

Meeting with DA

Date is 9/9/94. Time is 14:55 hours.

JK We have two gentlemen a... interviewing with this investigator, John Kramer. And a.. sir, what is your name?

HW Harmon Wilfred.

JK And sir, your name?

JW John Woods.

JK John Woods?

JW Yes.

JK OK. Alright, Harmon why don't you go ahead and start the xxx.

HW A little bit of my background. I'm a commercial Real Estate Agent and Broker. A... I've been a developer in the past in the Denver market. I'm just saying this to kind of give you an idea that I know what I'm talking about when it comes to all aspects of this business so the things I say to you will hopefully have some credibility.

JK OK.

HW I've developed, myself, over 320,000 square feet of commercial space in retail and office. I've been a property management company, a brokerage house out of Denver under the name Tower Group and I had 16 agents during the '80's. A... property managed up to 4M square feet on a third party basis, plus my own properties. Did all my own construction, all my own property management, all my own development services, all my own maintenance services. There is nothing in this business that I haven't done; right down to the fine details; including getting in the trenches with a tool belt.

JK OK.

HW I'm doing some construction management right now for... just finishing up for some construction management for the Landing Shopping Center, which is a Pension Fund project. I have been working for the brokerage house Remax Commercial Properties. Which one of the franchise owners is Doug Dragoo, who is also involved in Paragon Properties; which I understand, I don't know how accurate this is because they haven't been real clear

to me how they are partners. But Doug and his partner Russ Roehrkasse from Roehrkasse and Campbell and I believe another gentlemen named Ed Hume; who is doing the property management; all belong to Paragon somehow. There is a Paragon Properties and a Paragon Management. When I questioned Mike Witty this morning as to whether or not they were partners in the projects, he said in a round about way. So I think that means through the entity Paragon.

Um... I have been working for them for oh... little over a year. I left there back in February because some of the things that I saw going on that I didn't really approve of. And back then it was just ways of doing things and ways of doing business; the management company is probably the worse management company and I... I mean... I... I don't say this lightly because I know how serious this is, probably the worse property management company commercially I have ever had an experience to be involved in or to interface with and I have been in this business since 1981. I mean they... they certainly know how to collect the rent, they certainly know how to collect their fees, but they do didly. Tenants call in for services and they promise to get the services done and sometimes they are never heard of again. I think John can verify that. A... or they come out a week or two later... I mean serious stuff like HVAC units down. And in 90 plus degree weather and I go out there and a tenant I have put in the center, that I really care about has got both their back door and front door open. They say it has been three or four days since they called and nobody has come. That kind of stuff. I mean... um... and that's just sort of the tip of the iceberg. But... So I left there in February. I was asked to come back by Doug Drago, because I had taken those centers... well there are two centers I was working on for Doug. One is a Pension Fund property and the other one is a partnership that Doug is involved in... Mission Point, which is right next door to Mission Trace. Mission Point I took from 60% to over 90% in about seven months. I am good at brokerage. The Landing I took from 43% to nearly 93% in the same period in leasing.

A... had always been interested in doing some of the other services for them because I know how to do it all and I saw there was a real deficiency; especially in property management, but a.... I was asked to come back because I was... had been doing such a good job. Was offered a... they used the Landing as an incentive to bring me back. What I said to Doug at the time was, "I would not come back and work on that project, I had already put a number of tenants, and tenants... the folks that I work with in this business I

become friends with. I really care about. I think they ought to be getting good services. I told him I wouldn't come back unless he took Ed Hume off the project totally and gave the management to me. Then I would continue to bring tenants to the project. He agreed that he would do that. He also offered me a car. And then when I got back and got settled in his partner Russ came to me and said Doug had no right to offer any of that. Sorry no management, no car and I had already brought Mr. Wood; actually it is Pastor Wood to the center. That was another thing that Doug wanted of me because he knew that I was working with John. John was looking for upwards to 7 or 8,000 square feet which is really significant. I had already presented John to the Mission Trace Shopping Center. And the lettering... I've got all this... I've got wonderful records here.

JK OK.

HW I keep pretty good records. But Doug said he wanted him in his center so I took him to Doug's center... I got back on the listing. I was refused the management. Didn't get the car. I finally said to him, at least give me an opportunity to be the construction manager and manage the construction to get this guy into business. They agreed to do that subject to them being the contractor themselves. And that has been an absolute nightmare.

Um... the deal that they did with John.... I mean there are two parts to this. So let me just kind of separate the parts here for a moment. John's deal of which they have absolutely run over him with commitment in the same way they have done with me... and at they last minute stopped everything. He cannot get open for business. They have got him just absolutely hog tied right now.

JK ~~xxxx~~

HW And the other part of this is the management and the way the brokerage is being done and some of the documents and things I have found now that I'm getting... I got deeper into the company... I have since quit.

JK OK.

HW I've... I left. Went over to the... of all places to the Pension Fund building and got myself an executive suite and opened up my own business continuing to do the construction management and wrapping up these jobs. But let me just start out with John's deal.

JK     Alright.

HW     John's deal was originally set up with nearly 8,000 square feet. He was to be given \$10 per square foot for build out allowance, and Doug himself made an arrangement with John to pay him those monies in three different increments as it turned out. And what they were doing with him was giving him cash to... first of all there are two separate categories in this construction deal. One category was strictly tenant finish items. In other words billed out in the center... in the space. The other category was, or is fixtures, shelving... you know things that it takes to put all your inventory in. John had... a clothing store, we were also building a church out for him over there that he was going to be using as a fashion model area for his clothing and have services in the evenings and the weekends. It was really quite creative

JK     Yes.

HW     We've got his business plan, John is very thorough, very professional. We have a business plan on all the different concepts that he has got. We've got projections over five years. I mean I've never worked with anybody more thorough than John in terms of making a presentation of a xxx. In the process of all this, Doug ran some credit checks on John. He found out that John had a bankruptcy in his background.... after he had presented everything to Mike Witty and gotten everything approved. Cut back on the \$10 per square foot to \$6 (all this is in here), to \$6. Started really messing around, but even at that he still started giving John increments of \$7,000 each to xxx \$14,000 first payment so that John could go get his fixtures and he was giving him the cash, which was the arrangement. John was going out and getting his fixtures; bringing back lien releases and receipts, but he was going out and getting bargains, because there are a lot of bargains out there right now in clothing fixtures and so on rather than having to go buy stuff brand new. They took the deal all the way through the first \$14,000. There is a final payment of \$24,000 to be due and all of a sudden Mike Witty got wind of what they were doing. I didn't know that any of this was not approved Mike Witty, nor did John. Mike Witty put his foot down and said no more money for any of this stuff, this if over, this is finished. John's whole plan was arranged, the bank around that. So John is sitting there right now with two spaces that are virtually done. Some furniture and fixtures in one; nothing in the other and those guys have totally cut his legs out.

JK OK, now why would Mike Witty decide to shut this thing down?

HW Uh... In his words, "The pension funds doesn't buy fixtures and... and shelving, and counters and so on for retailers. And yet they just got done doing a deal like that, Doug just got done doing a deal for the video store where they spent a full \$10 a square foot and... and it was like \$24,000. \$16,000 of it was all furniture, fixtures, even their security system they bought."

JK OK

HW So it makes no sense. So John is being very, very unfairly. And he is really in a bind right now. They are basically saying no more money, no more cash. John has depended on that and he is just sitting there. And they're saying why don't you just go ahead and get open? Well it's not working that way. But that is just an example of how they are dealing with people.

