UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 0:23-cr-60170-RNS-1

UNITED STATES OF AMERICA, Miami, Florida

Plaintiff, June 4, 2024

vs.

ALEXANDRA ACOSTA,

Defendant. Pages 1 to 73

EXCERPT FROM JURY TRIAL
(TESTIMONY OF VICTORIA HERNANDEZ)
BEFORE THE HONORABLE RONALD N. SCOLA
UNITED STATES DISTRICT JUDGE

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I N D E X

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(The following is an excerpt from the jury trial proceedings:)

* * * * *

MR. JONES: The Government calls Victoria Hernandez.

Thereupon:

VICTORIA HERNANDEZ

was called as a witness and, having been duly sworn, was examined and testified as follows: .

THE WITNESS: I do.

THE COURT: Please have a seat, make yourself comfortable. When you are ready, state your name and spell your last name.

THE WITNESS: My name is Victoria Hernandez, H-E-R-N-A-N-D-E-Z.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MR. JONES:

Q. Good morning.

A. Good morning.

Q. Miss Hernandez, where do you work?

A. I work for the Internal Revenue Service.

Q. And how long have you worked there?

A. I have worked there for 16 years.

Q. And what is your current title?

A. I am a court witness coordinator.

Q. Can you describe to the jury what your duties and

responsibilities are as a court witness coordinator?
A. As a court witness coordinator, I represent the Commissioner in his role as a custodian of records.
Q. So, in layman's terms, are you responsible for all the documents kept in IRS's ordinary course of business?
A. Yes, I am.
Q. Are you familiar with income tax returns?
A. Yes, I am.
Q. Can you briefly just describe that, what they are to the jury?
A. Tax returns like form 1040s, business tax returns, correspondence that's received, correspondence that is sent out, things like that.
Q. Are you also familiar with an IRS audit?
A. Yes. Yes, I am.
Q. And what is it, in general?
A. An audit is when our examination department will do an additional review of an individual or a business account, or their financial information, to review to see if the information that they provide us is accurate, to tax law.
Q. And, in your role as a witness coordinator, do you handle tax returns at all?
A. As a court witness coordinator, I certify documents that are -- that they are true and valid to what they are on the IRS systems and what are kept in our records.

Q. But, you don't review them for technical accuracy?
A. No, I do not.
Q. Do you conduct any audits, yourself?
A. No, I do not.
Q. In preparation for today's testimony, did you review IRS records related to Alexandra Acosta for the tax years 2018 through 2020?
A. Yes, I did.
Q. And, did those records include tax returns for 2018, 2019, and 2020?
A. Yes.
Q. And, did those records also include an audit file related to 2018 and 2019 tax years?
A. Yes.
Q. Now, before I turn to any records here, can you describe or explain what a Form 1040 is?
A. A Form 1040 is a U.S. individual tax return. It is what tax payers use to file their tax returns for the year, for all monies that they received for the years, and for that year, in specific, and to file their taxes for that year.
Q. Are you also familiar with a Schedule C?
A. Yes.
Q. What is that?
A. That is a form that is used to file profit and losses of a business.

Q. Can those businesses -- is that for an incorporated business?
A. No. Those are for sole proprietors, a single person that owns a business.
Q. And are you familiar with what a Form 1099 is?
A. Yes. That is a wage statement that is sent by -- it could be by contractors, or another person that is providing a service will issue a -- this to an individual that has worked for that person, a contractor to another person.

MR. JONES: At this time, the Government is going to move to introduce Government's Exhibits 200 through 202.

And, I believe there is an objection.

MR. SILBER: Your Honor, we renew our previously made objection on all grounds, including authenticity.

THE COURT: All right. I will overrule those objections, and those exhibits will be admitted.

(Government's No. 200 was received in Evidence.)

(Government's No. 201 was received in Evidence.)

(Government's No. 202 was received in Evidence.)

BY MR. JONES:
Q. Ms. Hernandez, I am going to --
Your Honor, I apologize --
Ms. Hernandez, I have shown you right now what has been admitted as Government's Exhibit 201.
Do you recognize this document?

A. Yes, I do.
Q. What is this document?
A. This is an electronic file, Form 1040 U.S. individual income tax return for tax year 2019.
Q. And who is this for?
A. Alexandra Acosta.
Q. Okay. We are going to not going to spend a ton of time on this, but we are just going to briefly describe some of the numbers that we are seeing here. In this section that I am highlighting now, can you just explain what Box 1 is?
A. Box 1 is for wages, salaries, and tips. And, it is reported $103,819.
Q. And how about Box 7A?
A. Box 7A is for other income from Schedule 1, and it is reported negative $9,619.
Q. So, what does that mean when it is reported negative?
A. It is a loss.
Q. And, I am going to bring you now to line 9.
What is this number?
A. This is the standard deduction, or itemized deduction. And, it is the amount of $26,651.
Q. And, moving down more to this bottom number, 11B, can you tell us what that is?
A. That is the taxable income, and the amount is $67,549.
Q. We are still on Exhibit 201. I just got sidetracked there.

But, we are going to move down to the second page of Exhibit 201. I am going to highlight a section here.

So, I am pulling out a section labeled "refund." Can you describe what we are looking at?

A. This is the part of the form that is the refund or overpayment amount requested.

Q. And, in this instance?

A. It is $7,666.

Q. What does that represent?

A. It was requested to be direct deposited in the checking account provided.

Q. Okay. Now, there is a section down here entitled "Third Party Designee."

Can you explain what that is?

A. A third party designee is when a taxpayer will give the third party who is the preparer permission to speak to the IRS if there are any discussions needed on the tax return.

Q. And, let's kind of briefly unpack what a tax preparer can be. How does someone become a preparer?

A. They could apply for a preparer tax identification number, either through mail or online, with the IRS, and they could become a preparer.

Q. Now, that sounds simple. Do they need any formal education?

A. No, they do not.

Q. Do they need any degrees?
A. No, they do not.
Q. How about a high school diploma?
A. No.
Q. So, how about an age requirement? Don't they have to be 18 at least?
A. No.
Q. They don't have to be certified public accountants?
A. No.
Q. Do they have to be accountants at all?
A. No.
Q. Are these just people that choose to write numbers on paper for other people?
A. Anybody could be a return preparer. In order to be compensated, you can apply for the PTIN.
Q. And that is a unique number assigned to each person?
A. Yes.
Q. And, in this instance, who is the designee's name here with the PIN?
A. For this one, it is Victory Tax, Inc.
Q. And, I am going to move you down to the section just below it. There is a statement here, next to "sign here."
What does that say?
A. "Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to

the best of my knowledge and belief, they are true, and correct, and complete."

Q. And, is this section completed by the preparer or the taxpayer?

A. Taxpayer.

Q. And this says the email address associated with this taxpayer was what?

A. Alexacosta03@gmail.com.

Q. And, listed in occupation of?

A. The BSO deputy.

Q. And the date of this signature?

A. February 4, 2020.

Q. There is another section down here, just below that, distinct from the taxpayer certification to the accuracy. What is -- what is this form, or this area of form?

