

CLASSROOM LAW PROJECT proudly sponsors the 25th Annual Statewide

2010 Oregon High School Mock Trial Competition

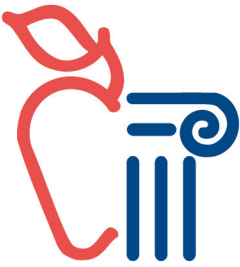


State of Oregon
v.
Willy Freeman

Frost is dead. She was a partner in a restaurant and was found frozen in the restaurant's cooler. She had a history gambling problems and outstanding loans. Was it murder or just bad luck?

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November 2010

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Dear Coach, Parent, Friend, Supporter:

Thank you. You are working hard to assure that young people have the experience of a lifetime. Mock trial is unlike any other high school competition. Academics, knowledge of the judicial system, quick-wittedness and teamwork are at the core of this program where young men and women are on equal footing. You are instrumental in bringing this experience to them. It means a great deal to them to have your support. Thank you for making a difference.

If you haven't already seen positive changes in the students as they prepare for the competition, I know you will. While the high school mock trial is designed to clarify the workings of our legal institutions for students, a great deal more than that goes on.

The mock trial experience provides students with the opportunity for interaction with positive adult role models – teachers, lawyers, and others. As students study our hypothetical case under their guidance, they acquire a working knowledge of our judicial system. You will notice an increased proficiency in reading and speaking skills; also critical thinking skills such as analyzing and reasoning; and interpersonal skills such as listening and cooperating. This hands-on experience outside the classroom is one where students not only learn essential knowledge about the law; they also gain valuable life skills.

We ask for your help in continuing this successful program. Classroom Law Project, an Oregon non-profit organization, is the sponsor of the annual high school mock trial. Putting on the mock trial costs about \$30,000. Less than half of that comes from teams' registration fees. I know that you have been asked many times to give and I understand that your ability to do so may be limited. But to the extent that you can, please consider how valuable this program is to the young people in your life and write a check accordingly. Any amount you can give is very appreciated; just send it to the address below. Your donation is tax deductible. Classroom Law Project is also affiliated with the Oregon Cultural Trust – another way to leverage your giving. Thank you.

Sincerely,

Marilyn R. Cover
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Classroom Law Project is a non-profit organization of individuals, educators, lawyers, and civic leaders building strong communities by teaching students to become active citizens.

ACKNOWLEDGMENTS

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Classroom Law Project gratefully acknowledges the *Delaware Law-Related Education Center, Inc.* for the use of its case materials. Classroom Law Project expresses its sincere thanks for its permission to modify the materials for use in Oregon.

Heartfelt appreciation to all teacher and attorney coaches, regional coordinators, county courthouse personnel, attorneys, and other volunteers whose dedication and hard work make the regional and state competitions successful. Without the efforts of volunteers like these, this event would not be possible.

2010-11 Oregon High School Mock Trial Competition

State v. Freeman

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CLASSROOM LAW PROJECT

2010-11 OREGON HIGH SCHOOL MOCK TRIAL COMPETITION

I. INTRODUCTION

This packet contains the official materials that student teams will need to prepare for the twenty-fifth annual Oregon High School Mock Trial Competition.

Each participating team will compete in a regional competition. Winning teams from each regional will be invited to compete in the state finals in Portland on March 11-12, 2011. The winning team from the state competition will represent Oregon at the National High School Mock Trial Competition in Phoenix, Arizona, May 4-8, 2011.

The mock trial is designed to clarify the workings of our legal institutions for young people. In the mock trial, students take on the roles of attorneys, witnesses, court clerks and bailiffs. As students study a hypothetical case, consider legal principles and receive guidance from volunteer attorneys in courtroom procedure and trial preparation, they learn about our judicial system and hone invaluable life skills (public speaking, team building, strategizing, decision making, to name a few) in the process.

Since teams are unaware of which side of the case they will present until minutes before the competition begins, they must prepare for both the prosecution/plaintiff and defense. All teams will present each side at least once.

Mock Trial judges are instructed to follow the evaluation criteria when scoring teams' performances. However, like the phrase "beauty is in the eye of the beholder" points out the differences that exist in human perceptions, that same subjective quality is present when scoring mock trial. Even with rules and evaluation criteria for guidance, as in real life, not all scorers evaluate a performance identically. While CLASSROOM LAW PROJECT and competition coordinators do everything possible to ensure consistency in scoring, the competition reflects this quality that is a part of all human institutions, including legal proceedings.

Each year, the mock trial case addresses serious matters facing society today. By affording students an opportunity to wrestle with large societal issues within a structured format, CLASSROOM LAW PROJECT strives to provide a powerful and timely educational experience. It is our goal that students will conduct a cooperative, vigorous, and comprehensive analysis of these materials with the careful guidance of teachers and coaches. This year's case offers opportunities to discuss gambling, accounting, business partnerships, and organized crime. By participating in mock trial, students will develop a greater capacity to deal with the important issues raised in *State v. Freeman*.

II. PROGRAM OBJECTIVES

For the **students**, the mock trial competition will:

1. Increase proficiency in basic skills such as reading and speaking, critical thinking skills such as analyzing and reasoning, and interpersonal skills such as listening and cooperating.

2. Provide the opportunity for interaction with positive adult role models in the legal community.
3. Provide an interactive experience where students will learn about law, society, and the connection between the Constitution, courts, and legal system.