Now moving right in to the.. some of the seriousness of this. You will probably get a bigger reading of why I've come here. In the process of doing all this and really getting into some detail on what is going on in the centers, as I started doing construction management. I went to Ed Hume and I asked him, because I have been asked to quote \$2.25 a square foot, for the expenses on the shopping center.

JK OK.

HW ~~xxxx~~

JK Uh hm.

HW I went to Ed because Doug asked me to put together a sale brochure now that we have got the center all but one space leased. And I said, "Ed what are the expenses actually running? You know Doug's got us quoting \$2.25." He went through his numbers and said to me. Oh my goodness Harmon this thing is running \$3.80 a square foot. ~~xxxx~~ that is impossible. Did you take out construction numbers? Did you take out, you know, all the normal miscellaneous kinds of things like capital expenditures, that you need to take out to come down to a final number? Yea, he had taken all those out. He didn't know why the number was coming out that way, but that seems to be what it was running him. My question to him was, "Who is going to pay for that?"

JK Right.

HW The tenants? I guarantee you they're not because they have been quoted \$2.25 and if they don't pay for it the pension fund is going to have to pay for it.

JK OK.

HW And he didn't have an answer for me. I took it to Doug and Doug said go ahead and do the brochure at \$2.25. I said absolutely not. I won't. As I started going through some of their commission files, to submit my own invoices for the commission deals that I had done and I wasn't.. I apparently wasn't supposed to be in these files. I mean the gal that guards the files came running in and said oh my God what are you doing in those files? To me there was nothing secretive about it. I was trying to find out what the final numbers were that were billed because my deal with Doug was that I get 75% of the commission that was being paid on a percentage basis. He, as an owner, even though he's not doing anything was getting 25%, which was.. that was just our deal. He's supposed to be getting a total of 10% to Remax Commercial Properties. When I opened that file and I saw the amounts that he was billing the pension fund, it ranged anywhere from 15 to 20% and more.

JK OK

HW The only thing.. the only thing I can figure out and again having the background in this thing, maybe there is a budgeted item for commission and there was a certain number of tenants out there that were already there that they had counted on the possibility of replacing that we didn't have to replace. You know when you first pick up a center that is held by the RTC everything is pretty shaky.

JK Right.

HW So they bought that through the RTC through a group called Graham Greco and it just kind of got passed along. There was really a lot of upset over there when we first picked it up. There was a lot of baby sitting had to be done. The only thing I can figure is maybe they had a lot of numbers for those other tenants for commissions, but somehow or other Paragon got an agreement that if they didn't have to release those Paragon would take all those commissions. Well horse manure. That money should stay in the account for the pension fund if they don't have to use it for commissions.

JK I agree

HW When I saw those numbers I couldn't believe it

JK OK.

HW My numbers for the 10% that should have been billed and the 75% of that that I should have gotten was so much lower. It was somewhere between 15 to 20% that he was billing.

JK OK now billing means what?

HW He was billing the pension fund...

JK OK

HW through Paragon Management...

JK Alright.

HW nearly 20% on a commission deal that should've been 10%.

JK OK and the billing would be by some document?

HW Yea, just a basic.. a basic invoice.

JK An invoice, OK.

HW Now I didn't get any copies of those, obviously. They were snatched out of my hands pretty fast.

JK OK.

HW Other things that have occurred since then. Now I'm... I have to be very careful that I'm not accusing absolute anybody and any thing, but I've seen enough funny stuff going on that I think an investigation is warranted. That is not my call.

JK Right.

HW But, I know enough about this business to know that something funny is going on. Um... as I was... as I was billing... I was doing all the invoices, this is one of the invoices right here for John... uh... first half of the construction.

JK xxxxx

HW By the way we were doing this construction... they had to agree to the lease to give the money to John.

JK Sure.

HW And John was going to do his own construction subject to their picking the contractor. Of course they picked themselves.

JK Uh hm.

HW OK. So they were technically working for John.

JK Right.

HW But the construction company is Russ Roehrkasse and Doug Dragoo. So even though they were working for John, they were dictating the money that got put into the thing and John really had no say so over what they were doing or not doing, because they were using the power of the owner and working for John at the same time as a contractor.

JK Yea, OK

HW And manipulating the numbers and the whole thing. As we got this draw... now this is the \$14,000 that was going to be disbursed and a Colorado Commercial Contractors, which is their company agreed to be the disbursing agent...

JK OK

HW So this was the \$14,000 that was disbursed that they gave John in increments of \$7,000 to go out and get his items which you see written here...

JK OK.

HW This was the other amount which was strictly for hard tenant finish.

JK Alright.

HW When we fronted on these dollars and we got \$35,000, Doug put the money in the account and it was in the Roehrkasse Campbell account under Colorado Commercial Contractors, I called John... John came in to get his check.. the next day?

JW Yes

HW There was no money in the account.

JK OK now this money, the \$35,000 will come from the what?

HW The pension fund.

JK From the pension fund.

HW See this an invoice to the pension fund...

JK OK

HW from Colorado Commercial Contractors, Inc. Nobody could explain to me why there was no money in the account after we just got done funding the \$35,000.

JK This \$35,000 actually would be for your project?

HW Right.

JK OK.

HW And there were no other projects going on at the time. Colorado Commercial Contractors had nothing else going on, but they couldn't explain to me... I mean... I got to be a very unpopular person there.

JK Asked too many questions, uh?

HW Yea. I just... I mean I know the way these things ought to be done. I've done draws. I've done million dollar draws. I know how things need to be done and how correct they need to be. Now I could not get anybody there to explain to me why there was no money in the account. Why they couldn't get John a check that day.

JK And it was one day after?

HW Yea.

JK This hit the bank.

HW This hit the bank. This was in the account. I know it should have been in the account because Doug was ~~xxxx~~ the check around.

JK OK.

HW. And we got the check. He was the one who told me to go get John and have John come in and pick up his check.

JK Next day at noon?

HW Next day there was no money in the account.

JK OK.

HW Russ tells me there is no money in the account. Doug comes in embarrassed saying golly I just don't know how that happened. And then just as in third verification because there was no connection between the communication, Suzie Campbell who is the other accounting partner, who is also a partner in the construction company comes to me and says I'm sorry we can't give John a check today. There is no money in the account.

JK Who has control of the money in the account?

HW "Russ and Suzie and they are also owners in the construction company. ~~xxxx~~ all the money. There is no checks and balances in there at all.

JK "OK.

HW "Now what Russ had me do so that John could get a check was fund on two other construction projects that I was just completing the contracts on; funding the first half of the dollars on those two projects so that he would have money in the account to give John his check.

JK "It had nothing to do with John's project?"

HW "No. NO. But took.. he then took the money from two other projects, put in the construction account and gave John his check. And I still don't know to this day what happened to that money."

JK "\$35,000?"

HW "Exactly"

JK "OK.. OK"

HW "Actually there was more... more than that funded. There was another... another funding on one of the other projects for \$14,000. So there should have been nearly 50 grand in the account."

JK "Do you know whether its typical... it typical.. you said he was waving a check."

HW "Uh with..."

JK "It was typical, but the check comes from the pension fund, that check is then deposited into the account."

HW "Yea"

JK "OK, that is the procedure that is supposed to be."

HW "Exactly the way it's done."

JK "xxxx"

HW "I mean I'm... I'm here to tell you I'm enough on the inside of this whole thing that I know the procedures, I know the players, and I know the way that it should be done."

JK "OK."

