

1 SUPERIOR COURT OF WASHINGTON, KING COUNTY

2

3 MARTHA SCUDDER, a single )

4 individual, )

5 Plaintiff(s), )

6 vs. ) No. 04-2-04721-8SEA

7 LARRY GALLOWA, a married )

8 individual, )

9 Defendant(s). )

10

11 DEPOSITION UPON ORAL EXAMINATION OF  
12 KATHY SCUDDER  
13 VOLUME 2

14

15 9:36 A.M.

16 FEBRUARY 3, 2005

17 122 THIRD AVENUE EAST

18 ROY, WASHINGTON

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25 REPORTED BY: CARLA R. WALLAT, CCR No. 2578

A P P E A R A N C E S

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2

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8

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14

15 ALSO PRESENT: John Scudder - present throughout

16 various portions of the deposition

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ROY, WASHINGTON; FEBRUARY 3, 2005

9:36 A.M.

--oOo--

KATHY SCUDDER,  
sworn as a witness by the Notary Public,  
testified as follows:

EXAMINATION  
BY MS. MacDOUGALL:

11 Q. Good morning, Kathy.  
12 A. Hi, Melissa.  
13 Q. This is a continuation of your dep, which we  
14 started earlier, in January, I believe. I don't recall  
15 the date. We had a different court reporter, so you  
16 were resworn in again, and I'll remind you that you're  
17 still under oath. We got some of your testimony done.  
18 I was still doing my questioning of you. We know that  
19 we jumped a little bit last time, so I want to back up,  
20 and I apologize for doing that, but please give me a  
21 brief sketch of your education and training up to date.  
22 A. Education, high school, that's it.  
23 Q. Where did you go to high school?  
24 A. Huntington Beach High School.  
25 Q. Where is that?

5

1 A. Huntington Beach, California. I attended  
2 Huntington Beach High School until April 22nd of 1976,  
3 on which date I took the GED and --  
4 Q. What did you do after high school?  
5 A. Let's see. The first two years after high  
6 school I was still managing an Italian restaurant that  
7 I had been managing since I was 16. I started working  
8 in restaurants when I was 14 and a half.  
9 A couple of years after, I would say late '77,  
10 I began working in offices. Started out as a  
11 receptionist, worked my way up through administrative  
12 work, bookkeeping. I'm a full charge bookkeeper, but  
13 it's all OJT. My last position that I had before I  
14 quit working on a full-time basis, in April of 2000 I  
15 was the assistant to the CFO of a group of  
16 entrepreneurs in Salt Lake City.  
17 Q. What was the name of that company or group?  
18 A. The major group was called Courier Control  
19 Center.  
20 Q. Courier Control Center?  
21 A. Courier Control Center was the main  
22 corporation. They were a franchisee of Unishippers  
23 Corporation, which is a company that sets up all of --  
24 you own different territories for Airborne Express.  
25 They -- the gentlemen were also involved in a bunch of

6

1 other different types of entrepreneurs. They did phone  
2 cards, they did different IT stuff.

3 But what I was mostly concerned with was  
4 strictly the bank accounts, the general ledger, the  
5 profit and loss, balance sheets. I basically  
6 supervised the people who worked in the accounting  
7 department. It was -- before it went to the CFO's desk  
8 it came off mine.

9 Q. Do you have any formal education or  
10 certificates other than the on-the-job training that  
11 you described for the office work, the bookkeeping, the  
12 accounting stuff?

13 A. Not a one.

14 Q. Now, you left that job with Courier Control  
15 Center in April of 2000, and what did you do after  
16 that?

17 A. I have not worked since April of 2000. I have  
18 been on SSDI. It was approved in February of 2002.

19 Q. Is that for a medical condition?

20 A. Yes, it is.

21 Q. What is the medical condition?

22 A. Bipolar one disorder and severe and chronic  
23 PTSD.

24 Q. Okay.

25 A. And I got a few other letters after that, but

7

1 that was the two that I got SSDI for.

2 Q. I know you told me in the first part of your  
3 deposition that currently you are assisting with the  
4 breeding and hatching and care of the birds at the  
5 Happy Hookbills Ranch?

6 A. Happy Hookbills Ranch, right.

7 Q. You've been doing that for a year and a half,  
8 I believe?

9 A. Almost two years. It'll be -- in May will be  
10 two years when I started learning how to do it, so a  
11 year and a half.

12 Q. What is your source of income today,  
13 currently?

14 A. My source of income?

15 Q. Correct.

16 A. SSDI.

17 Q. Do you receive any income for you only from  
18 the aviary and the work that you do there?

19 A. No. John owns the birds. I live with John,  
20 so I do the -- I do the birds, but none of the income  
21 is mine. I mean, we don't even have a joint checking

22 account. Our checking accounts are separate.  
23 Q. How is most of your time spent during the day?  
24 Is it spent doing things with the birds and household  
25 duties?

8

1 A. It depends on the time of the year, okay?  
2 During what we call baby season, which is the breeding  
3 cycle --

4 Q. Which is coming up, correct?

5 A. Which is -- we have eggs, so it is here.

6 During that time, once we have hatchlings, the  
7 babies have to be fed every two hours for 16 hours a  
8 day, and so I feed -- well, we don't have any hatched  
9 yet. They're still in the incubator. But the way that  
10 it works is I feed four days a week and then we have  
11 someone else who feeds the other three days a week.

12 Q. How long is baby season?

13 A. Approximately six to seven months. It  
14 basically depends on when the last bird lays the last  
15 egg. Like I still have an unwinged Cockatoo from last  
16 year's season, because she was born late in September  
17 and she's still eating baby food twice a day.

18 Q. And then the rest of the year, the other five  
19 to six months, depending on how long baby season lasts,  
20 you're caring for the other birds in other capacities?

21 A. Right. Even during baby season, although I  
22 don't do it as much, during baby season, basically what  
23 I do in the aviaries is I'll take a walk through the  
24 aviaries and make sure that there's nothing that I see  
25 that needs to be taken care of.

9

1 Because I'm what they call the egg stealer --  
2 I know this is funny, but there's certain terminology  
3 in the avian community, and the person who collects the  
4 egg from the nest boxes is called the egg stealer. And  
5 people don't understand that, but birds do recognize  
6 who the egg stealer is, and so we try to keep me out of  
7 the main parts of the aviaries during breeding season  
8 because it upsets the birds.

9 I'm -- the only time I go in the aviaries  
10 generally during breeding season is to collect eggs  
11 only, and then every once in a while I'll take a wander  
12 through to make sure that there's nothing that John --  
13 maybe something John's missed or Suzanne's missed or

14 something like that, and -- but during the baby season  
15 I don't do a whole lot in the aviaries.  
16 During the wintertime it's maintenance, you  
17 know, cleaning the cages, cleaning underneath cages,  
18 you know, checking the waterers -- we have automatic  
19 watering systems -- you know, making sure that we're  
20 not -- don't have any dripping in the wintertime.  
21 Sometimes you get the nipples will -- they'll start  
22 dripping and, you know, it makes it wet in there, so  
23 you want to make sure that you don't have, you know,  
24 excess water and stuff in the aviaries.  
25 So during the winter I do that, and for some

10

1 reason it doesn't seem to bother the birds that the egg  
2 stealer's in there when they're not laying.  
3 Q. So is it fair to say that even though you're  
4 not receiving an income source from the aviary, it's  
5 basically a full-time or close to full-time job for  
6 you, occupies most of your time?  
7 A. It occupies most of my time, yes, but I don't  
8 receive monetary compensation for it.  
9 Q. Now, when we talked earlier, at the first part  
10 of your deposition, you talked to me about the  
11 restraining orders that were in place between you and  
12 Martha Scudder and Bob Vincent, correct?  
13 A. Yes.  
14 Q. Are those still in place today?  
15 A. They are still in place today, and I intend to  
16 renew them.  
17 Q. So you have not had any contact with either  
18 Martha Scudder or Bob Vincent since the institution of  
19 those orders, which I believe was December of 2003,  
20 correct?  
21 A. The orders were entered on March 31st of 2004,  
22 and yes, I have had contact with Martha Scudder since  
23 then.  
24 Q. I'm going to ask you about that in a minute.  
25 I want to ask you if -- well, strike that.

11

1 Tell me about the last contact that you did  
2 have with Martha.  
3 A. Brandon, that's John's oldest son, came to me  
4 and told me that he missed being able to talk to  
5 grandma, because once those orders were instituted,

6 both David and Brandon were forbidden to even speak to  
7 Martha under pain of you'll be on restriction for the  
8 rest of your life.

9 Q. Okay.

10 A. Okay? And Brandon came to me and said that he  
11 missed being able to have some time with grandma. And  
12 I also had some baby birds at that time that had a  
13 yeast infection.

14 Q. Let me stop you there. You had birds that had  
15 a yeast infection?

16 A. I had baby birds that had a yeast infection.

17 Q. When was this, what month and year?

18 A. That would have been late April or early May  
19 of 2004.

20 Q. All right, so Brandon wanted to talk to his  
21 grandma?

22 A. Uh-huh.

23 Q. And you had some birds that had a yeast  
24 infection, so --

25 A. Had a yeast infection. And the vet had been

12

1 there and they were on medication. I was following the  
2 vet's orders. And Brandon felt that that would make a  
3 really good reason for him to go over and say, you  
4 know, Hey, Grandma, Kathy's got these babies. Would  
5 you come over and take a look at them, and try to ease  
6 the situation --

7 Q. Sure.

8 A. -- between Martha and the children.

9 Q. Did he do that?

10 A. Yes, he did.

11 Q. And were you -- well, let me back up. Did  
12 Martha come to your house?

13 A. Yes, Martha came to my house.

14 Q. Were you there?

15 A. Yes, I was.

16 Q. Did you speak with her?

17 A. Yes, I did.

18 Q. Was it a cordial conversation?

19 A. Yes.

20 Q. Did you discuss anything about the lawsuit  
21 which Martha has filed against my client, Larry  
22 Gallowa?

23 A. No. The only thing that we did was Martha  
24 came in and she looked at the babies and she asked me

25 what I was doing, and I told her, and she said, Well,

13

1 the only -- you're doing everything that I would do.  
2 Just keep it up, and, you know, the medication should  
3 start working, you know, relatively soon. And if it  
4 doesn't, you know, call the vet again, because there's  
5 nothing that I can think of that you should do  
6 differently.

7 Q. Did you discuss anything about the restraining  
8 order and the incident that led up to the restraining  
9 order at that time?

10 A. We had a short conversation right when she was  
11 getting ready to leave, because she wanted to be able  
12 to take Brandon and David with her to places like  
13 baseball games or the movies or dinner in the company  
14 of Bob Vincent, and the -- and I told her that that was  
15 absolutely not allowed, that if she wanted to take the  
16 boys to a movie or if she wanted to take them to  
17 dinner, that we would -- and if she wanted to come to  
18 our home to visit her grandchildren, even though those  
19 orders were in effect, that we would allow that, but  
20 they were, under no circumstances, to be in contact  
21 with Bob Vincent.

22 Q. Why is that?

23 A. Because the incident that led up to the  
24 restraining orders, Bob physically assaulted me, and on  
25 another occasion prior to that the boys were witnesses

14

1 to him verbally assaulting me. And in fact, there was  
2 even a friend of theirs that was there, and all three  
3 of the boys were standing -- because they knew they  
4 were not allowed on grandma's property, and it was  
5 right by our property line and theirs. They were all  
6 standing at the property line because they were afraid  
7 that Bob was going to hit me then. That was the first  
8 words out of their mouths, was, We are standing there  
9 to make sure if he touched you that we would be there.

10 And we do not like Bob Vincent, we do not  
11 agree with the things that he has said, I especially  
12 don't like being yelled and screamed at in my face, and  
13 so that's why the boys were not allowed to go to  
14 Martha's. It's not because they can't see their  
15 grandmother, it's because we don't want them around Bob  
16 Vincent.

17 Q. And to clarify, we is you and John?  
18 A. And John.  
19 Q. John Scudder, correct?  
20 A. Correct. And their biological mother, Suzanne  
21 Scudder, happens to live on our property, and she  
22 doesn't want them to have any contact with him either.  
23 Q. Let me back up and ask you a few things.  
24 When is the last time that you saw Robert  
25 Vincent?

15

1 A. When we were in court on the 17th of March  
2 2004 -- I believe it was the 17th -- when the  
3 restraining orders were entered. That was the last  
4 time that I had any contact, other than because we live  
5 on the same road we may pass each other as driving up  
6 and down the road. But other than that, that is the  
7 only -- that was the last contact I had with him, was  
8 when we were in the courtroom.  
9 Q. Now, you've stated that you don't like Bob  
10 Vincent, and it seems to me, is it fair to say, that  
11 you have some animosity towards him based on the  
12 situation?  
13 A. That is a very fair statement. In fact,  
14 dislike isn't a word. I despise the man.  
15 Q. So let me ask you this: Is any of your  
16 testimony that you gave prior to when we started  
17 talking about the conditions of the aviary and any of  
18 the testimony that you've given today, absent  
19 describing the animosity, are you testifying today  
20 because of your feelings towards Bob Vincent?  
21 A. Nope, because I don't like your client any  
22 more than I like Bob Vincent.  
23 Q. Fair enough.  
24 A. I look at it this way: I don't like your  
25 client and I don't like Bob Vincent and I don't like

16

1 Martha Scudder, so whatever you ask me, I'm going to  
2 answer the truth to the best of my ability, because I  
3 really don't like either one of them, so why stress  
4 over it.  
5 Q. Okay. As you sit here today, do you have an  
6 understanding or any knowledge as to the ownership of  
7 Martha's aviary?  
8 A. Yes, I do.

9 Q. What is your understanding as you sit here  
10 today of the ownership of that property?

11 MS. CABALO: Objection as to foundation, but  
12 you can go ahead and answer.

13 A. The property is co-owned, and as to how do I  
14 know that, Mr. Vincent had a half page article in the  
15 Nisqually Valley News dated January 7th, 2005 in which  
16 it was stated that he and Martha Scudder were co-owners  
17 of Scudder's Parrot Depot.

18 Q. (BY MS. MacDOUGALL) So your information as  
19 you sit here today comes from reading that article,  
20 correct?

21 A. That and the fact that I ran on line, and  
22 there is -- it shows that he is half owner of that  
23 property. Whether --

24 MS. CABALO: Objection as to foundation. I'm  
25 sorry, go ahead.

17

1 A. I ran a background check on line and it shows  
2 that he and Martha co-own the property. It does not  
3 mention anything about the aviary in that, just that  
4 they're co-owners of the property. Martha personally  
5 told me that Bob was half owner of the property and the  
6 aviary.

7 Q. When did Martha tell you that?

8 A. The time --

9 MS. CABALO: Objection, hearsay. Go ahead and  
10 answer.

11 MS. MacDOUGALL: Let me just respond to that.  
12 It's a statement of a party.

13 Q. (BY MS. MacDOUGALL) But go ahead, you can go  
14 ahead and answer.

15 A. That was between -- the incident happened, the  
16 last time he screamed at me, it was the one that was in  
17 the fall of -- it was -- it was somewhere right after  
18 Christmas, because Brandon and David got paint ball  
19 guns for Christmas. And Martha's little Dachshund  
20 liked to come over to our property, and they killed my  
21 kitties, and I was upset, and I told them if they  
22 wanted to shoot those little Dachshunds' butt full of  
23 paint balls, go right ahead, and keep them off my  
24 property.

25 Brandon did it. He missed them. He was

18

1 shooting at them, and that was what caused Bob to start  
2 screaming and yelling that he was going to have Brandon  
3 arrested for animal cruelty and all of that. And I  
4 walked over, because at that point John was no longer  
5 speaking with his mother, and I was trying to act as a  
6 conciliator between the two families, meaning that let  
7 Martha and I talk, okay, John and Bob stay in the  
8 background, neither one of them be around when Martha  
9 and I talked, and that way we could keep it so that  
10 there was at least some cordiality between the two  
11 families and that she would be able to see her  
12 grandchildren.

13 Q. So at some point you and Martha talked about  
14 this situation and Bob, and in that conversation she  
15 told you --

16 A. Yeah, this was in -- the first time that there  
17 was an altercation where Bob was yelling and screaming  
18 at me was in the fall of 2003. I do not know exactly  
19 when. I just know it was in the fall. And at that  
20 point Martha and I had a discussion, and Martha and I  
21 agreed that it would be better if John stayed away from  
22 Bob and Bob stayed away from John, and if there were  
23 any dealings to be done between the families it would  
24 be between Martha and I.

25 Q. Okay.

19

1 A. And part of the reason that I did that is  
2 because Brandon and David are her grandchildren.

3 Q. Sure.

4 A. My grandmother has two grandchildren she's  
5 never met due to the same thing, a family animosity,  
6 and I wanted to try to prevent that same type of  
7 situation between Martha and her grandchildren.

8 Q. Let me interrupt you just so that I don't get  
9 too far afield. What prompted Martha to tell you that  
10 Bob co-owned or was part owner in the property?

11 A. Because Bob was screaming at me to leave the  
12 property when -- Brandon came and got me and told me  
13 that Bob was going to call the cops or was calling the  
14 cops to have him on animal cruelty. And Martha was in  
15 what they call the long house feeding the birds, okay?  
16 So I went walking across the pasture to go to talk to  
17 Martha, and Bob was the one who first saw me.

18 And he started screaming in my face, Leave,  
19 and I'm like, Bob, just forget it. You know, you don't

20 exist. I'm going to talk to Martha. Leave me alone.  
21 Just get out of my face. Get away, you know, leave me  
22 alone. I'm talking to Martha.  
23 I went down and I was -- I talked to Martha.  
24 She came out of the birdhouse and we were standing  
25 there, and he was again screaming at me to leave. And

20

1 I looked at Martha and I said, Do you want me to leave?  
2 I said, This is your property. Do you want me to  
3 leave? And she said, No, and she says, but it's not  
4 just my property. He's half owner. And I said, So you  
5 mean his name is on the deed now? And she said, Yes.  
6 At that point I walked away from Mr. Vincent  
7 with Martha, and he followed us again, screaming, and I  
8 gave her three opportunities. I said tell him to leave  
9 me alone three times, and on the third time, when she  
10 did not tell him to leave me alone, I said, I'm no  
11 longer your conciliator, and I turned my back and I  
12 walked off.  
13 Q. You mentioned that you personally had done a  
14 background search on line. Tell me, when did you do  
15 the background search on line of Bob Vincent?  
16 A. Less than a week.  
17 Q. So recently.  
18 A. Uh-huh.  
19 Q. What search engine did you use?  
20 A. Let's see, I used two of them. I used Net  
21 Detective and I used, I think it was People Search.  
22 Q. Is that through Yahoo; do you know?  
23 A. No, it's a paid on-line background check. You  
24 have to pay to do it.  
25 Q. Did you pay for Net Detective?

21

1 A. Yes, I did.  
2 Q. How much did you pay?  
3 A. 29.95.  
4 Q. And did you pay for People Search?  
5 A. Yes, I did.  
6 Q. How much did you pay for that?  
7 A. 49.95.  
8 MS. MacDOUGALL: Let's go off the record here  
9 for a moment.  
10 (Discussion off the record.)  
11 MS. MacDOUGALL: Back on the record.

12 Q. (BY MS. MacDOUGALL) Why did you do two recent  
13 background searches on Bob Vincent?

14 A. Because your client sent me an e-mail saying  
15 that he felt that there was stuff in Vincent's  
16 background that we should explore.

17 Q. Okay. When was the e-mail that you  
18 received -- strike that.

19 When did you receive an e-mail from my client?

20 A. Week or so ago.

21 Q. Just describe to the best of your memory what  
22 you read in that e-mail.

23 A. Just maybe you should check out his  
24 background.

25 Q. So this prompted you to do that.

22

1 A. Uh-huh.

2 Q. And you did that.

3 A. Uh-huh.

4 Q. As you sit here today, what do you remember  
5 reading from the Net Detective search?

6 A. Not really much of anything. The only thing  
7 that the Net Detective search, that I got from that was  
8 his middle name and that he was a junior and his birth  
9 date.

10 Q. At that point did you decide to use another  
11 search engine?

12 A. Yeah, because the Net Detective one, they said  
13 you could find out anything, and to me it was useless.

14 Q. So you did the People Search. Was that on the  
15 same day?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes.

19 Q. What, as you sit here today, to the best of  
20 your recollection, do you remember reading about the  
21 results of the People Search?

22 A. The People Search was the one that said that  
23 he and Martha jointly owned the property at 10013 332nd  
24 Street South, Roy, Washington. It had his name and a  
25 number of prior addresses, or what that search felt

23

1 were his prior addresses.

2 Q. Sure.

3 A. And included in it was a criminal background

4 check. In the criminal background check part, I do not  
5 know for sure if it is the same Robert Lee Vincent,  
6 Junior, with the birth date of 12/12/1956, but there  
7 were -- there was a speeding ticket in the state of  
8 Oregon for exceeding the speed for a truck, and in the  
9 state of Texas there was a conviction for public  
10 intoxication, a conviction for theft by check for one  
11 year in the '80s, and there was another conviction for  
12 theft by a check a couple of years after that. If -- I  
13 do not know for sure if that is the same person or not.  
14 Those are just what I saw.

15 Q. I'm just asking what you read.

16 MS. CABALO: Allow me to put on the record a  
17 continuing objection to foundation as to her answers on  
18 these searches.

19 Q. (BY MS. MacDOUGALL) Let me back up. I think  
20 I misheard you. When you were talking about exceeding  
21 the speed limit, did you say for a truck or a drug?

22 A. A truck.

23 Q. So it was your impression that he was in a  
24 truck and he had exceeded the speed limit?

25 A. There are different speed limits for tractor

24

1 and trailers than there are for vehicles.

2 Q. Got you.

3 A. And when you exceed the speed limit for a  
4 truck, that means a vehicle over a certain gross  
5 vehicle weight.

6 Q. Okay.

7 A. Excuse me.

8 MS. MacDOUGALL: Let's go off the record.

9 (Discussion off the record.)

10 Q. (BY MS. MacDOUGALL) Any other searches that  
11 you have done on Bob Vincent on line?

12 A. No.

13 Q. Did you speak with Martha about the results of  
14 these recent searches?

15 A. No.

16 Q. Okay.

17 A. In fact, let me make this very clear. Other  
18 than that, that one time when we had that discussion  
19 when she came over about the babies, I haven't spoken  
20 to Martha -- well, I take that back. I spoke to her on  
21 the telephone in the end of November, the day before  
22 Thanksgiving. I had a sick bird, and I did not know of

23 a 24-hour veterinarian, and Suzanne called her and  
24 asked her if she knew of a 24-hour veterinarian.  
25 And then Suzanne said, Will you violate the --

25

1 violate Kathy on the restraining orders if she talks to  
2 you about the sick bird? And Martha said, It's a  
3 violation, but I won't violate her, and she talked to  
4 me.