For the **school**, the competition will:

1. Promote cooperation and healthy academic competition among students of various abilities and interests.
2. Demonstrate the achievements of high school students to the community.
3. Provide a challenging and rewarding experience for participating teachers.

III. CODE OF ETHICAL CONDUCT

At the first meeting of the Mock Trial Team, this code should be read and discussed by students and their coach(es). **The Code of Ethical Conduct governs participants, observers, guests and parents** at all mock trial events.

All participants in the Mock Trial Competition must adhere to the same high standards of scholarship that are expected of students in their academic performance. Plagiarism of any kind is unacceptable. Students' written and oral work must be their own.

Coaches, non-performing team members, observers, guests, and parents **shall not talk to, signal, or communicate with** any member of the currently performing side of their team during trial. Likewise, these individuals shall not contact the judges with concerns about a round; concerns by these individuals should be taken to the competition Coordinator. These rules remain in force throughout the entire competition. Currently performing team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Non-team members, teachers and coaches must remain outside the bar in the spectator section of the courtroom.

Team members, coaches, and any other persons directly associated with the Mock Trial team's preparation are not allowed to view other teams in competition so long as they remain in the competition themselves. *Except*, the public is invited to attend the final round of the last two teams on the last day of the state finals competition (approximately 2:00 p.m., March 12, in the Hatfield Federal Courthouse, Portland).

Students promise to compete with the highest standards of deportment, showing respect for their fellow students, opponents, judges, coaches, and competition Coordinator and volunteers. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the rules. Students will not willfully violate the rules of the competition **in spirit or in practice**.

Teacher coaches agree to focus attention on the educational value of the mock trial competition. **Attorney coaches** agree to uphold the highest standards of the legal profession and zealously encourage fair play. All coaches shall discourage willful violations of the rules. Coaches will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition's rules and this Code of Ethical Conduct. Coaches

are reminded that they are in a position of authority and thus serve as positive role models for the students. Teacher and attorney coaches should ensure that students understand and agree to comply with this Code. Violations of this Code may result in disqualification from competition.

Charges of ethical violations involving persons other than the student team members must be made promptly to the competition Coordinator who will ask the complaining party to complete a dispute form. The form will be taken to the competition's communication's center, where a panel of mock trial host sponsors will rule on any action to be taken regarding the charge, including notification of the judging panel. Violations occurring during a trial involving students competing in a round will be subject to the dispute process described in the Rules of the Competition.

All participants are bound by all sections of this Code of Ethical Conduct and agree to abide by its provisions.

IV. THE CASE

A. Case Background

The defendant, Willy Freeman, has been charged with the murder of his/her business partner, Devin Frost. Devin Frost apparently had a gambling problem, and had been unlucky for some period of time. Thinking that her luck would change, Devin borrowed money frequently from a local loan shark, Lou Contralto. However, Devin's luck didn't change and, under pressure for payment from Lou, Devin started stealing money from the business. However, with skyrocketing interest and continued gambling losses, Devin's debt to the loan shark was still over \$200,000, even after she had drained the business dry. Contralto had already given Devin several violently physical "messages" that the debt was to be paid – "or else." In the meantime, Willy hired an accountant to determine why the business was in the red. When Willy learned that Devin had been stealing from the business and had driven it into bankruptcy, Willy allegedly became enraged and threatened to kill Devin. A few days later, Devin was found dead, and through a Buy-Sell Agreement and insurance policy, Willy would become a half million dollars richer. Was Devin murdered? If so, who is the culprit?

The Case Background is not to be used as evidence in the case, but rather is provided for background purposes only. This case is a work of fiction. The names and events described herein are fictional; any similarity or resemblance of any character to an actual person or entity is coincidental.

B. Indictment

IN THE SUPERIOR COURT OF THE STATE OF OREGON
IN AND FOR EDGEWATER COUNTY

STATE OF OREGON)
)
 v.) No. Cr. 07-13-101
)
 WILLY A. FREEMAN,)
)
 Defendant.)

GRAND JURY INDICTMENT

THE GRAND JURY CHARGES:

The Grand Jury of the county of Edgewater upon their oath or affirmation do present that WILLY A. FREEMAN on or about the 20th day of March, 2010 at the county of Edgewater in the state of Oregon intentionally did murder DEVIN FROST, in violation of 11 *Crim. C.* § 636.

I hereby certify that the foregoing indictment is a true bill.

APPROVED:

Peter Jones
/s/ Peter Jones
Foreperson

July 12, 2010

C. Stipulations

Note: No witness may contradict or deny knowledge of the facts contained in the stipulations.

1. All exhibits included in these Case Materials are authentic and accurate in all respects; no objection to the authenticity of these exhibits will be entertained. Unless stated otherwise herein, the admissibility of the exhibits on other grounds may be challenged.
2. All witness statements were signed by each witness under oath.
3. The autopsy of Devin Frost concluded that Frost died as a result of hypothermia. Hypothermia causes the body to be pale and waxy, not cyanotic, because the blood withdraws from the skin by the body's defensive mechanisms to avoid loss of heat.
4. Time of death could not be determined from typical physical examination of the body, i.e. body temperature, because the body was frozen.
5. The autopsy results dated the cigarette burns found on Frost to have occurred two weeks prior to death, and strangulation of neck, non-life-threatening, to have occurred less than one week prior to death.
6. Fingerprint analysis shows that Freeman's fingerprints are on the padlock to the cooler, cooler door, and kitchen knife. Contralto's fingerprints were not detected on the padlock to the cooler, cooler door, or doors to the restaurant.
7. Exhibits 2, 3, 4 and 5 were made at or about the time of the events by a person with knowledge of the events, and are kept in the course of regularly conducted business activity, and it is the regular practice to make such records. Exhibits 2, 3, 4 and 5 do not need to be introduced through the custodian of the records.
8. Exhibit 8 is the original photograph taken by Detective Riggs at the scene of the crime and accurately depicts the victim and the surroundings at the time of Detective Riggs' investigation.
9. Exhibit 10 is a true and accurate copy of the original note of Devin Frost provided by Defendant Freeman shortly after being charged with the murder of Frost. The handwriting contained in Exhibit 10 has been confirmed to be that of Devin Frost, per expert handwriting analysis. The original note was to be analyzed using inkdating techniques. Prior to undergoing the inkdating analysis, a copy of the original note was made. The original note disappeared from the evidence room prior to the inkdating analysis. Therefore, the dating of the handwriting on the note cannot be determined. Exhibit 10 is admissible, without objection.