HW "And uh... again I got to be very unpopular. Uh... the management itself is not being done out there has gotten to a point.. and I told Mike Witty this this morning... I mean I have shared everything with Mike Witty that I am sharing with you right now."

JK "OK."

HW "His reaction to it was, I'm really not concerned about that. I'm really more concerned about John and lets see if we can do something to get John open. But he really wasn't willing to do anything to get John open. He was avoiding the issue. He was totally avoiding the issue of John's deal has been broken in the midst of it because... and I don't blame him... I said to him, if this... these are the rules and you're not supposed to be giving pension fund money out for these things, then you've got a couple of guys over here who are also your partner who are agreeing to this stuff. They have already disbursed it that way and now you're cutting it off and you're making John... you're punishing John for it rather than making those guys stand up to the agreement and if you don't want to bring it out of the pension fund, then make them pay for it, but don't let John suffer for it. He should have been open a month ago."

JK "OK."

HW "Am I missing anything?"

JK "The management company. You were going to talk about the management company."

"Now does the management company, are they paid by pension funds for managing these properties?"

HW "Directly.

JK "And are they... you're telling me that the management company doesn't manage anything. They're just getting paid."

HW "They're just getting paid. That's exactly right. The management company that they have who is also the construction supervisor for these jobs, one guy who has a couple of other guys working for him part time, the guys managing ~~xxxx~~ he's doing maintenance for probably twenty properties or more. He doesn't have enough arms and legs. I mean the guy literally was in the hospital recently for a near heart attack. I mean they are working people to death, totally paying people almost nothing, and not responding to things they way they should be responding and yet they are not only taking full management fees according to Ed Hume they are nearly up to \$3.80 per square foot. Now Mission Trace is running at a \$1.90.

JK "OK.

HW "I felt that \$2.25 was a little high for what we were running, and I told them so. When I was told \$3.80, (laughter) you must be kidding.

JK "OK"

HW "But nobody seems to care. No.. everybody is basically telling me: go away Harmon, don't be talking to us about this stuff. Mike Witty said today, you know I know they promised this stuff to John, but that's history. Let's not talk about that anymore.

JK "What are they supposed to do for John?"

HW "They're not doing anything for him. They are basically sitting back and saying we're not going to give you anymore money. John has spent all of his money so far because of the commitment that they gave him on other things in the space, and basically they have got him between a rock and a hard place.

JK "OK. The other two... one thing that I need to ask you... The other two projects that cover the \$35,000, what are the names of those projects?"

HW "I've got them here.

JK "OK"

HW "F & P Casuals which is a... um... dry cleaner/alteration deal to sell a little bit clothing. You are welcome to copies of these: construction contracts. It is very clear on here who is doing the construction and what is going on.

JK "OK.

HW "You're welcome to anything I've got.

JK "Yea, I'll ....."

HW "This is F & P Casuals.... uh"

JK "That... that project was invoiced somehow to cover part of that."

HW "No it wasn't this one, it was the video store."

JK "OK. xxxx"

HW "Under Jetwing Video, in fact... yea... this is the invoice that was sent out at the same time. These two invoices were both paid on and the money put in the account, and yet twenty-four hours later there was no money in the account."

JK "So I could have \$50,000..."

HW "Exactly."

JK "supposedly supposed to go into that account..."

HW "Exactly."

JK "and it was gone."

HW "Exactly."

JK "Alright."

HW "And... you know whether or not it ever got put back in there... you know when I started asking questions... if it did... and I have to be careful... if it did get removed from there for some temporary reason and it got put back... where did it go? What are they using the money for.

JK "Right.

HW "I mean that is what we want to know.

JK "Right. OK.

HW "If you look through these and look at the contracts and I've also got copies of the... the primary copies of the Santa Fe portions of the leases in here. Uh... This is the construction cost... right... for there. And you can see - purchase and installation of all wall shelving, floor shelving and front counter: \$11,300. And he's telling me he doesn't buy that stuff. He's not going to do it anymore. The pension fund just doesn't do that. I asked Mike Witty this morning, did you not see these contracts before Russ Roehrkasse signed them. They guys your partner. Russ tells me that you review all this stuff before he signs them. He said, I've never seen them before.

JK "OK.

HW "You know, I asked him if on this other deal... and this one... when the deal was changed... now this is real fishy too. This is the face sheet of a lease. All pages of the lease are signed by Mike Witty which is here and John Woods.

JK "Alright.

HW "OK.

JK "OK.

HW "The key pages of the lease that I keep, that I need are the front page and I also keep the tenant finish rider. The addendum...

JK "OK.

HW "because I'm.. you know I am doing the construction management. You can see that this was signed by both.

JK "Right.

HW "And the tenant finish amount in here is \$10.00.

JK "Right.

HW "When Doug came back and ran that... ran that uh.... credit report and then decided he was going to reduce the amount to \$6.00 before he gave the lease back to John, even though Mike Witty had already approved it. He did a new addendum, had John initial it and John did initial it, but notice Mike Witty's signature is not on it. I... and Doug told me Mike

knows about it. Everything is fine. You know. Let's just go forward... blah, blah, blah. Either he has since increased the amount back to \$10 and charged John 10% interest on the amount and added a whole bunch to his rent in order to get it back to \$10. I asked Witty what he knew about this. He knew nothing.

JK "OK.

HW "He's never seen it.

JK "What would happen bet.... what happens to the money between, you say \$10 it went from back to 6. There is \$4 difference.

HW "Uh hm.

JK "Is that significant to me?

HW "Oh yea. In a space like John's meaning close to 8,000 square feet, that is \$3,200."

JK "Right. OK.

HW "That is very significant."

JK "So in fact there could be \$3,200 that is floating around."

HW "Well, right now we have utilized, because the space is virtually built out short of a punch list item. xxxx

JK OK

HW "Punch list. Right now we have used probably out of the total amount of the construction cost... there are other details in this too, but I don't think you want to be bothered with all that yet. Umm... where is that construction contract. Out of the total amount that was in actual construction dollars of \$42, 832 we are probably near \$36 - \$37,000 of it, maybe a little bit more.

JK "OK.

HW "So there is still a little bit of money left over. I mean... I'm... I'm pretty sharp when it comes to getting the pencil sharpened and making the subs getting in there and doing the job at a reasonable price. So there are a few dollars left over in here. Several thousand probably that hasn't been used yet for tenant finish. All of this has been paid out and there is additional amount that was agreed to here of another

\$23,979 that was to be disbursed for John to finish out what he was doing.

JK "And did this happen?"

HW "No. And this is what is being held up right now. At this point what they're saying is no John we're not going to give you any more money unless it is hard tenant finish items and/or specific items we can pay directly to your supplier for and then you can go ahead and get your stuff. Well that wasn't the agreement. If he pays directly to a supplier for used stuff the cost is way... a whole lot more money..."

JK "Alright."

HW "than if he takes the cash and goes out and does bargaining. And that's the way they had the deal set. When Witty found out about that he said no way. Then he... The first thing he said was we don't buy that kind of stuff. When he realized he had already signed an agreement saying they do buy that kind of stuff then he said well, we're not going to give you any cash to go out and get any discounts. In other words he got scared and started formalizing everything."

JK Alright.

HW As soon as he realized this thing might go public.

JK OK. Now the source of the money on all these projects is in fact the pension fund.

HW Right, absolutely.

JK OK. Alright.