5 Q. To make the record clear, is Suzanne the  
6 lady --

7 A. Suzanne is John's ex-wife, and yes, she lives  
8 on our property, and yes, she helps me with the babies.

9 MS. MacDOUGALL: Let's go off the record a  
10 minute.

11 (Discussion off the record.)

12 MS. MacDOUGALL: Back on the record.

13 Q. (BY MS. MacDOUGALL) Other than the e-mail  
14 that you talked about just previously that you said you  
15 received -- strike that entire bad question.

16 You just told me about a recent e-mail that my  
17 client, Larry Gallowa, sent you about checking out Bob  
18 Vincent's background. Other than that e-mail, have you  
19 received any other e-mail or other type of  
20 correspondence from my client recently.

21 A. Yes.

22 Q. When was that?

23 A. We've had a couple telephone conversations.

24 Q. When were those?

25 A. Within the last ten days. I can't tell you

26

1 the exact dates. I'd have to go look on dates, but I  
2 did have a couple of telephone conversations with him.

3 Q. Who initiated those phone calls?

4 A. I dialed the numbers and talked to him, but he  
5 sent me an e-mail with his phone number in it and said  
6 to give him a call.

7 Q. Okay. What was the purpose of the phone  
8 contact?

9 A. He had heard scuttlebutt through the avian  
10 industry -- again, I know, objection. I'm just  
11 repeating what was told to me.

12 MS. CABALO: Objection, hearsay. But go  
13 ahead.

14 MS. MacDOUGALL: And just let me clarify. Are

15 you objecting on what Larry told her or --  
16 MS. CABALO: The conversation that she had  
17 with Larry on the phone.  
18 MS. MacDOUGALL: You're going to object to it  
19 as hearsay?  
20 MS. CABALO: As hearsay.  
21 MS. MacDOUGALL: And my response is just going  
22 to, again, statements of a party opponent.  
23 Q. (BY MS. MacDOUGALL) But go ahead, you can  
24 answer the question, and we'll fight about it later.  
25 A. He had heard the scuttlebutt that there was a

27

1 gentleman up in northern Washington that runs a Macaw  
2 sanctuary whose name is Bob Dawson, and a few years ago  
3 a gentleman who somewhat matches Bob Vincent's  
4 description had married Mr. Dawson's elderly mother,  
5 who had been recently widowed, and that that person --  
6 and she had birds, also.  
7 Q. The mother did?  
8 A. Yes, as well as the sanctuary with the Macaws  
9 that is her son. And that he had married that woman,  
10 and then after an amount of time -- it did not say. It  
11 didn't have it one year, two years, whatever, it just  
12 said at some point in time this person whose name is  
13 Bob Vincent left with this elderly woman's assets. And  
14 he thought that it could possibly be the same person,  
15 and his actual reason for calling was concern for  
16 Martha that the same thing would happen to her.  
17 Q. Let me interrupt and clarify. The reason for  
18 the telephone call or the series of calls/e-mails was  
19 Larry relaying this information to you that he had  
20 received allegedly from Bob Dawson, correct, or from  
21 somewhere?  
22 A. From someone. I don't know -- I believe the  
23 person that he received the information from was Lori  
24 Rutledge.  
25 Q. Okay.

28

1 A. Okay? I don't know if that is positive. He  
2 did not have a phone number for Mr. Dawson, and when I  
3 did a search on line for telephone numbers for Robert  
4 Dawson in the northern part of Washington, there was  
5 really only one that came up in that area. And I  
6 called it and I asked him if he was the one who owned

7 the Macaw sanctuary, and he said, no, he wasn't, and I  
8 said, Okay, thank you, and I hung up.

9 Q. What was your reason for calling that number  
10 and trying to find Bob Dawson?

11 A. I may dislike Martha because of the way she  
12 has treated me, because at one point in time I called  
13 Martha mom, and at one point in time I believed the  
14 things that Martha told me, okay? And I don't like to  
15 see anybody hurt. And Martha's an old lady, okay,  
16 she's 65 years old, and that farm is her whole life,  
17 and if -- even though I don't care for the way she's  
18 treated me, I wouldn't want that to happen to her or to  
19 anybody else.

20 If it was someone that I had a passing  
21 acquaintance with that I had heard the same  
22 information, I would have followed up on it and said  
23 this is what I have heard.

24 Q. Got you. So that was your purpose for trying  
25 to locate this particular Bob Dawson.

29

1 Let me go back and continue clarifying, so I  
2 make sure that we make the record clear and I  
3 understand. I think you earlier said the description  
4 may have matched Bob Vincent, and I know I'm slightly  
5 mischaracterizing your testimony, and then you used the  
6 word Bob Vincent. Did the information you got say that  
7 this person who was involved with Bob Dawson's mom, did  
8 you get the information that the name was also Bob  
9 Vincent?

10 A. Yes.

11 Q. Okay. And then you got separate information  
12 as to a physical description; is that correct?

13 A. What they -- what it said was is that the --  
14 that the person who had married this elderly lady,  
15 Mr. Dawson's mother, okay, his name was Bob Vincent,  
16 okay, and that he seemed similar to the Bob Vincent  
17 that Martha was involved with.

18 Q. Got you.

19 A. Okay? And that given that it was a very  
20 similar situation, an elderly widow, recently widowed,  
21 birds involved, and then marriage -- and I understand  
22 that Martha says that she didn't marry Bob, but I've  
23 had more than one person in the avian community tell me  
24 that they have -- that they got married last summer.

25 Q. So is it fair to say that you had concerns,

1 then, that this potentially was the same person that  
2 you thought may have now hooked up with --

3 A. Martha.

4 Q. -- Martha Scudder?

5 A. Yes.

6 Q. As you sit here today, do you know for sure  
7 whether it is the same person?

8 A. I have no idea. I contacted Lori Rutledge to  
9 obtain Bob Dawson's telephone number, and was told that  
10 Mr. Dawson did not want to have any -- he didn't want  
11 to be involved in this situation at all, not to discuss  
12 it with anybody, not to talk about it with anybody,  
13 not -- he wanted to stay out of it.

14 Q. Okay. Is his mother, to your knowledge, alive  
15 today?

16 A. I believe so, but I don't know for sure.

17 Q. Who is Lori Rutledge?

18 A. She owns a rescue sanctuary up in the northern  
19 part of Washington, north of Seattle. She primarily  
20 does rescue on Cockatoos, but she's also one of the two  
21 people within the state of Washington that are licensed  
22 to care for confiscated flocks.

23 Q. How do you know Lori and know to contact her  
24 to ask her questions about Bob Dawson?

25 A. Mr. Gallowa gave me her telephone number to

1 see if I -- if she had Mr. Dawson's telephone number.  
2 I knew who she was prior to that. I had just never  
3 talked to her before. And so when I called her and I  
4 had a long talk with her -- and we talked about birds  
5 mostly, after, you know, she told me Mr. Dawson wasn't  
6 interested in getting involved. And I'm interested in  
7 all areas of aviculture because I live it 24/7, so she  
8 and I discussed different things about aviculture.

9 Q. Now, earlier you stated that you disliked my  
10 client, and I know that you began to talk in the first  
11 part of your deposition about e-mails that my client  
12 had allegedly sent out through the avian community.

13 A. And directly to our e-mail account.

14 Q. Exactly, and directly to your e-mail account.  
15 You had made a statement that you and John and the  
16 Happy Hookbills Ranch were separate from Martha  
17 Scudder's avian practices and were not linked at all,

18 correct?

19 A. Right, we're not the same. We are not --  
20 technically, when I first got here, Martha's business  
21 name was M & J Enterprises, okay, but she had business  
22 cards that said Scudder's Exotic Birds. But she banded  
23 her birds with M & J. You put bands on birds.

24 Q. For identification.

25 A. For identification purposes. And most

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1 breeders use the same letter designations year after  
2 year. And you put a letter designation, the state, the  
3 year, and then there's a number on the band. And then  
4 you associate that number with a particular bird, and  
5 then that way, if at some point in the future somebody  
6 finds a bird, let's say has M & J, Washington, 00, and  
7 the number on it is 103, then you look for band No. 103  
8 and you would be able to tell what bird -- or what pair  
9 and the hatch day, stuff like that on that bird.

10 Q. You had made a statement at some point, or  
11 perhaps I saw it in an e-mail, which you did not like  
12 and didn't appreciate Larry Gallowa, my client, linking  
13 the two farms together, correct?

14 A. Not at all.

15 Q. Why is that?

16 A. Because Martha has a very bad reputation  
17 within the avian community.

18 Q. Okay.

19 A. And we have the same last name. And while  
20 your client was posting all of this stuff on line, he  
21 was not making any designation that these were separate  
22 businesses, and we were also getting e-mails that said,  
23 If your facility is like your namesake, you're next,  
24 and, you know, how can you sleep at night with your  
25 inhumane and abusive treatment of animals, and there --

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1 Q. And who were those coming from?

2 A. Mr. Gallowa and some of his friends.

3 Q. When you're talking about posting and the  
4 e-mails directed to you, what time frame are we  
5 talking?

6 A. We're talking in the -- like the fall of 2003  
7 and -- e-mails to us directly stopped in the fall of  
8 2003 for a short amount of time, and then there were a  
9 few e-mails that went back and forth after the

10 February 24, 2004 hearing on the proposed ordinance for  
11 Pierce County.

12 Q. And that was at the Pierce County council; is  
13 that correct?

14 A. It was in the Pierce County council committee.  
15 It was not a full council meeting. It was the -- I  
16 believe it was the health and safety committee. I did  
17 not attend that particular meeting.

18 Q. Let me clarify something here. You stated, I  
19 believe it's fair to say, in the first part of your  
20 deposition that your avian practices and John's avian  
21 practices were different than Martha's, and now you've  
22 told me that you had concerns about being linked with  
23 Martha because of your knowledge of her reputation,  
24 negative reputation in the avian community.

25 So is it fair to say that based on those two

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1 statements, it's important for you to make very clear  
2 that Happy Hookbills Ranch is a different, separate  
3 entity than Martha's Parrot Depot or the Scudder Aviary  
4 or whatever, Enterprise, she is operating under today;  
5 is that correct?

6 A. Yes, it is very important. In the beginning,  
7 when your client began posting things on the internet  
8 about Martha and Martha's aviary, I defended Martha. I  
9 posted things on line defending her to the death,  
10 saying that, I mean, you're wrong, you're wrong, you're  
11 wrong, you're wrong, you're wrong.

12 Q. And when was that?

13 A. That was in the fall of 2003.

14 Q. Why did you defend Martha and say that Larry  
15 and others that posted were wrong?

16 A. Because at the time I didn't know that some of  
17 the things that Martha was doing were not considered  
18 acceptable avian practices.

19 MS. CABALO: Objection, calls for expert  
20 opinion on that statement.

21 MS. MacDOUGALL: Do you want to have a  
22 standing objection to anything that I ask her about?  
23 Because we ran into this last time.

24 MS. CABALO: Right, there should be a  
25 continuing objection. I might still note it, because

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1 we may meander and come back.

2 MS. MacDOUGALL: Sure, get off track and back.  
3 And I'm just going to have a standing response that I'm  
4 not calling Kathy as an expert, and I'm just asking  
5 based on her knowledge, expertise and training and  
6 experience that she has gained, and I'm certainly not  
7 qualifying her as an expert or calling her as one.

8 What was my question?

9 (The Reporter read back as requested.)

10 Q. (BY MS. MacDOUGALL) Kathy, you said that at  
11 the time you didn't realize that there were some  
12 practices that were not accepted in the avian  
13 community, and I take it that as you sit here today,  
14 you now have a different opinion based on what you've  
15 learned so far and based on what you've experienced by  
16 working with John, learned from others, as to Martha's  
17 practices. Is that correct?

18 A. That's correct, and also because Martha lied  
19 to me.

20 Q. How did Martha lie to you?

21 A. There was an incident with the Birdcage pet  
22 shop.

23 Q. Let me stop you there just so I'm clear. Is  
24 the Birdcage pet shop located in Federal Way?

25 A. Yes, it is.

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1 Q. And is the owner --

2 A. Her name is Tigger. I don't know. She's sold  
3 out, but the only name I know her by is Tigger.

4 Q. Do you know if the last name is Flanagan or  
5 Flanagan?

6 A. I have no idea. All I know is I met her once  
7 at her pet shop, and if I saw her on the street I'm not  
8 really sure if I'd recognize her.

9 Q. Got you. I think I know the person you're  
10 talking about, but go ahead. So this incident involved  
11 the Birdcage and a woman named Tigger, the owner?

12 A. Right. And see, I had baby birds that were  
13 down at Martha's that I had recently brought up to my  
14 house prior to the incident at the Birdcage.

15 Q. When did this happen, time period?

16 A. I brought the birds up to my house mid to late  
17 September, and the incident that happened at the  
18 Birdcage began right around the first part of October  
19 of 2003.

20 Q. Okay, go ahead.

21 A. There was an incident where your -- or  
22 actually what happened is your client posted about  
23 psittacosis, which is an avian illness that is  
24 transferrable to humans. It's called chlamydia in  
25 humans.

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1 Q. Oh, sure.

2 A. And that there had been an outbreak of  
3 psittacosis, and they thought that the birds that  
4 brought the outbreak in were Martha's birds. And I  
5 called Martha and I said, Martha, you knew that I was  
6 shipping off birds and you did not tell me that this  
7 had happened, and all she would do is scream at me that  
8 her facility was clean.

9 Q. Let me -- and I don't mean to keep  
10 interrupting you, Kathy. I just want to make clear.  
11 You said they had an outbreak, by that you mean the  
12 Birdcage?

13 A. The Birdcage pet shop.

14 Q. Had an outbreak of psittacosis, correct?

15 A. Yes.

16 Q. Can you spell that for the court reporter?

17 A. P-S-I-A-T-T-A-C-O-S-I-S. I think that's the  
18 closest.

19 Q. Sure, that's fine. So you confronted Martha  
20 or telephoned her about this, and I'm not sure the  
21 purpose --

22 A. And she --

23 Q. Let me finish my question. You said, Martha,  
24 you knew I was shipping birds. So you had received  
25 some birds from Martha, correct?

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1 A. During this 2003 breeding season our eggs were  
2 incubated at Martha's facility and our babies were fed  
3 at Martha's facility.

4 Q. I see. Why was that?

5 A. Because Suzanne had left. They had been at  
6 Martha's facility, for being kept incubated and fed at  
7 Martha's facility, for a couple of years, because John  
8 worked and Martha fed his babies.

9 Q. So John, who you previously told us is a  
10 long-distance truck driver -- correct?

11 A. He's not a long-distance, he does local hauls.  
12 He's home most nights, but if you have babies that have

13 to eat every two hours, you really can't haul them  
14 around in a truck and feed them every two hours.  
15 Q. And Suzanne is his wife who had left the farm  
16 at that point?  
17 A. She left in February of 2001, and she was --  
18 and she's his ex-wife now.  
19 Q. So John enlisted Martha, his mother, to  
20 incubate eggs during the breeding season and hatching  
21 season and then feed the babies that were hatched.  
22 A. Uh-huh.  
23 Q. Because he was unable at that point, due to  
24 his job, to care for them; is that fair?  
25 A. He was unable to take care of the babies. Up

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1 until the breeding season of 2004 all eggs incubated  
2 from Happy Hookbills Ranch were incubated at Martha's  
3 in her incubators. We did not own an incubator of our  
4 own.  
5 Q. You said up until the breeding season of 2004.  
6 What month is that?  
7 A. My first babies hatched March 5th in 2004.  
8 Q. So the babies that hatched in 2004, did they  
9 hatch at your facility?  
10 A. Yes.  
11 Q. Got it.  
12 A. They were all incubated and they all hatched  
13 at -- we did not take any more eggs down to Martha's  
14 facility after August of 2003. That was when we had  
15 the last eggs that incubated.  
16 Q. Why is that the last time, August of 2003 --  
17 A. Because the --  
18 Q. -- that you took the birds to Martha's?  
19 A. That was the end of the -- that was the last  
20 eggs we got in the 2003 breeding season.  
21 Q. And then you got your own incubator.  
22 A. Right. Well, the babies hatched down there,  
23 and they were in the isolettes until they were  
24 beginning to be feathered, and then in mid to late  
25 September the last of the babies that were at Martha's

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1 I brought up to our house.  
2 Q. Now, let's go back to the telephone call  
3 involving the incident at the Birdcage and psittacosis,  
4 and your statement to Martha she knew you were shipping

5 babies. Why did you make that statement?  
6 A. Because it costs \$12 to test a baby bird to  
7 see if it has psittacosis, and psittacosis can ruin a  
8 broker, and I was going to be shipping -- I shipped 17  
9 babies to a broker. Had I known that there had been an  
10 outbreak of psittacosis at the Birdcage that they had  
11 not yet determined whether or not it had come from  
12 Martha's facility, because at that point they thought  
13 that the birds that caused the outbreak came from  
14 Martha's facility, I was extremely angry that she had  
15 not told me that prior to me shipping those birds  
16 because I would have paid the \$12 apiece and tested  
17 those birds prior to shipping them.

[Ed.— On his website, <http://www.parrot-depot.com>, Robert Vincent notes that a small number of his flock were tested for "psittacosis" (now usually called chlamydiosis). However, this testimony by Kathy Scudder makes it clear that any birds possibly involved in the chlamydiosis at The Birdcage were not tested.]

18 Q. What does the test involve? Is it a blood  
19 test?

20 A. I believe, yes, it's a blood test. It's  
21 either a blood test or they do a throat or a  
22 vin[phoneetic] swab. I really don't know how they take  
23 the material to test to see if it's psittacosis. I  
24 just know that you can take it to the vet and the vet  
25 can test it for psittacosis.

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1 Q. Let me focus in on that disease just so we  
2 have a good understanding. Is there a treatment for  
3 the birds for psittacosis?

4 A. Yes, birds can be treated for psittacosis, but  
5 they can never be cured of psittacosis. Once a bird  
6 has psittacosis it can, for the balance of its life,  
7 shed live psittacosis viruses at different times.

8 Q. Is it contagious to other birds?

9 A. Yes, it's contagious to other birds.

10 Q. Do you know if it's highly contagious or  
11 mildly contagious?

12 A. It depends on how they house the birds. If in  
13 a broker, where brokers are housing their birds, or in  
14 a pet shop or in an aviary, if the cages are side by  
15 side, okay, it's not that easily transferrable.  
16 However, in most pet shop and brokerage facilities they  
17 generally have two or three cages that are stacked.

18        You have a cage, they have these stands, and  
19 there's like generally three cages, and as the virus  
20 falls, as the bird sheds the virus off, it can fall  
21 into the cages -- the virus falls into the cages below  
22 the bird, and then it is highly contagious, because  
23 almost -- as a general rule, if there are birds in  
24 cages below a bird that has psittacosis, those birds  
25 will get psittacosis, also. If they are in cages

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1 beside the bird, the likelihood is much less.

2        Q. When was the last time that you viewed or  
3 visited Martha's farm?

4        A. I visited it briefly, I believe it was  
5 February 4th, 2004. That was at her house. The last  
6 time I was in her aviaries was the late fall of 2003,  
7 late October, early November. I couldn't tell you  
8 exactly.

9        Q. At that time do you recall whether Martha had  
10 stacking cages or cages that were side by side?

11        A. Both.

12        Q. Remind me again. I know you told me about the  
13 Birdcage incident, date or time period, but when did  
14 you make the phone call to Martha about the psittacosis  
15 which may have come from her facility?

16        A. It would have been late October, because I  
17 shipped those birds off in the mid part of October.

18        Q. Late October 2003?

19        A. Uh-huh, of 2003.

20        Q. Okay.

21        A. And I saw the post on line about it, that your  
22 client had posted on line about it, and I called Tigger  
23 and asked her, because I had birds that had been at  
24 Martha's facility, and I was terrified that I had  
25 possibly shipped off birds that had been exposed to

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1 psittacosis.

2        Q. When you say post from my client --

3        A. There was a Yahoo newsgroup called POWAR,  
4 capital, P-O-W-A-R, which stands for Protect Our  
5 Wonderful Animals' Rights.

6        Q. So the posting that you saw, do you know if  
7 Larry was the author? Do you have any information  
8 whether Larry was the author of that particular  
9 posting?

10 A. Yes, he was the author of that post.  
11 Q. Why do you think that?  
12 A. Because he signed it Larry.  
13 Q. Okay.  
14 A. And --  
15 Q. Did he sign his last name or just Larry?  
16 A. Larry G. And it came from the -- one of the  
17 original -- it was -- he would send e-mails and he  
18 would also post on other animal rights, pet people  
19 newsgroups, and say permission to cross-post. I can't  
20 remember if that particular post was cross-posted by a  
21 lady named Roni. And that's spelled R-O-N-I, and I  
22 believe she's in Pennsylvania. Roni was the -- one of  
23 the moderators of that group.  
24 Q. Of POWAR?  
25 A. Of POWAR, yes. And so I'm not sure if he

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1 posted it directly or if it was a cross-post from Roni.  
2 But I read it, and there was the part where it was --  
3 it did say Larry G, and I did see the e-mail  
4 larryg@blarg.net, which I knew was his e-mail address.  
5 Q. By cross-posting do mean he may have forwarded  
6 on somebody else's posting? Is that what you mean?  
7 A. No. What you do when you get permission to  
8 cross-post is when you post something on a newsgroup,  
9 like a Yahoo newsgroup, when you say permission to  
10 cross-post, that means that gives anyone on that group  
11 permission to take that post and post it on any group  
12 that they want to post it, forward it to, okay?  
13 A lot of groups, a lot of newsgroups, say you  
14 may not cross-post anything that you read on this  
15 group, okay? They want these groups to be private, and  
16 so they will -- if they find out that you cross-post or  
17 forward information from those groups, they'll kick you  
18 out.  
19 Q. So the incident with the Birdcage that you saw  
20 that you said Larry posted, that may have been  
21 something that Roni cross-posted? Have I got that  
22 correct?  
23 A. Yeah. It was posted -- what it was, it was an  
24 e-mail. You could see the headers that it came from  
25 Larry and it was signed Larry, and it stated about an

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1 incident that happened at the Birdcage of psittacosis.

2 I cannot remember specifically if Larry himself posted  
3 that on the POWAR newsgroup or if it was a post from  
4 another newsgroup that Roni cross-posted in -- for him.

5 Q. Got it. Did it specifically mention only the  
6 Birdcage or did it reference Martha Scudder at all?

7 A. It referenced Martha.

8 Q. As you sit here today, and I know this is not  
9 in front of you, so just give me your best recollection  
10 how it referenced Martha Scudder.