D. Witness List

The witnesses for each side of the case are as follows:

For the prosecution:

Accountant – Les Moore
Police Detective - Chris Riggs
Loan Shark – Lou Contralto

For the defense:

Defendant - Willy A. Freeman
Jailhouse snitch – J. Byrd (Joel/Joelle Byrd)
Criminologist/private investigator - Pat Ives

E. Exhibits List

- Exhibit 1. Les Moore, CPA, CFE
- Exhibit 2. Ticket Order and Cash Register Receipt
- Exhibit 3. Deposit Slip and Cash Register Receipt
- Exhibit 4. Check and Check Register
- Exhibit 5. Buy-Sell Agreement
- Exhibit 6. Investigation Report
- Exhibit 7. Supplemental Investigation Report
- Exhibit 8. Photograph
- Exhibit 9. Padlock Receipt
- Exhibit 10. Menu Notes
- Exhibit 11. Pat Ives, Curriculum Vitae

F. Legal Authority and Jury Instructions

This section includes a crime with which a witness(es) may have had prior experience. The only crimes that the defendant has been charged with are contained in the jury instructions along with any affirmative defenses that are being raised by the defendant.

11 Crim. C. § 846 Extortion; class E felony

A person commits extortion when, with the intent prescribed in §841 of this title, the person compels or induces another person to deliver property to the person or to a third person by means of instilling in the victim a fear that, if the property is not so delivered, the defendant or another will:

- (1) Cause physical injury to anyone; or
- (2) Cause damage to property; or
- (3) Engage in other conduct constituting a crime; or
- (4) Accuse anyone of a crime or cause criminal charges to be instituted against anyone; or
- (5) Expose a secret or publicize an asserted fact, whether true or false, tending to subject anyone to hatred, contempt or ridicule; or
- (6) Falsely testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (7) Use or abuse the defendant's position as a public servant by performing some act within or related to the defendant's official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or
- (8) Perform any other act which is calculated to harm another person materially with respect to the person's health, safety, business, calling, career, financial condition, reputation or personal relationships.

Extortion is a class E felony, except where the victim is a person 62 years of age or older, in which case any violation of this section shall be a class D felony.

Jury Instructions

*These are **not** to be read in open court by the presiding judge.*

Members of the Jury:

This is a criminal case commenced by the state against the Defendant Willy Freeman. The Defendant has been charged with Murder in the First Degree.

Burden of Proof and Presumption of Innocence

The Defendant has pleaded “not guilty” and is presumed to be innocent. The State has the burden of proving the guilt of the Defendant Willy Freeman beyond a reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense – the kind of doubt that would make a reasonable person hesitate to act in the graver and more important affairs of life.

Murder in the First Degree [Intentional Killing]

Under Oregon law, a person is guilty of Murder in the First Degree when [he/she] intentionally causes the death of another person.

In other words, in order to find the defendant guilty of Murder in the First Degree, you must find that each of the following two elements has been established beyond a reasonable doubt:

- First, the defendant caused Devin Frost’s death; and
- Second, the defendant acted intentionally.

In order to prove that the defendant “caused” Devin Frost’s death, the State must establish that Devin Frost would not have died but for the defendant’s conduct.

“Intentionally” means that it was the defendant’s conscious objective or purpose to cause Devin Frost’s death.

If, after considering all the evidence, you find that the State has established beyond a reasonable doubt that the defendant acted in such a manner as to satisfy all of the elements that I have just stated, on or about the date and at the place stated in the indictment, you should find the defendant guilty of Murder in the First Degree. If you find that the State has not proved every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty of Murder in the First Degree.

Manslaughter/Extreme Emotional Distress

If you conclude beyond a reasonable doubt that the defendant intentionally caused the death of Devin Frost, you should next consider whether [he/she] did so while under the influence of extreme emotional distress. The fact that the defendant intentionally caused the death of another person while under the influence of extreme emotional distress is a mitigating circumstance which reduces the crime of murder in the first degree to the crime of manslaughter. The defendant has the burden of proving, by a preponderance of the evidence, that [he/she] acted under the influence of extreme emotional distress. The defendant must also prove, by a preponderance of the evidence, that there is a reasonable explanation or excuse for the existence of the extreme emotional distress. The reasonableness of the explanation or excuse must be determined from the viewpoint of a reasonable person in the defendant’s situation under the circumstances as [he/she] believed them to be.

The purpose of the law of mitigating circumstance of extreme emotional distress is to permit the defendant to show that the intentional killing was caused by a sort of frenzy of mind and that [he/she] is, therefore, less culpable for the killing. This mitigating circumstance applies to persons who kill, in part, because of unique factors that cause an emotional explosion or as an extreme reaction to overwhelming stress.

