't know.

1 Q. Did you approve this document back in August
2 of 2014?

3 A. I don't remember.

4 Q. Okay. Was anything added to this document
5 between August of 2015 and the date of this e-mail?

6 A. It says "updated memo," so I would imagine it
7 has been updated.

8 Q. Okay. Ms. Ferguson, I'll hand you what's
9 marked as Exhibit 30. Do you recognize this document?

10 (Exhibit 30 marked.)

11 A. I do.

Q. And what is this?

13 A. This is basically a thread between Darlene and
14 Patricia, and at a point I just intervened.

15 Q. Okay. Why did you intervene?

16 A. Just because it didn't appear that there was
17 anything definitive and just to -- just to provide input
18 since they included me.

Q. Nothing definitive in terms of what?

A. Between them.

21 Q. With respect to the value of the property?

22 A. Right.

23 Q. Okay. So you got involved in actually valuing
24 the property?

25 A. No.

1 Q. No?

2 A. I didn't do a valuation assessment. I was
3 concerned about the value that the revenue officer had
4 on the assets, and I explained why.

5 Q. Why were you concerned about that if you hadn't
6 done a value assessment?

7 A. Because I felt it was high.

8 Q. Why did you feel it was high?

9 A. Because of the type of assets that we were
10 speaking of.

11 Q. But you, again, had never done this kind of
12 sale with those types of assets?

13 A. No.

14 Q. You state in here, "I am concerned about the
15 fair market value calculation." And then you state
16 that, "Based on this type of asset, the asking price is
17 not a true reflection of the fair market value"; is that
18 correct?

19 A. Correct.

20 Q. What was your basis for that analysis?

21 A. If I'm not mistaken -- but I want to go back
22 here and review this -- she was using retail, and we
23 will never use retail as a basis to begin our valuation
24 process.

25 Q. And you felt that a reduction to that value was

1 appropriate?

2 A. Yes.

3 Q. And how much did you feel it should be reduced?

4 A. I didn't say because I didn't know. I had not
5 seen the assets.

6 Q. Well, in the last sentence of that first
7 paragraph, you state that, "This factor was extremely
8 important when you determine the value. I agree with
9 Patty that the asking price is a significant mark-up and
10 would say 70 percent is reasonable."

11 A. Right.

12 Q. What does that mean exactly?

13 A. That means that during -- in this thread, that
14 was Patty's assessment when she was reviewing these
15 assets with her to determine -- well, to concur with a
16 fair market value assessment, so I had just said that
17 I'm supporting Patty's position based on her analysis of
18 these assets.

19 Q. So the 70 percent mark there, is that -- is
20 that an effort to get to a wholesale value --

21 A. Yes.

22 Q. -- in a sense?

23 A. Yes.

24 Q. And that, again, you'd mentioned before would
25 be the appropriate valuation standard?

1 A. For this type of asset, yes, because that's our
2 market.

3 Q. Okay. And the last sentence -- last paragraph
4 of this e-mail, you state: "The last option to consider
5 is a perishable goods seizure. I can meet with you and
6 your GM with Patty to discuss whether or not this is a
7 viable option. I want you to consider it because of the
8 limited equity in this type of asset, as well as the
9 costs involved to secure the assets off-site."

10 A. Yes.

11 Q. Were you the first person to mention a
12 perishable goods seizure in this matter?

13 A. I don't know.

14 Q. Do you know who else might have raised the idea
15 of a perishable goods seizure?

16 A. I do not.

17 Q. Are you aware of any other document that is
18 prior to this document that refers to a perishable goods
19 seizure in this matter?

A. I am not aware.

21 Q. Did you believe that doing a perishable goods
22 seizure would get you noticed within the IRS?

23 A. No, sir.

24 | Q. No?

25 No belief that this was something that

1 would get you recognized by upper management?

2 A. No.

3 Q. Did you hope that it would?

4 A. No. That's not why I do my job.

5 (Exhibit 31 marked.)

6 Q. Show you what's marked as Exhibit 31. Do you
7 recognize this e-mail chain?

8 A. Yes.

9 Q. And are you included on this e-mail chain?

10 A. Yes.

11 Q. In fact, the top e-mail, which contains all of
12 the e-mails below it, is from you to Robert Biluk and
13 Patty Hall?

14 A. Yeah, the three of us, so that's my sale team.

15 Q. Okay. And down below, there is an e-mail to
16 Frank -- to Scott Franks which states that, "We received
17 many accolades from the field on this. Nice work."

18 And he's referring to the perishable
19 goods --

20 A. Yes.

21 Q. -- process?

22 Below that, there's an e-mail from Tom
23 Matthews that states: "It's not clear if it happened in
24 this case, but under Bobby's regime, all perishables
25 were cleared through policy and the director FC office.