11 A. It said that there had been an outbreak of  
12 psittacosis at the Birdcage pet shop in Federal Way,  
13 and that the birds that brought the psittacosis in had  
14 come from the Scudder aviary.

15 Q. I know we've talked about this before.  
16 Because you have the same last name, the Scudder, how  
17 did you know at that time that somebody wasn't  
18 referring to John Scudder's aviary?

19 A. Because we never sell to the Birdcage. I will  
20 not sell to the same people that Martha does.

21 Q. Why is that?

22 A. Because I don't want my birds with hers.

23 Q. Is it fair to say that you took this posting,  
24 this e-mail, about psittacosis at the Birdcage serious  
25 enough to call, it prompted you to call Martha?

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1 A. First I called Tigger and asked her about the  
2 incident.

3 Q. What did Tigger tell you?

4 A. And Tigger told me that they didn't know yet  
5 whether the psittacosis came from Martha's or not, and  
6 that she had been shut down for a period of time, and  
7 that her birds were currently in their 45-day  
8 quarantine and being medicated with Baytril and being  
9 observed by the health department and all of that.

10 And so I called Martha and said, Why didn't  
11 you tell me that this happened? And all she would do  
12 was scream at me that her facility was clean. And I  
13 said, Martha, I'm not accusing you of having  
14 psittacosis on your facility. What I am asking is why,  
15 when this nasty illness raised its head, you didn't  
16 tell me that two birds -- that they were saying that  
17 two birds that came off your farm, that were housed in  
18 the same room with these birds that I just recently  
19 shipped off, why you didn't tell me that before I  
20 shipped the birds, because you knew about this two

21 weeks before I shipped the birds, and I would have  
22 tested my birds before I shipped them.

23 Q. What did Martha say?

24 A. All she would do is scream that, My facility  
25 is clean.

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1 Q. Did you ever definitively learn by any source,  
2 including Martha, or by viewing any vet record, whether  
3 or not the birds did, in fact, have psittacosis that  
4 did come from Martha Scudder's aviary?

5 A. What I understand from Mike Carter, who is a  
6 reporter for the Seattle Times, he told me that the  
7 health department had served a warrant on Martha.

8 MS. CABALO: Objection, hearsay.

9 Q. (BY MS. MacDOUGALL) Go ahead.

10 A. That they had served a warrant on Martha, and  
11 that they had tested ten of her birds and that none of  
12 those birds had psittacosis.

13 Q. None of the ten tested?

14 A. None of the ten tested. The thing is is that  
15 Martha knew that she was going to have a warrant served  
16 by the health department, because she -- we were still  
17 talking at that time, and she told me that they had  
18 told her they were going to serve a warrant on her.

[Ed.— Likewise, there were allegations that at least one member of the Pierce County Humane Society, Mr. Wally Hall, alerted Martha Scudder in advance before any inspections; see below, Section 93, lines 22-25; Section 94, lines 1 & 5-16]

19 And there was a Cockatoo that was downstairs  
20 in the area adjacent to where her baby birds were kept  
21 that by that time I knew that bird, from looking at it  
22 and from research that I had done on line, was most  
23 probably in the advanced stages of PDD.

24 Q. What is PDD?

25 A. Proventricular dilatation disease. It is a

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1 fatal illness. No birds -- once they get it they'll  
2 eventually die. They waste away. There has been some  
3 success at a place called Milo's Ranch in Florida in  
4 treating them with Celebrex, but -- and keeping them  
5 alive, but generally if a bird gets PDD it's going to  
6 die.

7 And there -- it can lay dormant for a number

8 of years, all sorts of stuff. But anyway, when she  
9 said something about that they were going to serve a  
10 warrant on her, I said, Martha, what about that  
11 Cockatoo you've got down there? If the health  
12 department comes in and sees that Cockatoo, they're  
13 going to go nuts. And she told me that that Cockatoo  
14 and any other birds that didn't look right would be  
15 over in Vivian's trailer when they served the warrant.

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16 Q. Who is Vivian?

17 A. Her name is Vivian Graves. She has a trailer,  
18 a mobile home, that has an auxiliary dwelling permit on  
19 Martha's -- it's parked on Martha's property. We  
20 belong -- we live in an area called Big Lots  
21 Association, and you have to have a certain size  
22 property in order to put a home on it.

23 And the rule is that you can have one house of  
24 any size that you want, but the -- a second dwelling on  
25 the property cannot exceed 1,000 square feet, and

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1 that's the auxiliary dwelling permit that you can get.  
2 And Martha got an auxiliary dwelling permit and Vivian  
3 moved the mobile home in and parked it on Martha's  
4 property.

5 Q. So who owns the mobile home, to your  
6 knowledge?

7 A. Vivian owns the mobile home.

8 Q. So is it your understanding that the mobile  
9 home would not have been subject to the warrant search?

10 A. I don't believe that it would have been since  
11 the home is technically not Martha's. It's just set up  
12 on her property, but the mobile home itself is owned by  
13 Vivian.

14 Q. When did Martha tell you that any bird that  
15 was sick or didn't look right would be put in Vivian's  
16 trailer?

17 A. My heavens. I think it was in -- sometime in  
18 November.

19 Q. Of 2000 and --

20 A. Of 2003. Martha had -- we were still talking  
21 at that point, and Martha had said something about,  
22 They're going to serve a warrant on me one day next  
23 week unless my attorney -- which I later learned is  
24 Catherine -- could squash the warrant. That's what she  
25 told me. I don't know if she tried to get Catherine to

1 do it or not. All I know is that's what she said.

2 I didn't even know until I talked to Mike  
3 Carter, and he told me that ten birds had been tested,  
4 that the warrant had even been served.

5 Q. Did Martha tell you how she knew a warrant was  
6 about to be served on her?

7 A. No, she didn't.

8 Q. She did tell you the warrant was going to be  
9 served by the Pierce County health department, not the  
10 Pierce County Humane Society; is that correct?

11 A. Right.

12 Q. Do you know as you sit here today whether the  
13 Pierce County Humane Society has inspected Martha's  
14 facility at any time in 2004?

15 A. I have no idea, because I did not have contact  
16 with Martha during 2004, except in February at that  
17 incident at her home and when we were in court and that  
18 couple of times that we talked. But have we discussed  
19 her aviary? Have we discussed Bob Vincent? Have we  
20 discussed anything like that since the beginning of  
21 2004? No. I have absolutely no idea.

22 Q. I believe we talked in the first part of your  
23 deposition about the 2003 inspections of Martha's  
24 facility by the humane society. Do you remember that?

25 A. Yes.

1 Q. And I believe you testified that you were one  
2 of the people who assisted, I'll say cleaning up and  
3 instituting some of the conditions that Pierce County  
4 Humane Society and Dr. Tracy Bennett asked Martha to  
5 institute based on Dr. Bennett's investigation of the  
6 aviary. Do you remember that?

7 A. Yes. I was not here. I did not live here at  
8 the time that Dr. Bennett did her initial investigation  
9 in January of 2003.

10 Q. But you were here for the second one, correct?

11 A. I was here for the second one that she did in  
12 June in 2003, and I was part of the cleanup crew.  
13 Everyone that knew Martha was over there helping clean  
14 up, so that --

15 Q. Where -- I'm sorry, go ahead, so that?

16 A. Martha has a lot of people that are friends,  
17 okay? And quite honestly, Martha is pretty much a

18 little -- she's a nice old lady, okay, unless you cross  
19 her, and everybody wanted to help her. We didn't want  
20 them to take her birds. I had read that report, you  
21 know, and it said if you don't do this we're going to  
22 take your birds.

23 And we didn't want that to happen, so we all  
24 went out there and we worked and we cleaned up, and I  
25 mean, I had -- I paid the kids money to help clean up

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1 at grandma's and --

2 Q. And then did Dr. Tracy Bennett inspect during  
3 the summer of 2003 and approve or okay the conditions  
4 of the aviary at that time?

5 A. What she said was that they were improved.

6 Q. She said this to you?

7 A. We were all, after she -- when Dr. Bennett  
8 and -- there was Dr. Bennett and one man, and I think  
9 there was a second man, but I didn't talk to them. The  
10 only one that I talked to during the inspection was  
11 Dr. Bennett.

12 Q. Let me interrupt you. Do you know who the men  
13 were?

14 A. I think one of them was Wally Hall, but I'm  
15 not positive.

16 Q. Who is Wally Hall?

17 A. At that time I believed he was -- he held some  
18 type of directorship position for the Tacoma/Pierce  
19 County Humane Society. I know he worked for the humane  
20 society.

21 Q. Did you ever have any conversations with him?

22 A. No.

23 Q. We're at the point in time where Dr. Bennett  
24 has finished her inspection. A group of people,  
25 including you, were standing around, and you heard

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1 Dr. Bennett say the aviary had improved the conditions,  
2 correct?

3 A. Yeah, the conditions had improved. She was  
4 still concerned about the diet. At that time Martha  
5 went and got the invoices from **Animal Supply**, which is  
6 where she purchased her feed. And in fact, those  
7 invoices say Happy Hookbills Ranch, because, see, at  
8 that time she didn't have her own account with Animal  
9 Supply, and so she was allowed to order on Happy

10 Hookbills' account because it's ordering wholesale  
11 rather than paying retail because of the price  
12 difference in feeding the birds and things like that.  
13 So --  
14 Q. So she ordered on the Happy Hookbills Ranch  
15 account at the **Animal Supply** store?  
16 A. Uh-huh.  
17 Q. And she ordered feed for her birds?  
18 A. Uh-huh.  
19 Q. And then when you say she went and got --  
20 A. She went and got the invoices.  
21 Q. To show Dr. Bennett?  
22 A. To show Dr. Bennett what she was ordering and  
23 what she was feeding the birds.  
24 Q. All right. Were you there when Dr. Bennett  
25 reviewed these invoices?

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1 A. All Dr. Bennett did was take a copy of them  
2 and she didn't -- didn't really do anything other than  
3 briefly glance at them. And I believe she said  
4 something about, I'll review these further, you know,  
5 back at the office, or, you know, something like that,  
6 but she didn't do a -- she didn't sit there and go,  
7 okay, what's this, what's this, you know, how much of  
8 this or anything. She just took the copies of the  
9 invoices.  
10 Q. Did you see the invoices?  
11 A. The ones that Martha gave her?  
12 Q. Sure.  
13 A. I saw her hand them to them.  
14 Q. Have you ever reviewed any of the invoices  
15 that were on the Happy Hookbills Ranch's account at the  
16 **Animal Supply** store, but were for items ordered by  
17 Martha?  
18 A. I'm trying to think. I would see the  
19 invoices, because, see, we would -- our driveway's 900  
20 feet long. **Animal Supply** won't deliver to our  
21 facility. So we would place the seed order jointly so  
22 that they delivered, and then -- so I would see the  
23 invoices strictly for the amounts, and we would --  
24 Martha would write the check, because John  
25 doesn't believe in having open accounts, so he had --

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1 the **Animal Supply** account was a COD account. So when

2 they would deliver all of the seed, Martha would write  
3 a check and then he would -- she would show us the  
4 invoice. She kept the invoices at her house. They  
5 didn't come to our house.

6 And she would just show us the total and we'd  
7 pay our portion of the seed, because not only did she  
8 order for Happy Hookbills, she also ordered for Don and  
9 Betty. And please don't ask me their last name. I  
10 have no idea. I know they live over like in Bonney  
11 Lake area. They're very good friends of Martha's.

12 But she ordered feed for them, feed and seed  
13 for them. She would order feed and seed for Tom and  
14 Jonna Kelley. Basically, in order to have Animal  
15 Supply deliver for free you have to have a \$500 order.

16 Q. I see. When the seed was being delivered and  
17 the invoices were on your account at the Animal Supply,  
18 did you gain an understanding of what type of seed  
19 Martha was feeding her birds?

20 A. You mean as to like her seed mixture?

21 Q. Sure. Let me ask it a different way. In  
22 2003, do you know what type of food, seed mixture, any  
23 other type of food that Martha was feeding her birds?

24 A. Yeah.

25 Q. What was that in 2003?

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1 A. She would order Hookbill Buffet, no sunflower.

2 Q. No sunflower?

3 A. Yeah, there's one called Hookbill Buffet, no  
4 sunflower. It's made by a company called Nature's  
5 Cafe. There's another one called Parrot Buffet made by  
6 Nature's Cafe. That one does have gray striped  
7 sunflower, not black oil, and other mixtures. She  
8 would order milo, she would order millet. There's beet  
9 pulp pellets.

10 Q. Did you say beet?

11 A. Yeah, beet, B-E-E-T, beet pulp pellets. They  
12 were different layer pellets, there were -- there was  
13 like wheat germ oil. She would order buckwheat  
14 sometimes. There was black oil sunflower. I'm trying  
15 to think of every --

16 Q. That's okay, I kind of wanted to get an idea.  
17 Let me --

18 A. Did I say milo?

19 Q. Yes.

20 A. There's milo and millet.

21 Q. Did you see the portion of Dr. Bennett's  
22 report that recommended -- strike that.  
23 Did you see the portion of Dr. Bennett's  
24 report that indicated that Martha was feeding a diet  
25 that was heavy on the, I think it was black oil?

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1 A. Black oil sunflower.  
2 Q. Sunflower seeds, and she recommended a  
3 different type of feed for the birds due to the fat  
4 content. Are you familiar with that?  
5 A. I heard her discussing with John.  
6 Q. With John Scudder --  
7 A. Yes, John Scudder, Junior, that she was  
8 discussing the black oil sunflower and the high fat  
9 content, and that in her opinion, that birds should be  
10 on a pelleted diet, strictly pelleted diet. And it was  
11 like, Do you want to eat the same thing day after day  
12 after day? is what he said to her, and he told her the  
13 different mixtures.  
14 See, I don't know how Martha was mixing the  
15 seed in January of 2003, when Dr. Bennett first  
16 inspected.  
17 Q. I see.  
18 A. I know what seed was being mixed in June of  
19 2003, when Dr. Bennett reinspected.  
20 Q. I see.  
21 A. Okay? When she reinspected there was still  
22 black oil sunflower, and she wasn't happy that there  
23 was black oil sunflower, but the percentage of black  
24 oil sunflower is a small percentage based upon the  
25 other types of like safflower, milo, millet. There's

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1 all sorts of stuff in the Hookbill Buffet and the  
2 Parrot Buffet. I mean, there's even little dried chili  
3 peppers.  
4 Q. So she had made some changes for feeding, at  
5 least, per Dr. Bennett's recommendations, and you knew  
6 of that and witnessed that in June of 2003?  
7 A. I know that in June of 2003 the seed mixture  
8 was -- whether it was the same as in January, I have no  
9 idea.  
10 Q. You had an opportunity to visit the farm,  
11 Martha's farm, after June of 2003, correct?  
12 A. Yes.

13 Q. Did you have an opportunity to see the  
14 conditions of the birds and the condition of the aviary  
15 in the house and in the outside buildings, including  
16 feeding, after June of 2003?

17 A. Up until around the end of September, first  
18 part of October of 2003, we were back and forth, I  
19 mean, the family.

20 Q. So tell me what you saw. Describe for me the  
21 conditions after June of 2003 of the house birds and  
22 the birds in, I'll call it the aviary, the outer lying  
23 outbuildings.

24 A. The house birds, they're fed pretty much the  
25 same thing as the aviary birds. Martha does her birds,

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1 house birds, different than we do. Martha allows her  
2 house birds to be all over the house, so there's bird  
3 feces all over the house and -- but as far as did they  
4 look unhealthy, not her pets. There were two birds  
5 that were in the downstairs area that now that I have  
6 done research, I believe, based upon the descriptions  
7 of symptoms in my research --

8 MS. CABALO: Objection to the extent that it  
9 calls for expert testimony.

10 MS. MacDOUGALL: And I'll have the same  
11 response I instituted earlier.

12 Q. (BY MS. MacDOUGALL) But you can go ahead.

13 A. -- that these birds were in the advanced  
14 stages of PDD, and that they were inside the house in  
15 an area adjacent to where the baby birds and what we  
16 call juvenile birds were kept.

[Ed.— Housing birds with Proventricular Dilatation Disease next to healthy infant or juvenile birds would be a gross violation of principles of contagious diseases.]

17 Q. (BY MS. MacDOUGALL) Just because I don't have  
18 this experience, PDD is the one you described as always  
19 fatal, correct?

20 A. Yeah. The only place that I know of so far  
21 that has had any success in birds that have tested  
22 positive for PDD that have not died is Milo's Ranch in  
23 Florida.

24 Q. And PDD is contagious to other birds, but not  
25 humans; is that correct?

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1 A. Right.  
2 Q. And psittacosis, which can be passed on to  
3 other birds and to humans?  
4 A. Right. Psittacosis --  
5 Q. I'm getting this.  
6 A. Psittacosis is what they call it in birds.  
7 They call it chlamydia in humans.  
8 Q. So you saw two birds at Martha's in the house  
9 that --  
10 A. Downstairs.  
11 Q. -- you believe were in the advanced stages of  
12 PDD that were kept near, adjacent to, babies?  
13 A. Adjacent to the room in which the babies'  
14 isolettes were, and then adjacent to the room in which  
15 the cages in which the juvenile birds were, which means  
16 the feathered birds.  
17 Q. Other than the house birds, are there any  
18 other pets kept in the house? Strike that.  
19 Other than the house birds, were, to your  
20 knowledge, there any other pets kept in the house in  
21 the time period that we're talking about, June of 2003  
22 to late fall of 2003?  
23 A. She boarded a -- I believe it was an Umbrella  
24 Cockatoo named Elliott for a friend of hers. She had  
25 sold the bird to them, and that person went on vacation

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1 so she boarded that bird. It was just running around  
2 the house with all the other birds. There was a  
3 military Macaw by the name of Sarge. I don't know the  
4 names of the people that it belonged to. I did meet  
5 them once, but I can't -- I think her name was Sue, but  
6 I can't be for sure. But that particular bird died.  
7 And she had a friend of hers named Stacy that  
8 had two or three birds. I know one of them I think was  
9 a blue front and I know one of them was a Patagonian  
10 Conure, and I really don't know what other ones they  
11 were. But Stacy was going on a two- or three-week  
12 vacation and she brought her birds over for Martha to  
13 care for.  
14 People who were Martha's friends and that had  
15 purchased birds from Martha, if they went out of town,  
16 Martha would board their birds for them. They'd just  
17 bring them over and leave them with her, and she'd feed  
18 them and take care of them just like they were her  
19 birds.

20 Q. Sure. I don't want to lose track of  
21 describing the animals that were in the home, but do  
22 you recall testifying earlier about some quarantine  
23 procedures? You had talked to me about that, do you  
24 remember, talking about quarantines?  
25 A. We have quarantine procedures.

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1 Q. Are quarantine procedures necessary for any  
2 aviary or any bird facility when you bring in new  
3 birds?

4 A. Quarantine procedures are standard in the  
5 industry in order that you don't bring disease into  
6 your flock.

7 Q. So let me ask it this way so I understand. If  
8 I have a bunch of pet birds in my home of all different  
9 types, and I've had them for a long time, and a friend  
10 of mine says, Will you watch, you know, my whatever  
11 bird it is for three weeks, can I just simply bring  
12 that bird in or do I need to quarantine that bird I'm  
13 going to be watching?

14 A. If you were at my house that bird would be in  
15 a totally separate room, preferably a totally separate  
16 building. You would feed that bird or birds last, and  
17 you would change your clothes, put them in the washer  
18 and shower immediately afterwards.

19 Q. Why is that?

20 A. Birds can be ill and show no symptoms. It's  
21 called asymptomatic illnesses, similar to a Strep  
22 carrier. You know, a lot of people have Strep in their  
23 throat and can give you Strep throat, but they don't  
24 ever get sick. That's asymptomatic.

25 Q. So birds can have illnesses that you might not

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1 notice, but could be carriers and could be passed on to  
2 you or your flock; is that true?

3 A. As a general rule, to your flock. The only  
4 one that can be passed on to you that I -- the only one  
5 that I know of, the only avian illness that I  
6 personally know of that can be transmitted from birds  
7 to humans is psittacosis. That is the only one that I  
8 know of. I do not know if there are others. That's  
9 the only one I know of.

10 However, there are other illnesses that can --  
11 there are illnesses that lie dormant, but are yet

12 contagious. The bird is still contagious even though  
13 the illness is dormant and there's no symptoms showing,  
14 so in order not to contaminate your pet birds or your  
15 flock, you keep birds that are not your birds separate.

16 If you purchase a new bird for your flock or  
17 for your pet, you -- the standard procedure is 30 to 45  
18 days quarantine in a totally separate area of your  
19 home, or preferably, like I said, in a separate  
20 building.

21 Q. Do you know if in, well, let's talk the entire  
22 time period of 2003, when you had access to Martha's  
23 farm, the house and the outbuildings, do you know if  
24 Martha instituted any quarantine procedures that you've  
25 described in the first part of your dep and the

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1 quarantine procedures you've described to me today?

2 A. No, she did not. I didn't even know you were  
3 supposed to quarantine birds until I started doing  
4 research on the internet.

[Ed.— Lack of adequate, if not any, quarantine procedures would be a major breach in the requisite normal husbandry of exotic birds; such procedures are, in fact, mandated in the Model Aviculture Program, <http://www.modelaviculture.org/>.]

5 Q. Is there, to your knowledge, any reason not to  
6 quarantine birds?

7 A. The only knowledge I'd think of that you  
8 wouldn't want to is if you want to make your bird sick.

9 Q. Has anyone told you that it's detrimental to  
10 their mental or physical well-being if you quarantine  
11 them, anything like that?

12 A. No. Everybody that I have ever talked to in  
13 the avian community quarantines their birds for 30 to  
14 45 days, any new birds brought in. See, if a bird is  
15 harboring an illness -- if you move a bird it stresses  
16 them.

17 Q. Sure.

18 A. If you clip a bird's wings, if you clip their  
19 toenails, it's a stress to a bird, okay? But  
20 definitely moving them from one home to another, okay,  
21 is a substantial amount of stress. Birds' immune  
22 systems will -- when they are stressed their immune  
23 system is not as strong as when they're not stressed.

24 So if a bird is sick or is carrying a dormant  
25 illness and you move it and you stress it, that is the

1 time that the bird is most susceptible to become ill,  
 2 so you want to keep that bird separate from your other  
 3 birds just in case that bird becomes ill.

4 And then you have the -- you can treat it if  
 5 it's, you know, a treatable illness, or if it's not it  
 6 can be euthanized so that you don't contaminate your  
 7 pets. Even people with pets, I still call it your  
 8 flock because they're human -- the ones that in the  
 9 house, your humans are part of their flock, too.

10 Birds have been known to get stressed when  
 11 their, quote-unquote, human flock, if there's stress or  
 12 tension between members of a family, that's been known  
 13 to stress birds. They pick up on things like that.  
 14 They're highly intelligent.