A. It is for the paid preparer, only, to provide the information of the preparer's address.

Q. And, here what is the preparer's name?

A. Vilsaint, St. Louis.

Q. And I believe this is what you are -- you have mentioned before, that's the PTIN?

A. Yes.

Q. And that is?

A. That is the PTIN number.

Q. Okay. Can you explain what that was?

What does it stand for?
A. The preparer tax identification number.
Q. Thank you.
And here, we have a firm's EIN. Do you know what that is?
A. That is the firm's employer identification number.
Q. And, again, the name of the firm that St. Louis purportedly works for?
A. Victory Tax, Inc.
Q. I am going to go to Page 4. I am showing you Page 4 of Government's Exhibit 201.
Do you -- do you know what this document is?
A. It is a paid preparer's due diligence checklist.
Q. What is that exactly?
A. When certain credits are requested, like child tax credit or additional, or EIC, or -- there is a checklist that preparers will fill out to make sure they are asking the proper questions of their clients as a check, due diligence check.
Q. And that is submitted to the IRS?
A. Yes.
Q. This form is completed by the tax preparer in this case?
A. Yes.
Q. Can you read line 1?
A. "Did you complete the return based on information for tax year 2019 provided by the taxpayer or reasonably obtained by

you?"
Q. What was the answer to that?
A. Excuse me, "taxpayer or reasonably obtained by you" -- sorry -- and the answer was yes.
Q. And now, just in the general sense, that type of certification, is that because the taxpayer is the one responsible for the information in any tax return?
A. Yes.
Q. I am going to quickly scroll to Page 15 of this record.
Do you recognize what this is?
A. Yes. It is a Schedule C.
Q. And, what is the Schedule C for?
A. Alexandra Acosta.
Q. What is the listed principal business or profession of Alexandra Acosta?
A. Valor Dog, LLC.
Q. And the social security number?
A. 590-92-6946.
Q. There is also a listed employer ID number. What is that?
A. 46-3507588.
Q. And the business address of?
A. 7200 Northwest 94th Way, Fort Lauderdale, Florida 33321.
Q. Now, Schedule C, in general, you testified that it was a reporting form for businesses?
A. Yes.

Q. Does the form include an area for income?
A. Yes, it does.
Q. And, I am going to highlight a section here, part one. And this is that section discussing income. And, what is the amount listed for income in 2019?
A. $13,904.
Q. And then there is also a section on expenses.
A. Yes.
Q. And, in this section, what was listed as expenses?
A. Advertising, we have $1,288, car and truck expenses, $5,948, supplies, we have $6,389, taxes and licenses, $503, travel and meals, for travel, we have $2,863, other expenses, from line 48, we have $6,532.
Q. And is there a total expense calculated?
A. Yes. $23,523.
Q. And, there is also a line 2 there. What is that?
A. Tentative profit or loss, subtract 28 from line 7, which was the loss of $9,619.
Q. So, in sum, this form represents that the business or Valor Dog, LLC, or Alexandra Acosta had lost $9,619 in 2019?
A. Yes.
Q. Let me show you Government's Exhibit 200.
Do you recognize this?
A. Yes.
Q. What is this?

A. This is an electronically filed 1040 U.S. individual tax return for 2019.
Q. So, this is the same type of documents we discussed as Government's Exhibit 201?
A. Yes, it is.
Q. And, again, this is -- this area regarding the signature, is this the taxpayer's signature, or the tax preparer's signature?
A. It is the taxpayer's electronically signed signature.
Q. And I am sorry I didn't address this earlier. That, it is a bunch of asterisks. So, what does that represent?
A. An electronic signature with the five digit PIN that the taxpayer will put in for themselves.
Q. And, what was the date of this -- this signature?
A. February 6th, 2019.
Q. And the occupation associated with Ms. Acosta at the time?
A. BSO deputy.
Q. I am moving down what has been listed as Schedule 1.
Can you briefly describe what Schedule 1 is?
A. Schedule 1 is additional income and adjustments to income.
Q. And line 12, what does that represent?
A. Business or income loss, the Schedule C, and the amount of a loss of $25,772.
Q. And, does that -- so, that refers to the Schedule C in this return?

A. Yes.
Q. I am showing you Page 14 of this document; same document, Government's Exhibit 200. And, is this the Schedule C for Alexandra Acosta?
A. Yes.
Q. And what is the listed principal business for this one?
A. Partners Realty LLC.
Q. And this lists the social security number of -- or what is the social security number associated with it?
A. 590-92-6946.
Q. I believe there is an address here. It is different. What is the address?
A. 2000 Northwest 150th Avenue, Hollywood, Florida 33028.
Q. And, just like the 2019 tax return, or Schedule C, there is an income section. Can you tell me what was disclosed as income on Schedule C?
A. $23,596.
Q. And, just like the 2019 Schedule C, there is an area for expenses. Can you describe the expenses listed in this form?
A. We have advertising, $8,869; car and truck expenses, $3,482; rent or lease for other business property, $7,455; repairs and maintenance, $8,147; supplies, $7,445; travel and meals for travel $2,356; other expenses from line 48, $11,614. And then total expenses was $49,368, with the total tentative profit or loss in the amount of a loss of $25,772.

Q. Now, the losses associated in this Schedule C, the Schedule C for 2019, do they offset the W-2 income of the taxpayer?
A. What it will end up doing is reducing the total taxable income for the year, which will lower the total tax for the year.
Q. So, in this instance, if we go back, we have a total loss of 25,772; correct?
A. Yes.
Q. And, back at the second page, this resulted in what?
A. This resulted in a refund.
Q. How much?
A. $6,702.
Q. And, I believe I skipped over this one. The paid preparer section here, what is listed?
A. The paid preparer is Jesus Medina.
Q. And is the firm -- what is the firm's name?
A. Victory Tax, Inc.
Q. Was that the same company that prepared the 2019 return?
A. Yes.
Q. I am showing you Government's Exhibit 202.
What is this?
A. This is electronically filed Form 1040 U.S. individual tax return for 2020.
Q. And who is this form for?
A. Alexandra Acosta.

Q. And, the social security number associated with Alexandra Acosta?
A. 590-92-6946.
Q. And the address?
A. 7200 Northwest 94th Way, Tamarac, Florida 33321.
Q. And, in this section -- let me back out of here for a second.
So, this is for the 2020 tax year; correct?
A. Correct.
Q. And, would this form -- it maybe seems intuitive, but are these prepared the following year for a prior tax year, for example, 2021 -- that is a terrible question?
Would a 2020 tax return be prepared in 2021?
A. Yes.
Q. And that is customary for all of these returns, it is the following year?
A. Correct.
Q. Now, in this instance, again, was this document represented to be signed by Alexandra Acosta?
A. Yes.
Q. And what was the date?
A. February 22nd, 2021.
Q. Is there a preparer listed on this form, as well?
A. Yes, there is.
Q. And who is that?

A. Vilsaint.
Q. And the firm's name?
A. Victory Tax, Inc.
Q. Is this the same firm that purportedly or that filed the last tax returns in 2018 and 2019?
A. Yes, it is.
Q. Is there any reference in these first two pages of this document to any business income?
I can scroll back up for you, as well.
A. No, there isn't.
Q. Is there any -- when you reviewed this file for 2020, were there any schedule Cs attached?
A. No, there was not.
Q. Were there any expenses listed for a business?
A. No, there was not.
Q. Can an individual report expenses on a Schedule C, even if they didn't make any money that year?
A. From?
Q. For losses?
A. From a business?
Q. For a Schedule C, you report profit, you can report loss. We saw that in 2018 and 2019 there were losses?
A. Um-hmm.
Q. If, hypothetically, somebody did not have an income at all, $0 revenue, but, that company had losses that year, for

expenses, would that be reported on a Schedule C?
A. I don't know.
Q. Just as a loss can be reported on a Schedule C to offset personal income, for example?
A. I am sorry. I am lost in the question.
Q. That's fine. In 2018 and 2019, there were Schedule Cs that are filed?
A. Correct.
Q. In fact, let's go back to one.
We are on Government's Exhibit -- we are looking at Government's Exhibit 201, Page 15, again. And, in this section, I will just highlight the whole area so we can see it a little better.
Part one, we already discussed that listed the income; correct?
A. Correct.
Q. Did part two lists the expenses; correct?
A. Correct.
Q. The question was, could part one say zero, and part two still include these expenses?
A. I have seen that, yes.
Q. And, for 2019, 2018, 2019, 2020, who is responsible for the information submitted to the IRS?
A. The taxpayer.
Q. And, in this instance, who was the taxpayer?

A. Alexandra Acosta.

MR. JONES: Your Honor, I was going to pivot to a different line of questioning. So, if you want to break -- but, I am good to keep going.

THE COURT: Keep going.

MR. JONES: Okay.

BY MR. JONES:

Q. Now, we previously mentioned there is an audit records related to 2018 and 2019 tax returns. And, we just saw some of the tax returns for those years; correct?