HW Going back to the management company for a moment, if this is the kind of stuff that I found when I got into the construction, Ed Hume has his own subs and Ed was doing all the construction before I came along. Colorado Commercial Contractors wasn't even doing it. Ed was doing it through Paragon using Colorado Commercial Contractors... General contractors license, but doing it all himself and taking all the profits for himself. And in the process of all that... I got a couple of jobs to do and brought in my own supervisors to do them and found out that Ed was out there doing tenant finish items that he wasn't being asked to do on projects.

JK Why would he do that?

HW To make more money. Because you add your percentage ~~xxx~~ to make more money.

JK OK.

HW And so in one case it was an office warehouse project. It wasn't pension fund, but I just want to show you how... what the methods were. The tenant didn't ask for any finish along the back walls at all in the actual warehouse area. They completely sheetrocked the entire wall, taped them and painted them. When I asked Ed, why did you do that. He said well, it's because of the way I do things. It is my standard. I want to see it look nice for the owner. I said, does the owner know that? He spent several thousand dollars doing that and got a higher fee for doing it.

JK Alright. OK.

HW But this kind of stuff here...

JK What is this document?

HW This, this is one of Ed's... it's about one of Ed's subs that Ed gave me and told me to have some use in, because this guy does all the servicing of all the units of all the projects.

JK OK.

HW He's an HVAC guy.

JK OK.

HW Heating, ventilation and air conditioning. And when I got him to bid the project for John's church, he gave me ultimately a bid for over \$10,000. And there is a whole process that I went through. I had to write this memo just to protect myself.

JK OK.

HW Because the guy filed a complaint against me. And when I submitted this memo everybody shut and got out of my way. I ended up getting another bid from another contractor when I started getting suspicious that I... the guy was saying that I needed... his engineer said I needed another unit on the roof.... I needed all this other stuff. I finally ended up doing the deal for \$2,300.

JK And he was wanting \$10,000?

HW Yea, over \$10G. And to this day, and I submitted this in... this... this memo basically saying this guy is not straight. And I'm not going to use him anymore. To this day they are using the same guy to service all their units throughout the inventory. I would have fired that sucker in thirty seconds.

JK And that money is coming out of...

HW Of the pension fund. And if I had submitted to his bid and gone ahead and billed it out, which Ed would have done in a New York second. It would have cost the pension fund and additional \$4G.

JK Right.

HW Easily.

JK Right. Do you think there is any chance... er do you know of a connection between this subcontractor... maybe some money under the counter?

HW Absolutely.

JK OK.

HW I don't know... I mean I haven't seen it go...

JK Right.

HW but ah... I'll give you another name here. There is a gal who recently quit over there who was working for Ed. She wasn't in there three months. Probably the best property manager that they have ever seen, but in the process of working there they were submitting invoices and she was having to approve the invoices. She was telling me... I... I talked to her when I found out she was going to quit, because she was so good, as I have broken away I am starting on my own property management and gearing up to do all the work again that I used to do in Denver. I asked her if she would be interested in working for me and why was she leaving. What she literally said to me was she was getting scared to death of the things she was seeing. Stuff she couldn't even share with me. What she was having to write in red on some of the invoices. Why is this number this high? In other words she was processing them. She was writing notes and stuff on them so Ed couldn't without some hard questions being asked pulling money out of there.

JK Right. OK.

HW But I think, my personal opinion is that's going on and has been going on for a long time.

JK Great.

HW Ed has his own little subs and he has been very jealous about you using anybody but his subs; anybody but his maintenance people. And yet, you go out there and you asked for a pothole to be filled, how long does it take. Some of those have never been filled.

JW ~~xxxx~~

HW Please take the floor for second and just describe to this gentlemen what the property management is like out there.

JW Well what I could see... I've been there six months... nothing being done. Uh... I made an appointment with Doug and uh... to get some bolts changed, lights changed, the air conditioning would go out and I was down there painting inside of a place. Uh three days later they show up. It was a... 90's. And I had some people in there helping me. They couldn't even deal with it, it was too hot...

JK OK.

JW inside. Uh... I called uh... ~~xxxx~~ the office and made an appointment with Evette. She said she would have somebody out there first thing. You know they haven't showed up yet.

JK When was that? How long ago was that?

JW About two months ago.

JK Now who is Evette?

HW She is one of the property managers who worked for Ed.

JK OK.

JW You know the lady from the video store, she 's out sweeping the parking lot. And they wanted me to sweep up the parking lot and clean the ....

HW These tenants are out with their own brooms cleaning the parking lot.

JW And I just said, what? I wasn't going to do it, so she just cleaned all the whole front of the parking lot. ~~xxxx~~ took some

pictures of it. It was terrible and the bags, uh... you couldn't drive a car straight down the alley.

HW Because of someone's trash and garbage over there.

JK OK and in fact again that management is apparently invoicing or sending a bill to the pension fund...

HW For the full amount.

JK for full amounts. Right.

HW You bet.

JK And they are supposedly supposed to be taking care of the trash and sweeping the parking lot and doing whatever's necessary xxxx.

talked over each other briefly

HW Exactly. And keep in mind now, even though their management fee isn't a whole lot... I'm told their management fee while the thing was only 40% leased was only \$500 per month. Of course it is going up now that it is fully leased and there is a lot more tenants going in there. I believe where they are making their money and where they have made their money off the thing is all maintenance and all the other stuff that is going on over there. By the way, they also own the maintenance company.

JK OK. Now how they make money... they may not do the work and invoice per buck.

HW Oh no, they are out doing the work by the hour and the maintenance company invoices... in other words they've got a maintenance company that invoices the pension fund xxxx property, they've got a construction company that invoices the property, they've got a management company that invoices the property and then also has all their own specialized hand picked uh... you know parking lot people who are filling holes that are not a part of the maintenance company.

JK Right.

HW That aren't doing the jobs that I believe and this is a pretty hard accusation, but I've been around there long enough that I can smell it. I believe that Hume is getting money under the table from a lot of the contractors that he has out there doing some of the heavier maintenance like HVAC, parking

lots... uh... uh... maintenance things like that. And if you go out there and look at that parking lot today you will find that when they fill a pothole, they basically send somebody over there with a bunch of asphalt and dump it in there and tamp it down and even that takes an arm... I mean it takes an act of Congress to get them to do that. There is a whole series of potholes going all the way through one of the runways going through the middle of the center. There is cigarette butts everywhere. There's paper. There's bottles. You name it. If you look at the face of the center and sidewalk areas, they're filthy. Uh... They're just not doing anything.

JW You've got no xxxx

HW Did they get on it then?

JW Yea, they're cleaning up out there.

HW I'm not surprised, after everything I said to Witty this morning. I talked to Witty basically the same way I'm talking to you.

JK OK.

HW Now I said to him, let me give Witty some credit for a minute. I said to him, I'm assuming, I'm here today with these files and I told him he could have copies of anything I've got right here... he said he hadn't seen a lot of these documents before. I said you can have copies of these. I'm assuming that you don't know what is going on. Now granted you should know what is going on because you hired these guys. You may have your partner. But I'm assuming you don't know what is going on, that is why I'm here. Otherwise I wouldn't even be here.

JK OK. So you just basically told him the same information you told me.

HW Yea, and he said I'll look into it, but that's not what we're going to talk about today. That's... You know he just kind of sloughed it off. So one of the reasons why we're here today is to make darn sure he looks into it. He is not tainted by any of this and his partners who are also the service companies who are also everything else are the ones that are involved in this. And I can tell you they are absolutely where John's deal is concerned.

JK OK.

HW If he truly doesn't know anything. Fine. But if he does I think you're going to find that if these other guys get confronted they're going to tell you whether or not he knows anything. You know how people squeal on each other once they get caught.