15 Q. Let me go back. You were describing in the  
 16 home Martha had some pet birds, she had some birds she  
 17 was boarding. Other than birds at that time in 2003,  
 18 did Martha keep any other animals in the home other  
 19 than birds?

20 A. Dachshunds.

21 Q. How many?

22 A. My heavens. Can you give me a second while I  
 23 sit there and think of the names.

24 Q. Sure.

25 MS. CABALO: Could we also take a break soon?

1 MS. MacDOUGALL: Yes.

2 Q. (BY MS. MacDOUGALL) Give me a best guess  
 3 scenario of how many Dachshunds.

4 A. Six to eight Dachshunds.

5 Q. Was she breeding them, do you know?

6 A. Yes, she was.

7 Q. And selling babies, selling litters?

8 A. As far as I know, she was selling, yes.

9 Q. All right.

10 A. She also had a Bichon Frisse.

11 Q. That's a dog?

12 A. Yes. It's spelled B-I-C-H-O-N, next word,  
 13 F-R-I-S-S-E.

14 Q. Any other animals?

15 A. And she had a Westie.

16 Q. And that is also a dog?

17 A. That's also a dog. We're not done yet.

18 Q. Okay.

19 A. And then she had Sabrina, which is a Great  
20 Pyrenees, and then after the summer she had two more  
21 Great Pyrenees, Samson and Dreyfus. But prior to that  
22 they lived at our house, because their sister Cleo is  
23 our dog, so all of those Great Pyrenees puppies were at  
24 our house.

25 Q. Okay. And then one more question before the

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1 break. Do you know the square footage of the house  
2 that Martha lives in?

3 A. Haven't the foggiest.

4 Q. How many bedroom home?

5 A. There's only like two bedrooms, but when John  
6 Senior and Martha built that house, they built it with  
7 like all of these little rooms everywhere so that they  
8 had wall space to hang art. That's what Martha told  
9 me. Now, I can say that I live in a 1980 square foot  
10 home.

11 Q. Is her home larger or smaller than yours?

12 A. Her home is just about twice the size of mine.

13 Q. Okay.

14 A. Because she has two levels, and so her one  
15 level is not quite as big, you know, because hers is  
16 exactly the same on both levels. So her level is not  
17 exactly the same as mine, but pretty close, so I would  
18 estimate maybe her levels are maybe 1800 square feet  
19 each, but --

20 Q. Have we covered all the animals in the home,  
21 in Martha's home. Any cats?

22 A. No. The Dachshunds kill the cats.

23 Let me think, make sure there's not any other  
24 animals that she had in there. Well, not in her house,  
25 but she has them in her pasture.

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1 Q. Sure, and we will get to that, but I'm going  
2 to take a break now.

3 (Recess taken.)

4 MS. MacDOUGALL: Back on the record.

5 Q. (BY MS. MacDOUGALL) You were talking about  
6 the pets and animals that Martha has at the house, and  
7 then you mentioned in the pastures and then in the  
8 outbuildings, which I'm going to call the aviary. So  
9 if I'm talking about the aviary, I'm meaning about the

10 outbuildings.

11 A. You're talking about all the birdhouses.

12 Q. Right. In June of 2003, do you recall whether  
13 or not one of Dr. Tracy Bennett's recommendations was  
14 that Martha reduce her flock? Do you recall that?

15 A. Yeah, it was in the letter. It said that she  
16 felt that Martha should reduce her flock to 100 birds  
17 or less.

18 Q. In June of 2003 do you know if Martha had  
19 reduced her flock?

20 A. No, she had not.

21 Q. From June of 2003 through December of 2003, do  
22 you know if Martha made any effort to reduce her flock?

23 A. No, she did not.

24 Q. How do you know that?

25 A. Well, one, no birds went off the property, and

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1 two, people told me she purchased other birds.

2 Q. Did you see the other birds that she  
3 purchased, some of them?

4 A. I haven't seen the birds personally. I've  
5 seen the area that they've built to put -- you know,  
6 where there's more birds because you can't really miss  
7 it. We live next door. If I walk down -- you know, if  
8 I'm on my property I can see some of hers. And I have  
9 seen where they put up a great, big, huge new building,  
10 and whether she moved birds from other birdhouses into  
11 that, I don't know. Did I see her bring birds onto the  
12 property? No, I haven't.

13 Q. Okay.

14 A. All I know is I was told that she purchased a  
15 number of them.

16 Q. Do you know as you sit here today how many  
17 birds in the aviary Martha owns today?

18 A. Today, no, because from what I understand  
19 there's been a number of deaths of birds on her  
20 property. At the time of like December of 2003 she  
21 probably had in the neighborhood of 5- to 600 birds on  
22 her property.

23 Q. I'm sorry, December?

24 A. December of 2003 she had probably 5- to 600  
25 birds. I couldn't give you an exact number because

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1 they're spread all out, but that's a pretty close

2 estimate.

3 Q. Okay. And the last time that you were on the  
4 property, do you know how many birds Martha had at the  
5 aviary?

6 A. No, because we were only at her front door  
7 briefly, so I really don't know how many were there.

8 Q. Does Martha still use the Happy Hookbills  
9 Ranch account at the Animal Supply store?

10 A. Oh, no.

11 Q. When is the last time she used that?

12 A. I believe the last order she placed was in --  
13 using Happy Hookbills was in November of 2003. It  
14 might have been late October, but I believe it was in  
15 November, because when I got really mad at Bob I called  
16 and cut her off on all of our accounts.

17 Q. Why did you do that?

18 A. Because if she was going to be with Bob I  
19 wasn't going to let her buy on our accounts.

20 Q. I know the animosity between you and Bob, but  
21 explain to me why that was important for you to have a  
22 separate or a different account if she was with Bob?

23 A. Because -- and I don't know how to explain it  
24 other than it's one of those things where you just meet  
25 somebody and you just don't trust them.

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1 Q. So did you have financial concerns with being  
2 linked on an account that Bob Vincent had access to?

3 A. Yeah, I was afraid he might bounce checks or  
4 something, because the -- our accounts were all COD  
5 accounts, and if a check bounced and that was in our  
6 name, we're responsible, and so I called all of our  
7 accounts and said that only John or Kathy can order on  
8 these accounts.

9 Q. You mentioned earlier, when you were talking  
10 about birds that were boarding at Martha's, the name  
11 Tom, and I didn't quite get it. Is it Joanna?

12 A. J-O-N-N-A.

13 Q. Kelley?

14 A. Kelley, K-E-L-L-E-Y.

15 Q. Is this the same Kelleys of the Cripple Creek  
16 Aviary?

17 A. Yeah.

18 Q. And it's your understanding that Martha had  
19 some of the Kelleys' birds or the birds belonging to  
20 the Cripple Creek Aviary, or are they one and the same?

21 A. I believe Tom and Jonna Kelley and Cripple  
22 Creek Aviary are one and the same, and no, she  
23 didn't -- at that time they did not have any of their  
24 birds on her property.  
25 Q. At what time did she have any of the birds

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1 from the Kelleys?

2 A. I don't know for certain. If she does, I know  
3 that when Robin Scudder was here between December 26th  
4 and January 9th, Robin was over removing her birds from  
5 Martha's aviaries, and Robin said that -- and again,  
6 hearsay. I know, go ahead and object, Catherine, and  
7 then I can finish my sentence.

8 Q. I think Catherine will have a standing  
9 objection to hearsay, but go ahead.

10 A. Robin said that Martha said that some of the  
11 birds -- because Robin wanted some of her cages, that  
12 she said they were her empty cages and there were birds  
13 in them, and she wanted to know why there were birds in  
14 her cages, and Martha said that they were Tom and  
15 Jonna's. That's what Robin repeated to me. I do not  
16 know if it is true or not.

17 But I do know that during 2003 and up until  
18 August of 2004 Tom and Jonna Kelley's birds were not  
19 on -- were not on Martha's property, unless there was  
20 like maybe one or two that they had taken there,  
21 because I know exactly where Tom and Jonna Kelley's  
22 birds were up until that time.

23 Q. Where did they go? Where did the birds from  
24 the Cripple Creek Aviary go?

25 A. They're in a very large birdhouse on the back

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1 of our property. We did not know the situation of  
2 Cripple Creek Aviary when they requested to put a  
3 greenhouse to keep their birds. John didn't know what  
4 was -- all he knew is that Tom said that he lost his  
5 place, that he had been buying -- this is before I got  
6 there and -- but that he had lost the place that he had  
7 to keep his birds, and he didn't have any place to put  
8 his birds, and if he put the building up, could he put  
9 a building up and keep his birds there.

10 And they came every day and fed them. It was  
11 in a totally separate building. There was a lock on  
12 the door, although they were told if there was anyone

13 who came to inspect, that we would cut that lock off  
14 for them to -- for it to be inspected.  
15 Q. Have they ever been inspected?  
16 A. On our property?  
17 Q. Yes.  
18 A. No. There has only ever once been any humane  
19 society complaints against John Scudder, Junior, and  
20 that was that Robin Scudder was mad at Suzanne Scudder,  
21 and she called the humane society and said that  
22 Suzanne's horse was skinny. And the humane society  
23 came out and said this horse isn't skinny, and it was  
24 considered an unfounded complaint.  
25 And that's the only complaints that have

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1 ever -- that, to my knowledge, have ever been lodged,  
2 and John has told me that there haven't been and  
3 Suzanne's told me that there hasn't been, and so I have  
4 no reason to believe that either one of them lied.  
5 Q. The birds from the Cripple Creek Aviary are  
6 still in your possession?  
7 A. Nope.  
8 Q. Oh, they're not. Do you know where they are  
9 now?  
10 A. Tom and Jonna purchased some property. I'm  
11 not sure exactly where it's at. And they put up some  
12 birdhouses, I guess, and they moved their birds to  
13 those birdhouses.  
14 Q. When was this?  
15 A. This was in August of 2004.  
16 Q. Do you know if Martha has ever moved any of  
17 the birds from her property, aviary or house birds to  
18 Tom and Jonna's property?  
19 A. I do not know.  
20 Q. Okay. Now, you mentioned Robin in coming to  
21 Martha's to get some of her birds and some bird cages,  
22 correct?  
23 A. Well, right. Robin came down the day after  
24 Christmas for -- she comes about every six months from  
25 Alaska. Her and her husband Bill and their son Jeremy

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1 live outside Fairbanks, Alaska, and about every six  
2 months Robin comes down for a couple of weeks for a  
3 visit. That's family visit.  
4 Q. Does she come alone?

5 A. She brings Jeremy. Bill doesn't -- Bill works  
6 and he doesn't like Washington, so he stays in Alaska.

7 And --

8 Q. On her last visit -- let me interrupt you --  
9 was December of 2000 and --

10 A. She arrived on December 26, 2004 and she left  
11 on -- I took her to the airport, actually, I guess  
12 would have been January 10th, because I took her to the  
13 airport like 3 or 4 o'clock in the morning, but it was  
14 the 9th, 10th. She was here two weeks.

15 Q. And the purpose of that visit was a family  
16 visit.

17 A. The purpose of that visit was twofold. She  
18 had received a registered letter from Bob Vincent  
19 telling her to get her birds off the property, and  
20 also, it was the regular family visit for the -- for  
21 coming down and visiting at the holiday time.

22 Q. Did you see the birds?

23 A. Yes.

24 Q. Did you see the registered letter from Bob  
25 Vincent?

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1 A. Yes.

2 Q. How many birds did Robin have in December of  
3 2004 at Martha's property?

4 A. Let's see. One pair of Galahs, and that's  
5 spelled G-A-L-A-H. They're also known as Rosy-Breasted  
6 Cockatoos. Three pairs of Umbrella Cockatoos, two  
7 pairs of Goffin Cockatoos, G-O-F-F-I-N. I believe it's  
8 two. There may have been three. One Red-Fronted Macaw  
9 hen, one male Sun Conure, one Senegal. I don't know  
10 the sex. One pair of Lilac-Crowned Amazons, I think  
11 there's two pair of Orange-Winged Amazons, and two or  
12 three pair of Blue-Fronted Amazons.

13 I'm not sure exactly, but I know where those  
14 birds are. They're in quarantine on my property.

15 Q. So 30, 31 birds, approximately?

16 A. Right.

17 Q. And they are now on your property?

18 A. Yes. Their quarantine ends on the 10th of  
19 February. They're in a totally separate area from all  
20 of our birds. They're fed last and we observe  
21 quarantine procedures.

22 Q. So of these 30-some birds that Bob Vincent  
23 referenced in a letter to Robin, asking her to remove

24 them --

25 A. He did not list them specifically, he just

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1 said get her birds off.

2 Q. And you saw that letter?

3 A. Yes.

4 Q. Robin showed it to you?

5 A. Yes, Robin showed it to me.

6 Q. And you read it?

7 A. Yes, I did.

8 Q. Did you read the entire contents of it?

9 A. Yes, I did.

10 Q. How many pages was it?

11 A. Just a little over -- it was one full page and  
12 just a very small portion of a second page.

13 Q. So a page and a quarter, perhaps?

14 A. Yes.

15 Q. As you sit here today, give me your best  
16 recollection of what you read in that letter.

17 MS. CABALO: Objection again as to foundation.

18 Q. (BY MS. MacDOUGALL) Go ahead.

19 A. It said that Robin had accused Martha of not  
20 being honest with the number of babies on a breeder  
21 loan, and it said that this was the number of babies  
22 that they had and what they sold them for, that they  
23 were charging her \$1,500 for the board and care for her  
24 birds, and that then they were paying her \$1,900; that  
25 Robin should be careful of what she said because Robin

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1 is dealing with a legal matter in Alaska, and he stated  
2 the case number, and said something about conditions of  
3 diversion or whatever, although at that time that case  
4 had not been settled or anything had -- nothing had  
5 been done.

6 A. And he did say that, you know, he didn't like  
7 that she -- that she felt that Martha was being  
8 dishonest with her, and that they were not going to be  
9 called thieves by a convicted felon, which Robin is  
10 not.

11 Q. Okay. And this letter, at least your  
12 understanding of it, prompted Robin to come and get her  
13 birds?

14 A. Oh, no, they told her in the letter to come to  
15 get them.

16 Q. I got you.  
17 A. Actually, in the letter it said that Bob told  
18 her to take her birds off of Martha's property in March  
19 of 2004, when she was here in March of 2004. And I was  
20 not privy to the conversation, but I do know that in  
21 March of 2004 we told Robin if you want to bring your  
22 birds over, we'll put them in quarantine. And she had  
23 a discussion with Bob and Martha and came back and  
24 said, No, we decided we're still going to leave them  
25 there on breeder loan.

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1 Q. What is a breeder loan?

2 A. What a breeder loan is is that when someone  
3 owns birds and the -- either for one reason or another,  
4 maybe they moved or can no longer care for the birds,  
5 or they have other interests where they don't have the  
6 time or whatever, they take the pairs of birds that  
7 they own and they place them with another breeder.

8 The standard in the industry, okay, is that  
9 when you have birds on a breeder loan, the first baby  
10 belongs to the breeder and the second baby belongs to  
11 the owner, then the third baby to the breeder,  
12 fourth -- what it is, it's opposite, you know, the  
13 first one. And that is to pay for your care of their  
14 birds. You're responsible for feeding them and you're  
15 responsible for feeding their babies. You're  
16 responsible for all of their care.

17 Q. So Martha would have been responsible for the  
18 birds that you previously listed that were owned by  
19 Robin, but were on breeder loan to Martha.

20 A. Right.

21 Q. And Robin would not have paid Martha to care  
22 for these birds, as in if I boarded my birds with you,  
23 you might charge me boarding fees. The fee was derived  
24 from the babies.

25 A. Right, half the babies. Although in the

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1 letter that Mr. Vincent sent to Robin, he said that --  
2 in that letter that when he told her to take the birds  
3 off the property in March, that it was no longer a  
4 breeder loan situation. It became a boarding  
5 situation, and that's why he was charging her \$1,500.

6 Q. Do you know if Robin ever paid Martha or Bob  
7 \$1,500?

8 A. I know that she didn't really have a whole lot  
9 of choice, because they only gave her, as far as I  
10 know, the \$1,900 instead of the \$3,400 that her birds  
11 sold for the babies.

12 Q. I see.

13 A. In that letter it said \$3,400 minus \$1,500 for  
14 boarding and care, and that her money for the babies  
15 was \$1,900. Did they give her the \$1,900? I have no  
16 idea.

17 Q. Did you keep a copy of this letter?

18 A. No.

19 Q. Does Robin have a copy, if you know?

20 A. Yeah, I'm pretty sure she does. She was  
21 carrying it around with her, showing it to everybody  
22 under the sun when she was down here.

23 Q. Robin is not Martha's daughter?

24 A. Daughter-in-law.

25 Q. Do you know as you sit here today what

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1 Martha's sources or source of income is derived from?

2 A. As far as I know, Martha's -- excuse me just a  
3 second. Martha receives an L&I widow's pension from  
4 John Senior's death. I'm not positive of the amount.  
5 And she receives a social security pension from John  
6 Senior's death, a widow's pension.

7 At one time Martha told me that -- and this  
8 was when I first came here in May of 2003, because at  
9 that point I wasn't sure if I was going to stay here or  
10 not. I only originally came up here on vacation. And  
11 Martha offered me to live at her house, and she told me  
12 that she had about \$3,000 of tax-free income, and that  
13 since I had SSDI that gave me some income, that between  
14 us we would be able to take care of the birds.

15 Q. Does she derive any income from the breeding  
16 and the selling of the birds at the aviary?

17 A. As far as I know, yes, she does, about  
18 everybody that breeds that sells their babies.

19 Q. Do you know how much she receives annually  
20 from the aviary?

21 A. I have no idea how much she receives annually  
22 from the aviary.

23 Q. Did she ever tell you how much she makes on a  
24 monthly, weekly or annual basis from the aviary?

25 A. No.

1 Q. Okay.

2 A. Breeders don't tell other breeders who they  
3 sell their babies to and how much they sell them for.  
4 Breeders are known to stab other breeders in the back  
5 and steal clients. I won't tell anybody who I sell my  
6 birds to. Unless I was ordered by a judge, I wouldn't  
7 tell another breeder. I mean, I'd tell you guys, but I  
8 wouldn't tell another breeder.

9 Q. So you don't know who Martha sells to.

10 A. I only know of who she sold to in 2003.

11 Q. And that was at least to the Birdcage, to your  
12 knowledge?

13 A. She sold to Schultz's Bird Farm in  
14 Pennsylvania. She -- I don't know if they still call  
15 it Schultz's. It was purchased by someone else right  
16 around that same time. And there was a broker or a pet  
17 store in Chicago. I don't know the name of it. And  
18 the birds that went to the Birdcage, I don't know if  
19 they were Martha's birds or if they were Robin's babies  
20 that Martha was -- had taken up there for, you know,  
21 Tigger buying Robin's babies, because Robin's babies,

22 of course, were being raised at Martha's because her  
23 birds were there on breeder loan.

24 Q. And Martha would have been the one responsible  
25 for their care and feeding and all of that, even though

1 they were technically owned by Robin?

2 A. Correct.

3 Q. All right. Now, the birds that you have on  
4 your property now that belong to Robin, the 30 or some  
5 birds that are in quarantine, when did you first have  
6 an opportunity to evaluate, examine and determine what  
7 condition those birds were in?

8 A. December 27th, 2004. That's the day they were  
9 brought on our property.

10 Q. Did you look at the birds, examine the birds?

11 A. Yes, I did.

12 Q. Did John do that with you or did you do that  
13 alone?

14 A. I did it alone, I did it with John, and I did  
15 it with Robin and I did it with Suzanne.

16 Q. Who -- oh, never mind, I know who Suzanne is.

17 A. We all examined the birds at separate times,

18 and then we examined them together at different other  
19 times.

20 Q. Did you reach a general consensus as to the  
21 condition of these birds?

22 A. We reached the consensus that while the birds  
23 were not abused or sick, you know, any obvious sick,  
24 that for the Amazons, their colors were extremely dull,  
25 not bright like Amazons should be, and that the

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1 Cockatoos' feathers were very loose and they weren't  
2 tight.

3 Birds need a certain amount of protein to  
4 produce feathers, because feathers are like your  
5 fingernails and your toenails, and if there's not any  
6 sufficient proteins, vitamins, whatever, in their diet,  
7 the colors, it first shows up in their feathering.

8 Q. So you said they were not obviously sick. Did  
9 you have them tested at all for any illnesses?

10 A. No. That's why they're in quarantine. If  
11 they began exhibiting any symptoms of illnesses, then  
12 they would be taken to a vet. But did we take all of  
13 those birds down and have them vet checked and avian  
14 panels run on them at \$80 apiece? No, we didn't.

15 Q. So they're in quarantine. So far do they  
16 appear well?

17 A. They actually are -- their appearance has  
18 improved substantially and there's not any of them that  
19 are showing any illnesses. We did have to clean the  
20 cages out. The cages were really nasty.

21 Q. What do you mean by really nasty?

22 A. Lots of fecal matter and stuff piled up in the  
23 cages.

24 Q. Is that acceptable, in your opinion?

25 A. No. And we had to clean out the nest boxes.

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1 Q. What was in the nest boxes, fecal matter?

2 A. There was a lot of -- there was gross stuff in  
3 the nest boxes. When -- in -- what you do for the  
4 birds is you put white shavings, or we do. Some people  
5 use different other types of comfort beddings or  
6 whatever, but we use white shavings because cedar  
7 shavings cause respiratory problems in birds. And you  
8 put the white shavings in the nest boxes.

9 On our facility the practice is is twice a

10 year all -- every single bit of the shavings are taken  
11 out of the nest boxes and completely new fresh shavings  
12 are put in, because the birds will defecate in the nest  
13 box, there's -- break an egg when they lay an egg and  
14 that gets in the shavings, and that provides a medium  
15 for bacteria and molds and other things to grow, which  
16 mold will kill birds. So --

17 Q. Go ahead.

18 A. So you clean them out periodically. Like I  
19 say, like we do it twice a year. And during the rest  
20 of the year, because birds tend to -- have a tendency,  
21 they'll throw shavings out of the nest boxes, you add  
22 additional ones. But at our facility we totally remove  
23 all shavings and put fresh shavings in twice a year.

24 Q. So what did you mean by gross stuff? What was  
25 actually in the nest boxes that you had to clean out?

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1 A. Green, slimy mold, decomposing shavings, gunk  
2 that we had to -- we had gloves and things, and the  
3 gunk had to be dipped out of the nest boxes and wiped  
4 off. It was disgusting.

5 Q. I asked you if it was acceptable to have the  
6 amount of fecal amount in the cages that you had to  
7 clean out. You said no, and why is that?