You should give the words “extreme emotional distress” their common, everyday meaning. A person under the influence of extreme emotional distress is someone whose feelings were thrown into extraordinary, unusual or unexpected disorder. Extreme emotional distress is a type of mental or physical feeling of such exceptional stress, excitement or disturbance as to produce a frenzy of mind which makes one deaf to the voice of reason. It is a condition or state of mind that can occur spontaneously or it can develop over a period of time.

In addition to proving that [he/she] acted under the influence of extreme emotional distress, the defendant must also prove, by a preponderance of the evidence, that there is a reasonable explanation or excuse for the existence of the extreme emotional distress. That is, you must consider whether a reasonable person in the defendant’s position or situation under the circumstances as [he/she] believed then to be would have suffered from extreme emotional distress.

In order to be a reasonable explanation, the event that triggered the emotional disturbance must be something external from the defendant and cannot be something for which the defendant was responsible, such as involvement in a crime.

If the defendant intentionally, knowingly, recklessly or negligently brought about his own mental disturbance, extreme emotional distress is not applicable. Further, if the defendant’s mental state was caused by voluntary alcohol or drug use, extreme emotional distress is not applicable.

Murder in the Second Degree [Reckless Indifference]

If you find the Defendant not guilty of Murder in the First Degree, you must decide if the State has proven beyond a reasonable doubt that the Defendant committed Murder in the Second Degree. Under Oregon law, a person is guilty of Murder in the Second Degree when [he/she] recklessly causes the death of another person under circumstances which manifest a cruel, wicked and depraved indifference to human life.

In other words, in order to find the defendant guilty of Murder in the Second Degree, you must find that each of the following three elements has been established beyond a reasonable doubt:

First, the defendant caused victim’s death; and

Second, the defendant acted recklessly; and

Third, the defendant’s recklessness manifested a cruel, wicked and depraved indifference to human life.

In order to prove that the defendant “caused” Devin Frost’s death, the State must establish that Devin Frost’s would not have died but for the defendant’s conduct.

“Recklessly” means that the defendant was aware of and consciously disregarded a substantial and unjustifiable risk that Devin Frost’s death would result from [his/her] conduct. The State must demonstrate that the risk was of such a nature and degree that the defendant’s disregard of it was a gross deviation from the standard of conduct that a reasonable person would observe under the same circumstances.

“Cruel” describes the malicious infliction of physical suffering upon a human being.

“Depraved” describes an indifference for human life. “Wicked” describes a lack of conscience or morality.

If, after considering all the evidence, you find that the State has established beyond a reasonable doubt that the defendant acted in such a manner as to satisfy all of the elements that I have just stated, on or about the date and at the place stated in the indictment, you should find the defendant guilty of Murder in the Second Degree. If you find that the State has *not* proved every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty of Murder in the Second Degree.

General Instructions

You alone are the judges of the credibility of the witnesses and the weight to be given to the testimony of each of them. In determining the credit to be given any witness, you should take into account her/his truthfulness or untruthfulness, her/his ability and opportunity to observe, her/his memory, her/his manner while testifying, any interest, bias or prejudice s/he may have and the reasonableness of her/his testimony considered in the light of all the evidence in the case.

You should consider each opinion received in evidence in this case and give it such weight as you think it deserves. If you should conclude that the reasons given in support of the opinion are not sound or that for any other reason an opinion is not correct, you may disregard that opinion entirely.

The law governing this case is contained in these instructions, and it is your duty to follow the law. You must consider these instructions as a whole. You must not pick out one instruction or parts of an instruction and disregard others.

You are the sole judges of the facts in this case. It is your duty to determine the facts from the evidence produced here in court. Your verdict should not be based on speculation, guess or conjecture. Neither sympathy nor prejudice should influence your verdict. You are to apply the law as stated in these instructions to the facts as you find them, and in this way decide the case. You must not concern yourself with the consequences of your verdict.

Your verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agrees. Your verdict must be unanimous. It is your duty to consult with one another and try to reach an agreement. However, you are not required to give up your individual judgment. Each of you must decide the case for yourself, but you must do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own view and change your opinion if you are convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the purpose of reaching a verdict. You are the judges – judges of the facts. Your sole interest is to ascertain the truth from the evidence in the case.

You will now retire to the jury room and select one of you to act as foreperson. That person will preside over your deliberations and will speak for the jury here in court. Forms of verdict have been prepared for your convenience. You will take these forms to the jury room; when you have reached unanimous agreement as to your verdict, the foreperson will sign the forms which express your verdict. You will then return all forms of verdict, these instructions and any exhibits to the courtroom.

1 **G. Witness Statements**

2
3
4 **Statement of Leslie Moore, Witness for the Prosecution**

5
6 My name is Leslie Moore. I prefer to be called Les. I am a certified public accountant in
7 private practice in Irving, Oregon. A true and accurate copy of my curriculum vitae is attached
8 as Exhibit 1. I graduated from the University of Oregon in 1981 with a B.S. in Accounting, *cum*
9 *laude*. I was recognized as the top student in accounting and received the coveted Luca Pacioli
10 award. Just in case you didn't know, Luca Pacioli is considered the father of accounting. He
11 was a wandering Franciscan monk, who was also a friend and collaborator of Leonardo da Vinci.
12 He established the first known double entry bookkeeping system with debits on the left and
13 credits on the right, and the balance from the profit and loss accounts to be placed in a capital
14 account. He also required that a trial balance be prepared when the books were closed. Pacioli's
15 system, established in 1494, was remarkably similar to modern bookkeeping. To put it into
16 perspective, Pacioli was creating an accounting system at the time Christopher Columbus was
17 discovering America! Two discoveries that have shaped our lives forever!