A. Correct.

Q. And, have you had a chance to review those files before today?

A. Yes, I have.

Q. And, was one of them the 489-page Government's Exhibit 203?

A. Yes.

Q. And, you reviewed that in preparation of your testimony today?

A. I did.

Q. Was that record kept in the ordinary course of business for the IRS?

A. Yes, it was.

Q. And, had the IRS provided certified copies to the U.S. Attorney's Office in advance of trial?

A. Yes, they did.

MR. JONES: Your Honor, I move to admit what has been marked as Government's Exhibit 203, 203A through H, which are subsets of 203.

MR. SILBER: Your Honor, we renew our previously made objections, including as to authenticity.

THE COURT: All right. I will overrule those objections, and those will be received in evidence.

(Government's No. 203 A through H was received in Evidence.)

BY MR. JONES:

Q. Now, I am showing you the first page of Government's Exhibit -- well, I didn't highlight it all -- Government's Exhibit 203. Like I said, it is a 489-page document.

But, I've got good news. We are not going through 489 pages. I am going to discuss certain portions of this with you. And, I have highlighted them as separate exhibits. So, we are going to go first to 203A.

I am showing you Government's Exhibit 203A. I am going to highlight this top section area. What are we -- what is this document?

A. This is the case history report of the audit file.

Q. And, is it listed which years the audit was for here?

A. Yes, it does.

Q. And, what years were those?

A. Tax years 2018 and 2019.

Q. And is there a name of an examining officer?
A. Yes, there is.
Q. Who is that.
A. Phyllis Kampmeyer.
Q. And the taxpayer in this audit?
A. Alexandra Acosta.
Q. With her address?
A. 7200 Northwest 94th Way, Tamarac, Florida 33321-3043.
Q. And, there is also a telephone number there?
A. Yes.
Q. And can you read what that is?
A. (305) 494-9699.
Q. Now, you are familiar with audits. But, you don't conduct them, right?
A. Correct.
Q. And, for purposes of conducting an audit, does the examiner have to reach out to the taxpayer?
A. Yes. There is back and forth contact.
Q. And, they would use that phone number?
A. Yes.
Q. And, mail correspondence to that address?
A. Correct.
Q. Now, this first entry, this is the first entry on this entire document. What does that represent if it is the first entry?

A. This is the date that everything initially started with the audit; first entry is first contact.
Q. Okay. And, what was the date here?
A. December 8th of 2020.
Q. There are remarks listed in each one of these sections. You referenced what this meant, the impetus of the audit. But, there are some sections here, I guess, that referenced TP. What does TP stand for?
A. Taxpayer.
Q. Okay. And, you see the section -- I think it is the fourth or fifth, maybe even the sixth sentence there, starting with, "An in depth."
A. Okay.
Q. What does that say?
A. An in-depth income probe may be warranted, depending on taxpayer's interview answers.
Q. Okay. So, are interviews custom when an audit is conducted?
A. Yes.
Q. I will draw your attention to the next entry here.
Can you tell us the date of this entry?
A. December 16th of 2020.
Q. And, what does the entry represent?
A. It says Form 8821 received, and remarks received Form 8821 from taxpayers new power of attorney, Vilsaint St. Louis, who

is the return preparer. He faxed Form 8821 to centralized authorized function, called power of attorney, discussed the issues that were under review for taxpayer. Power of attorney needs to review 2018 and 2019 returns more fully to be prepared to answer the questions on Monday. While discussing carryover cash contributions, power of attorney stated that he thought you could claim these every year. Made a time for a telephone appointment on December 21, 2020, at noon.

Q. Okay. So, I saw a couple of acronyms there.

You were saying "point of contact."

That is POA?

A. Yes.

Q. And TP is taxpayer?

A. Yes.

Q. And, in this instance, a Form 8821 is?

A. It is an authorization for somebody to be a power of attorney to act as -- to call on their behalf and to act for them.

Q. And, that is a limited power of attorney for purposes of the audit?

A. Correct.

Q. Continuing on this section, what does it say about the F-8821?

A. The Form 8821 is very limited. The POA or the power of attorney has very little representation ability. The power of attorney cannot stop the tax compliance officer from interviewing the taxpayer. Reviewed the revenue procedure 2014-42, and emails from 2015 describing the new instructions.

"The AFSP appears to only be in effect for Form 2848s. Therefore, Mr. St. Louis may still provide tax information on behalf of taxpayer. Called Mr. St. Louis and explained this. Tax compliance officer will interview taxpayer via phone separately.

Power of attorney provided a good cell phone number for the taxpayer. Set a deadline of January 13, 2021, for taxpayer to provide all documents. Power of attorney stated he will try to have all documents faxed asap and well before January 13, 2021."

Q. Okay. In this, that entry references an interview, an upcoming interview with the taxpayer?

A. Yes.

Q. This next section, another entry is dated what?

A. December 17 of 2020.

Q. And, what -- is it referenced regarding a telephone interview?

A. Yes.

Q. What is it, generally?

You don't have to read it out, but just summarize. Effectively, what was that representing happening?

A. "The tax compliance officer took testimony as to how her

returns were prepared with the return preparer, Vilsaint St. Louis. Taxpayer agreed to answer more questions if necessary. Tax compliance officer explained the next steps in the examination."
Q. What else does it say there, to review records?
A. "Tax compliance officer explained that the next steps in the examination were to review her records, which she states are with the return preparer. Later discussed with the group manager Susan Miller to ensure consistent discussions with return preparer who submitted Form 8821."
Q. I am showing you, side by side here, this has been marked as Government's Exhibit 203B and admitted into evidence. I am going to go down to a section here that refers to that entry. Okay. I am on Page 6 of 203B. What is the jury seeing here?
A. The initial interview questions and notes.
Q. And, this is -- there is a date listed up here in the right-hand corner. Is that the date of the interview, or the date this was produced to the U.S. Government?
A. I am -- I'm not sure. I don't know.
Q. Why don't we go into the body of the interview to answer that.
I am highlighting the substantive session of the interview. Can you read this area for the jury?
A. "Comments," okay. "12-17-2020, BSO deputy, revenue examiner agent on the side. Taxpayer has been having

Mr. St. Louis prepare her returns for four to five years. Taxpayer makes an appointment and goes to the Davie office. She takes her W-2 and Form 1099 miscellaneous and Form 1098. She takes in some of the receipts of purchases, advertising, CC statements, gas receipts, supplies for home office, et cetera, for the Schedule C expenses."

Q. I am going to actually do one paragraph at a time so it is bigger for everybody to see. Thank you for that. Okay.

A. "She and return preparer figure out the expenses together. TP doesn't really know exactly how they come up with the figures. She has a figure in her head as to what she spent and then she gives him her paperwork. She believes she has analyzed -- she believe he analyzes it pretty well since she is there for a while. She says that the figure he puts on the Schedule C is pretty close to what she has in her head.

She sat with Vilsaint St. Louis for 2018 and 2019. She does not know Jesus M. Medina, who signed her 2018 return. She doesn't remember whether she received copies of the returns or not. She has not reviewed her returns since she got the letter 6323. She simply called the return preparer, and he said he would take care of everything about the examination."

Q. It goes on.

A. "Taxpayer recalls that return preparer went over the returns with her each year; however, she can't recall if she had any questions about any part of them since it was a while ago.

TP paid via credit card.

Taxpayer received direct deposits.

Taxpayer cannot recall if she signed anything.

Taxpayer states that return preparer told her if the IRS had questions, she should ask for his assistance and he would assist her.

After explaining some of the expenses on the 2018 Schedule C, taxpayer reiterated that all the figures and expenses on the schedule Cs are info that she and the return preparer came up with together.

Q. There are more sentences at the end here.

A. She did not leave it all to him. Tax compliance officer explained that she may have more questions in future, and taxpayer agreed to answer them if needed."

Q. Now, we referenced a prior entry in the case history report that the tax preparer would send in records supporting the tax return; correct?

A. Correct.

Q. I am going to show you what has been entered as Government's Exhibit 203F.

Now, what is -- what does the record here reflect as far as the date of this document?