8 A. Because birds get down on the bottom of their  
9 cages and they get in the fecal matter and it's dirty.  
10 And birds have E coli in their gut normally, okay? If  
11 you have -- and I know I'm not a veterinarian, but if  
12 you have birds that are getting contaminated food or  
13 getting their beak in it or drinking water that's  
14 contaminated with feces, you are substantially raising  
15 the risk of them having an E coli infection, because it  
16 is in their gut already and it's not that difficult to  
17 get an overgrowth of it.

18 That's why that if you have a pet bird and  
19 your pet bird's fecal matter smells, you better get it  
20 to the vet immediately, because the fecal matter from  
21 birds doesn't smell. That's what makes them a great  
22 pet.

23 Q. Based on your evaluation and examination and  
24 viewing of the birds that were owned by Robin that were  
25 housed at Martha's, and they're now in your custody and

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1 care, based on your knowledge and experience with

2 raising the birds, do you have an opinion as to whether  
3 these birds were well cared for at Martha's aviary?

4 A. I wouldn't say that they were well cared for.  
5 I wouldn't say that they were abused. I would say they  
6 were somewhat neglected.

7 Q. What does somewhat neglected mean?

8 A. Well, anyone who has been breeding birds for  
9 any period of time should be able to look at a bird and  
10 see that the coloring is dull and the feathering isn't  
11 tight and those sort of things and realize that there's  
12 something not right with that bird, whether it's with  
13 the diet or some other reason. If you've been around  
14 birds --

15 I mean, I've only been around birds for less  
16 than two years, and I can look at a bird and tell that,  
17 wait a minute -- I may not be able to tell you what's  
18 wrong with it, but I can look at it and say there's  
19 something not quite right about that bird.

20 Q. So if the birds that you are now caring for  
21 have not shown signs of illnesses, is it your testimony  
22 that the other reason or the only reason that their  
23 feathers would be loose and their color would be dull  
24 was a deficiency in the diet?

25 A. That's -- yeah, that's my opinion, that there

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1 were something in the diet that they weren't getting  
2 adequate amounts of. See, we supplement our bird food.  
3 There's a company in England called Bird Care Company,  
4 and there's a -- they export supplements, vitamin  
5 supplements for birds.

6 And while there has not yet been any  
7 determination of what a psittacine diet should exist  
8 of, the percentages, like the USDA for humans, in the  
9 United Kingdom they have been breeding birds for quite  
10 a number of years longer than we have, so they have  
11 developed certain supplements and things, so we  
12 purchase those and we add that to our birds' diet.

13 Q. And I apologize if I asked already asked you  
14 this. Do you know where Martha is currently getting  
15 her seed?

16 A. Animal Supply.

17 Q. She is still getting it there?

18 A. Yeah. She has her own account there now, as  
19 far as I know.

20 Q. And you don't know today, currently, what

21 ration or mixture of seed she is feeding the birds?  
22 A. No, but I do know that since we have had  
23 Robin's birds and that we have been giving them the  
24 supplements that we give our birds, the coloring on the  
25 birds has improved and the textures of the feathers,

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1 they're starting to tighten up, and so that leads me to  
2 believe that there was something in their diet if  
3 they're changing that fast. It's only been a month.

4 Q. Something in their diet was causing the lack  
5 of color and the loose feathers?

6 A. Right.

7 Q. Is there any detriment to the birds? I mean,  
8 to me, color's dull and feathers loose don't sound like  
9 that big of a deal. Is there any other detriment to  
10 the birds that could potentially cause a deficiency in  
11 diet? Let me clarify that.

12 A. Just like in a human, if you have a deficiency  
13 in your diet your immune system is lowered, your  
14 resistance to disease is lowered, you can lose weight.

15 Q. Were these birds thin?

16 A. Not overly so. I wouldn't call them thin to  
17 the point of it being detrimental to their health. You  
18 don't want birds fat because fat birds can't copulate,  
19 and the rule of thumb on birds is the keel bone -- like  
20 the keel bone would be like in your turkey at  
21 Thanksgiving, if you took all the white meat, that bone  
22 there is what they call the keel bone.

23 The rule of thumb is is that you don't -- you  
24 can't feel it knife sharp. You can see it a little  
25 bit, but if you can see it a lot, like let's say you

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1 had a skinny turkey and that breast bone part, the keel  
2 is sticking way out, then that shows that that bird --  
3 that's the first indication that the birds are losing  
4 weight, because the most weight of the birds is in the  
5 breast area.

6 Q. Have you seen birds at Martha's in 2003 that  
7 you would describe as overly thin or thin to a  
8 detrimental point in their health?

9 A. Yes. Martha personally took me up on her  
10 porch and showed me a military Macaw, and told me that  
11 that's what a Macaw dying of PDD looked like. And that  
12 bird was -- that bird was laying in the bottom of the

13 cage, wasn't even able to get up on a perch, and all  
14 that bird was was skin and feathers and bones, and two  
15 days later she told me the bird was dead.  
16 Q. PDD, is that the same as Macaw wasting?

[Ed.— Since Martha herself pointed out this bird as an example of PDD and confirmed the diagnosis of PDD on necropsies performed on birds from her aviary— during her own deposition, see MarthaScudderdepositionPt2, sections 238 & 244—it is clear that Martha was fully aware of communicable disease being a threat to, and or from, her birds. ]

17 A. Macaw wasting, yeah. They used to call it  
18 Macaw wasting syndrome. Then they found out that other  
19 birds -- because the reason they called it Macaw  
20 wasting syndrome is it was first noticed in the 1970s  
21 in a blue and gold Macaw, and they thought it only  
22 applied to Macaws. And they have since found out that  
23 all birds are susceptible to Macaw wasting syndrome, or  
24 now they call it PDD, which stands for proventricular  
25 dilatation, either disease or disorder. It depends on

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1 which vet is the one that --

2 Q. When in 2003 did you see this Macaw, what  
3 month?

4 A. July, late July, maybe, or sometime around  
5 there. Around the middle of the summer.

6 Q. Do you know if this bird was shown to  
7 Dr. Tracy Bennett or whether or not Dr. Tracy Bennett  
8 was given the opportunity to inspect or examine this  
9 bird?

10 A. As far as I know, Dr. Bennett didn't go in  
11 Martha's house or on her porch and inspect any of the  
12 birds inside. As far as I know, Dr. Bennett only  
13 inspected outside. When I was there she only inspected  
14 outside.

15 Q. To your knowledge, were any birds moved to  
16 Vivian Graves' trailer, which you previously testified  
17 was located on Martha's property, during the Bennett  
18 inspection or any inspection made by the Pierce County  
19 Humane Society?

20 A. The birds, I do not know for sure if they  
21 were. During Dr. Bennett's inspection, no, there  
22 weren't, because I don't even know if Vivian's trailer  
23 had been put on the property that early in the summer.  
24 I can't remember exactly when they did. And do I know

25 from personal knowledge if there were any birds moved

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1 to Vivian's trailer? No, I never observed it. I only  
2 know what Martha said to me that day.

3 Q. You were telling me earlier that Wally Hall  
4 was present at one of the Bennett inspections of the  
5 Scudder aviary.

6 A. I said I think that the other -- that that  
7 gentleman that was there was Wally. I'm not positive  
8 because I was not introduced to him. I was only  
9 introduced to Dr. Bennett.

10 Q. Have you ever had any conversations with Wally  
11 Hall over the telephone?

12 A. No.

13 Q. Do you know how many times, if, in fact, Wally  
14 Hall was out there during that June 2003 inspection, do  
15 you know how many times Wally Hall has been on Martha  
16 Scudder's property?

17 A. I have no idea.

18 Q. Did Martha ever tell you about any  
19 conversations she may have had with Wally Hall?

20 A. Yes.

21 Q. Okay. What did Martha tell you -- well, tell  
22 me when the first conversation Martha told you she had  
23 with Wally Hall was.

24 A. The first time we discussed Wally was when  
25 Martha showed me Dr. Bennett's letter, and then another

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1 letter that she had written to the humane society  
2 asking them where did they get the jurisdiction for her  
3 property.

4 Q. And to be clear, she writing the letter is  
5 Martha, correct?

6 A. Right, Martha wrote -- they sent her a letter  
7 after the inspection listing all of the problems with  
8 her aviary, and she, Martha, wrote a letter back  
9 saying, you know, what gives you the right to tell me,  
10 you know, under what laws, rules or whatever, you know.  
11 And --

12 Q. Let me interrupt you. Was Bob Vincent on the  
13 property at that point?

14 A. No.

15 Q. All right. So Martha shows you this letter  
16 from the humane society from Tracy Bennett, Dr. Tracy

17 Bennett, and shows you her response letter.  
18 A. And then she showed me the response letter  
19 from the humane society which said that they were the  
20 enforcement arm for Pierce County for animal  
21 ordinances.

22 Q. How did Wally Hall's name come up?

23 A. Martha wondered how she ever even got the  
24 inspection with Dr. Bennett, Dr. Tracy Bennett, because  
25 normally Wally would let her know ahead of time when

94

1 there were going to be inspections.

[Ed.— On his website, Robert Vincent notes prior inspections of the property. These would seem to be of limited value if prior notice had been served by the Humane Society. See lines 5-16, just below, and also Section 102, lines 3-5.]

2 Q. I'm confused. Martha wondered why Tracy  
3 Bennett came onto the property in the first place; is  
4 that right?

5 A. Yeah, because normally, if there was a humane  
6 society -- I'm only repeating what Martha told me.

7 Q. Sure, I understand.

8 A. That normally, if there were humane society  
9 complaints, Wally let her know about them and when he  
10 was going to come, and so then she could take care of  
11 stuff.

12 Q. Did Martha tell you why Wally Hall allegedly  
13 informed her of these inspections prior to the  
14 inspections taking place?

15 A. No. Her comment was that she just had Wally  
16 Hall in the palm of her hand.

17 Q. Do you know, did she tell you why she felt  
18 that way?

19 A. No, she didn't.

20 Q. Mr. Vincent was not living on the property at  
21 that point?

22 A. No. Mr. Vincent did not come to live on the  
23 property until the middle of August of 2003.

24 Q. In August of 2003, up until the last time you  
25 were on the Scudder aviary property, who was the

95

1 primary caretaker of the birds?

2 A. The only person I ever saw feeding those  
3 birds -- I saw Bob and Martha doing it a few times,

4 and -- but mostly I saw Vivian feeding them.

5 Q. So Bob Vincent arrives at the aviary mid  
6 August 2003, and this is after Bennett's June 2003  
7 investigation.

8 A. Uh-huh.

9 Q. And Bob becomes involved in the aviary  
10 practices and caring for the birds; is that correct?

11 A. Right. His -- he was brought on to Martha and  
12 introduced to Martha by a mutual friend of Martha's and  
13 Bob's.

14 Q. Do you know who that person is?

15 A. Yes, her name is Judy Adams.

16 Q. Do you know how she knew Bob?

17 A. No, I don't.

18 Q. So she brought him to assist Martha?

19 A. She brought him over to meet Martha because  
20 Martha needed someone to help feed the birds, because  
21 school was starting and Brandon wasn't going to be able  
22 to feed her birds any more. And, see, when I first got  
23 here in May of 2003 and up until the end of June of  
24 2003, Steven Graves was feeding the birds.

25 Q. Vivian's husband?

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1 A. Vivian's brother. And then Martha didn't feel  
2 like Steven was doing things the way that she thought  
3 she should, so she had John come over and fire him and  
4 kick him off the property, and then Brandon fed the  
5 birds. A few times -- Robin was on vacation there  
6 right afterwards, too. A few times Robin and I fed the  
7 birds.

8 Q. When did Vivian start feeding the birds?

9 A. Sometime in the early fall was the first time  
10 I saw Vivian feeding the birds. It was -- Vivian lived  
11 in Martha's house for a while before her trailer got  
12 set up so that she could live in the trailer, and that  
13 was sometime in the early fall, was when Vivian moved  
14 into Martha's house, and it was around that time that I  
15 began seeing Vivian feeding the birds.

16 Q. Bob Vincent, to your knowledge, lives in the  
17 house with Martha as a partner, a romantic type  
18 relationship partner; is that your understanding?

19 A. Yes.

20 Q. Do you know if Mr. Vincent, outside of any  
21 ownership he may or may not have in the farm property  
22 or the aviary business, do you know if he has any

23 outside avian raising, hatching, selling, breeding, or  
24 sale of bird product businesses that he operates out of  
25 Martha's home or aviary?

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1 A. The only thing I know about is that there is a  
2 web site called www.parrotspantry.com. And the reason  
3 I know about it is because it's in Bird Talk magazine,  
4 and I went and looked at it and it's selling bird  
5 products. I don't even know what kind. I was just  
6 like --

7 Q. Is that Bob's or Martha's, to your knowledge?

8 A. I believe it's both.

9 Q. Do you know if they derive any profit or  
10 income from that?

11 A. I have no idea. I know that the name Parrot  
12 Depot was Bob's idea.

13 Q. How do you know that?

14 A. Because he -- I was there when he was talking  
15 to Martha about it, and in fact, he looked up to see if  
16 Parrot Depot, the domain name Parrot Depot, had been  
17 purchased, because he thought it was a really cool  
18 name, and he was telling Martha that Parrot Depot was a  
19 whole lot kind of cooler name than Scudder's Exotic  
20 Birds.

21 Q. Bob Vincent came to the property and met  
22 Martha sometime mid August 2003. At what point, if you  
23 know, did they enter into a romantic relationship?

24 A. Approximately four or five weeks, maybe six  
25 weeks later at the most.

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1 Q. Do you know how old Mr. Vincent is?

2 A. Yeah. He's a couple years older than John. I  
3 think he's 48 or 49.

4 Q. Okay.

5 A. Martha told me that he was two years older  
6 than John, and John will be 47 the end of May.

7 MS. MacDOUGALL: I think this is probably a  
8 good point to take a lunch break.

9 (Deposition recessed at 12:28 p.m., to be  
10 reconvened at 1:45 p.m.)

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1 AFTERNOON SESSION

2 1:53 p.m.

3 --oOo--

4  
5 CONTINUING EXAMINATION

6 BY MS. MacDOUGALL:

7 Q. We had talked a while back about the number of  
8 animals that were in the house, and the birds and the  
9 number and the flock, and I think I never got to the  
10 part where you were going to tell me what animals are  
11 in the pasture over at Martha's.

12 A. Right now there is a donkey; his name is Major  
13 Mitchell. There is a Paso Fino mare; her name is Bess.  
14 And there's a llama. God knows what its name is. Up  
15 until a couple of weeks ago there was also a little  
16 buckskin mini horse, one of those miniatures, but the  
17 neighbor lady took that one because the animals in the  
18 pasture are always getting out. They can't seem to  
19 keep them in the pasture. They're out every day, and  
20 the little buckskin almost got hit twice on the road  
21 and it was starting to founder, so Kim took it back  
22 over to her house.

23 Q. When you say they can't keep him in, you don't  
24 mean the neighbors, you mean Bob and --

25 A. Well, Bob and Martha. They don't stay in

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1 their pasture. It also concerns me that the llama is  
2 wearing a halter with a probably two, two and a half  
3 foot long strap on the bottom of it all the time, and  
4 it -- I've seen it jump and clear a fence that's this  
5 tall (indicating), and that could get caught on  
6 something. And more than one person has asked her

7 to -- and the donkey's got a big cut on its neck, and I  
8 saw that when we were going down the road the other  
9 day. It's all red and raw and bloody there on its  
10 neck. And --

11 Q. Do you know if these animals receive any vet  
12 care?

13 A. The only thing that I know is I have seen the  
14 farrier over there once right after she first got Bess  
15 to do Bess's hooves. I haven't seen the farrier over  
16 there since, but like I say, I haven't been over there  
17 to have that knowledge. But the donkey and the llama,  
18 as far as I know, no.

19 Q. No vet care?

20 A. Huh-uh.

21 Q. As far as you know.

22 A. As far as I know.

23 Q. All right. I think I also was asking you  
24 about your knowledge of any businesses that Bob Vincent  
25 was carrying out in the home, and we talked about the

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1 Parrot Pantry, correct?

2 A. Uh-huh.

3 Q. Any other business entities or operations that  
4 Bob and Martha are engaged in at the farm or at the  
5 aviary that you know of?

6 A. Only Scudder's Parrot Depot and Parrot's  
7 Pantry.

8 Q. Referencing the statements that Martha made to  
9 you about Wally Hall and the warrant issue and the  
10 inspections, any other statements that Martha made  
11 about Wally Hall or Pierce County Humane Society that  
12 you recall?

13 MS. CABALO: Objection, vague.

14 Q. (BY MS. MacDOUGALL) Let me see if I can  
15 clarify and fix that a little bit. Any other  
16 statements that Martha made to you related to her  
17 aviary conditions and any Pierce County inspections of  
18 them, or any investigations made by any person other  
19 than Wally Hall at the humane society that Martha spoke  
20 with you about?

21 A. The only thing that Martha ever said to me  
22 about the humane society was that Wally would tell her  
23 who reported and he'd tell her when he was going to  
24 inspect and that she had him in the palm of her hand,  
25 and that I overheard her one day talking, and I can't

1 remember who it was. It was -- because there's so many  
2 people that come in and out of there. But she said  
3 something to the effect of, Well, if you have a problem  
4 with the humane society, let me know. I've got an  
5 insider and they can help take care of it.

6 Q. Do you recall when this was?

7 A. It was in the summer of 2003.

8 Q. I apologize, I'm jumping all over here a  
9 little bit. I'm trying to clean up some issues with my  
10 notes. We've talked about animals in the house, birds  
11 in the aviary and pasture animals. Have we covered --

12 A. Have we covered all --

13 Q. -- all of the animals that, to your knowledge,  
14 Martha owns?

15 A. Yeah, we covered the dogs, we covered the  
16 birds in the aviaries, we covered the birds in the  
17 house, we covered the animals in the pasture, and  
18 that's all the animals that I can --

19 Q. The bird -- go ahead.

20 A. I was going to say, I forgot. There's two  
21 more dogs, because when Bob moved in he had two dogs,  
22 and I don't know what kind they are.

23 Q. Okay. What was my question? I'm trying to  
24 remember.

25 A. I said we covered all of the animals.

1 Q. Other than the, I believe it was military  
2 Macaw that you said had died of PDD, any other birds on  
3 Martha's property that you knew or witnessed being ill  
4 from any other avian disease?

5 A. Any other avian disease other than PDD?

6 Q. Or including PDD.

7 A. There was the Cockatoo, I believe it was an  
8 Umbrella Cockatoo that she kept downstairs, and there  
9 was a Yellow-crown Mealy Amazon, both of which  
10 exhibited the symptoms of advanced PDD, which  
11 neurological, unable to perch. The Mealy, I know she  
12 gave that to a friend of mine, and that person took it  
13 to the vet the next day and it had E coli and two  
14 strains of pseudomonas, and the vet felt that it had  
15 PDD, also.

16 We -- it was put on a regimen of antibiotics,  
17 and the E coli and the pseudomonas was cleared up,

18 because he wasn't sure if the neurological problems,  
19 with the bird not being able to hold its head up and  
20 walk and do things like that, were a result of the  
21 infection or if it was PDD. And once those were  
22 cleared up, he said that he felt that it was PDD, and  
23 so then we paid to have the bird euthanized.  
24 I did not pay to have the bird necropsied.  
25 I had already spent in the neighborhood of around \$300

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1 on that bird, and a necropsy runs about \$200, you  
2 know, if you have a decent one done, and I didn't feel  
3 that another \$200 was worth the investment in that  
4 particular bird.  
5 Q. Okay, let me back up.  
6 A. That's the vet records that I gave you a copy  
7 of before.  
8 Q. That's exactly what I was going to ask you.  
9 Thank you for clarifying. Those are the ones  
10 Ms. Cabalo was made a copy of at my office, to your  
11 recollection?  
12 A. Yeah. Everything that I brought are the ones  
13 that -- that they made the copies.  
14 Q. I just want to make sure everybody has  
15 everything.  
16 A. Yeah, this is the copies.  
17 Q. Okay.  
18 A. And these are -- these are the copies of the  
19 vet records, and, yeah, this is e-mail from Stewart  
20 Metz and some e-mails from somebody else, and then some  
21 more from Mr. Gallowa.  
22 Q. I'm going to give you those back, and I'll let  
23 you hang on to those for a minute. Let me ask you, as  
24 you sit here today, do you remember just from your own  
25 recollection, not necessarily from reviewing those

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1 records, when the Yellow-crown Mealy was taken to the  
2 vet by you or your friend?  
3 A. I think Becky picked it up on the last day of  
4 October, somewhere around that, and I think its first  
5 visit was the 1st or the 2nd of November.  
6 Q. Just 2004?  
7 A. Of 2003. This is the fall of 2003. And I  
8 know it was euthanized somewhere around the middle of  
9 December. Again, like I said, I'd have to check the

10 vet records for the dates, but I know it was late  
11 October, early November. And then I do know it was the  
12 middle of December, because we tried, you know, getting  
13 the infections cleared up and then seeing if it helped  
14 after that, and it didn't, and the vet's recommendation  
15 was euthanasia.

16 Q. How do you know that -- well, let me back up.  
17 What's Becky's last name?

18 A. Adams.

19 Q. Any relationship to Judy Adams?

20 A. No, she's not.

21 Q. How do you know that Martha gave Becky the  
22 bird?

23 A. Because I was coming home up our road and  
24 Becky was headed out, leaving, and so we stopped to  
25 talk, and I saw that Mealy in the back of her -- she

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1 has a little SUV, and I was like, Where did you get  
2 that Mealy? She goes, Martha gave it to me. She told  
3 me it had a stroke, so I'm going to take it home and  
4 rehabilitate it. I said, What? People who have  
5 strokes can be rehabilitated. Maybe a bird that's had  
6 a stroke can be rehabilitated.

7 I said, Becky, if I were you I'd take that  
8 bird to the vet, because I don't think it's had a  
9 stroke. I said, Based on, you know, all of the  
10 research I've done on PDD, that looks like it's  
11 advanced PDD. She goes, Oh.

12 So she didn't even take it to her house. She  
13 took it to Audrey Martinez's house, who's a friend of  
14 hers who was in the vehicle with her, and it was kept  
15 over at Audrey's, because at that time Becky had 11  
16 birds in her home as pets, and she didn't want to take  
17 that bird and expose any of her birds to it. So Audrey  
18 was a surrogate mother.

19 Q. On these vet records it says rescue bird and  
20 it says rescue bird from Scudder's. Do you know what  
21 rescue bird is indicating?

22 A. Rescue bird means -- in the general avian  
23 community it means if a bird is sick or not being cared  
24 for or whatever, and somebody either talks the person  
25 into giving it to them or whatever, that's considered a

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1 rescue. It's like -- it doesn't necessarily even mean

2 sick. It could be one that the owner can't take care  
3 of any more, maybe the owner's ill or whatever.