JK Right. OK. You're going to give me an individuals name that  
xxxx

HW Oh yea.

JK If you can give me that before...

HW I think talking to her~~h~~ would be very... very... she wouldn't tell me very much about what was happening, because I think she was scared. But the way these guys keep everybody there of course is you know... that's your job... you work there... so you don't dare do anything or you won't get paid. By the way, those guys owe me right now over \$20,000 that they have not paid me on these projects.

JK Oh really?

HW Over \$20 grand. A portion of that has been owed me nearly 2 1/2 to 3 months. The lions share is a recent invoice that I believe they have no intention of paying me. They're going to screw around with John and nearly \$15,000 of it is the construction management fee and the rest of the commission that I'm supposed to be getting from John's deal. They're going to screw around with John and basically tell me - we'll just see whether or not John makes it and we'll pay you later and you know I have no recourse.

JK OK, but what.. do you know... happen to know whether or not they would have invoiced the pension fund for your \$20,000?

HW You mean to... I... I wouldn't be a bit surprised. One of the deals recently that I did, that they owed me a little over a grand on because Doug did the deal and I was supposed to get my twenty-five and he was supposed to get seventy-five - I went to the files to submit my... that was one of the days I was in the files when I guess I wasn't supposed to be... to put my voucher in there and that was one of the files that I found he had already invoiced for the whole amount, but the whole amount was close to 20%. And he didn't even invoice for my portion of it at all. He had no plan of paying me my portion of it.

JK OK. And who was this?

HW Doug.

JK Yea, OK.

HW And in the mean time they were... you know I was paying rent over there under the Remax concept. In the mean time, they were billing me for rent and he knew that all my work was done exclusively for him, not paying me and charging me \$100 late fees every month.

JK He didn't pay you.

HW No.

JK Expect you to pay the rent.

HW Yea.

JK And then since you didn't pay the rent because you didn't get paid, he was charging you...

HW He was charging me a \$100 late fee per month.

JK OK.

HW Here we go, Teresa Barnes, 6535 Stonehinge Drive, Colorado Springs, 80918. Phone number is 719-528-2443. She's good.

JK ~~xxxx~~

HW If you don't intimidate her.

JK Oh no, I wouldn't. Do you know whether or not she is working anywhere?

HW She told me that she was taking a job at another company being an office manager even though she really preferred property management, because she couldn't find anything in property management that really suited her. And I ultimately may have her working for me again.

JK OK. OK. Now what I would like to do in this situation is to keep these files and copy everything. Is that alright with you.

HW You're welcome to.

JK OK. I'll copy everything because I'll have to go through everything.

HW In these files are - like this office memo, addendum, John's original lease application... uh... this was the letter that was originally presented to uh.... Mike Witty and Sullivan and Hays on the Mission Point (Should have been Mission Trace) project.

JK This document is dated March 23, 1993.

HW Right. Which was the a... originally when I brought John forward and we were trying to get a deal done.

JK OK.

HW A... and Doug came along and said... and by the way, I did this under the company that I just hired in - in Denver. Which is why I had ~~xxxx~~ on Realty services... and that's when Doug came to me and said I want this deal and I'll give you the property management, I'll give you a car. You know... and when I got back and got settled and ready to go and Russ came in and said you know those guys are just a one, two push. No property management, no car, you know Doug had no authority to give you that. And that's been the story, even with John. Doug gives this, John depends on it, John spends his money based on it and Russ comes along and says, well Doug had no authority to do that. And now this time Doug commits it, Russ commits it, Witty comes along and says they had no authority to do that; therefore we are not going to let him do that.

JK OK. OK.

HW But it's... it's the best thing to switch ~~xxxx~~ you'll ever meet. Uh... yea all this stuff you are welcome to. Now this I wish you would copy... this is yours... "

talked over each other

HW ~~xxxx~~ will get a copy of. If you wouldn't mind copying that or having a copy, John needs that because it is a copy of his lease.

JK OK.

HW But there are invoices here where the invoices were paid like the \$7,000

JK OK and that... that invoices... ~~xxxx~~ invoices would be invoicing the pension fund.

HW Well some would be invoicing the Colorado Commercial

Contractors, which they got the money through an invoice from the pension fund. So in some cases there are some pieces missing here. I may have an invoice where John invoiced Colorado Commercial Contractors, but John's contract states very clearly they are the disbursing agent once they get the money from the pension fund. So all of the money ultimately the source is the pension fund. But the case for both of us right now is I need to get paid. I can't continue to live without getting paid. John needs to finish his deal so he can get open. They've got us both absolutely broke down to our socks right now. And so you know...

JK That part, right now, I don't know whether we can help you with... the DA's office can help you with.

HW I understand that. I understand that. I mean what is the likelihood of what they are going to do with this? I mean if there are these kinds of things going on and I've already...

JK Hi there, can you send someone in here? I need to have some copies made. Thanks.

HW If there are these things going on and I have now alerted Witty to the fact that I know it all... if he is somehow knowledgeable of these things. I'll tell you what he's going to do. You already know. He's going to tell them if he hasn't already today and they're going to do everything they can to not make the records available to anybody to show that any of this stuff happened.

JK That could happen. Yea, that's true. But the fact that we have \$50,000 that you told me about... I mean that's a start. That's what we're going to be looking at. We're going to be looking at if they have a management company that is invoicing the pension fund and getting paid and they're doing nothing...

HW You need... and to verify that... don't take my word for it. Please go out and talk to the tenants at the Landing individually.

JK OK.

HW Please do that.

JK And that address for that...

HW Is Jetwing and Fountain, Northeast corner of Fountain and Jetwing.. Uh... there is individual addresses. John's address is 1620... 1675 Jetwing Drive.

JK OK. Now how... how do I find you Harmon? How do I...

HW Um...

JK What is a good address for you...

HW This is my ~~xxxx~~ company. I'm over there in the pension fund building.

JK (laughter) OK

HW I'm leasing space from Mike Witty, which puts me in a real awkward place right now, because I'm leasing one of his executive suites. I think he has one of the pension fund ~~xxxx~~

JK OK. OK. Well what will happen right now with this information is I'm going to get it all copied, then I'm going to return these files to you. But we'll get it all copied. And uh...

HW That is the construction file for John. It's got sorts of and I haven't... haven't squared it all away yet. I have a lot of the new stuff sitting loose, but it's got all the contractors. Things like their liability... uh... statements and their... their workmans comp proof. I always get proof of liability and workmans comp and all that before I let a guy on a job. So all that kind of stuff is in there.

JK Now do you need that... do you need that file?

HW No, I don't. Not at the moment. You're welcome to copy it as long as I can get it back reasonably soon.

JK Yea.

HW Because these jobs are virtually done short of a punch list. And I just got the punchlist typed up today to fax over to their office so their construction supervisor can get it done.

JK OK.

HW So I'm done with these jobs, virtually.

JK Did Mike Witty say and he did make a comment to you apparently today... I think you mentioned that what can we do for John?

HW Well...

JK Did he say something along those lines?

HW His... his answer was, lets go out and go over the punch list and make sure the punch list is done. That doesn't happen.

JK Right.

HW That doesn't get John open. He was totally avoiding the issue. Totally avoiding the issue. Doesn't help us a bit.

JW And the time and money I spent and put in there, Doug and I of an agreement that he was going to fund me and I would go out. I ran all over Denver, Loveland, uh.. Pueblo... all around trying to find deals to get the stuff. He just said - get open. Whatever it takes to get open. xxxx cut the check directly to you. My wife and I went to the office and we sit there. And he said, well how are you going to do this? Are you going to send the check to the company? No. You just go out and get the stuff and give me a lien release xxxx you know that it is all paid for. And get open. And uh....