A. December 29th, 2020.

Q. And, would that be the day that it was faxed to the IRS?

A. Yes.
Q. And, who is it faxed from?
A. Victory Tax, Inc.
Q. And, at the top here, what type of form is this, and what is the information that it is portraying?
A. This is a taxpayer questionnaire for Alexandra Acosta.
Q. And, it has her personal information there?
A. Yes, it does.
Q. Including the email address we have previously seen on other records?
A. Yes.
Q. The social security number that we have seen in the other records?
A. Yes.
Q. It includes information about her bank?
A. Yes, it does.
Q. And what would that he about for?
A. I am assuming for -- well, that bank information would be for refunds.
THE COURT: Is that still an active bank account?
MR. JONES: Truist is now -- SunTrust is Truist now.
THE COURT: So, we need to redact these documents before you actually file them.
MR. JONES: Absolutely.
THE COURT: And so, since I just interrupted, so

members of the jury, I remember at the beginning of my instruction I told you that there may be times when evidence or testimony is admitted for a limited purpose. So, this testimony concerning the defendant's tax returns and audits, okay, is one of those areas that is not directly part of the charged offense.

She is not charged with any tax crimes. And, so, this evidence, okay, is only admitted for a limited purpose.

You must not consider this evidence to decide whether the defendant engaged in the activity that is alleged in the superseding indictment. This evidence is admitted and may be considered by you for the limited purpose of assisting you in determining whether the defendant had the state of mind or intent necessary to commit the crimes charged in the superseding indictment, whether the defendant had a motive or opportunity to commit the acts charged in the superseding indictment, whether the defendant acted according to a plan or in preparation to commit a crime, or whether the defendant committed the acts charged in the superseding indictment by accident or mistake.

Go ahead.

MR. JONES: Thank you.

BY MR. JONES:

Q. I will be showing you a split screen of Government's Exhibit 201, Government's Exhibit 203F that we were just discussing.

Now, this form that is received in the audit purportedly corresponds to the 2019 tax return. And I just want to show you a section of Government's Exhibit 201, listing dependents. Do you see that?

A. Yes.

Q. And, does that correlate with the information that was listed here --

A. Yes.

Q. -- in Government's Exhibit 203F; correct?

A. Yes.

Q. Scrolling further down to the section of 203F, regarding expenses, did you have a chance to look at those?

A. Yes, I did.

Q. And, do those expenses correlate with the expenses listed here in the tax return?

A. Yes, it did.

Q. Likewise, Victory Taxes also faxed over a 2018 questionnaire; correct?

A. Yes.

Q. I apologize. I am just going to draw up the 2019 questionnaire. We will bring it down here to the bottom.

After all these expenses were listed, after the dependents are listed, there are some more itemized expenses; correct?

A. Yes.

Q. Okay. And then at the end of that form, is there a section entitled Taxpayer Questionnaire Review?
A. Yes.
Q. And what does that say?
A. "The above information is true and correct, and we understand that the information given in this questionnaire will be used to complete my" -- I am not sure what -- does that say 2012 tax return"?
Q. It does.
MR. SILBER: Objection, speculation.
THE COURT: Overruled.
BY MR. JONES:
Q. In essence, what is the certification here?
A. It is stating that the information is complete and true.
Q. What is the date?
A. February 4, 2020.
Q. And, does it appear to be signed by the taxpayer?
A. Yes.
Q. As we discussed, likewise, there is a 2018 questionnaire that was received at the same date and time?
A. Yes.
Q. And, this was for the same taxpayer?
A. Yes. It is.
Q. And, when you reviewed this record compared to the 2018 tax return Schedule C, were the expenses listed on this Schedule C

matching up to this one, as well?
A. Yes, it was.
THE COURT: All right. Let's take our morning recess. It is 20 of 11. See everybody in 15 minutes, at five of 11, all right?
15 minutes.
COURT SECURITY OFFICER: All rise for the jury.
[Whereupon, the jury left the courtroom, and the following proceedings were had at 10:40 a.m.:]
COURT SECURITY OFFICER: All rise.
THE COURT: Thank you, be seated.
We still have a couple of minutes.
THE COURT: All right. Bring in the jury.
COURT SECURITY OFFICER: All rise for the jury.
[Whereupon, the jury entered the courtroom, and the following proceedings were had at 10:55 a.m.:]
THE COURT: All right. Welcome back, everyone. Please be seated.
All right, Mr. Jones.
MR. JONES: Thank you, your Honor.
BY MR. JONES:
Q. When we left off and we were just going over Government's Exhibit 203E, and you were on Page 4, and I asked you whether these expenses listed matched up to the Schedule C for the 2018 tax return year. And your testimony was yes.

And then, going down a little further, you also had a chance to review and compare itemized expenses. And, those were reflected on the tax return, as well?
A. Yes, they were.
Q. Now, this one for full disclosure is not signed by anybody; correct?
A. Correct.
Q. We are going back to Government's Exhibit 203A. We last left off, well -- just to bookend, the documents that we just discussed as being facts, does this entry -- what is the date of this entry?
A. December 29th of 2020.
Q. And, what does it represent?
A. It is a telephone contact.
Q. And, what does the -- what does this entry state?
A. "Power of attorney on 12-23 left a message on December 23rd 2020, stating he was faxing taxpayer's documents. As of December 29, 2020, no documents had been received. Called power of attorney, who stated he will fax over organized and easy to understand substantiating documents ASAP.

Later received faxes relating to 2018 and 2019. Reviewed the pages and called power of attorney back stating that what was sent needs more explanation. Taxpayer must provide mileage logs and odometer readings and provide more source documentation to substantiate the expenses claimed on both 2018 and 2019 Schedule A -- excuse me, Schedule Cs. Excuse me.

POA admitted that he duplicated real estate taxes on Schedule A.

POA -- power of attorney admits that he duplicated car expenses by giving mileage and actual expenses on Schedule C.

Power of attorney states he did not understand the tax rules.

Power of attorney states tax compliance officer to call him and let him know what is missing from the documentation so he and taxpayer can provide it. Tax compliance officer explained she will call after a more complete review."

Q. And, there are additional entries here. One -- let me just highlight the -- this entry here. What is the date?

A. January 12 of 2021.

Q. What are the remarks?

A. "Power of attorney called and stated that the taxpayer does not have any other documents to provide as of today. Return preparer plans to talk to her and ask for one more effort on her part to secure substantiation documents. Tax compliance officer set a deadline of October 15, 2020, for power of attorney to fax any new documentation.

Q. And the next entry?

A. January 13, 2021, "Worked on data received.

"Reviewed all documents taxpayer sent in to date.

"Prepared lead sheets.

"Added new issues for qualified business income deduction in case taxpayer has income after all other adjustments.

"Added new issues for taxes and licenses to increase taxpayer's credit based on information provided. Reviewed Accurint for marriage information. No evidence of marriage. However, TP's co-owner of her home and mother of her dependent has the same Erin Acosta."

Q. And that ends with "which?"

A. Yes, "Which indicates there may be a marriage. Tax compliance officer tried calling taxpayer but no answer and no voicemail. Tax compliance officer will determine if a new issue is necessary after discuss."

Q. I cut that off?

A. "After discussing with taxpayer."

Q. Okay. Now, there is another entry here. What is the date of that?

A. January 19, 2021.

Q. What does the first sentence say?

A. "No additional documents received from taxpayer or power of attorney."

Q. And, there is some other notes here about contacts with the taxpayer or tax preparer?

A. Did you want me to keep going?

Q. You don't need to read this. Thank you.

Well, there is something here.

This next, this next entry?

A. January 21, 2021, letter 30 days. Acting manager provided signed letter 915 and letter S300.

Generated Form 4549. Mailed 4549, letter 915, Form 9465, publication 3498 to taxpayer.

Mailed Form 4549, letter 951, letter 937 to power of attorney.

Q. And, in this instance, this letter, what exactly would this be?

A. The letter.

Q. What does it signify?

A. The correspondence sent to the taxpayer.

Q. And, I am going to pull up Government's Exhibit 203C.

Can you tell us the date of this letter?