18
19 After graduating from UO, I was highly recruited by what was then considered the Big 8
20 CPA firms. I went to work for Arthur Andersen in Chicago as an auditor; that was well before its
21 demise from the Enron and WorldCom debacles. Just in case you missed the headlines back in
22 2002, Arthur Andersen was convicted for obstruction of justice for shredding documents relating
23 to its audit of Enron, and the firm agreed to surrender its licenses. Although the United States
24 Supreme Court unanimously reversed Arthur Andersen's conviction in 2005, the firm had
25 already lost nearly all of its clients. I hate to even mention my prior association with Arthur
26 Andersen. However, when I was at the firm, it had the reputation of supporting the highest
27 standard in the accounting industry. I was quickly recognized as a star at Arthur Andersen. I
28 was promoted quickly and assumed the role of Manager after only 3 years; the usual tract for a
29 Manager position is 4-5 years.

30
31 I left Arthur Andersen in 1984 to establish a firm of my own, Account-Ability, ironic
32 given my Arthur Andersen connection. We are a 6 member firm, offering our clients full service
33 accounting expertise. In addition to audit work, I specialize in forensic accounting. The Arthur
34 Andersen headlines prompted my desire to pursue forensic accounting. The Enron and
35 WorldCom problems shed light on corporate scandals and the need for forensic accountants.
36 Forensic accountants are trained to look beyond the numbers and deal with the business reality of
37 the situation. According to research conducted by the Association of Certified Fraud Examiners
38 (ACFE), U.S. organizations lose an estimated 7 percent of annual revenues to fraud. Based on
39 the estimated U.S. Gross Domestic Product for 2008 – \$14.256 trillion – this percentage
40 indicates a staggering estimate of losses around \$994 billion among organizations, despite
41 increased emphasis on anti-fraud controls and recent legislation to combat fraud. My mission as
42 a fraud examiner is to reduce the incidence of fraud and white-collar crime and to assist the
43 client in detection and deterrence.

44
45 Willy Freeman contacted me on March 1, 2010 to employ my services. On that day, I
46 had made a presentation at the local Chamber of Commerce entitled "Realizing Your Full
47 Potential" and had touched on various business and financial practices that could increase

1 profitability, including stronger internal controls to prevent or deter employee embezzlement.
2 Willy came up to me after the meeting and asked if I would undertake a financial investigation
3 and make recommendations of increasing profitability for the business. I learned that Willy
4 Freeman and Devin Frost were partners in their restaurant, Shallots. At the time, there was no
5 suspicion of fraud or wrongdoing. Willy wanted to know why the business was in the red when
6 customers were steady and it seemed that business was good. Willy and Devin had been in the
7 restaurant business for 3 years. In a study reported in 1999, Ohio State University researchers
8 showed that the highest failure rate in the restaurant industry was during the first year, when
9 about 26 percent of the restaurants failed. About 19 percent failed in the second year and 14
10 percent in the third year, according to the analysis. So, while it is not unusual for a restaurant to
11 fail in the first three years, it was a bit surprising to hear that Shallots was in the red because I
12 was aware of Shallots' "good buzz" in the community and positive critic review in The
13 Oregonian.
14

15 I toured the restaurant facilities the following day, March 2, to get a feel for the day-to-
16 day management and to get an overview of the financial records and record keeping of the
17 business. I advised Willy that in order for me to do a complete financial review, audit and
18 forensic investigation, I would need complete access to all accounting records for a period of two
19 weeks starting March 8, for a flat fee of \$6,500. I would work on their premises, so that I could
20 have access to all of the records and they could continue business as usual. That arrangement
21 also gives me the opportunity to make observations of suspicious activity that I might not
22 otherwise know. Willy agreed to the arrangement. Because I knew that the restaurant was on
23 shaky ground, I demanded to receive my fees in advance. Willy paid me out of his/her personal
24 funds.
25

26 During my brief discussions with Willy, I could tell that he/she was accounting-
27 challenged. Willy has great creativity with food preparation, restaurant style, and service, but
28 more or less left Devin Frost to handle the financial matters of the business. I was not present
29 when Willy informed Devin that I had been engaged to do the forensic investigation, so I cannot
30 state what Devin's reaction was. I didn't notice anything particularly suspicious from Devin
31 when I was performing my forensic accounting work for the two-week period. Well, there were
32 two times when Devin would be back in the office area with me and I had some cancelled
33 checks, bank statements and ledger cards on the desk, and Devin accidentally spilled coffee all
34 over the records. At first, I thought it was an accident. The second time, I thought Devin was
35 either clumsy or perhaps was doing something more sinister in obliterating the records. Also, I
36 did overhear a few conversations that Devin had on the phone – once the first week I was there,
37 and then 2 or 3 times the following week. Devin told the person on the phone "I promised you I
38 would get the money, just give me time," and "There's no need to use threats, you'll get your
39 money" and "Yes, I remember what happened last time when the payment wasn't timely, please
40 don't, that won't be necessary. I'll pay you, I promise." She was upset by the calls, but didn't
41 seem scared. Initially, I thought Devin's conversations were with a vendor. In the restaurant
42 business, if you can't pay your bills, the deliveries stop, and the business will go belly up. In
43 retrospect, I think these telephone conversations were probably between Devin and Lou
44 Contralto. Lou was probably threatening Devin, if she didn't pay her gambling debts. I never
45 heard who was on the other side of the conversation or what the caller said, and Devin never
46 spoke about it with me. During the first week I was there, Devin came into the restaurant and
47 had a burn mark on her hand, and another time she had bruising on her neck, like someone had
48 grabbed her neck hard. I didn't ask any questions.