4 Rescue in the avian world just means that  
5 somebody has taken the bird from a situation that they  
6 don't feel is the best for the bird. But in this  
7 particular instance, knowing Dr. Greg Bennett, who is  
8 the one who did this, he would have called it a rescue  
9 bird because Becky is into causes and rescues all sorts  
10 of animals. I mean, if there's a dog that, you know,  
11 somebody's not being able to take care of, she'll take  
12 it over to her house and take care of it until she can  
13 rehome it.

14 So it's a -- basically it just meant that she  
15 got the bird from Martha, and Dr. Bennett considered it  
16 a rescue because it was sick. It's not a -- it wasn't  
17 like it was a court-ordered thing or that she took the  
18 bird because, you know -- she took it because Becky's  
19 into causes, and she thought she could help the bird by  
20 rehabilitating it.

21 Q. Okay. Do you use Dr. Greg Bennett as your  
22 avian vet?

23 A. I use Dr. Bennett as a preliminary vet. If he  
24 can't handle it, I either use Deanna Shafer or  
25 Dr. Leslie Kovar up in Bothell, depending. And

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1 generally the only time that Dr. -- I've had to use  
2 Dr. Bennett was this particular bird, and then there  
3 was a Lesser Sulfur Crested Cockatoo that I sold to  
4 Becky's mother, Sally, and Sally kept thinking there  
5 was something wrong with the bird because it didn't eat  
6 for her as well as it did for me, so I took the bird  
7 with Sally to the vet. And the vet checked it and told  
8 her there's nothing wrong with this bird. He did swabs  
9 for yeast and E coli. It's, Sally, it's got you  
10 buffaloes, sort of thing.

11 And then I took a couple of other babies  
12 last -- like I think it was like September, this past  
13 September of 2004, to him because Sally bought two more  
14 birds from me, a Janday and an Orange-Winged Amazon,  
15 and they needed health certificates to fly on Frontier  
16 Airlines. They require a health certificate from a  
17 vet, so I took them over there and got the health  
18 certificate.

19 Q. Now, you said you use Deanna Shafer. Do you  
20 know where she's located?

21 A. She's in Lakewood, but as -- I have not had to  
22 use her. And Dr. Kovar, he is up in Bothell.

23 Q. Other than the incident with the bird named in  
24 those records as Precious, have you had to take any  
25 other birds that you or anyone else received from

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1 Martha or the Parrot Depot or Scudder's Exotic Birds to  
2 a vet for any vet care?

3 A. No.

4 Q. Did you speak with Martha about this  
5 particular bird, the bird Precious?

6 A. No, because at the time that she gave it to  
7 Becky was when things were deteriorating. I did talk  
8 about it one time, but Martha wasn't there. She had  
9 gone to, I believe it was Neo Brown's funeral, but I'm  
10 not positive. But Dr. Scott McDonald had set up a  
11 sexing and well bird clinic at Martha's, and a friend  
12 of Brandon and David's, Jessie, has a little Goffin  
13 Cockatoo that has a tweaked beak, and so whenever  
14 Dr. McDonald is here it has to be taken in for them --  
15 because the beak doesn't wear, because it doesn't sit  
16 straight, it has to be ground down periodically.

17 And the Cockatoo that had basically the same

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18 symptoms as the rescue bird was sitting right there in  
19 the same room that Dr. McDonald was doing well bird and  
20 sexing clinic, and I said to Betty -- Don and Betty  
21 Holitz. That's their last name, Holitz. Anyway, I  
22 said something about, I don't know if I'd have many  
23 birds around that Cockatoo, because it has the same  
24 symptoms as that Mealy, and it had E coli and two  
25 strains of pseudomonas. And then -- but nobody said

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1 anything about it.

2 There was one other time in May of 2003, which  
3 was the very first time I ever saw Dr. Scott McDonald,  
4 and he did a sexing clinic at that time, too, and -- in  
5 fact, he even showed me with a little scope what the  
6 inside of a bird looks like. Martha had a Yellow-naped  
7 Amazon that she couldn't keep weight on, and she had  
8 Scott do what they call a scope, which is they just  
9 look up and down through the bird, and Dr. -- she asked  
10 Dr. McDonald to do that to see if he could see why the  
11 bird was losing weight, and Dr. McDonald looked and he

12 said that he thought that it had PDD.

13 Q. When was this?

14 A. This was in May of 2003.

15 And he didn't even act like it was like any  
16 big deal. I mean, this was like within the first  
17 couple or three weeks that I had even come to  
18 Washington. I didn't know anything about birds other  
19 than that they had feathers, you know, and so I really  
20 didn't know what the significance was when he said  
21 that.

22 And she asked him what to do about it, and he  
23 said, Well, there's not really anything that you can  
24 do. They say that if -- you know, if they're in a  
25 well-ventilated area the virus doesn't live very long

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1 in the air. And that's basically -- but until later in  
2 the year, when I started doing some research on PDD  
3 because someone else -- Jonna Kelley gave me a copy of  
4 an article from, I believe it was Bird Talk magazine.  
5 I couldn't find the article, but it was about PDD.

6 And when I read that article I began to  
7 understand how nasty of an illness it was, and I began  
8 to do research on the internet on exactly what Macaw  
9 wasting syndrome or PDD or wasting syndrome -- there's  
10 a whole lot of different things that they call it.

11 Q. Now, do you know who -- well, let's start  
12 currently. Do you know currently, as you sit here  
13 today, who provides vet care for Martha for the avian  
14 birds, the aviary birds?

15 A. No, I don't.

16 Q. Do you know who she would have used in 2003?

17 A. Possibly Dr. Jerry Brown at Yelm vet clinic or  
18 Dr. Chuck Kegley at Yelm vet clinic. They were the --  
19 they were basically the only -- that's -- John's been  
20 friends with Jerry Brown for years, ever since they  
21 were in college, so that was generally the vet of  
22 choice, but --

23 Q. But you don't know for sure? You said  
24 possibly.

25 A. I don't know for sure.

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1 Q. Okay.

2 A. And I know that Yelm vet is no longer treating  
3 birds.

4 Q. Do you know when they stopped?  
5 A. After Neo Brown was killed, because Jerry was  
6 the person that knew the most -- Dr. Jerry Brown was  
7 the one who knew the most about birds, and he made a  
8 career decision when his wife and mother-in-law were  
9 killed that he was no longer going to see patients,  
10 that he was only going to do surgery and critical care.  
11 And Dr. Kegley did not want to keep up on avian  
12 advances, so they made a decision, business decision  
13 on --  
14 Q. When was that?  
15 A. Neo was killed in the fall of 2003, I think.  
16 I'm not sure exactly.  
17 Q. Sure.  
18 A. It was Neo Brown, and her mother, her last  
19 name -- Gary Edwards is the sheriff of Thurston County.  
20 It was his mother and his sister, and they were killed  
21 in an auto accident and --  
22 Q. Let me interrupt you there and let's go off  
23 the record for a minute.  
24 (Discussion off the record.)  
25 MS. MacDOUGALL: Back on the record.

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1 Q. (BY MS. MacDOUGALL) You referenced earlier,  
2 Kathy, a conversation you had with Mike Carter. Do you  
3 remember that?  
4 A. Yeah, a reporter from Seattle.  
5 Q. Do you have any other recollections of  
6 conversations, any other conversations you had with  
7 Mr. Carter about the Scudder aviary or Scudder Parrot  
8 Depot?  
9 A. No. I really didn't talk to Mr. Carter about  
10 the Scudder aviary in particular. Basically what I did  
11 was I explained bird breeding to Mr. Carter, because  
12 what it was is he sent me an e-mail, or he sent an  
13 e-mail saying that they were going to be doing an  
14 article in the Seattle Times and that Scudders were  
15 going to be featured in it prominently, and that he  
16 understood that Martha had been advised by her  
17 attorney, Catherine Cabalo, you know, not to talk to a  
18 reporter, and also that she -- that Ms. Cabalo had said  
19 that it was the breeding season, so they didn't -- you  
20 know, couldn't come out to the farm.  
21 And so I just went through basically what I  
22 had learned and what bird breeding was about, and

23 percentages, like production percentages and fertility  
24 percentages, and, you know, things like that.  
25 Q. Did you have an understanding that it was

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1 going to be an article written in the negative or a  
2 positive vein about the aviary?  
3 A. He told me that it -- the focus of the article  
4 was going to be overpopulation of parrots nationally,  
5 in general, but that we were going to be -- that  
6 Scudders was going to be featured prominently.  
7 However, when I talked to Lori Rutledge a few days ago,  
8 Ms. Rutledge told me that the article was not on  
9 overpopulation, that that was a little bit of  
10 misinformation that Mr. Carter gave, that it was going  
11 to be basically a trash job on the Scudders.  
12 Q. You've not seen such an article written by  
13 Mike Carter, correct?  
14 A. It has not been published. I e-mailed  
15 Mr. Carter not too long ago. I periodically check in  
16 the archives of the Seattle Times to see if an article  
17 has been published, because we are -- we're Scudders,  
18 also. And I e-mailed him not too long ago and asked,  
19 you know, did the article get published, have I missed  
20 it, and he e-mailed me back and said that the article  
21 wasn't going to be published, that they had done some  
22 research and they couldn't prove that there was abuse  
23 at Scudder aviary, so they weren't going to publish the  
24 article.  
25 Q. When was this?

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1 A. Within the last couple, three weeks.  
2 Q. Have you personally spoken with anyone at  
3 Pierce County Humane Society about the conditions in  
4 2003 or any current conditions at the Martha Scudder  
5 aviary?  
6 A. No, I've not talked to anyone from the humane  
7 society. Because I knew that Martha was being told who  
8 made complaints or who discussed things, there was  
9 enough animosity within the family and stuff going on,  
10 I felt that I might as well stay away, just leave;  
11 whether I agreed with what was going on with the  
12 animals or not, that I would just stay out of it. I  
13 didn't want to cause any more -- it was bad enough.  
14 Q. So do you agree or disagree with what's going

15 on at the aviary?

16 A. I believe that Martha is getting too old to  
17 take care of her birds. Martha's flock, a lot of  
18 Martha's flock is old. They were wild caughts, and  
19 they haven't imported wild caughts into the United  
20 States on a regular basis for about 20 years. And like  
21 humans, female birds are born with only a certain  
22 number of eggs in their ovaries, and they begin -- as  
23 they get older they don't produce as many eggs, and  
24 they get to where they don't produce any because  
25 there's none left.

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1 And what happens is then you don't get the  
2 production of babies, and if you don't have the  
3 production of babies to sell to the pet shops and the  
4 pet trade to be able to support the feeding and the  
5 maintenance and all of the other things that are  
6 required in an aviary, then things start going  
7 downhill.

8 Q. Do you think things have gone downhill at  
9 Martha's aviary?

10 A. Yeah. The last time it was cleaned was when  
11 everybody got together in March of 2003 and cleaned it,  
12 in the aviaries themselves. I mean, I've seen Bob mow  
13 the lawn or whatever, but there's two of her birdhouses  
14 that I can stand where I get in my car and see them. I  
15 mean, I don't have to be doing any kind of surveillance  
16 or anything. They're right there for me to see, and  
17 they're filthy.

18 Q. You made a statement earlier that you haven't  
19 spoken with anybody at the humane society, and you  
20 referenced the family having enough animosity and  
21 knowing that Martha was being informed, allegedly, as  
22 to who was making reports to the Pierce County Humane  
23 Society. Do you feel that there was or is a condition  
24 that you should have or would have reported to the  
25 Pierce County Humane Society absent knowing that there

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1 was animosity and knowing that Martha may receive the  
2 name of the person who reported her?

3 A. Yes.

4 Q. What is it that you feel you should have or  
5 would have reported?

6 A. The animals in the pasture, the fact that they

7 get out all the time and they're on the road, and that  
8 the llama's got that leash hanging from its neck.  
9 They -- you know, they're not confined, and the cut on  
10 the donkey and --

11 Q. Is there anything with the birds that when you  
12 were there in 2003 you feel you should have reported?

13 A. I think her birdhouses are a disaster, and I  
14 think that if she'd just clean them up they'd leave her  
15 alone. And yes, I would have reported that they need  
16 to be cleaned, because we -- I'm not what they call an  
17 animal rights activist, although I have been accused of  
18 being one, but I do believe that we do -- because we  
19 keep them in captivity, that animals have a right  
20 because we have them captive to adequate food, adequate  
21 shelter, clean conditions to live in.

22 Q. Okay --

23 A. And I got --

24 Q. Go ahead, I'm sorry.

25 A. And I understand that at times things happen

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1 in people's lives where things get behind a little, and  
2 it's not necessarily their fault, but then they need to  
3 do a little extra and get it cleaned up because it's  
4 not good for the animals.

5 Q. So other than the cleaning of the cage that  
6 you talked about, do you feel, based on what you've  
7 witnessed and what you've come to understand are  
8 required for a bird shelter, do you feel there's  
9 adequate shelter at Martha's aviary?

10 A. Yeah, pretty much. There's a couple of the  
11 birdhouses that -- like when -- what would they call  
12 the long house? I guess when they put the plastic up,  
13 it wasn't nailed down on the bottom, because John told  
14 me he saw Vivian out there one day laying tin to hold  
15 the plastic down so the rain and stuff wouldn't blow in  
16 on the birds.

17 Q. Did that work, do you know?

18 A. It's still -- the tin's still laying along the  
19 side, so I suppose it worked.

20 Q. When was that?

21 A. Not too long ago, a month or so, maybe. It  
22 was -- it was when we had that couple of days where we  
23 had that really heavy rain, with lots of wind. And in  
24 fact, the reason he mentioned it to me was that, you  
25 know, he said, You know, Kathy, I'd have gone and

1 helped Vivian, but I'm not allowed on Martha's  
2 property. Because she was fighting ten-foot pieces of  
3 tin in the wind trying to get them up against that  
4 birdhouse.

5 Q. Do you know if the plastic was not nailed down  
6 or if it had blown loose?

7 A. I don't know. I do know that based upon how  
8 we plastic our aviaries, that if it had been nailed  
9 down with lath on the bottom, like it's supposed to, it  
10 wouldn't have blown loose.

11 Q. Okay.

12 A. At least not in that great of a whole side of  
13 a birdhouse.

14 Q. Has Martha ever discussed with you whether or  
15 not she has a will, last will and testament?

16 A. The only time that Martha ever discussed a  
17 last will and testament with me was in May of 2003,  
18 when she told me that if I decided that I didn't want  
19 to stay here and have a relationship with John, but if  
20 I wanted to stay in Washington, that I could come and  
21 live with her and help her take care of the birds, and  
22 she'd leave me the farm.

23 Q. Do you know if she, in fact, made you a  
24 beneficiary in her will?

25 A. No, I don't. I do know that Robin Scudder had

1 a discussion with her when Robin was here in March of  
2 2004 about the farm, and -- see, it's always been the  
3 thing with the family, because John and Bill helped so  
4 much, helped Martha and John Senior so much, that John  
5 and Bill would get the farm, okay? That was always the  
6 understanding in the family. Ken would get, you know,  
7 monetary compensation, but the farm itself would go to  
8 John and Bill.

9 And so Robin told me that she had talked to  
10 Martha, and that Martha said that she had set up a  
11 trust fund for the grandchildren and that she was  
12 leaving the farm to Bob.

13 Q. To? I'm sorry.

14 A. The farm was going to be going to Bob.

15 Q. Bob Vincent?

16 A. Bob Vincent, and that she had done a trust  
17 fund for the -- for the grandchildren. As far as has

18 that been done, I don't know. That's the only thing I  
19 know, and I know it's hearsay. All I can say is what  
20 Robin said.

21 Q. To your knowledge, do you know the state of  
22 Martha's health today, whether she's in good health,  
23 poor health?

24 A. Today?

25 Q. Yes. As you sit here today, do you know?

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1 A. I haven't spoken to the woman in over a year.

2 I don't know what her health is today.

3 Q. So you haven't heard through anybody whether  
4 she's suffering from any illnesses or anything like  
5 that?

6 A. No one's said that she's deteriorated any more  
7 than the way she was when I first got here.

8 Q. When you knew her, I mean, were having contact  
9 with her, did she have any health conditions that you  
10 were aware of that impacted or impaired her health in  
11 any way?

12 A. Yes. She has on one of her knees, I believe  
13 it's her left knee, it swells up and she gets to where  
14 she almost can't walk. And she's -- I went to the  
15 doctor with her twice to discuss with the doctor her  
16 depression. She -- during the summer of 2003, unless  
17 it was to go downstairs to feed babies, Martha very  
18 rarely got out of her recliner or off of the chair on  
19 the front porch.

20 She didn't feel well. She didn't eat right.  
21 I -- when I would make dinner for us I would fix a  
22 plate and take it to her or send it with the boys  
23 several times a week just to make sure that she ate.

24 Q. Now that you've had an opportunity to see her  
25 and visit the house now that Bob Vincent was living

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1 there, have you had the opportunity to see how

2 Mr. Vincent interacts with Martha?

3 A. The only interaction I've seen with  
4 Mr. Vincent with Martha is that he says jump and she  
5 says how high on the way up.

6 MS. MacDOUGALL: I'm going to turn the  
7 questioning over to Catherine right now, and I will  
8 probably have some follow-up for you, but I think we're  
9 going to go off the record and take a short break.

10 (Discussion off the record.)  
11 MS. CABALO: Back on the record.

12

13 EXAMINATION

14 BY MS. CABALO:

15 Q. Please forgive me if I am a little scattered.  
16 I've got handwritten notes, and so bear with me. If  
17 I'm not asking a question clearly enough, ask me, You  
18 know what, hey, Cat, I didn't understand it and  
19 reiterate it. Again, as we've done all day today, if  
20 you need a break, just let me know.

21 Could you please state again what your full  
22 name right now is and the proper spelling.

23 A. Okay, we're going to have to do it twice. On  
24 my driver's license it says Kathryn, K-A-T-H-R-Y-N,  
25 Sarah, S-A-R-A-H, Phillips, P-H-I-L-L-I-P-S. My birth

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1 name was Sarah Kathryn, but a number of years ago, oh,  
2 gosh, 20-some years ago, I didn't want to sign my name  
3 Sarah because I never used Sarah, so the guy that was  
4 doing the military ID card switched my name around to  
5 Kathryn Sarah, and it's been that way ever since, but  
6 my birth certificate says Sarah Kathryn.

7 Q. What is your maiden name?

8 A. Hunter.

9 Q. Have you had any other last names other than  
10 Hunter or Phillips?

11 A. Yes. Campbell, Hunter again because I married  
12 a Hunter, Harding, H-A-R-D-I-N-G, and then Phillips.

13 Q. And you prefer to be called Kathy Scudder,  
14 correct?

15 A. Right. I'm in the process right now of having  
16 the paperwork done to legally change my name to  
17 Scudder.

18 Q. Okay. Kathy, before you were here in  
19 Washington, and correct me if I'm wrong, did you say  
20 you arrived here to stay in Washington in May of 2003?

21 A. I arrived here on vacation in May of 2003. I  
22 was getting ready to move back east, where my family  
23 lives, and I had been talking on line with John for,  
24 oh, heavens, almost two years, and he said, Why don't  
25 you come up here and see my birds and stuff on a little

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1 vacation before you move 3,000 miles away, because we

2 talked about, you know, him doing parrots.

3 I had this thing, idea, like he had 20 birds  
4 out there in the back yard and these little canaries or  
5 finches. I had no idea what bird breeding was all  
6 about. And so I came up on vacation, and we -- we  
7 initially said that I would stay the month of May.  
8 That was my vacation. And then when it got time to  
9 leave, we were saying, well, I kind of like it here, we  
10 kind of like each other. I'll stay the summer and see  
11 how it becomes -- how things go.

12 And then when we got to around the middle part  
13 of September and we decided that we would make a  
14 commitment, I started wearing a wedding ring and  
15 started using the name Scudder, and I've been here ever  
16 since. So I bet John really wishes he had never asked  
17 this woman up here for a vacation. I bet he never does  
18 it again.

19 Q. (BY MS. CABALO) So you were here on vacation  
20 in May of 2003. Where were you before that?

21 A. I had been in Sacramento for six months prior  
22 to that.

23 Q. And before Sacramento where were you?

24 A. Salt Lake City, Utah. And I had been in Salt  
25 Lake City -- let's see, I moved to Salt Lake City in

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1 November of 1991. I was gone for a year and a half  
2 from May of 1995 until January of 1997.

3 Q. Where were you during that period of time?

4 A. My ex at that time worked for a company where  
5 he got sent all around, so during that year and a half  
6 I was in Morgantown, West Virginia, Germantown,  
7 Maryland, and Fort Walton Beach, Florida, because those  
8 were where -- he was working in Pensacola, but was from  
9 Fort Walton Beach. We lived in Fort Walton, but he  
10 worked over in Pensacola. He worked for a company that  
11 installed cabinetry and equipment in special equipment  
12 hospitals, labs, facilities, things like that, so he  
13 traveled a lot.

14 Q. So from May of 1995 to January of '97 you were  
15 traveling around?

16 A. Yeah, I was in those three different places,  
17 Morgantown, West Virginia, Germantown, Maryland, and  
18 Fort Walton Beach, Florida.

19 Q. And after did you return to Salt Lake City?

20 A. I returned to Salt Lake City in the end of

21 January, first part of February -- I'm not sure of the  
22 exact date when I got there -- because I had -- I have  
23 two sons that live there that -- minor children that  
24 live there, and one of my sons had separation anxiety  
25 so bad that they were getting ready to put feeding

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1 tubes in him. He was considered anorexic.

2 And I had been there visiting for ten days  
3 over the holidays, and he gained ten pounds in that ten  
4 days, and I went back and quit my job and said I'm  
5 going back to Salt lake. I couldn't do that to my  
6 child any more.

7 Q. So during the period of time that you were  
8 traveling you were away from your children? Did I  
9 understand that right?

10 A. Well, I went back and visited him, I flew back  
11 and visited him, but I was away, yes.

12 Q. And your ex-husband who was employed with this  
13 cabinetry company, was he the father of this --

14 A. No, he's not.

15 Q. Okay, that makes sense. So your children were  
16 with the biological father at the time that you were  
17 traveling?

18 A. Right.

19 Q. How many children do you have?

20 A. Four.

21 Q. What are their ages?

22 A. 26, 24, and 14.

23 Q. That's three, 26, 24, and 14.

24 A. I have twins that are 14.

25 Q. Okay. Are they all boys?

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1 A. No. The 26-year-old is a girl. Her name is  
2 Coral.

3 Q. That's right, you did say that.

4 A. Her name is Coral, C-O-R-A-L. The 24-year-old  
5 is Alexandria, and that's with an I-A, and the two boys  
6 are Jared, J-A-R-E-D, and Dale, D-A-L-E.