A. January 21, 2021.

Q. And, who this letter mailed to?

A. Alexandra Acosta.

Q. And the address?

A. 7200 Northwest 94th Way, Tamarac, Florida 33321-3043.

Q. And, this first -- this first section, what does it explain?

A. "We have enclosed two copies of our examination report showing the changes we made to your tax for the periods shown above. Please read the report and tell us whether you agree or disagree with the changes."

Q. Now, this -- this form, that is a letter. This is mailed out U.S. mail?
A. Yes, it is.
Q. I am going to show you Government's Exhibit 203D.
Do you recognize what 203D is?
A. This is the Form 4549.
Q. And, what is the title of that document?
A. "Report of Income Tax Examination Changes."
Q. We have been using the term audit. Is the income tax examination another term for audit?
A. Yes.
Q. So, what does this document reflect?
A. The changes that were made to the tax returns for the specific years.
Q. And, which years were there adjustments made to?
A. Tax year 2018 and 2019.
Q. Now, without going through exactly what the IRS determined were excessive charges or unsupported charges at that time, let's take a look here at the bottom section. What does number 19 represent?
A. Number 19 is the summary of taxes, penalties, and interest.
Q. And what was the balance due for taxes?
A. Balance due, for one year was $9,733, and for the other year was 4,760.
Q. And, is this the amount of money owed to the IRS as unpaid

taxes from those years?
A. Yes.
Q. And, what is subsection B of that line?
A. Penalties.
Q. And, what is the amount calculated for 2018?
A. 1,946.
Q. And, what was the amount calculated for 2019?
A. 8,952.
Q. And is there also a subsection C here?
A. Yes, for interest.
Q. And what is that?
A. For 2018, it was $995.95, and for 2019, it was $104.
Q. Now, at this bottom line, D, it says what?
A. "Amount due or refund."
Q. And, how much was due for the 2018 tax year?
A. $12,675.55.
Q. And how about the 2019 tax year?
A. $5,816.
Q. And I will not make you do math on the stand.
A. Thank you.
Q. But, is that roughly around $18,500?
A. Yes.
Q. Now, you mentioned this was mailed out in U.S. mail?
A. Yes.
Q. Can you describe to me the next entry?

A. January 25, 2021, "Telephone contact, power of attorney called and stated he and the taxpayer received the Form 4549 packages, power of attorney stated that the taxpayer will be reviewing her records for more substantiation of the disallowed expenses."

Q. There is an entry here. It starts on the Page 3, but it will carry over to Page 4 and I will go there.

But, what is the date?

A. February 11, 2021, received SunTrust Bank statements.

Q. And what is the entry?

A. Received 19 faxes with taxpayer's SunTrust bank statements where taxpayer has identified additional expenses. Reviewed but found very few annotations.

Called power of attorney, who said there was only a few to consider.

Power of attorney also asked for an allowance for Internet since taxpayer worked out of her home. Will review the statement more fully as soon as possible."

Q. There is another entry here.

A. February 22nd, 2021, "telephone contact. Called power of attorney, who stated he has the final documents from taxpayer and will fax them tonight."

Q. And, is there an entry for -- sorry. What is the next entry?

A. February 23, 2021, "Worked on data received. Received fax from power of attorney with office dimensions and Home Depot credit card statements. Evaluated, added issue for home office expense. Prepared other lead sheets. Updated Schedule C recap. Modified qualified business income deductions based on all other adjustments. Called power of attorney and stated evaluation was done. Power of attorney brought up advertising expenses for which taxpayer has no substantiated had -- excuse me.

"Power of attorney brought up advertising expenses for which taxpayer has not substantiated, so, no credit has been given.

"Power of attorney asked for penalty abatement.

"Tax compliance officer stated taxpayer must submit a written statement.

"Power of attorney will ask the taxpayer to write and send the statement as soon as possible.

"Tax compliance officer will wait for the statement prior to sending a corrected Form 4549 and letter 692.

"Added new issue for filing status based on taxpayer testimony on February 1, 2021."

Q. Now, it mentioned penalty abatement. And, is that in correlation to the tax examination changes that referenced the penalty?

A. Yes.

Q. And so the IRS has, in its own review, the ability to

charge penalties in certain circumstances, and not, in others?
A. Yes.
Q. And, that is based, I guess, on the level of conduct?
A. Yes.
Q. We are coming to the end here. But, just a few more. What is this entry?
A. March 1, 2021, "Telephone contact. Called power of attorney and explained no statement has been received from taxpayer regarding abatement of penalties and declaring her reasonable cause. Discussed circumstances about reasonable cause again with power of attorney. Power of attorney states he will call the taxpayer again to explain what she must do.
Tax compliance officer will await the statement to consider before sending out corrected Form 4549 and letter 692.
Q. Okay. Just for clarity, so we received -- it appears that's a letter sent on January 21st; correct?
A. Yes.
Q. And then that included a statement of amount owed?
A. Correct.
Q. That wasn't final yet?
A. No.
Q. And so, at this point, in March of 2021, the audit is still ongoing?
A. Correct.
Q. There is an entry that goes over two pages again. We are

on page -- forgive me -- Page 4, the bottom of Page 4, this entry. What is the date?
A. March 18, 2021, "Telephone contact, began closing.
Q. Sorry. Can you read this section?
A. Power of attorney called about other cases. Tax compliance officer asked if taxpayer was going to sign Form 4549, and power of attorney stated he will try to secure the signed Form 4549 by the end of the day.
"Solicited payment.
"Power of attorney states that the taxpayer cannot pay in full within 120 days. Taxpayer will set up an installment agreement with collections.
Began preparing cases for closure.
Secured IDRS prints?
Prepared post cash T, made note" --
Q. That is okay. Sorry. Yeah.
The next entry here?
A. March 23, 2021, "Close unagreed."
Q. And the remarks?
A. "No response from taxpayer or POA; no signed 4549; prepared case for closing. Labeled all documents received by taxpayer or power of attorney."
Q. Okay. Now, here is a longer one. What is the date of this entry?
A. April 1st, 2021, "Telephone contact."

Q. Okay. And the remarks reference a different date?
A. Yes. "On March 29th, TP -- taxpayer called tax compliance officer to discuss case.

"Tax compliance officer explained the case was closed unagreed due to no response. Taxpayer stated that she had been calling and calling her return preparer/power of attorney who would not return her calls. Out of frustration, she called the tax compliance officer. Tax compliance officer explained all allowances that had been given in detail based on taxpayer's records submitted.

Taxpayer agreed that the nature of allowances are correct, although taxpayer may have missed pointing out some expenses.

When questioned about how the inaccurate expenses got to the Schedule Cs, taxpayer explained her return preparer, Mr. St. Louis, evaluated her books and records and placed the analyzed figures on the Schedule Cs.

"Solicited payment.

"TP stated that she cannot pay the amount due in 120 days. Taxpayer will have to set up an installment agreement with collection. Taxpayer faxed a letter requesting abatement of penalties. After careful consideration of taxpayer's oral and written testimony against a return preparer, tax compliance officer will abate penalties. Prepared corrected 4549 mailed to TP, and power of attorney with letter 692 and letter 937.
Q. Now, this referenced a letter statement from the taxpayer?

A. Correct.
Q. Was that in the records, as well?
A. Yes.
Q. Let me show you Government's Exhibits 203G.
Sorry. I should have told you to pack lozenges or something.
What is the date of this?
What is the date of this at the top?
A. March 29, 2021.
Q. And who is it to?
A. Phyllis Kampmeyer.
Q. Phyllis Kampmeyer, the auditor?
A. Yes.
Q. And, who is it from?
A. Alexandra Acosta.
Q. And, is it signed and dated?
A. Yes, it is.
Q. What is the date?
A. March 29, 2021.
Q. We are going to go in blocks so you can see it a little easier. But, can you read the first portion?
A. "I, Alexandra Acosta, gave my tax preparer Vilsaint St. Louis from Victory Taxes several credit card and bank statements from previous years to prepare my taxes, along with my W-2 and 1099s. To the best of my knowledge, in both 2018

and 2019, due though to his busy schedule, he had me drop off my paperwork, then had me return at a later date to sign it.