1 If it didn't happen, that's okay because it's not a
2 written requirement anywhere."

3 Do you know what he is referring to?

4 A. Yes. He -- what he's saying is that call that
5 we had on the 2nd between the director and policy, we
6 would have a discussion, but it is not a requirement, is
7 what he's saying, and it is not.

8 Q. Okay.

9 A. But we do try to keep everybody on board.

10 Q. Who's Bobby?

11 A. Bobby Hunt, previous retired director of
12 collection.

13 Q. Okay. On the second page of this document,
14 there's another e-mail, this one to Matthew -- to Tom
15 Matthews, and it states: "Just an FYI since PALS
16 reports to you." This is to Scott Prentky. Says,
17 "Didn't want you caught off guard."

18 Do you have any idea what that means?

19 A. No.

20 Q. No?

21 Down below that e-mail that he forwarded to
22 Scott Prentky, two e-mails down below there is an e-mail
23 from John Darren Guillot, G-u-i --

24 A. Guillot (pronunciation).

25 Q. -- l-l-o-t?

1 Guillot?

2 A. Uh-huh.

3 Q. -- to Scott Prentky. It states: "Scott,
4 sharing just to bring your attention to an unusual
5 seizure successfully completed in GSA. Although there
6 was an initial concern about treating bridal wear as
7 perishable, Jeff and Jonathan thoroughly vetted that
8 question with" -- something that has been excerpted --
9 "and policy before proceeding."

10 Do you know what concerns are being
11 referred to in this e-mail?

12 A. No, I can't speculate what the author was
13 thinking.

14 Q. Did you ever have any discussions with the
15 author of this e-mail?

16 A. Darren, no.

17 Q. No, you didn't?

18 A. Huh-uh.

19 Q. On the next page, the next-to-last e-mail is
20 from Jeffrey Daniel to Jonathan Say, and it states: "I
21 do think a debriefing call is a good idea as this will
22 not be the last perishable seizure."

23 Do you know if that debriefing call ever
24 took place?

25 A. No, I don't.

1 Q. Ms. Ferguson, I'll hand you what's marked as
2 Exhibit 32. Do you recognize this document?

3 (Exhibit 32 marked.)

4 A. I do.

5 Q. And what is this?

6 A. This is a communication between my manager and
7 myself.

8 Q. Regarding the prospect of a perishable goods
9 seizure and sale?

10 A. Yes.

Q. And so your manager is Scott Franks?

12 A. Uh-huh.

13 Q. And in your e-mail to him on August 26th, 2014,
14 you refer to a perishable sales, and you use the -- you
15 have the subject regarding "Bridal Shop," and you use
16 the phrase at the end of this "bridezillas" with an
17 exclamation mark. What exactly does that mean?

18 A. It was just for the nature of the assets, that
19 they were bridal gowns.

20 Q. Was that intended to be a joke, or did that
21 have some sort of technical meaning?

A. It was a joke between my manager and myself.

23 Q. And was this just an isolated comment, or is
24 this kind of a running thing?

A. No, it was just isolated. This is something

1 | that we had not dealt with before.

2 Q. Bridal gown seizures?

3 A. Right.

4 Q. I mean, that's not like a comment y'all
5 continually made?

6 A. No, absolutely not.

7 (Exhibit 33 marked.)

8 Q. So I'll hand you what's marked as Exhibit 33.

9 Ms. Ferguson, do you recognize this document?

10 A. I do.

11 Q. And what is this?

12 A. This is --

Q. It's an e-mail thread.

14 A. Right. And this is later on when we determined
15 that -- looked closer to that it would actually happen,
16 and I made the -- obviously the same reference to
17 bridezillas as I had in the past because it's the same
18 case.

19 Q. So there's an e-mail there from you on
20 February 6th, 2015 --

21 A. Yeah, just to my --

22 | Q. -- to Scott Franks --

23 A. -- just to my --

24 | THE REPORTER: Wait. Wait.

25 Q. -- to Scott Franks, and you state: "LOL,

1 exclamation. You don't want to join us for the fun,
2 ellipses, bridezillas, exclamation"; is that correct?

3 A. Yes.

4 Q. Was this just an isolated comment, or was this
5 kind of a running joke?

6 A. There were two instances in this particular
7 case where that word was used.

8 Q. Okay.

9 A. Only with him. It was not used with my
10 employees.

11 Q. Is that word used on any of your text messages?

12 A. No.

13 Q. Have you reviewed your text messages related to
14 this case?

15 A. I have.

16 Q. How many text messages are there?

17 A. Three.

18 Q. Who are they to?

19 A. My manager.

20 Q. All of them to him?

21 A. Yeah. There's just -- I e-mailed -- I text
22 him, he responded.

23 Q. Text messages.

24 A. Yes. On my personal device.

25 Q. On your personal cell phone?

1 Has anybody asked you for those?

2 A. Nope.

3 Q. Do they still exist?

4 A. They do.

5 Q. Are you aware that I've specifically asked your
6 attorneys for those?

7 A. No.

8 Q. Have any been deleted?

9 A. No.

10 Q. Okay. Will you have any problem turning those
11 over to your attorneys to turn over to me?

12 A. I will not have a problem.

13 MR. FREEMAN: Okay. I'll ask that that be
14 done after this.

15 Q. Are you allowed to text about cases on your
16 personal cell phone?

17 A. Without using any personally identifying
18 information.

19 Q. Would a reference to a bridal gown store and
20 what was likely to be a high profile seizure be
21 personally identifying information?