?? female voice xxxx

JK Thanks

JW You just go and you get open. And uh... he stopped back in and get \$14,000 check. I stopped in and got that and went out and purchased racks, shelves and all that and put it in. Got back and got the next \$7,000. And uh... did the same thing. The final one \$24,000 - I'm supposed to get racks and shelves and general opening expenses and all that. That is what he and I talked about in the office there. He said OK then I'll get that check and get that check right to you... you do the xxxx.

HW Which I was present and I heard him say it and I called him back on the phone to verify it and then all of a sudden everything stopped.

JW So I just stopped spending money, because I knew I'm the one that I'm going to xxxx

JK "Is there... are there any written documents reflecting those agreements with Doug. What you're talking to me about right now."

HW "Doug is real good in going outside the written documents and agreeing to a whole lot of stuff that is not in the written document, but I can attest to the fact that he not only said it, he was also performing on the basis of it and the checks that John was getting to go out and get the stuff, you know

with a check up front have all been funded that way up to this last check."

JK "OK"

HW "So not only was it agreed to in our presence, and I verified it at least by phone, but you can look in the record and see how the check was funded."

JK "OK"

?? "And I wouldn't have uh.... and if I'd have known it was going to be, you know, that way, I mean I would even have went through the deal anyway. But Doug had promised me that, you know, get you open... uh... know you had a problem in the past... and all this... you get in there and you get open and you do the best xxxx you can do. In fact he showed me some places I could go and buy some stuff that a... at a discount... and a... then all of a sudden it got to a point... they kept delaying... xxxx I need to talk to Mr. Witty about... and he said, oh no don't talk to Mr. Witty. I will take care..."

HW "And I was prohibited from having any direct contact with Mike whatsoever."

JK "And what were they going to do to you if you did? Did they ever say?"

HW "Didn't say. I'm sure they would have fired me."

JK "They just told you not to."

HW "Oh yea. In fact Russ came to me at one point in time and said, if you don't do everything exactly the way we tell you, I'm going to fire your ass. That's exactly what he said."

JK "OK."

HW "So I finally quit. Not too long there after when I saw all this stuff going on. And uh... continued to do my construction management from my new office because I wasn't tied into them through anything through Remax. I was doing it under my own name. And I finished it under my own name, but Mike told me today, well I thought John's space was done. Russ told me it was done two weeks ago. He should have called me. I'm the construction manager. It's not done. We've still got a punchlist that I have been going over... how many times have I done that same darn punchlist?"

?? "About 10 times. We've talked to him about it. Well at least they say he just got the punchlist."

JK "Is that right?"

HW "Which is horse manure. That's not true. Those guys are the best liars in the world. My sincere hope is that Mike really is ignorant. But even that is not an excuse. In this instance if he is funding dollars like he is funding out to those guys and telling me later that he shouldn't have done it because it isn't something that Doug shouldn't have agreed to and the money has already been disbursed then shame on him. But worse yet, it is hurting people like John and the other tenants and frankly even though it sounds a little self righteous, I'm a little concerned about where the money is going for the... for the retirees. That is what the pension fund is all about."

JK "And you're exactly right. You have to wonder. That's like the \$50,000. ~~xxx~~ \$50,000 that day he would have ~~xxx~~ another \$50,000."

HW "Well and... and... and... should it all be investigated and they all come up clean somehow. Fine. I don't have a problem with that. They way they do business - I do have a problem with and if it just turns out they are nasty people and they do business in ways I don't approve of and there's nothing illegal about it I just won't... I mean I'll tell you right now I won't do business with them anymore. And I pray with all my heart I get paid and that John gets open, because I'm depending on that heavily right now."

JK "Well, are you competition for them?"

HW "No, not at this moment I'm not. I mean literally I'm working for them. You'll see my resignation in there where I said to them I would like to stay and create the services to surround the brokerage on and make it all work. In the mean time, what I've been doing is Doug tells me he's doing a merger with Price Properties and he would like to sell the franchise and there is another guy in there who is moving out today, by the way, Bill Robbie, who is in the Remax Commercial Brokerage on part of it. Bill and I are getting together and buying the franchise from Doug and moving it and starting a new company together. And that is negotiation that have been on going for the last two or three weeks."

JK "Now is Doug... would he be more cooperative than any other person? I mean he talks to you about making deals then he

kind of falls through with what he says, then something happens that he doesn't, but xxxx do I need to be suspicious of everybody I'm going to be dealing with?"

HW "You need to be suspicious of everybody."

JK "OK"

HW "Those guys know how to lie better than anybody I've ever met in my life. I mean they are good at it."

JK "OK"

HW "They are very good at it."

?? "xxxx in the mean time what am I to do? I xxxx xxxx a lawyer this week concerning the fact that I had xxxx you know all xxxx situation xxxx."

JK "Yea, at this point in time that would be a suggestion is to go ahead and talk to an attorney, because right now I don't know if the district attorneys office can help you in any way at all. UH... all this information will be evaluated by Dave Zook... a... now the \$50,000 missing... that is something we look...."

HW "Now I say missing... keep in mind... I have never gone to the check books or gone to the books, but when they tell me there is no money in the account and I know the money just got funded and nobody ever gave me a reasonable explanation. That's something that needs to be looked into."

JK "And the fact is, you said the procedures was... that they were xxxx the money was supposed to be right there in the account."

HW "Directly in the account. Ultimately John got his check out of that account, but not until we funded on the other two construction jobs so that there was quote, unquote money in the account."

JK "Right. But those two construction projects had nothing to do with John's project."

HW "Exactly."

JK "So therefore the money should not have come out of those two projects."

HW "There was a whole lot of co-mingling of funds."

JK "Let me give you my card and then a.... what I'd like to do then... I'll keep these... these files and I'll copy them xxxx xxxx."

HW "OK."

JK "I'll call you. It'll be next week, but I'll get in contact with you."

HW "Did I take yours back or did you keep yours?"

?? "No, you put one in there. This... this one you need to take with you."

HW "Then that's John's then."

JK "Yea. Keep those files and I'll copy that xxxx....."

HW "Don't loose anything."

JK "Oh I won't." laughter

HW "I've yet to pin those things down and put everything down by date, so please forgive the messiness."

JK "No problem."

HW "I kind of figured you would want to keep them and I don't mind that at all."

JK "Yea"

HW "We have nothing... John and I have absolutely nothing to hide."

JK "OK"

HW "We're as concerned about the tenants out there as we are the pension fund people. Speaking of the tenants, the tenants right now have gotten together enough that they have put together a petition... that everybody is signing and they are about the demand that the management company be removed. At what level they are going to demand that I'm not sure. Maybe John could fill you in a little bit more on that."

?? "Um... not really... all I know that they a... the video store and all is xxxx"

HW "But this is totally separate from us. I mean... we're talking real hard evidence that everything out there is totally out of control."

?? ~~xxxx~~ (could not make out)

HW "And I would also check with village market place. Check with those tenants out there. In fact specifically talk to Pnash, a guy named from Frank Sala."

JK "OK"

HW "Because I also did Frank's tenant finish for him out there. Frank is so disgusted with the place he could throw up."

JK "OK."

HW "Chat with him and talk with some of the other tenants, whom I don't even know, so my influence wouldn't even be to bear as a good control for you."

JK "OK. And that address is what?"

HW "That's Northwest corner of Vickers and Academy."