1
2 During the two-week period I was at the restaurant, I frequently saw a person in the
3 shadows in the alley across the street from the restaurant's back door. At the time, I just
4 assumed they worked at the business across the street and were taking a cigarette break. I now
5 recognize the person lurking in the alley to be Lou Contralto. If Contralto were in the same
6 position on the night of March 20, he/she would have a good view of anything going on outside
7 the restaurant's back door to the kitchen. Despite the darkness in the alley, there was a light right
8 above the back door's entrance to the restaurant.
9

10 Restaurants are notorious for losing money due to employee embezzlement. The most
11 common cash fraud scheme is skimming. Skimming is the process by which cash is removed
12 from the company before it enters its accounting system. Retail establishments and particularly
13 restaurants where cash is used frequently are vulnerable to this type of scheme. A related type of
14 scheme is to ring up a sale for less than the actual amount. The fraudster then pockets the
15 difference between the actual sale and the amount on the register tape. Employees may also ring
16 up a sale and then void the same sale, thereby pocketing the cash from the register.
17

18 If an employee collects the cash and also makes the bank deposit, they have an excellent
19 opportunity to misappropriate company funds. For example, an employee in the food services
20 industry may receive the daily receipts from the cashier, along with the cash register tapes. The
21 employee would then mutilate the register tapes so they could not be read. With the evidence
22 now destroyed, the employee would pocket a portion of the day's receipts and deposit the
23 balance. If the daily deposit amounts are not compared with the cash register tapes, the fraud can
24 go undetected.
25

26 Checks can also be the instrument of fraud. Employees with signature authority can make
27 checks payable to cash or to themselves personally. Someone with check signatory authority can
28 simply write the check to themselves or cash, mark the check as being void in the company's
29 check register and then inflate the amount of another check written to a company supplier for
30 inventory. When the bank statements are received, the employee merely removes those checks
31 and destroys them.
32

33 Kiting is the process whereby money is received but not recorded immediately on the
34 books and is then embezzled by an employee. As money continues to come in, the money that is
35 received subsequently is applied to the prior receipts that were not recorded previously. Thus
36 there is a continuing lag of funds from the actual receipts, but it is covered up because the money
37 is deposited later.
38

39 In performing my forensic investigation, I reviewed the following financial and business
40 records: general ledger, journal entries, adjusting journal entries, trial balances, checking
41 accounts, cancelled checks, deposit slips, cash register receipts, order tickets, and vendor
42 invoices. I also personally interviewed Willy Freeman and Devin Frost, as well as a couple of
43 the restaurant employees to understand the flow of money, and internal controls present in the
44 company. Although both Devin and Willy had authority to sign checks, Devin primarily
45 assumed that role. Willy managed the kitchen staff, the menus, ordering food supplies,
46 scheduling employees, reservations, and keeping the customers happy. Devin primarily operated
47 the cash register during business hours and managed the financial aspects of the business.
48

1 During the first week of my investigation, I started to strongly suspect that Devin Frost
2 had been stealing from the restaurant. I don't believe I mentioned my suspicions to anyone. I
3 seem to recall both Devin and Willy asking me how the investigation was proceeding, but I
4 typically would not verbalize any conclusions until my investigation was complete. I am all
5 about precision and accuracy, which is part of my draw to accounting. In my view, it is
6 important to have all your facts and figures together before any conclusions are announced.
7

8 After I had completed my two-week forensic investigation, it was evident that Devin had
9 been taking cash from Shallots for some time. I found evidence of each of the typical
10 embezzlement schemes mentioned previously. For example, skimming had occurred. There
11 were several instances where one of the waiters or waitresses had a carbon copy of an order
12 ticket in their book, but the order was not included on the cash register receipt for the day. An
13 example of this is shown on Exhibit 2. The check marks on the cash register receipt are my
14 notation for crosschecking the order tickets to the daily cash register receipt. I cannot say for
15 certain that the skimming is attributable to Devin. Someone else could have been managing the
16 cash register at the time. However, in looking at the events as a whole, there are events that I can
17 directly point to Devin. For example, certain daily cash register tapes did not match to the
18 deposit that was made. These deposit slips were written in Devin's handwriting, and were part of
19 her normal job responsibilities, and not the responsibility of any other employee. Thus, as you
20 will see from Exhibit 3, which has the deposit slip in the amount of \$587.93 on Monday,
21 February 11, 2010, even though the cash register tapes show receipts from Friday in the amount
22 of \$2299.61 and Saturday for \$3089.57. Finally, I encountered checks that were written to cash
23 or to Devin and were shown as void in the check register, but actually cleared the bank. In order
24 to balance the account, another check in the check register and ledger accounts were manipulated
25 to increase the payment to cover the amount of the "voided" check to Devin. Exhibit 4 is an
26 example of this occurrence.
27