22 A. No.

23 Q. Okay. What was your -- going back to -- what
24 are we on? Exhibit --

25 MS. YEPURI: Do you still want her looking

1 at her cell phone?

2 MR. FREEMAN: No.

3 MS. YEPURI: Okay.

4 Q. You can put that away.

5 Exhibit -- going back to Exhibit 33.

6 A. Okay.

7 Q. So your e-mail to Mr. Scott Franks making what
8 appears to be a jestful request to join you for the fun
9 and referring to bridezillas, his response back to that
10 was: "I think I will pass, exclamation mark, LOL"; is
11 that correct?

12 A. Right.

13 Q. Okay. Are seizures supposed to be fun?

14 A. I would imagine not. I'm not involved in
15 seizures.

16 Q. Are perishable goods sales supposed to be fun?
17 Let me ask you, actually. You're not involved in
18 seizures. Were you present at this seizure?

19 A. No.

20 Q. You didn't play any role with respect to this
21 seizure?

22 A. No. We're not allowed to. So we can't come in
23 until after the seizure is executed. So we're not --

24 Q. You were present for the sale --

25 A. We were -- we were --

1 Q. -- but you're drawing a distinction --

2 THE REPORTER: Wait.

3 Q. -- you're drawing a distinction between the
4 actual act of entering the premises and the act of
5 selling the assets later. Is that what you're telling
6 me? Were you present for the sale of the assets?

7 A. I was present for the inventory of the assets
8 and the sale of the assets.

9 Q. When you were present, were government agents
10 not present protecting the premises?

11 A. I need clarification of that question, sir.

12 Q. When you were at the location of the sale, were
13 there government agents that were present securing the
14 premises?

15 A. Yes.

16 Q. And securing the assets.

17 A. The perimeter, and that would be TIGTA.

18 Q. Nobody was securing the assets?

19 A. The --

20 Q. What I'm getting at is: Is it fair to say that
21 you're really not involved in a seizure whatsoever?

22 A. We're not involved in a seizure whatsoever.

23 Q. Are perishable goods sales supposed to be fun?

24 A. No.

25 Q. Is there any regard given to the effect that

1 this will have on human beings?

2 A. Absolutely.

3 Q. Is there any regard to the fact that this will
4 completely ruin two people?

5 A. That's a hypothetical question. The impact of
6 our enforcement actions are different on different
7 people, depending on the fact pattern in each case, so
8 that is not something that is considered when we sell
9 assets. We're just taking the appropriate action.

10 Q. Okay. There was no motivation to be recognized
11 within the IRS for taking these actions?

12 A. Oh, no, sir.

13 Q. Would you be happy to be recognized?

14 A. I'm a human being. I enjoy compliments. But
15 that is not the sole purpose why I do anything.

16 Q. Did you expect that conducting a perishable
17 goods seizure in this case would get your name up the
18 IRS management chain?

19 A. No.

20 Q. Did you want it to go up the IRS management
21 chain?

22 A. No. I mean, if it happens, it happens, but
23 that's not the purpose for me taking any of the actions
24 that I take.

25 Q. Did you hope it would go up the management

1 chain?

2 A. Did I hope it would?

3 Q. Yes, ma'am.

4 A. No, those were not my intentions.

5 (Exhibit 34 marked.)

6 Q. Ms. Ferguson, I'll show you what's marked as
7 Exhibit 34. Do you recognize this document?

8 A. Yeah, I do.

9 Q. What is this?

10 A. This is from the previous one where I sent to
11 my best friend.

12 Q. Who is your best friend?

13 A. Desica Willard.

14 Q. Does she work within the IRS?

15 A. She does.

16 Q. What does she do?

17 A. I'm not sure. I think she works in the fraud
18 program now.

19 Q. Okay. Is she allowed to know about things
20 going on in a case that she's not involved in?

21 A. She can know public information.

22 Q. Is what's contain in this e-mail public
23 information?

24 A. Yes.

25 Q. It is? The contents of this e-mail is public

1 information?