"In both those years, I did not sit with St. Louis to complete my tax return. As a matter of fact, I specifically used Mr. St. Louis as my preparer and, after the audit, I noticed another preparer filed my taxes one of those years.

"After I carefully reviewed my tax returns pre- and post exam and credit and bank statements from 2018 and 2019, I see that the expenses on my tax returns do not match the expenses on my bank and credit statements.

"I do not know where Mr. St. Louis produced some of the figures in my returns.

"I have also asked Mr. St. Louis if I needed to file single or married since I am married, and he stated to me that, according to tax law, I do not need to file married.

"After our conversation today, I understand that it is, in fact, a law, and I will file married in future tax preparations."

Q. Okay. Now, as a result of this letter, the IRS changed its penalties associated with the income tax examination?

A. Yes.

Q. I am showing you what has been admitted as G's Exhibit 203H.

Do you recognize this?

A. Yes, I do.

Q. And what does it state up here?
A. It is the corrected report.
Q. Okay. This is for the same period, 2018, 2019?
A. Yes.
Q. Is this, in effect, an updated report from the report that was sent on January 21, 2021?
A. Yes.
Q. Now, in this -- this report, we can go through the summary here, 19, the balance due for 2018 was?
A. $9,042.
Q. And for 2019?
A. $1,071 -- I can't --
Q. I will not testify, but I think it is a 4.
A. It looks like a 1 here. 4,071 dollars.
Q. And, section B. Is there anything indicated in section B?
A. No.
Q. And, that is the penalties that are abated because of that statement?
A. Correct.
Q. Total amount due?
A. For 2018, $88,869.55. Or $0.65, sorry. And then for 2019, $4,169.04.
Q. And, approximately, that being 1400, or $14,000?
A. Correct.
Q. Is there any evidence -- or during your review, was this

balance ultimately paid off?

A. I don't know.

Q. Okay.

MR. JONES: One moment, your Honor.

BY MR. JONES:

Q. Ms. Hernandez, thank you for traveling all the way here. We appreciate you.

No further questions, your Honor

THE COURT: All right.

Cross-examination.

MR. SILBER: Thank you, your Honor.

CROSS-EXAMINATION

Q. Good morning, Ms. Hernandez.

A. Good morning.

Q. Thank you for coming today. If you can just give me a second to get set up here.

All right. Work with me a second. I have to go through this binder and get to the right page.

All right. I am showing you what was previously admitted as Government's Exhibit 203A.

Do you see that sticker there?

A. Yes, I do.

Q. The title of that, "Case History Report"?

A. Yes.

Q. Okay. Do you see all these boxes that are blank here?

A. Yes.
Q. Those are redactions, right?
A. Yes.
Q. And, can you tell me if those redactions were put in there by the IRS?
A. I don't know.
Q. Okay. Here is another one.
Let me zoom in.
Do you see that redaction there?
A. Yes, I do.
Q. Do you know if the IRS did that one?
A. I don't know.
Q. Okay. All right. I am going to ask you some other questions about these documents.
There is a lot here, so I just got to go back and forth. So, if you would just bear with me --
Okay. I am just going to highlight a couple of things here.
Looking at the note entry on February 1, 2021, okay, isn't it true that Mr. St. Louis told the tax compliance officer that he didn't see anything wrong with annotating my client as single on the 2018 and 2019 returns? Isn't that true?
A. That is what the notes say.
Q. Okay. Well, that was -- you are correct. Let me rephrase

that. Your official IRS record that was maintained in the normal course of business to memorialize all the comments and statements made between the taxpayer, the tax preparer and the tax compliance officer are in this document, correct?
A. Correct.
Q. Okay. So, isn't it true that this document memorialized that he didn't see anything wrong with annotating her as single when she was, in fact, married?
A. I wasn't there, present in the conversation. So, I don't know. I can't say what -- how he felt about it.
Q. I know. But, that is in these records, isn't it?
A. Yes, yes.
Q. I am not asking you if you were part of the conversation, you are the records custodian; correct?
A. Yes.
Q. I am asking you, in your context as a records custodian. He never learned that you could take only mileage or actual expenses. Right?
A. If it is on the record, if that's what it says, then okay.
Q. Here is my question. And this may be outside of your job function. But, I imagine you must have received training at the IRS about basic tax principles and tax, how they work and all that stuff; is that correct?
A. I know a little about tax law, yeah.
Q. And, were you familiar with that law about taking mileage

or actual expense?
Is that something you would have knowledge of?
A. I am not tax-law trained, no.
Q. That's fair enough. No problem. How about here. Okay. Right here. This right here. 1-19, there is a record that he indicated he was out of the office due to the birth of his child; correct?
A. The record states that.
Q. And that was on -- is this the January 21st entry or is that a January 19th entry?
A. It looks like the January 19th.
Q. 19th. Okay. Either way, 19, 21, around that time period, he had a baby.
Okay.
Q. And, here, on April 1st, 2021, TP means taxpayer again, right?
A. Correct.
Q. She stated that she had been calling her RP, return preparer; correct?
A. Yes.
Q. And POA, a power of attorney; correct?
A. Yes.
Q. Who would not return her calls, and, out of frustration, she called the tax compliance officer; correct?
A. Correct.

Q. And here, in this note --
A. It is a little blurry.
Q. Oh, sorry. So, to be clear about one thing, I want to be sure. Do you see where it says, "Comments," are these comments that the tax compliance officer would have put into this field?
A. Which form is this?
Q. Examiner Phyllis Kampmeyer?
A. Okay.
Q. Do you see what I am referring to?
A. Yes.
Q. These notes in here, is that something the tax compliance officer would have written?
A. It looks like the examiner wrote that.
Q. Maybe I am saying the wrong thing. What is the difference between the examiner and the TCO?
A. The tax examiner, the auditor, and the tax compliance officer are two separate people. They are from two separate -- I would say divisions of departments. They work two different aspects of, I guess, the audit.
Q. Understood. But, either way, these are notes about the case; correct?
A. Yes.
Q. Okay. So, taxpayer -- meaning Ms. Acosta -- was not educated in the field of taxes, and no intentional disregard of rules or regulations was evident based on taxpayer's oral

testimony and all evidence provided related to the case; is that correct?

A. If that's the notes that were in there, yes.

Q. Taxpayer used and relied on Mr. Vilsaint St. Louis as her preparer to file an accurate return based on her circumstances. Correct?

A. Correct.

Q. Taxpayer, Ms. Acosta, provided her preparer to -- whoops -- provided all documentation that was requested by the preparer. Correct?

A. Correct.

Q. Taxpayer believed in good faith that the tax return was accurate and compliant. Right?

A. Yes.

Q. Taxpayer requested that no penalty be assessed given she did not know the inaccurate figures that Mr. St. Louis placed on her Schedule Cs?

A. Correct. Yes.

Q. And, isn't it true he admitted that he double-entered her property tax; correct?

A. He admitted?

Q. I am sorry. He entered her property tax twice by accident?

A. If it was on one of the reports, yes.

Q. Well, I am asking you, are you familiar with these documents?

A. With the report, the documents, yes.
Q. Yes. Okay. And isn't it true that part of the problem with her taxes was that she got depreciation for her property tax on her house twice. Isn't that correct?
A. I am not sure about that one.
Q. Okay.
A. I didn't --
THE COURT: The depreciation or deduction?
You said depreciation twice.
MR. SILBER: I am sorry. I am using the wrong word. I mean deduction. Thank you for pointing that out.
BY MR. SILBER:
Q. Do you know now what I am talking about?
A. We didn't go over.
Q. So, in one of her returns, there's a double entry for her property taxes. Is that correct?
A. Yes.
Q. And, as a result of that, her taxable income was brought down more than it should have been; correct?
A. Yes.
Q. And, it was an identical double entry, almost as if someone hit enter twice; correct?
A. Yes.
Q. And, he admitted he made that mistake, didn't he?
A. If he reported it in the notes; correct.