28 In total, I uncovered 67 instances of embezzlement committed by Devin Frost totaling
29 \$273,958 over the past 2 years. It appears that no embezzlement occurred during the first year
30 that the restaurant was in operation. Of the 67 instances of embezzlement, more than half
31 occurred in the 6-month period prior to March, 2010. Unfortunately, the embezzlement has left
32 Shallots with little to nothing. Shallots is operating at a net loss of \$164,554 and a negative cash
33 flow. Vendors have refused to supply product to the restaurant until outstanding accounts
34 payable are brought current.
35

36 I broke the news to Willy on Friday, March 19, 2010 about 4:00 p.m. I informed Willy
37 that my forensic investigation revealed that Shallots was bankrupt due to numerous occasions of
38 embezzlement by his/her partner, Devin Frost, and that the amount embezzled was \$273,958.
39 At first, Willy appeared to be in shock, repeating several times, "How could this happen?" The
40 more I explained to Willy the specifics of the embezzlement and giving him/her examples of the
41 skimming, check fraud, and deposit manipulation, the more I saw pure rage in Willy's face.
42 Willy seemed consumed by his/her rage and said, "Well, I'll make Devin pay for this. She won't
43 make a fool out of me." Willy told me that I had done my job and could leave and that he/she
44 would confront Devin alone.
45

46 I had left the building when I realized that I had left my favorite mechanical pencil on the
47 desk in the office area. When I went back to retrieve my pencil, I overheard Willy talking to
48 Devin in strained, but controlled hush tones. I couldn't hear everything that was said clearly

1 because I was standing near the kitchen door to the hallway by the office and the kitchen
2 employees were pulling out pots and pans in preparation for the supper crowd and making loud
3 clanging noises. But, I'm pretty sure, I heard Devin say something about gambling and then
4 Willy said Devin had to come up with the money right now and threatened to kill Devin. I don't
5 know the exact wording Willy used because of the background noise. And then I heard Willy
6 say quite clearly, "You'll get your just desserts."
7

8 While I was reviewing the company records, I also came across a Buy-Sell Agreement
9 for the restaurant. The Buy-Sell Agreement provides that in the event of death of either partner,
10 that the other partner shall be the beneficiary of a \$500,000 insurance policy. A true and
11 accurate copy of an excerpt of the Buy-Sell Agreement is attached hereto as Exhibit 5. So, upon
12 Devin's death, Willy was the recipient of a \$500,000 payout from the insurance policy. It is not
13 unusual, however, for partners in a business to have a buy-sell agreement in place, funded by
14 insurance. Actually, it is a smart business practice because you are planning for contingencies of
15 someone's death and what happens to their partnership interest in the business. You don't want
16 the family coming in and trying to manage the business too. You want to be able to buy them
17 out.
18

19 I believe I have an excellent reputation among my peers in both audit work and forensic
20 accounting. All of my peer review examinations have yielded outstanding results. I did have
21 one malpractice action filed against me about 5 years ago relating to tax preparation work I had
22 performed, specifically with a car dealership's inventory. My insurance company paid a small
23 nuisance settlement to make it go away, but the settlement papers specifically state that I deny
24 liability. The case was dismissed against me.
25

26 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
27 belief and knowledge.
28
29

30 Les Moore
31

1 **Statement of Chris Riggs, Witness for the Prosecution**

2
3 My name is Chris Riggs. I am a detective with the Irving Police Department. I am a
4 twenty-year veteran of law enforcement and hold a Bachelor's degree in Criminal Justice from
5 Portland State University. During my career, I have been involved in every type of criminal
6 investigation at the local, state and federal levels. For six years, I served as a member of Oregon
7 Attorney General's Task Force on Organized Crime, working in an undercover capacity. I use
8 the information I learned during my time as an undercover agent to investigate crimes where
9 there is a suspicion that organized crime might be involved. I work closely with the Metro Gang
10 Task Force, the Seattle Police Department, and the Seattle and Portland FBI offices. Besides my
11 duties at the Irving Police Department, I am on the teaching faculty at the Oregon State Police
12 Academy and the Federal Law Enforcement Training Center in Artesia, New Mexico. I have
13 also been a guest lecturer for Assistant United States Attorneys at the Department Of Justice,
14 Office of Legal Education Training Center in New York.

15
16 As a lead investigator for the Oregon Attorney General's Task Force on Organized
17 Crime, I have made numerous arrests and have been credited with assisting in the prosecutions of
18 numerous men and women connected with organized crime. I have received numerous awards
19 for my work including the Medal of Valor, Meritorious Service Medal, The Law Enforcement
20 Official of the Year 2000, and the J. Edgar Hoover award. My efforts have also been the focus
21 of a story in Newsweek, ABC Television News Program 20/20 and The Oprah Winfrey Show.

22
23 I really get irritated when people bring up the two times that I was investigated by
24 Internal Affairs (IA) for possible corruption and connections to the mob. I was accused of
25 evidence tampering and rigging the case involving Lou Contralto and Lou's brother Diamond
26 Jim so that they escaped conviction. Nothing could be farther from the truth, and I swore to
27 myself there would be another day when I would bring them down. Bringing up the IA
28 investigations is just an underhanded attempt by defense counsel to discredit me and let a guilty
29 person go free. It was a long time ago and nothing came of the investigations. I was never
30 indicted, never suspended, and never reprimanded. Naturally when you've infiltrated the mob,
31 there is always a blur in the public or outsider's view as to where your loyalties are. But, if
32 you're going to play the part of an undercover agent, you have to be convincing – or you don't
33 survive. I got pretty good at acting and sometimes, I admit, it was hard to separate the two lives.
34 But, I wanted nothing more than to nail Lou for the heinous crimes he/she has orchestrated. Yes,
35 I developed connections with Lou Contralto, but only to use it against him/her and other violent
36 loan sharks.