2 A. Yeah. I don't see any PII in here.

3 Q. So your testimony is that the statements made
4 in the e-mails contained in this exhibit are public
5 information.

6 A. They can be public information.

7 Q. Are they at the time of this e-mail?

8 A. Not on March 5th.

9 Q. What's necessary to make them public
10 information properly?

11 A. The Record 21, which is a closing document, is
12 made available for review.

13 Q. As of March 5th, 2015, the date of your
14 e-mail --

15 A. It would not have been.

16 Q. Was not.

17 A. No.

18 Q. So this was not public information, correct?

19 A. No.

20 Q. The e-mails in this thread are referring to the
21 perishable goods seizure and sale that took place,
22 correct?

23 A. Repeat that, please.

24 Q. The e-mails in the thread of this e-mail are
25 referring to the perishable goods seizure and sale of

1 Mii's Bridal, correct?

2 A. Right.

3 Q. Your e-mail on March 5th, 2015, to Ms. Willard
4 states that, "Just sharing, ellipses. My name finally
5 went all the way up the management chain, exclamation
6 mark." Is that correct?

7 A. Yeah. There's background there between --

8 Q. What is the background?

9 A. -- she and I.

10 Tommy Matthews used to be my director, my
11 area director, and I have, like, a little bit of a
12 relationship with him. I had a little trouble with my
13 management chain in the -- in the past, and he was
14 actually coming back. That's why his name is mentioned
15 here from her --

16 Q. Okay.

17 A. -- because at this time, he was actually coming
18 back to be the director of collection, which meant he
19 would once again be above my chain. So this accolade
20 would have gotten to him.

21 Q. Okay.

22 A. And that is why I mentioned it to her, the only
23 reason.

24 Q. Okay. Did you think this might result in any
25 kind of promotion within the IRS?

1 A. No. He's retired.

2 Q. Well, your notice among others in management --

3 A. No, it would not.

4 Q. -- your name going all the way up the
5 management chain.

6 A. It will not.

7 MR. FREEMAN: Okay. Tell y'all what, if
8 you want to take about a five-minute break, I'm probably
9 pretty close.

10 MS. YEPURI: That's fine.

11 MR. FREEMAN: That work for you?

12 THE WITNESS: That's fine.

13 MR. FREEMAN: Okay. We can go off the
14 record.

15 (A break was taken from 12:14 p.m. to
16 12:22 p.m.)

17 MR. FREEMAN: So we are back on the record.

18 Q. (BY MR. FREEMAN) Ms. Ferguson, I just wanted
19 to ask if there have been any questions or anything you
20 don't feel like I've given you a fair opportunity to
21 respond to today and if you'd like to go ahead and
22 respond?

23 A. I would say no.

24 MR. FREEMAN: Okay. I have no further
25 questions. Pass the witness.

1 MS. YEPURI: The United States is going to
2 reserve its questions for trial.

3 THE REPORTER: Thank you. All original
4 exhibits will be retained by the court reporter and
5 attached to the original transcript. This deposition is
6 now complete.

7 (Proceedings concluded at 12:22 p.m.)

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CHANGES AND SIGNATURE

2

WITNESS NAME: CRYSTAL LORETTE FERGUSON
DATE OF DEPOSITION: 12/04/2018

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, CRYSTAL LORETTE FERGUSON, do hereby certify that
3 I have read the foregoing pages, and that the same is a
4 correct transcription of the answers given by me to the
5 questions therein propounded, except for the corrections
6 or changes in form or substance, if any, noted in the
7 attached Changes and Signature page.

8

9

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11 CRYSTAL LORETTE FERGUSON

12 DATE

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1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 TONY AND MII'S, INC., §
5 TONY THANGSONGCHAROEN, §
6 AND SOMNUEK §
7 THANGSONGCHAROEN, §
8 §
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10 §
11 § CIVIL CAUSE NO.
12 § 3:17-CV-0609-B
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Plaintiffs

v.

THE UNITED STATES OF
AMERICA

Defendant

REPORTER'S CERTIFICATION
DEPOSITION OF CRYSTAL LORETTE FERGUSON
December 4, 2018

I, Jennifer L. Campbell, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, CRYSTAL LORETTE FERGUSON, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

I further certify that pursuant to FRCP Rule 30(e)(1) that the signature of the deponent:

____X____ was requested by the deponent or a party before the completion of the deposition and is to be returned within 30 days from the date of receipt of the transcript. If returned, the attached Changes and

1 Signature page contains any changes and the reasons
2 therefor;

3 ____ was not requested by the deponent or a
4 party before the completion of the deposition.

5 Signature of the deponent was later requested and agreed
6 to by all parties.

7 I further certify that I am neither counsel
8 for, related to, nor employed by any of the parties or
9 attorneys to the action in which this proceeding was
10 taken. Further, I am not a relative or employee of any
11 attorney of record in this cause, nor am I financially
12 or otherwise interested in the outcome of the action.

13 Subscribed and sworn to on this the 13th day
14 of December, 2018.

Joseph Campbell

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