Q. That was in the notes, wasn't it?
A. Yes.
Q. Okay. And, equally, we just saw a moment ago, he admitted that he didn't understand that you can't deduct expenses and the actual mileage; it is one or the other; correct?
A. I am sorry, in the -- can you repeat the question.
Q. He admitted in his discussions with whoever made these notes that he was not aware you could only deduct actual mileage or expenses, as opposed to both?
A. Correct.
Q. And, he said that on the things that he read and maybe the classes he took, he was never explained that, was he?
A. Classes?
Q. Whatever notation that was in there, things he read, there is a reference to certain education, he said he never learned that, in other words, right?
A. I didn't see that. I am sorry.
Q. Okay. All right. Looking at this 2018 return here, do you see this page, the first page?
A. Yes.
Q. Okay. What I am looking for here, if you could point out is where is the signature block on this document where the person --
A. On the first page?
Q. That is on the first page. That is down here?

A. Where it says sign here?
Q. Here?
A. Yes.
Q. Okay. And, I see the asterisks, and you said that was a digital signature, correct?
A. Correct. This is an electronically filed 1040 return.
Q. Okay. How is that -- if you know, how is that digital signature derived?
A. When you electronically file a return, when you transmit it, electronically, the taxpayer provides a digital PIN number, six numbers, individual PIN that they put in before they transmit it to the IRS.
Q. Okay. So, if I read this document correctly, just looking -- and, again, you are the records custodian, and I know you were not involved in the details of this -- does this inform us that the taxpayer, Ms. Acosta, is the one who electronically filed this, or it was somebody else?
A. I don't know. I wasn't there at the time.
Q. Okay. So, looking at this document, you can't tell us if Ms. Acosta was the person who filed this return, or was it somebody else?
A. I wasn't there at the time.
Q. I am just saying, referencing the documents, I am only asking you in your context as records custodian, looking at this document, can you tell me who submitted this application?

Who submitted this return?
A. I see that it is signed, but I wasn't there at the time it was signed. I can't tell you who signed it.
Q. Okay. Thank you.
All right. Let's move on to 2019.
I am showing you what has been previously admitted as Government's 201. Do you see that right there?
A. Yes.
Q. Okay. All right. So, I see here, wages. This indicates to us that in 2019, she earned -- she reported income of $103,819; is that correct?
A. Correct.
Q. Okay. Do you recognize the back of this?
A. Yes.
Q. Second page. Okay. Same question as with 2018.
Are you able to tell me, looking at this document, who submitted the signature?
A. I could see that it is signed.
Q. It is signed. But, do you know who signed it?
A. I was not there when it was signed.
Q. Okay. And, this part with third-party designee, what does that tell us?
A. That Victory Tax, Inc., was given permission to speak on behalf of that return, if any discussions were needed.
Q. Let's talk about that for a second.

So, in the course of the audit, my client signed what is called a power of attorney; correct?

I am an attorney, right?

What does power of attorney mean in the context of these audits, if you know?

A. For this Form 8821, which is an authorization form, was signed and given to the preparer to speak on behalf of this form.

Q. And, of course, someone, a taxpayer would sign this document so that their tax preparer or accountant or CPA, whoever that person is, could interact with the IRS on their behalf; correct?

A. Correct.

Q. So, every notice will -- once you have the power of attorney executed, that person, the attorney who has that, maybe he is not a lawyer, but he has the power of attorney, will get copies of all notices that were sent to the taxpayer; correct?

A. But, only for that specific tax year.

Q. So throughout this entire process, Mr. St. Louis was apprised of every step of this audit investigation; correct?

A. If there was a letter 937 going out, then that letter was going to him.

Q. Okay. And, when my client mentioned that she needed a payment plan, that was in the month of April of 2021, wasn't

it?
A. Yes.
Q. And, in the end, the tax that she was due was paid in full, wasn't it?
A. I don't know.
Q. Okay. But, there was an installment plan initiated; correct?
A. From the notes I see, she did request a payment plan, yes.
Q. And, as opposed to a person writing a check or hitting a credit card and paying the whole thing at once?
A. Yes, a payment plan is that.
Q. And, that is done through the collections department of the IRS, right?
A. Or, you could go online.
Q. Online, or just submit your monthly whatever it is?
A. Yes. You could set up a payment plan.
Q. Okay. And a payment plan is exactly what happened in this case, isn't it?
A. I am not sure.
Q. All right. You recognize this document?
A. Yes, I do.
Q. Government's -- sorry, my eyes are terrible. 203H.
Okay. This was issued on April 13, 2021; is that correct?
A. Correct.
Q. Okay. And I see here, penalties, B, that line is blank.

Does that mean there were no penalties assessed?
A. That was the penalties were abated.
Q. Okay. She didn't have to pay a penalty, did she?
A. Yes, no -- I mean, the penalties were abated.
Q. Okay. But, when you say "abated," that means she doesn't have to pay it, right?
A. They were -- per her request, the letter that she submitted, the -- they were reversed. The penalties that had been assessed were taken back.
Q. So, in the end, she didn't have to pay it, right?
A. No penalties were incurred.
Q. Okay. So, at the end of the day, for 2018, I don't know if you can see that 18 there --
A. Yes.
Q. Do you see that?
A. Yes.
Q. Okay. She paid interest, okay. They never get rid of the interest, right?
A. The interest was there. They never abated the interest, yes.
Q. Right. So, she just basically paid the tax that was owed and just a little bit of interest, and the same thing again in -- we are here in '19?
Same thing here in '19, right, just the tax, a little bit of interest, $98, right?

A. Correct.
Q. Okay. And, isn't it true in those notes, it is memorialized that my client was frustrated and that she called on her own to the TCO to find out what was going on with the case?
A. There were calls to the tax compliance officer, yes.
Q. And, she mentioned, it is in those notes that the taxpayer, my client tried reaching Mr. St. Louis, but was unable to; correct?
A. Correct.
Q. And, isn't it true that there was a portion of these notes where the tax compliance officer is, in essence, correcting Mr. St. Louis and advising him of the limits of his representation?
A. I am not sure.
Q. Let me get to that. Hold on.
Sorry, just bear with me one second.
I am sorry. I am just lost in my paperwork here.
That's okay. We will get to that one later.
Now, it was established in their discussions that my client is a full time BSO deputy as well as a part-time real estate agent; is that correct
A. Yes.
Q. Okay. And, isn't it true that in 2019, on her Schedule C, she reported to the IRS that she earned $13,900; correct?

A. Correct.
Q. And, whatever calculation was done with the expenses of the business, she reported and she paid accordingly; correct?
A. Yes.
Q. And then that was later corrected when the audit was done because the double entry, the mileage, those things we already discussed, and then she was assessed the tax later; correct?
A. Correct.
Q. And, she has paid that tax in full; correct?
A. I don't know if she has paid in full.
Q. Okay.
MR. SILBER: Can I have a second, your Honor?
THE COURT: Yes.
MR. SILBER: Thank you.
All right. Nothing further for this witness at this time.
THE COURT: All right.
Do you have redirect?
MR. JONES: Yes, your Honor.
MR. SILBER: Your Honor, before the Government begins, I actually found the page that I wanted.
Can I ask one question more?
THE COURT: Sure.
MR. SILBER: Thank you.
And, I am not a paperwork guy.

(Continuation of Cross-Examination)

BY MR. SILBER:

Q. All right. It is right here.

THE COURT: What exhibit are you showing her, just so we keep track.

MR. SILBER: Sorry. You know what, I pulled the wrong one. Never mind. We will get to it later. Thank you.

THE COURT: Okay. Well, they are all in evidence, right.

MR. SILBER: Yes, exactly. We will address it later.

THE COURT: Okay.

MR. JONES: Your Honor may I have the -- thank you.

REDIRECT EXAMINATION

BY MR. JONES:

Q. You were asked about the signatures on the tax returns. I will bring your attention back to Exhibit 201. This is the 2019 tax return for Ms. Alexandra Acosta. And, Page 4, we have a paid preparer's due diligence's checklist, as you testified, that was something that was completed by the preparer; correct?