7 Q. Where do they reside right now as far as you  
8 know?

9 A. Coral and her husband and her two children  
10 live in West Valley City, Utah. Andrea and her partner  
11 and her children live in Tooele, Utah.

12 Q. Tooele?

13 A. T-O-O-E-L-L-E. I think it's got two L's. It  
14 might only have one L.  
15 And the two boys live in Orem, Utah with their  
16 father.  
17 Q. Okay. Were they all raised in the same  
18 household when they were growing up?  
19 A. No. Coral and Alexandria were raised in one  
20 household and Jared and Dale were raised in another  
21 household.  
22 Q. Do Coral and Andrea and Jared and Dale have  
23 different biological fathers?  
24 A. All of them have. Coral's biological father  
25 was William Roger Campbell. Alexandria's biological

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1 father was Dean Carl Hunter, but when Coral was three  
2 years old he legally adopted her, so her legal name is  
3 Hunter. And Jared and Dale's father is Kent Bishop  
4 Harding.  
5 Q. So the biological fathers had custody, primary  
6 custody, during the time that they were growing up; is  
7 that correct?  
8 A. My -- Coral's biological father never had  
9 custody of her, but Dean, who she considers her dad --  
10 and he had custody of Coral and Andrea. I have bipolar  
11 disorder, and it was my feeling that it was better and  
12 more stable for my children to live with their  
13 biological fathers.  
14 Q. Forgive this. This is a question I ask  
15 everyone I depose. Have you ever been involved in any  
16 investigation or prosecution of any crimes, criminal  
17 prosecutions or investigations?  
18 A. May we go off the record for a moment?  
19 Q. Actually, I would rather this be on the  
20 record.  
21 A. No, I have a question I need to ask you.  
22 MS. CABALO: Sure, let's go off the record.  
23 (Discussion off the record.)  
24 MS. CABALO: Back on the record.  
25 A. Yes. In 1985 I was prosecuted for public

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1 intoxication and possession of cocaine.  
2 Q. (BY MS. CABALO) What state was that in?  
3 A. California. I pled guilty, was given  
4 diversion. I attended a recovery home for 90 days and

5 had a year of unsupervised probation, but at any time  
6 during that year I could be tested. If I tested  
7 positive even for alcohol, then I was going to be  
8 spending about five years in the women's prison.

9 Q. Okay.

10 A. I was also prosecuted in 1982 in the state of  
11 Wyoming for insufficient fund check.

12 Q. Is that it with regard to any criminal matters  
13 you were involved with?

14 A. Yeah. I haven't --

15 Q. Okay.

16 A. I haven't even had a traffic ticket.

17 Q. Okay.

18 MR. SCUDDER: Wish I could say that.

19 Q. (BY MS. CABALO) We talked a little bit about  
20 when you arrived in -- you arrived here in Washington  
21 in May of 2003, and was it at that time that you  
22 decided to have your vacation become an extended stay  
23 that you first started learning about avian care, birds  
24 in general?

25 A. Uh-huh. In fact, I can tell you the exact

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1 date I started learning about avian care, May 22, 2003.

2 Q. The day before my birthday.

3 A. Was the very first day that I picked up a  
4 pipet and fed a baby bird, and Martha was the one who  
5 showed me how to do it.

6 Q. Based on Melissa's questions to you about any  
7 additional certificates or training, is it accurate to  
8 say that you don't have any certificates or any  
9 training certificates with regard to avian care or  
10 aviculture?

11 A. No. There is -- there aren't any schools of  
12 avian care. The only information that I know about  
13 avian care is what I've learned from firsthand  
14 experience from John, from Martha, from on line, from  
15 being involved with breeder groups on like Yahoo,  
16 talking with other breeders. There's -- there  
17 really -- there's no school that you can go to and  
18 learn how to be an aviculturist.

19 Q. Forgive me if this is choppy. I just have  
20 some really quick ones. I'm not going to go into very  
21 much depth, so it will sound choppy as I ask these  
22 random questions.

23 You talked a bit Dr. Dhillon. I don't think

24 you talked about him today, but in your first  
25 deposition on January 13th, and whether or not you had

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1 ever met or spoke with Dr. Dhillon. Would you remind  
2 me again if you have ever spoken to or talked to  
3 Dr. Dhillon?

4 A. I've never met him or spoken to him. If he  
5 walked up to me I wouldn't know who he is. All I know  
6 is that that's who Martha -- whenever a bird would die,  
7 she'd say -- she'd throw it in a plastic bag and jump  
8 in the car and say, I'm going to Dr. Dhillon's.

9 Q. In the time that you were asked to Martha's  
10 aviary, so you weren't there -- you talked about this  
11 before, correct me if I'm incorrect here -- that  
12 Dr. Dhillon would do visits to Martha's aviary with  
13 some of his students at Washington -- at Wazoo. Were  
14 you not there then for any of his visits, or were you  
15 aware that he did any visits to Martha's aviary with  
16 students?

17 A. I was aware that he had done them in the past.  
18 He did not do any while I was there or while we were  
19 talking or while I was in -- while there was good  
20 relations between our family and Martha's family, I  
21 never saw Dr. Dhillon or any of his students there.

22 I did meet one other gentleman who was here  
23 for a symposium on poultry that had come to Martha's  
24 after the symposium, and I had a few specific questions  
25 that I wanted to ask him about exotic Newcastle's

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1 disease, and I went over and spoke briefly with him  
2 about that. And that is -- I have no idea what his  
3 name is, and that's the only contact with anybody  
4 that's been involved in any kind of poultry or  
5 veterinary care or anything that I have ever seen at  
6 Martha's.

7 Q. I'd like to talk a little bit here about  
8 procedures at the Happy Hookbills --

9 A. Happy Hookbills Ranch.

10 MR. SCUDDER: I came up with that.

11 Q. (BY MS. CABALO) So I'm just going to refer to  
12 that as your farm?

13 A. Okay, yeah, because we -- I call it the farm,  
14 too.

15 MR. SCUDDER: You don't want to make a slip

16 and call it something else.  
17 Q. (BY MS. CABALO) Did the farm lose any birds  
18 in 2004?  
19 A. That would have been last year. We lost one  
20 Cockatoo to mate aggression.  
21 Q. Do you have an idea of total number?  
22 A. I'm thinking.  
23 Q. Sorry, forgive me.  
24 A. We lost one Cockatoo to mate aggression, we  
25 lost one -- no, we lost two Senegal females to mate

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1 aggression, and I lost four hatchlings under three  
2 weeks of age during the baby season. That's all the  
3 birds that I can remember that we lost. We lost my  
4 personal pet in November of 2004.  
5 Q. And was that Wizard?  
6 A. (Nodding.) Oh, you know about Wizard?  
7 Q. We talked a little bit about that. I remember  
8 to latch on to the names rather than the names of the  
9 species of the birds. It's easier for me to remember.  
10 MR. SCUDDER: That's very stressful for her.  
11 That was her pet.  
12 Q. (BY MS. CABALO) So that's one, four, eight,  
13 ten, 11 birds, approximately? Did I count that right?  
14 MR. SCUDDER: You can't count the babies,  
15 really, that are hatchlings like that, because anything  
16 under a month, anything could happen with them. The  
17 hatchling babies, you're basically -- I'm sorry, I  
18 shouldn't interject. I'm not being deposed. But  
19 you're not dealing with breeding stock. Any time from  
20 hatch you don't even count -- you can't really count  
21 what you have until they're a month old, because there  
22 can be -- they could have any kind of a genetic  
23 asymptomatic problem.  
24 MS. CABALO: Mortality ratio must be high  
25 within a time frame after --

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1 MR. SCUDDER: No, it's not really --  
2 A. I had 100 babies and I only lost four.  
3 Q. (BY MS. CABALO) I'm sorry, I miscounted.  
4 Under three weeks of age and I counted that three.  
5 MR. SCUDDER: I apologize for interjecting,  
6 but it's a completely different ordeal.  
7 Q. (BY MS. CABALO) So that's four, six, seven.

8 Seven and Wizard would make eight?  
9 A. I lost one Cockatoo to mate aggression.  
10 Q. Two Senegals?  
11 A. Two Senegals to mate aggression.  
12 Q. And then your four hatchlings.  
13 A. And Wizard. Okay, those are the only birds  
14 that were past three weeks of age. Those four  
15 hatchlings were under three weeks of age, so they --  
16 Q. Four hatchlings, then, and four what you would  
17 consider adult birds?  
18 A. Right.

[Ed.— Even allowing for the smaller size of the farm, note the markedly reduced losses of birds, and losses of birds due to disease or apparent starvation, on the farm of Kathy and John Scudder, *cf.* to those on that of Martha Scudder and Robert Vincent, even assuming that the reported necropsies of the latter represent 100% of their deaths . Even their one pet bird, Wizard, with apparent PDD, came from the M. Scudder farm; see below]

19 Q. Did you conduct any necropsies, obviously for  
20 the adult birds that you lost?  
21 A. Only for Wizard.  
22 Q. Okay. What was the result of Wizard's  
23 necropsy?  
24 A. It was inconclusive. The necropsy said other  
25 and PDD.

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1 MR. SCUDDER: But they weren't sure. Sorry.  
2 A. There is -- I have shown -- I have shown  
3 copies of his necropsy to people who are involved in  
4 PDD research, and they say that they cannot say for  
5 sure that he died of PDD because the lab neglected to  
6 look at his brain. They only looked at the  
7 proventricular and the ventricular, and there are other  
8 illnesses that mimic PDD, so they cannot say for sure  
9 that he died of PDD.  
10 Q. (BY MS. CABALO) Who conducted the necropsy  
11 for Wizard?  
12 A. Northwest Zoo Path.  
13 Q. Is that a -- forgive me for being --  
14 A. It's a avian lab, supposed to be one of the  
15 best in the country.  
16 Q. Northwest Zoo Path?  
17 A. Northwest Zoo Path.  
18 Q. And so for the other birds you didn't conduct

19 any necropsies?

20 A. We knew it was mate aggression. Birds, when a  
21 mate kills another bird they tear their beak off. If  
22 you have a bird that's beak is torn off, you know it's  
23 mate aggression. Why go spend the money on a necropsy.

24 Q. You may have answered this question when  
25 Melissa asked these questions the first deposition you

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1 had, so forgive me if I'm reasking it. Is there  
2 standard practice as to when you would need to conduct  
3 a necropsy for a bird that you've lost?

4 A. Like in the case with Wizard, when you had a  
5 bird that all of a sudden was well and then got --

6 Q. When you don't know?

7 A. When you don't know.

8 Q. Is it standard practice at the farm for you to  
9 conduct necropsies for those birds that it's not easily  
10 identifiable, like as if the mate had killed them and  
11 it was obvious that that was the cause of death? Is it  
12 standard practice at the farm to conduct a necropsy in  
13 every case where you don't know?

14 A. If we don't -- if we don't know how they died  
15 and -- or if there's like no obvious, yes, it's  
16 standard practice. If it is a bird that we know was a  
17 wild caught and was at an age where it would be a  
18 normal time for that bird to die, and it exhibits signs  
19 of old age, we don't perform necropsies. We just let  
20 them live their lives out and --

21 But if we have a bird that dies under  
22 suspicious circumstances, and we can't make a decision  
23 as to why or it's not obvious as to why that bird died,  
24 then a necropsy would be performed, as in the case of  
25 Wizard is the only one that we've had that.

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1 Some people will conduct necropsies on  
2 hatchlings that are, you know, less than a month old.  
3 We don't have that practice, one, because, as John  
4 said, the first month you don't even really count them  
5 as -- because there's so many things that could happen.

6 And so -- and the other is is that if you  
7 started necropsying every little hatchling or every  
8 bird that died in the shell, your expenses on that,  
9 it's already expensive enough to have birds, so if you  
10 can make a determination, why spend the money on that.

11 Spend it on something else that's better for the birds.  
12 Q. Do you normally have Northwest Zoo Path do  
13 your necropsies when you have to have one done or  
14 you've decided to have one done, or have you gone  
15 elsewhere to have a necropsy done?  
16 A. I personally have only ever used Northwest Zoo  
17 Path. I believe that in the past Suzanne had  
18 Dr. Dhillon do necropsies.  
19 Q. How much does Northwest Zoo Path charge for  
20 them to conduct a necropsy for you?  
21 A. The fee for Wizard's necropsy was -- hang  
22 on -- was in the neighborhood of \$200, because there  
23 was -- the fee for the gross necropsy from the vet was,  
24 I believe, 35 or \$45, and then the cost for the lab  
25 itself was either 150 -- I think it was 152.

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1 Q. So approximately \$200?  
2 A. So it's approximately \$200 for a necropsy.  
3 Q. I'm going to jump around just because we're  
4 talking about Wizard, and I apologize. I understand  
5 that Wizard was a personal pet of yours. There were  
6 two incidents that you described earlier, and again,  
7 correct me if I'm not being accurate with your earlier  
8 testimony, two incidents after the restraining orders  
9 had already been put into effect where you had actually  
10 had contact with Martha for one reason or another, and  
11 the first was Thanksgiving of 2004. Am I correct?  
12 A. No, the first one was in --  
13 Q. Actually, I mean with regard to Wizard.  
14 A. With regard to Wizard.  
15 Q. Was that the time, around Thanksgiving?  
16 A. Thanksgiving of 2004, because I didn't know --  
17 you know, I was just -- he was sick and she said that  
18 there was the 24-hour clinic that was open.  
19 Q. Who is she?  
20 A. Martha told me about the 24-hour emergency vet  
21 clinic. I didn't know about the 24-hour emergency vet  
22 clinic, and Martha told me about it.  
23 Q. What symptoms was Wizard exhibiting that made  
24 you worry and realize that something was wrong with  
25 him?

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1 A. When he was making a funny sound and he wasn't  
2 perching well. He was a little disoriented. And the

3 biggy was that he wasn't perching well. When birds  
4 can't perch well that means they're sick.

5 Q. How did you acquire Wizard?

6 A. Wizard was the very first baby I'd ever stuck  
7 a pipet in his mouth, and John traded Martha two  
8 Yellow-naped Amazons for him.

9 Q. So that was a bird that came out of Martha's  
10 aviary that you cared for?

11 A. He was born on Martha's property, yes.

12 Q. He traded?

13 A. He traded her two Yellow-naped Amazons.

14 Q. Okay.

15 A. John has kind of a superstition. When a new  
16 pair of birds is set up, the first baby that they  
17 produce he keeps. That's why about 40 percent of our  
18 flock was actually born on our farm. And because  
19 Wizard was the first baby I ever fed, he traded the  
20 napes for Wizard because of that first -- that kind of  
21 like superstition.

22 Q. Again, I apologize. I do understand that that  
23 was your personal pet.

24 So Wizard -- I'll pause for a moment.

25 A. That's okay, go ahead.

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1 Q. Wizard's not perching well, he's obviously  
2 ill, and explain for me the way in which you spoke or  
3 got Martha to talk to you more about the 24-hour  
4 emergency vet.

5 A. He wasn't perching well. I had been looking  
6 through the phone book. I couldn't find any vets that  
7 were still open. And Suzanne was there, and Suzanne is  
8 not included in the restraining orders, so Suzanne used  
9 her cell phone and she called Martha. And because  
10 Martha has been breeding birds for a long time and  
11 she's seen a lot of different symptoms in birds, and  
12 Suzanne told Martha Wizard wasn't -- was sick and that  
13 he wasn't perching well, and was there anything that  
14 she thought that we could do for him.

15 And Martha -- I don't know what Martha told  
16 Suzanne. And I said, Ask Martha if she'll violate me  
17 on the restraining order if I talk to her about my  
18 bird. And --

19 Q. So did Martha come over at that time?

20 A. No. I talked to Martha on Suzanne's cell  
21 phone, because when she asked her, Martha said she

22 would talk to me and that she wouldn't violate --  
23 wouldn't pull me in on a contempt of court. And I  
24 described the symptoms and she said she had no idea,  
25 and I asked her is there any vet that you know that I

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1 can call that will go into his office this late on  
2 Wednesday before Thanksgiving.  
3 And she said, No, she said, have you tried the  
4 24-hour vet clinic up on 38th in Tacoma? And I said I  
5 didn't even know about it. And she said, That's who I  
6 would try. And I said, okay, and I said, Thank you,  
7 Martha. I know you hate me, but I know you wouldn't  
8 knowingly let a bird die. And she said, I don't hate  
9 you, Kathy. And I said, Thanks for talking to me about  
10 my bird, and we hung up.  
11 Q. Since we're talking about your contact with  
12 Martha post the restraining order having been in  
13 effect, the other incident that I at least have in my  
14 notes, and again, correct me -- we can take another  
15 pause?  
16 A. No, that's okay.  
17 Q. -- was summer of 2004, where you had some  
18 babies that were dying of a yeast infection?  
19 A. They weren't dying of a yeast infection. They  
20 had a yeast infection and they were being treated  
21 and --  
22 Q. How were you treating them?  
23 A. They were on Nystatin and Diflucan.  
24 Q. Okay.  
25 A. And Diflucan is spelled D-I-F-L-U-C-O-N

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1 (sic.), and Nystatin is spelled N-Y-S-T-A-T-I-N.  
2 Q. Okay.  
3 A. Nystatin is a standard antifungal for yeast  
4 infections, and Diflucan is an oral -- it's a pill.  
5 It's a human for -- they use it to treat humans. You  
6 crush it and mix it with distilled water and make a  
7 suspension and give it to the babies that way based on  
8 weight.  
9 Q. Correct me if I'm wrong, but you had earlier  
10 testified that when you realized that the babies had  
11 the yeast infection, you had asked Martha to look at  
12 the babies?  
13 A. No, actually what it was was Scott McDonald

14 was there at my house for a sexing clinic, and it's  
15 unusual -- I only had eight babies that had been born,  
16 and it's highly unusual for eight babies to come down  
17 with yeast all immediately, at the same time. And they  
18 were -- they were having -- you can tell that the  
19 babies -- that baby birds have yeast because they get  
20 these little white dots on their tongues and their  
21 tongues and their mouths get slimy, but these ones were  
22 also having -- their crops were filling with air.  
23 And that started the day that Scott was there  
24 for the sexing clinic, so I asked Scott about it and he  
25 said it's --

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1 Q. That's Dr. McDonald?  
2 A. Dr. McDonald, yes. And Dr. McDonald said that  
3 sometimes yeast will make the crop blow up with air,  
4 and that if they hadn't responded to the Nystatin in  
5 three days, that I should put them on the Diflucan.  
6 So when they hadn't -- that was on a Monday.  
7 When they hadn't responded by Wednesday to the  
8 Nystatin, I called Dr. Brown and told him what  
9 Dr. McDonald had told me, and said, Do you need for me  
10 to bring all of these babies down there? because  
11 they're not supposed to prescribe antibiotics unless  
12 they actually seen the bird.  
13 But he said it would be more dangerous to the  
14 babies to take them out of their controlled  
15 environment, and since that Dr. McDonald had seen it,  
16 he went ahead and called in the prescription for the  
17 Diflucan. And they had been on the Diflucan for about  
18 a day and the air was still filling their crops.  
19 And that was the same time that Brandon wanted  
20 to start talking to Grandma again, and Brandon felt  
21 that that would be an opening for him to go talk to  
22 Grandma, one of those things like, You know, Grandma,  
23 the babies are sick. Would you come over and look at  
24 them for Kathy? And it was -- I was hoping in doing  
25 that that at least the kids could see their

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1 grandmother. And --  
2 Q. Did Martha -- forgive me, I want to try to get  
3 through this. We're almost done.  
4 A. And Martha came over to my house that day.  
5 Q. What did Martha tell you or what questions did

6 Martha ask you about how you were caring for the babies  
7 or anything with regard to assessing the --

8 A. I took her in and I showed her the babies, and  
9 she said, What are you doing? And I said, I'm giving  
10 them the Nystatin and the Diflucan twice a day and  
11 swabbing their mouths with the Nystatin every time I  
12 feed them. And I said -- and she said, Anything else?  
13 And I said, No. And she said, Well, the only thing  
14 that I could think of is mix every single one of them's  
15 food in a separate cup.

16 Q. How were you feeding them prior to?

17 A. Well, you mix the baby food in one cup. And  
18 quite honestly, it didn't occur to me that when I  
19 put the -- because it's standard to -- you mix it in  
20 the cup and you fill the pipet and you feed one baby,  
21 and then you fill the pipet and you feed the next baby.  
22 It didn't really occur to me that I was maybe possibly  
23 continuing contaminating them that way. And she --

24 Q. With one cup.

25 A. With one cup. And so she said that the only

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1 other thing that she would think of doing -- could  
2 think of doing is mix it in separate cups. And so I  
3 said, Okay.

4 And then Suzanne was over at Martha's a couple  
5 of days after that and I guess they discussed it, and  
6 Martha told Suzanne I was doing everything right. You  
7 know, I wasn't -- you know, I was doing the best, you  
8 know, and nothing -- Martha told me there was nothing  
9 more other than that she could tell me to do.

10 Q. Did the babies get better after you  
11 implemented that?

12 A. Oh, yeah. Every single one of them survived.

13 Q. I'm going to skip back for just a minute as to  
14 procedures and the way things are done at the farm.  
15 You had earlier testified in your January 13th  
16 testimony, and again, correct me if I'm  
17 mischaracterizing in any way, that part of the things  
18 that were cleaned up when everybody pitched in to help  
19 Martha with her aviary before Dr. Bennett's follow-up  
20 in June of 2003, part of the problems that I think you  
21 also identified that Martha has with her aviary, or had  
22 at the time, at least, was vegetation growing around  
23 the cages.

24 A. Right.

25 Q. And whatnot.

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1 A. Not only around the cages, but up along the  
2 birdhouses. See, the birds are kept in like great big  
3 greenhouses and the cages are partially -- they're  
4 suspended by chains, and they also rest on like  
5 two-by-fours, and so vegetation can grow up around  
6 those two-by-fours and stuff, as well as the cages.

7 Q. And the ventilation, is it caused oftentimes  
8 by seed maybe falling from feed?

9 A. Actually, the vegetation that you get from  
10 seed would be under the cage. Generally the vegetation  
11 that grows up around cages or up around the birdhouses  
12 is like naturally occurring vegetation here in  
13 Washington, you know, viney stuff that grows up.

14 Q. Does your farm have any problems with  
15 vegetation around your cages?

16 A. No. We mow it down. We keep it and we tear  
17 it down.

18 Q. How often do you try to upkeep in terms of  
19 vegetation that may grow around the cages?

20 A. In the wintertime you don't have a problem  
21 with it. In the summertime they're mowed in the  
22 birdhouses at least once a week. We keep all of the  
23 underneath the cages and the stuff mowed down because  
24 it's -- you can't see if there's a little hole or  
25 something like that and you can fall and break your

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1 ankle. So John or the boys mowed once a week, or any  
2 time the grass got more than, you know, maybe, what,  
3 six or seven inches high, they're in there mowing.