JK "OK"

HW "Go out and talk to them about the management and about the way they have been dealt with by the ownership and so on."

JK "OK"

HW "I mean they are representing the pension fund. It is an abomination. And I really don't believe people higher up in the pension fund have any idea what is going on. I hope Witty doesn't know what is going on, but with those guys being golf buddies, and Russ and Witty have been friends ever since they were kids, I find it hard to believe he doesn't know what is going on."

JK "I'd have to agree with you."

HW "I don't know either. We're going to continue to submit our invoices. How do you feel about us letting them know we have been to you guys?"

JK "That's entirely up to you."

HW "It doesn't mess up anything for you."

JK "Well, let me..."

HW "If you want to go grab their records or something. I mean..."

JK "Let me... before you do that let me talk to David Zook."

HW "OK"

JK "Let me talk to David..."

HW "If you want to do something drastic, like go freeze their accounts and grab their records or something. I'm sure you wouldn't want them to know that we have been over here."

JK "Right, we would not want them to know. That is correct. Let me talk with David and I'll let you know. Most of the time we don't care, but sometimes what happens... well you tell them we've been down talking to the District Attorney and what happens, next thing you know your deals finished. You know it works out for you. Those kind of things happen and it doesn't necessarily affect our case one way or the other..."

HW "xxxx"

JK "xxxx criminal activity."

HW "xxxx need to resubmit all those invoices and say now, pay me turkey."

JK "That's fine... if that's what you wish to do... go right ahead and do it. It won't affect our case one way or the other. But I need to talk to David as far as whether or not we want you to let them know you've been here."

HW "OK"

JK "Because I don't know what's in here. You know we went through some of this. I need to go through it and David and I need to talk about it..."

HW "Most of it is pretty boring. You know xxxx kinds of stuff."

JK "OK"

HW "But you're going to find the construction contract very interesting. The way that everything is written. You know its just a lot of stuff. If you have any questions, please..."

JK "Oh I will. I'll call you."

HW "No one can guide you through this thing... this maze better than me. And I don't know all that much. I mean they've been pretty good to keep it away from me when they realized that I don't like to see things misused or misdone and gradually they sort of ~~xxxx~~ this and ~~xxxx~~ that. Sort of squeezed me out. And I had to go because of the atmosphere. It was impossible."

JK "That's tough."

HW "But a... I can certainly guide you through there. I can show you where certain files... ~~xxxx~~ and ~~xxxx~~ are, where all the commission records are, where he's been..."

JK "Where is the address where you were working at?"

HW "101, 101 North Tejon. That's the Giddings Building."

JK "Right."

HW "Suite 410."

JK "That's where all the records are?"

HW "Yea, and that's where all... Paragon is in there, a... Remax Commercial Properties is in there, Roehrkasse and Campbell, the accounting firm is in there. The maintenance company works out of there, everything works out of there. So if you walk into that one place you'd have every key at your fingertips."

JK "OK, are they different offices? You're talking about different..."

HW "No it's all one office."

JK "OK"

HW "And the East end of it is Paragon Management. Doug is sort of in the middle with his office and his secretary. And then a little bit further down is Remax Commercial Properties then there is a reception area, then the other side of it is Roehrkasse and Campbell."

JK "But it's in one big room."

HW "But it's all one big office. One big hallway from one end of

the building to the other."

JK "Well, we'll see."

HW "So if you do decide to go grab the records, you could certainly package it up in a hurry. You wouldn't have to go to more than one place."

JK "The reason I ask..."

HW "And I would love to know what's in those records. I have a feeling this is just the tip of the iceberg."

JK "You may be right. I don't know. I don't know.. But like I said I will talk to David and go from there. We've been looking at this for quite a while, so..."

HW "Have you found anything close to anything like this? or you just looking at some basic conflict of interest. Obviously they are doing their own work and taking their money..."

JK "Conflict of interest is what we've been looking at."

HW "Yea."

JK "Primarily. But certainly if anything... the \$50,000 interests me. We can get right down to the nitty gritty with something like that. We're wondering what happened to that money and that's what we look at. Those are the kinds of things we will. Unfortunately your situation a... you know it could be a civil deal. They breached your contract. You may have to sue them. Those are the kinds of things that Dave Zook will have to evaluate and see what he thinks about it."

HW "On the other hand ~~xxxx~~ pension fund ~~xxxx~~ get sued over what they did."

JK "Right. Right. On the other hand if there is money floating around that is supposed to go to you and you don't have it and they invoice and they got it... so where is the money? Those kind of things... that's the kind of thing..."

HW "Well that's something else to by the way. The \$24,000 got invoiced."

JK "Uh hm."

HW "Got paid to Colorado Commercial Contractors."

JK "He doesn't have it, right?"

HW "He doesn't have it. It never got paid to him."

JK "OK. Those are the kinds of things..."

HW "That's the kind of stuff... in fact... do you still have a copy of that invoice?"

?? "Not with me."

HW "Do you have a copy of the twenty-three eighty-nine seventy?"

?? "Yea. Yea."

HW "That would be worthwhile. A copy of that is not in there."

JK "OK. OK."

HW "Because they didn't give me a copy back."

JK "OK"

HW "Whenever the invoice was done. But John..."

JK "But you do have a copy?"

?? "xxxx"

HW "No I don't think I do."

JK "It wasn't the invoice was it that I was looking for?"

HW "No you were looking at the addendum."

JK "The addendum, right."

HW "But there is an actual invoice that was done for the twenty-three eighty-nine seventy. They wouldn't give it to me."

JK "But you have the addendum as well."

HW "Right. Now the person who has all these documents on her computer, that's drawn all these documents up... her name is Carol xxxx."

JK "Alright."

HW "And... and if you wanted to get all this stuff off of her

computer before anything got erased... that's where you'd go to get all these documents."

JK "Now where is she located?"

HW "She's in that office right across the hallway from Doug's office. Her name is Carol xxxx."

JK "xxxx she works for who?"

HW "Doug, well, she works for Doug, she works for Paragon, she works for Remax... she's kind of a... Doug's secretary who does work for him in all areas."

JK "OK"

HW "She's a key person in terms of knowing all this stuff. And I have a sense that she is a little bit frightened. She has said to me... almost said to me several times on the phone. Gosh I don't really agree with this, but you know when I found that he had invoiced nearly 20% on that one commission and she caught me in the files... and I pointed it out to her... and there was no invoice in there for me to pay me for mine and Doug had already taken all the money and put into paragon... she nearly cried. She said, God I'm so embarrassed. I didn't realize that is what he had done. This is Doug's file and I know he didn't... I mean she just went to pieces."

JK "OK. OK."

HW "So that would be a person who would break in a hurry if you went in and....."

JK "Do you happen to know what kind of computers they xxxx, they use?"

HW "It's a... it's an apple, it's a Macintosh."

JK "Macintosh?"

HW "Yea."

JK "OK, OK. Well, we'll see... I'm not... I don't know. I'll..."

HW "You're the investigator. I'm sure the..."

JK "I've got to take it to the attorney's in this situation xxxx John Suthers xxxx involved."

HW "Yea."

JK "David Zook will be listening to the tape and listening to the information and he will be advising me and then we will go from there and see what happens."

HW "John has been telling Mike Witty for some time when he saw the articles in the newspaper about conflict of interest and all the other stuff going on; that if he didn't get some satisfaction he was going to be coming to the DA's office and be reporting all this. And I've been kind of sitting in the background watching, knowing that I was probably the key person who could... who could piece the thing totally together for John, so that is why I came over here... not only for John's sake, but for all the tenants over there who are being abused xxxx."