A. Correct.

Q. And, we also discussed Government's Exhibit 203F, which is a taxpayer questionnaire; correct?

A. Correct.

Q. And, as we went through this 203F, we discussed the

information that was listed in this form; correct?
A. Correct.
Q. And, I asked you whether it matched with the information in the schedule or in the 2019 tax return. Correct?
A. Correct.
Q. And, what was your testimony?
A. All the information matched.
Q. And, at the bottom here, of Government's Exhibit 203F, was it signed?
A. Yes, it is.
Q. And is that an electronic signature?
A. No, it is not.
Q. Is that asterisks?
A. No, it is not.
Q. What was the date?
A. February 4th of 2020.
Q. Could you tell me the date that is listed here on the tax return?
A. February 4, 2020.
Q. Defense counsel also brought up a power of attorney. Now, this is from the entry of 12-16. This is at the beginning of the audit. And, what does it say here, right after this redacted portion?
A. The Form 8821 is very limited. The power of attorney has very little representation ability.

Q. And, he asked you about these redactions, but these records are what was produced to the United States in response to a request?
A. Yes.
Q. Mr. Silber also asked you about the abatement of penalties.
He went through some of the notes on this penalty sheet with you; correct?
A. Correct.
Q. Can you tell me the date of the interview with Ms. Acosta in the beginning of this audit?
A. December 17th, 2020.
Q. What does she state?
A. She and the return preparer figured out the expenses together.
Q. What else does she state here, this second sentence?
A. She sat with Vilsaint St. Louis for 2018 and 2019.
Q. How about this last sentence?
A. After explaining some of the expenses on the 2018 Schedule C, taxpayer reiterated that all figures and expenses on the Schedule C are info that she and -- that she and the return preparer came up with together.
Q. And, following that information, without receiving any additional records supporting her taxes for that year, you testified that the IRS sent an examination change report; correct?

A. Correct.

Q. And, that report had penalties and interest included?

A. Correct.

Q. And, that was based on the information that was obtained, to that date?

A. Yes.

Q. Now, in contrast, I will show you Government's Exhibit 203G.

What does she say here in this first full sentence?

A. "I do not know where Mr. St. Louis produced some of the figures in my returns."

Q. How about this other sentence here?

I will start here, the full sentence for you, that would make more sense.

A. "To the best of my knowledge, in both 2018 and 2019, due to his busy schedule, he had me drop off my paperwork then had me return at a later date to sign it. In both those years, I did not sit with Mr. St. Louis to complete my tax return. As a matter of fact, I specifically used Mr. St. Louis as my preparer and, after the audit, I noticed another preparer filed my taxes one of those years."

Q. Now, this was in response to the TCO's request for a letter if they wanted abatement of penalties, right?

A. Correct.

Q. And, those penalties were abated because of her own

statements?
A. Yes.
Q. Not because she provided substantiating records?
A. Correct.
Q. Mr. Silber also talked to you or he mentioned that this was all just because of real estate double reporting. I am going to show you the examination report again.
Now, based on this, this is the -- this is Government's Exhibit 203D. Let me -- I will go one year at a time here, now.
It is going to bother me if I don't get the zeros on there. I apologize
So, what does this represent for the period ending 2018?
A. Just adjustments for income, for Schedule C, the adjusted gross income itemized deduction and qualified business income deduction.
Q. And this, these numbers, so, B, here, other expenses, $9,214, does that represent expenses that were not qualified, or not supported?
A. What do you mean? I am sorry.
Q. There is a total adjustment level down here into $34,571. Right?
A. Okay.
Q. Is that a computation of all these adjustments to her

income that year?
A. Yes.
Q. And so in here, are there expenses listed that were adjusted for -- for example what is subsection E, 1E?
A. Oh, that is the line number for the schedule.
Q. Okay. And what does it say next to it?
A. Repairs and maintenance.
Q. Does that have anything to do with real estate taxes?
A. No.
Q. And, does this indicate that that income should be attributed back to her 2018 return, that $8,147, was expenses that shouldn't have been used?
A. Those were the adjustments that were -- those were the expenses that were on the Schedule C that were adjusted.
Q. Correct. Unsupported?
A. Yes, sorry.
Q. And, likewise, supplies? 1D, correct?
A. Correct.
Q. Is that real estate taxes?
A. No, it is not.
Q. How about 1C, travel?
A. No.
Q. Is that real estate taxes?
A. No, it is not.
Q. How about 1G?

A. Advertising, no.

MR. JONES: No further questions, your Honor.

MR. SILBER: Your Honor, I found the two documents I wanted to ask. Would you allow me to reopen so we could address that?

THE COURT: Okay. All right.

MR. SILBER: I appreciate it.

RECROSS-EXAMINATION

BY MR. SILBER:

Q. Okay. I found the documents. All right. So, here we are. Do you remember when I asked you about his comment that was recorded in here about what he studied?

Do you remember that part of my cross-examination?

A. Yes.

Q. Okay. So, power of attorney, that is Mr. St. Louis, right, stated he didn't see anything wrong with annotating her as single. We covered that, right? H?

"Tax compliance officer explained that the taxpayer must file as -- what does MFJ stand for?

A. Married filing joint.

Q. With Ms. Thomas as Ms. Acosta's wife, right?

A. Right.

Q. Keep going here. What is MFS or HOH?

A. Married filing separate, or head of household.

Q. If the circumstances dictate, power of attorney, also return preparer, right?

A. Yes.

Q. And, by the way, the return preparer is the person who fills out the tax return and puts all the numbers in, right, based off what the taxpayer information that is provided, presumptively. Right?

A. A taxpayer --

Q. Well, for example, he admitted that he had an erroneous double entry. She didn't provide him with two property taxes, right?

He admitted he made a mistake?

A. I wasn't --

Q. These records reflect that he admitted he made a mistake?

A. Okay.

Q. Yes?

A. Okay.

Q. Is that what these records indicate?

A. I don't know.

Q. Okay. Now, you don't know.

All right. "Tax compliance officer points out that the power of attorney stated his case that he never learned you could only take mileage or actual expenses. He never learned this at any of the IRS forums or read this in any of the tax law books he reviewed.

"The tax compliance officer explained that this is one of the first things that a good return preparer learns about, and that he is very mistaken, very mistaken about taking mileage and in capital letters, and actual expenses which he, he, not taxpayer, which he took on the 2018 and 2019 returns." Right?

This is what was memorialized in the tax audit report as his comments and her comments, correct?

A. It is notated.

Q. Okay. All right. This is an April 1st, 2021, entry; correct?

A. Correct.

Q. Okay. On March 29, 2021, the taxpayer called -- Ms. Acosta -- called tax compliance officer to discuss the case. TCO explained that the case was closed due to no response. Taxpayer stated that she had been calling and calling her return preparer power of attorney who would not return her calls.

Correct?

A. Correct.

Q. Out of frustration, she called the tax compliance officer. Right?

The tax compliance officer explained all the allowances that had been given in detail based on the records, blah blah blah, and it goes on.

The point being, my client had to call on her own because

her power of attorney wasn't doing it for her, was he?
A. Yes. That's what the note says.
Q. Thank you.
Nothing further, your Honor.
MR. JONES: Can I briefly address that, your Honor?
THE COURT: Okay.

REDIRECT EXAMINATION

BY MR. JONES:
Q. Mr. Silber asked you about the February 1st entry here.
A. Yes.
Q. He described how the notes reflect how bad of a tax preparer Mr. St. Louis was?
A. Yes.
Q. Who was with Mr. St. Louis during this conversation?
A. Power of attorney and taxpayer called in.
Q. Does that reflect that the tax preparer was there during the conversation?
A. Yes.
Q. And then here, Mr. Silber was stating that the tax preparer had to call in out of frustration?
A. Yes.
Q. Can you tell me what the entry for March 23 states?
A. "No response from taxpayer or power of attorney."
Q. Thank you.
MR. JONES: No further questions.

THE COURT: All right, thank you.

(Witness excused.)

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

August 7, 2024 /s/Sharon Velazco
DATE SHARON VELAZCO, RPR, FPR
Official Court Reporter
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