4 Q. So it's your testimony that at your farm you  
5 try to upkeep the vegetation that may be near your  
6 cages at least once a week?

7 A. Right.

8 Q. During the summer.

9 A. During the summer, yeah, you keep the  
10 vegetation down if there's, you know -- if it grows  
11 faster than that, if it starts, you know, like to grow  
12 up into the cages, then it gets taken out before then,  
13 you know, because nightshade can grow really fast.  
14 Nightshade can grow in a couple of days up into a cage,  
15 and so you've got to tear it out.

16 Q. Let's switch gears here a bit and talk more

17 about quarantine procedures at your farm, and using  
18 Robin Scudder's birds as an example, since I understand  
19 they're currently in quarantine at your farm. Where is  
20 the quarantine area? And particularly you can answer  
21 where Robin's birds are being quarantined --  
22 A. They're quarantined --  
23 Q. -- on your property.  
24 A. We have our -- we have three birdhouses. One  
25 runs -- you know, how to explain -- vertically and two

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1 run horizontally to that one that's vertical. And then  
2 there is the area that is --  
3 Q. Would it be helpful if I gave you a piece of  
4 paper that you can draw on?  
5 A. I can draw it, yeah.  
6 MS. CABALO: If Counsel doesn't object.  
7 MS. MacDOUGALL: I have no objection.  
8 MS. CABALO: We can use this as an exhibit  
9 when we're done. Let the record reflect that the  
10 deponent is drawing, on a piece of paper and with a pen  
11 that I provided her, the layout of the Happy Hookbills  
12 farm, the farm.  
13 A. Okay. It's not to scale.  
14 Q. (BY MS. CABALO) That's fine.  
15 A. We have three birdhouses. They're 100 feet  
16 long, I believe these two are 20 feet wide. It's  
17 either 20 or 24 feet wide. Okay?  
18 MS. CABALO: Let the record reflect that the  
19 deponent is referring to two structures labeled 100  
20 feet long by 20 feet.  
21 Q. (BY MS. CABALO) Or as you're describing now,  
22 perhaps 24 feet wide.  
23 A. And they're like a big greenhouse. Okay?  
24 Same thing here. It's 100 feet long, and I'm not sure  
25 how wide it is. In these birdhouses we have cages that

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1 are on both sides of a central walkway.  
2 MS. CABALO: Again, let the record reflect  
3 that the deponent is drawing cages in the two buildings  
4 labeled 100 feet long by 20 feet wide.  
5 A. And then the one long birdhouse, we only have  
6 cages along one side. It's 100 feet long, but I don't  
7 know how wide that is, but we only have cages -- and  
8 this is the walkway area.

9 Q. (BY MS. CABALO) On one side?  
10 A. On one side of it. And then on the back side  
11 of where the cages are on -- in all buildings is where  
12 the nest boxes are, so there's actually an open area in  
13 here behind the cages where you --  
14 Q. Can access the nests?  
15 A. Where you can get the access to the nest boxes  
16 to collect the eggs.  
17 Q. Is the unlabeled rectangle your home that  
18 you've drawn on this exhibit?  
19 A. Okay, the unlabeled rectangle is an area of  
20 ground that was leveled, and it's where someone had a  
21 birdhouse on the facility and they removed the  
22 birdhouse, and that's where we put Robin's birds for --  
23 there's also a step-down and a fence between -- this is  
24 a little long, but this fence, this fence goes here.  
25 It's just like a barbed wire fence, and then you can go

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1 down --  
2 MS. CABALO: Let the record reflect that the  
3 deponent is drawing a line --  
4 Q. (BY MS. MacDOUGALL) Could you give me an  
5 acclimation, actually? Do you know where north is on  
6 this map? Could you help me out here? I forgot.  
7 A. I know Mount Rainier is over here, so that  
8 would be kind of east.  
9 MS. CABALO: The deponent is drawing a circle.  
10 Q. (BY MS. CABALO) Could you label that, put an  
11 R on that for me? Or Mount Rainier, that works, too.  
12 A. (Witness complied.) Mount Rainier is over  
13 here, so that would be east.  
14 Q. Where is Martha's property? Maybe that might  
15 help me out.  
16 A. Martha's property is directly beside our  
17 property, right here. I mean, not up in the Mount  
18 Rainier, but --  
19 Q. This direction. That direction is Martha's  
20 property?  
21 A. Yeah, over here is Martha's.  
22 Q. Could you put -- there you go -- an X. That's  
23 fine.  
24 A. (Witness complied.) In order to reach our  
25 property there -- at the very edge of Martha's property

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1 is a recorded easement that is our driveway. We cross  
2 that easement to get to our property, but that's like  
3 way up here. The birdhouses are behind the house.  
4       Anyway, this area here is leveled, and it's  
5 where that birdhouse was. And so when Robin brought  
6 her birds over, what they did was they just set them  
7 over the fence from Martha's instead of having to carry  
8 everything all around, and we put up temporary shelter  
9 for Robin's birds in this area here because it's away  
10 from our birds.  
11       It was in -- it could be -- they could be fed  
12 last, and we put -- we put a foot bath. There's --  
13 there's like two rows of her -- of her birds, and it's  
14 temporary. They're set on all sorts of things to keep  
15 them up off the ground and --  
16       Q. So they're in cages?  
17       A. They're in cages and they're sitting up on  
18 other old cages. They're sitting up on --  
19       Q. To elevate them?  
20       A. To elevate. You don't want birdcages sitting  
21 on the ground that's dirty, and so they're elevated and  
22 they're all covered with plastic and --  
23       Q. But there's no structure there because that's  
24 been leveled?  
25       A. Yeah, there's no structure. What we did was

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1 that we utilized some old two-by-fours and different  
2 things, and put stuff up so that we could get the  
3 plastic around her cages and things like that to keep  
4 the elements off of her birds. A lot of her birds,  
5 too, also have a tent on the top of their cages, so.  
6       Q. So they've already got some shelter built into  
7 their existing cage.  
8       A. Into the cage, some of them do. And then we  
9 put plastic all over both of these -- both of these  
10 little areas, sets, okay, there's plastic and stuff.  
11       Q. Let me reiterate, and correct me if I'm wrong.  
12 You've got their existing cages that you've elevated  
13 somehow, either with other cages or whatever --  
14       A. Yeah, whatever we could --  
15       Q. -- you could find to make sure they're  
16 elevated?  
17       A. -- just to get them up off the ground for 45  
18 days.  
19       Q. And then you've thrown some plastic over it?

20 A. And then there's plastic that is stretched  
21 over.  
22 Q. Is that like Visqueen or --  
23 A. Yes, **Visqueen**, it's exactly like Visqueen.  
24 Q. Do you know where in Martha's facility these  
25 birds were being held before they came onto your

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1 property?  
2 A. They were -- they were in one of the  
3 birdhouses because they were Cockatoos. If I was on  
4 Martha's property I could show you which birdhouse they  
5 were in, but as to what those -- what she calls that  
6 birdhouse, I haven't the foggiest.  
7 Q. Where were these birds held before? Was it  
8 also out in the open air or was it a heated facility,  
9 as far as you understand where these birds were being  
10 kept?  
11 A. They were in the same type of greenhouse  
12 buildings like we do, plastic.  
13 Q. How far away is this structure where you've  
14 got the birds quarantined from the three -- or actually  
15 the two closest birdhouses that are your birds?  
16 A. In between here?  
17 Q. If you had to estimate the distance, yes, the  
18 closest point between this quarantine facility and --  
19 A. And that? I would venture to say 20, 30 --  
20 let's see, 30 to 40 feet in between.  
21 Q. But at the closest point between the  
22 quarantine area?  
23 A. And see, these houses are enclosed in plastic,  
24 too, so there's no crossover between air and things  
25 because these are -- these buildings are enclosed in

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1 plastic because it's wintertime.  
2 Q. How many of Robin's birds did you take in in  
3 December of 2004?  
4 A. How many did we add up, 29 or 30 or whatever?  
5 I'd have to go back through how many pairs it was.  
6 Q. That's fine. Do you still have all of the  
7 birds that you took in from Robin? Are they all still  
8 with you now?  
9 A. Yeah, they're all right there in quarantine.  
10 They don't get out of quarantine until February 10th.  
11 Q. So none of them have been given to other

12 aviaries or died or --

13 A. No, not since they came on our property.

14 Q. Okay. So the same number of birds that you  
15 got from Martha's aviary in December of 2004 is the  
16 same number of birds you have now for Robin's birds?

17 A. From Robin's birds, yes.

18 Q. Almost done.

19 Let's talk a little bit, I want to talk a  
20 little bit about you described a conversation that  
21 Martha had had with you upon having to decide what to  
22 do with the potential warrant that was issued against  
23 her by the health department in, I think that was the  
24 end of 2004.

25 A. That was in 2003.

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1 Q. I'm sorry. Do you remember what month, again?  
2 I should have this written down, but I -- or season?

3 A. October, November. November, probably.

4 Q. End of the fall 2004, approximately?

5 A. It was the fall of 2003.

6 Q. Three, I'm sorry.

7 A. In the fall of 2004 we were not speaking,  
8 because the only time I spoke to her was at  
9 Thanksgiving in the fall of 2004, that one night. This  
10 would have been somewhere either very late October or  
11 early November of 2003.

12 Q. And at this time it was your earlier  
13 testimony, and correct me if I'm wrong or if I'm  
14 mischaracterizing, that Martha told you that when you  
15 had referred to a bird on her porch that you thought  
16 looked sickly and could potentially have PDD, that she  
17 might want to figure out what to do with these sick  
18 birds or with that sick bird, and she had mentioned  
19 that any sick birds would go into Vivian Graves's  
20 trailer.

21 A. What it is, it wasn't on her porch. It was  
22 inside the lower level of her house in a cage. And I  
23 said -- and when she said that they were going to serve  
24 a warrant, and I said, Martha, you really ought to get  
25 that Cockatoo out of there because I think it's got

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1 PDD. And she said that one and any other ones that  
2 don't look too good are going over to Vivian's trailer.

3 Q. Do you know when Vivian brought her trailer to

4 Martha's property?

5 A. It was in the summer of 2003.

6 Q. Do you happen to know when Vivian received her  
7 certificate of occupancy so she could actually occupy  
8 that trailer?

9 A. I don't know. It's not -- it's not even  
10 skirted yet. It's -- I don't know if there has been a  
11 certificate of occupancy.

12 Q. So do you also not know when she moved into  
13 the trailer, whether or not she has a certificate of  
14 occupancy?

15 A. I know she lives in the trailer because she  
16 uses -- her access to her trailer is our driveway, too.

17 Q. And she lives in it now?

18 A. And she lives in it now.

19 Q. But in November or October of 2003 was Vivian  
20 living in the trailer?

21 A. No, she wasn't living. She was living in  
22 Martha's house at that time.

23 Q. Okay. Last set of questions and then I'm  
24 done. One more; two sets of questions, but the last  
25 one is just one single question.

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1 You had mentioned earlier, and this may have  
2 been in your January testimony, that there was a point  
3 in time where the seed for the farm and the seed for  
4 Martha's aviary were the same. They were mixed and --

5 A. Yes.

6 Q. -- basically handled, and there was one and  
7 the same. Again, could you explain to me the  
8 arrangement with the seed mixture, who bought it, how  
9 it was mixed, where it was mixed?

10 A. Okay. Until it was either late -- I think it  
11 was like mid to late September of 2003. Up until that  
12 time, all of the bird food, the seed and the cooked  
13 diet, were prepared on Martha's farm. I would go down  
14 in the mornings and cook the pea mix or Martha would  
15 cook the pea mix. Martha would sometimes mix seed, but  
16 as a general rule, that summer of 2003 Brandon would  
17 mix the seed.

18 And Martha has what she calls her seed  
19 container. What they are is they're like plaster or  
20 cement mixers, the little ones, and you put your seed  
21 mixture in and you mix it all up and then you dump it  
22 into another -- like we use big garbage cans with lids

23 because it keeps the rodents out of it.  
24 Q. Is it correct, to also go back to other  
25 testimony you had, where all the seed was bought in

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1 bulk with your account at the time, or Happy Hookbills,  
2 the farm's account at the time, but Martha would pay  
3 for it and then you would pay her -- what was the  
4 payment arrangement in terms of purchasing the seed?

5 A. We paid for half the seed -- when Martha would  
6 order seed, whatever she ordered for Tom and Jonna and  
7 whatever she ordered for Don and Betty, she would  
8 subtract that out of the total, and then we would pay  
9 for half of the seed, okay?

10 Q. How were those payments made? Did you make  
11 the payments or did John?

12 A. John would write a check to Martha Scudder.

13 Q. So from John's personal account to Martha,  
14 he'd write out whatever --

15 A. Whatever half of the portion was. We didn't  
16 use half the seed, we only used about a third, but we  
17 paid for half because that helped Martha.

18 Q. Okay. Why did this arrangement stop in --

19 A. Because of Bob Vincent.

20 Q. Okay. Was there a specific altercation with  
21 regard to seed or was this just a general altercation  
22 that you had?

23 A. It was because of the general altercations.  
24 It had become to the point where we did not want to  
25 have to go down to Martha's to deal with seed or

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1 anything, and we made the decision to start cooking the  
2 pea mix at our house and mixing our seed mixture again.

3 Q. Are you aware of an altercation that Bob may  
4 have had, perhaps maybe not with you but with John,  
5 with regard to payment for the seed in about, it would  
6 have been around the same time, November of 2003?

7 A. The only time I remember any kind of  
8 altercation between John and Bob about seed is John had  
9 written the check for payment for half of the seed to  
10 Martha, and Martha and Bob were doing an inventory, and  
11 John went to hand Martha the check and she didn't take  
12 it, and Bob went to reach it to get it out of his hand  
13 and John wouldn't give it to Bob.

14 As far as John's concerned, Bob doesn't exist.

15 And he stuck it on a clipboard. He stuck the check  
16 underneath the clip on the clipboard that was on top of  
17 one of the cages.

18 Q. Do you know why Martha didn't take the check  
19 when John tried to give it to her?

20 A. She was -- she was holding a bird in one hand  
21 and --

22 Q. She was preoccupied at the time?

23 A. She was -- yeah, she was preoccupied with the  
24 bird, and so he just stuck it -- he would not hand it  
25 to Bob and he put it on the clipboard. And I don't

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1 know what Bob said because I didn't hear what Bob said,  
2 but I heard John tell Bob that get a job and quit being  
3 a gold digger.

4 Q. Do you know approximately how much, and  
5 obviously this may vary from month to month, or  
6 whenever you folks have to buy seed, but is there an  
7 average amount that you know you folks paid for your  
8 half of the seed whenever John would write a check to  
9 Martha?

10 A. It would depend on -- see, you use different  
11 kinds of seed at different rates, but I would say the  
12 average was between 275 and \$300.

13 Q. For your share?

14 A. A month for our share. One month I believe it  
15 was 250, but that was like a month where she'd only  
16 ordered -- it hadn't been a whole month, it had only  
17 been like three weeks or something.

18 Q. Final set of questions and I'm done. We had  
19 talked earlier about -- I hadn't talked with you,  
20 actually, but Melissa talked about a Yellow-crown Mealy  
21 Amazon that Becky Adams had taken from Martha?

22 A. Martha gave it to her, yes.

23 Q. You earlier stated, and correct me if I'm  
24 wrong, that when you spoke with Becky, that Martha had  
25 stated to Becky that the bird had had a stroke?

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1 A. Yes.

2 Q. As far as you understood, as it was  
3 communicated to you by Becky or other information you  
4 may have, did Martha describe anything else that was  
5 potentially wrong with this Amazon?

6 A. No. She said that bird had been downstairs

7 that whole summer. Martha told me it had a stroke.

8 Q. Okay.

9 A. And she told me that Cockatoo had a stroke.

10 Q. Okay.

11 MS. CABALO: And I'm done.

12

13 EXAMINATION

14 BY MS. MacDOUGALL:

15 Q. I just have a few follow-ups. Kathy, when you  
16 stated that the seed was being purchased on your  
17 account, and Martha was ordering for Tom and Jonna --

18 A. And Don and Betty.

19 Q. Was that when Tom and Jonna were operating and  
20 running the Cripple Creek Aviary or was that after the  
21 Cripple Creek was closed down?

22 A. See, I never saw Cripple Creek Aviary. The  
23 only time that I knew about Tom and Jonna and their  
24 birds were they were in that large birdhouse that has  
25 been removed off of our property. I didn't even know

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1 that they were Cripple Creek Aviary for months and  
2 months and months. I don't know if they still use the  
3 name Cripple Creek Aviary. I wouldn't know.

4 And we never entered their building. It was  
5 locked. They came and fed their birds themselves every  
6 single day. In fact, when we were having to keep our  
7 gate locked with all of the threats from the animal  
8 rights activists, we had to get a combination lock so  
9 that Tom and Jonna could get in so we didn't have to  
10 pass out 20 keys.

11 Q. And the other people, do they own and  
12 operate -- I apologize.

13 A. Don and Betty.

14 Q. Don and Betty, is it?

15 THE WITNESS: Is it Holitz is their last name,  
16 Don and Betty?

17 MR. SCUDDER: Holitz.

18 A. Holitz.

19 Q. (BY MS. MacDOUGALL) Do they own and operate  
20 an aviary as well?

21 A. They have birds. As far as an aviary with a  
22 name or how big it is, no. They do small birds, like  
23 Indian Ringnecks and Cockatiels.

24 Q. So it may be a pet situation?

25 A. No, they sell them, because when I -- in 2003,

1 when I had -- because I will get occasional e-mails  
2 from our web site with people requesting about birds,  
3 and so I would -- I had a list of what birds we had and  
4 what birds -- this is in 2003 -- that Martha had.

5 And Don and Betty were over there, and I said,  
6 Is there -- are there any birds, because I'm sending a  
7 list to somebody. And I can't even remember who it  
8 was. It was an e-mail. Somebody had asked what kind  
9 of birds. And I said, Is there any -- do you have any  
10 birds, and they said, We've got a couple of Lutinos,  
11 and they told me -- I think that they wanted \$200  
12 apiece for them.

13 And that's the extent of what I know about  
14 their operation, other than that, yes, they do breed  
15 birds, but is it a hobbyist type. I think that it is.  
16 See, there's commercial breeders, there's backyard  
17 breeders and there's hobbyist breeders, and I believe  
18 they're like a hobbyist breeder.

19 Q. I want to refer you to the vet records that  
20 you shared with us earlier at your deposition for  
21 Precious, which --

22 MS. MacDOUGALL: Let's go off the record a  
23 minute.

24 (Deposition Exhibit Nos. 1-2 were marked for  
25 identification.)

1 Q. (BY MS. MacDOUGALL) Kathy, while we were off  
2 the record I was going to start asking you about these  
3 Tumwater Veterinary Hospital records, and we went off  
4 the record because I got confused by the letter dated  
5 1/12/05 from Dr. Bennett. You explained to us that in  
6 reviewing the records that you were going to bring in  
7 response to my subpoena for the deposition that you  
8 noticed his characterization of PDV, and so you called  
9 the office to get clarification, and Dr. Bennett wrote  
10 this letter and dated it 1/12/05, which was actually  
11 the day before the first part of your deposition --

12 A. Right.

13 Q. -- in order to clarify what he meant, and  
14 faxed it to you; is that correct?

15 A. Yes.

16 Q. Great. So I'm going to hand you what has now  
17 been marked as Exhibit No. 1, and is that the records

18 from Dr. Greg Bennett, Tumwater Vet Hospital, for the  
19 bird Precious that we've talked about during your  
20 deposition?

21 A. Yes, it is.

22 Q. Okay. And I did not see as I went through  
23 there a calculation of expenses or costs. Do you  
24 recall how much you paid for this vet visit or series  
25 of visits? And just a ballpark figure is fine.

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1 A. Around \$300.

2 Q. Now, let me hand you what has been marked as  
3 Exhibit No. 2, and please, just for the record,  
4 identify what Exhibit No. 2 is.

5 A. It's a drawing of our birdhouses and where we  
6 have Robin Scudder's birds in quarantine.

7 Q. Who is the artist of the drawing?

8 A. I did it.

9 Q. And a fine job you did.

10 A. It's not very to scale.

11 Q. Okay.

12 MS. MacDOUGALL: Let me take just a moment.  
13 We can go off the record. I don't think I have  
14 anything else, but I just want to quickly check.

15 (Pause in proceedings.)

16 MS. MacDOUGALL: Back on the record.

17 Q. (BY MS. MacDOUGALL) When you had your last,  
18 I'll call it conversation, and I'm not sure it took  
19 place, either telephone or e-mail, with Mike Carter,  
20 did he say anything to you about pressure from Pierce  
21 County Humane Society or Pierce County council being  
22 placed on the newspaper for him to not publish the  
23 article about Martha Scudder's aviary?

24 A. No. The only thing that he said was is that  
25 they -- in their investigation they could not prove

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1 abuse, so they were not going to run the article.

2 MS. MacDOUGALL: I don't have any further  
3 questions. You have a right to review this transcript  
4 and see if there's any corrections or changes. I do  
5 have to warn you that Counsel and I, if you  
6 significantly changed your testimony, we could in some  
7 way attempt to use that against you or point that out,  
8 at least, if this would go to trial or for motions or  
9 something.

10 But you do have the right to read it and make  
11 any corrections, so would you like to do that or would  
12 you like to waive the review and signature of it? And  
13 it's completely up to you.

14 THE WITNESS: I would like to read it and sign  
15 it. I have learned don't waive any rights.

16 (Deposition concluded at 3:55 p.m.)

17 (Signature was reserved.)

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1 CORRECTION & SIGNATURE PAGE  
2 RE: SCUDDER vs. GALLOVA  
KING COUNTY; No. 04-2-04721-8SEA  
3 KATHY SCUDDER; TAKEN FEBRUARY 3, 2005  
REPORTED BY: CARLA R. WALLAT

4  
I, KATHY SCUDDER, have read the within transcript  
5 taken FEBRUARY 3, 2005, and the same is true and  
accurate except for any changes and/or corrections, if  
6 any, as follows:

7 PAGE/LINE	CORRECTION	REASON
8	_____	_____
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10	_____	_____
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22 Signed at \_\_\_\_\_, Washington,  
23 on this date: \_\_\_\_\_.

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REPORTER'S CERTIFICATE

I, CARLA R. WALLAT, the undersigned Certified Court Reporter and Notary Public, do hereby certify:

That the testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were by me duly sworn to tell the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND AND SEAL this 12th day of February 2005.

CARLA R. WALLAT  
Certified Court Reporter  
CCR No. 2578  
Notary Public in and for the  
State of Washington, residing  
in King County. Commission  
expires 1/17/2006.