JK "OK."

HW "I mean I'm here basically on their behalf and I'd love to get paid."

JK "Sure. Of course. What did Mike Witty say to you when you said xxxx?"

?? "xxxx he would not xxxx."

HW "Absolutely would not fund the money. It would not come from the pension fund period."

?? "for me to go out and buy... find investors, you know..."

HW "Yea, he told him to go find an investor. I suggested to him, let me just say this... is this thing still going?"

JK "Yes, it is."

HW "I suggested to him that I would take the \$15,000 that I'm due on this particular deal and I would be the investor, just to get John open."

JK "Uh hm."

HW "That I would pay... that he could pay that money, my commission, directly to John, but I said I wouldn't do that unless those two guys, Russ and Doug also put in an equal amount to make sure that John got open."

K "You made that offer to Witty?"

HW "I made that offer this morning."

JK "OK."

HW "And he said, he would pay nothing out of the pension to fund to anybody. If I wanted to take my commission and give it to John, fine. But he was not going to even discuss it with Russ and Doug. That they could do whatever they wanted with their money."

JK "OK."

HW "He's not... you know those guys are his buddies. And my whole... one of my purposes I suppose... the primary purpose for being here is that if he is going to have to confront those guys... he's never going to do it unless somebody climbs right up his back, i.e. the DA and says we're going to help you do this investigation, Mike."

JK laughter

HW "I think that's what ought to happen."

JK "OK"

HW "Is... you know he needs to be forced to bring those guys to bear for everything that they've pulled and all the stuff that's going on in their accounts and God help him if he's also involved in splitting some of that money. God help him."

EXHIBIT NOTE

This is the annexure marked "A" referred to in the within affidavit of HARMON LYNN WILFRED and sworn at Christchurch this 24th day of February 2006 before me:

*Christina Jane Glubb*  
.....  
A Solicitor of the High Court of New Zealand  
(Solicitor to sign in part on Exhibit)

**Christina Jane Glubb**  
Solicitor  
Christchurch

# Harmon & Carolyn Wilfred

Suite 344 • 356 Ontario Street • Stratford • ON • Canada • N5A 7X6  
TEL (519) 275-2928 • FAX (519) 275-2943

## **CONFIDENTIAL FAX TRANSMISSION**

**September 1, 1999**

**To:** **Dale Parrish**  
Company: Edward Dale Parish, PC  
Tel: (303) 820-3440  
Fax: (303) 820-3449  
From: **Harmon Wilfred**

**Regarding: Critical Issue**  
Number of Pages (Including Cover Page) 1

Dear Dale,

Probably the most important issue in this entire case is based upon one question:

**Why is Harmon Wilfred refusing to waive extradition and return to Colorado?** Any Judge in Criminal or Family court reviewing this case has the right to an answer to this question.

In the Criminal Court case, we are clearly taking the position that the charges have no substance. In the Family Court case we are saying that I am a loving father who has been wrongfully accused, and, in fact, I am the better custodial parent. If all of this is true, then what reason do I have to refuse to cross the border?

**We clearly know the reason. Carolyn and I are very concerned that without revealing the "Bacon" through the initiation of, at the very least, an investigation at the Federal level as to the origin of these charges, and the recent further action taken on the part of the DA to deliberately solicit additional charges, how can you justify my refusal to return to Colorado?**

My affidavit says I am not guilty and am a loving father who believes that his children are being abused. How can you expect a Judge to believe me without providing evidence as to why I am not in Colorado to at least be able to see my children, if not personally protect them from further abuse? Would this not be a good reason for the Judge to refuse to proceed with any of our motions without such an explanation?

Carolyn and I submit that the presentation of evidence of an investigation in progress should, at the very least, advance our opportunity to proceed in the custody case, put the DA on notice regarding the existing charges, as well as discourage any further solicitous actions for additional charges. **What do you think?**

Sincerely,

Harmon L. Wilfred

Carolyn R. Wilfred

**CONFIDENTIAL FAX TRANSMISSION**

**September 8, 1999**

**To:** **Dale Parrish**  
Company: Edward Dale Parish, PC  
Tel: (303) 820-3440  
Fax: (303) 820-3449  
From: Harmon Wilfred

**Regarding:** **Critical Issue Debate (continued)**

Number of Pages (Including Cover Page) 2

Dear Dale,

Your latest arguments for not going to the Federal Prosecutor and exposing the connection between the Pension Fund embezzlement scheme and the charges and actions against me by the El Paso County DA are as follows:

- Should such an investigation be initiated by the Federal Prosecutor and evidence of same be presented to the Family Court Judge, I will be looked upon by the Judge as a wacko;
- If the information we present is convincing enough to the Federal Prosecutor to initiate an investigation at the Federal Level, the DA will "REALLY" promote their campaign against me, crossing their T's and dotting their I's;
- You must review the Witty case to insure that the information provided by me as to the disposition of Pension Fund money through the activities of Witty's contractors was not investigated or considered in the case by the DA.

**First of all**, should the Federal Prosecutor see fit to consider the information given as valid enough to initiate an investigation; in order for the Judge to consider me a wacko, would he not have to also label the Federal Prosecutor as a wacko? Even if that were true, I believe that I am in better company with the Federal Prosecutor as a wacko than to continue to place my life and the lives of my children in the hands of a corrupt judicial and political system.

**Secondly**, the thought of the DA "REALLY" pressing in to cross their T's and dot their I's, with the Federal Prosecutor looking over their shoulder is more a comfort than a concern. I sincerely believe that the DA has ALREADY pulled out the stops against me and my family in their activity to date, therefore I have nothing to lose. **Carolyn and I have little confidence that Jeanie Smith will permit Bob Harwood to do anything in our favour, no matter how much evidence and legal research you produce. I have no intention of crossing the border unless or until the charges are dropped and / or all information on the Pension Fund issue is in an official federal arena**

for investigation. However, if you really believe that your legal research and argument will make a difference, then by all means, before you go to the Federal Prosecutor, present it immediately to Harwood and see for yourself. We agree that if there is any chance of Harwood dropping the charges before we enter the custody case and / or go to the Federal Prosecutor, certainly we need to know now.

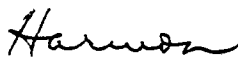
Finally, your argument for further review of the Witty case gets our attention. It would certainly further our argument with the Federal Prosecutor if you should verify in your review of the case that the evidence provided by me and my associates to the DA as to Witty's contractor partners' activities was selectively and deliberately omitted. I would hope what you are also saying is that this position, when verified, certainly eliminates your concerns as listed above.

Carolyn and I remain convinced that, subject to Harwood immediately dropping the charges as a result of your latest legal argument and research, we must approach the Federal Prosecutor with all of the Bacon and request an investigation in concert with our entry of motions into the custody case. We are also in agreement that before doing so, your immediate verification of the deliberate omission of evidence presented by me and my associates in the Witty case would significantly strengthen our request. In our opinion, this must be done in concert with your preparation to enter our motions in the custody case. In fact, we believe that by placing a priority on getting this information to the Federal Prosecutor and initiating an investigation even before we enter the custody case, our credibility will actually be enhanced as we make our requests before the Family Court.

We agree, the children are truly the prize we must keep our eyes upon. We also believe what we have suggested above does exactly that. It is important that we are in agreement.

**Please call us at your earliest convenience to further debate and resolve these issues.**

Sincerely,



Harmon L. Wilfred



Carolyn R. Wilfred