37
38 It's ironic that anyone would accuse me of trying to pin this on Willy Freeman as a
39 subterfuge to let Lou go free again. I wanted nothing more than to finally nail Contralto. The
40 reason I was called into this case is because it initially appeared like a mob hit. We had an
41 eyewitness identify Lou outside Shallots on the evening of March 20. We knew that Devin Frost
42 owed Lou over \$200,000 in loans and interest from gambling. There was evidence of threats
43 made upon Ms. Frost, and evidence of physical violent "messages," such as cigarette burns,
44 when Devin had not come up with promised payments. And being iced in a cooler is a typical
45 mob hit because it sends a message to others who owe the loan sharks money. Based upon that
46 evidence, I had Contralto arrested for the murder of Devin Frost. My original investigation
47 report documents my initial findings and conclusions. Exhibit 6 is a true and accurate copy of
48 my investigation report.

1
2 But two things gnawed at me. First, I would have expected to find some additional
3 physical violence that had occurred prior to Frost's hypothermia. Typically, loan sharks or their
4 soldiers like to rough up the victim before they pronounce the death sentence. A strong message
5 to other potential deadbeats is paramount. In this case, there were no signs of struggle or
6 physical violence. Ms. Frost's body was void of any recent physical abuse. Second, according
7 to Les Moore's forensic accounting investigation, Devin Frost had been making payments to
8 Contralto, and therefore continued to be a source of income for Contralto. Loan sharks typically
9 don't cut off their source of revenue unless it dries up completely or they feel threatened. I
10 didn't see that to be the case for Devin Frost.

11
12 My first and foremost responsibility is to uphold the law. I had to maintain my
13 objectivity throughout my investigation regardless of how much I might have wanted to
14 implicate Contralto. While maintaining my objectivity, I continued the investigation and
15 supplemented my initial investigation report. Exhibit 7 is a true and accurate copy of my
16 supplemental investigation report. Upon completing my investigation, it became clear to me
17 that Willy Freeman had murdered Devin Frost. Motive was clear. Moore had informed Willy
18 that Devin Frost had been stealing money from the restaurant. Frost's death was a payback in
19 more ways than one – not only for vengeance, but also to pay back Willy \$500,000 through the
20 Buy-Sell life insurance policy. Willy was angry when he/she learned about the theft and the
21 company's bankrupt condition. More than one witness heard Willy threaten Devin. Plus, Willy
22 had the opportunity; Contralto had staked out Shallots the night of March 20, and overheard the
23 two arguing outside the kitchen's back door and Freeman brandishing a kitchen knife and forcing
24 Frost back into the kitchen.

25
26 Unfortunately, there is no accurate way to establish time of death merely by observing
27 the body since it was frozen. Thus, as a police detective, I'm trained to use other means, such as
28 witnesses, neighbors, unopened mail, or other testimonial or physical evidence. The last person
29 who was with Frost was Freeman. Upon investigating Frost's home, it was apparent that she had
30 not come home since Saturday evening, March 20. She had not retrieved her mail or picked up
31 any voicemail messages at home or on her cell phone. It is obvious that this was no accident.
32 The padlock to the cooler was locked from the outside and Devin Frost told us what happened
33 through her own words. She identified her assailant's name on the freezer floor with frozen
34 bacon strips. Using the bacon strips stored in the cooler, she spelled out "Killer – I." Exhibit 8
35 is a true and accurate photograph of the clue left behind by Devin Frost.

36
37 Additionally, it became quite evident that this murder was not committed in the heat of
38 passion but rather was premeditated. Shallots had been operating for three years prior to this
39 incident. Freeman purchased a lock for the freezer when Devin Frost was suspected of stealing
40 from the business. Freeman contemplated and planned the whole thing out, forcing Frost into the
41 freezer, locking her in over the weekend, and making it appear that the loan sharks were making
42 a typical mob hit. But, Freeman was careless. Freeman's fingerprints are all over the lock to the
43 cooler, freezer door, and the kitchen knife, and Freeman didn't realize there was a witness
44 lurking in the dark shadows in the alley facing the kitchen's back door. We did not find
45 Contralto's fingerprints anywhere in the restaurant. J. Byrd might have tried to reach me to tell
46 me about something with this case, but I never spoke with J. Byrd. Sure, I know a detective
47 generally follows all leads, but in this instance, I knew every minute I spoke with Byrd was a
48 minute wasted of my life that I would never get back. He/she is a notorious con-artist, always

1 looking for another angle to play. It wasn't worth my time. Also, I'm not in control of the
2 evidence room, so this angle that I tampered with the evidence in this case is not only way off
3 based, but is offensive to me as a person sworn to serve justice and to uphold the law.
4

5 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
6 belief and knowledge.
7

8
9
10

Chris Riggs

1 **Statement of Lou Contralto, Witness for the Prosecution**

2
3 My name is Lou Contralto. I got no formal education. I got my best learnin off the streets
4 of Los Angeles, where I was born and raised. I dropped out of high school at 16 to go into the
5 family business. I've been in the family business since then, about 20 years. The family
6 business is just your garden variety regular, ordinary business. You offer a service, you get paid
7 for that service. Just like the lawyers in this case. I occasionally loan money to people and those
8 loans are interest bearing – just like a bank. I don't see the need for promissory notes. People
9 know they owe me when I loan them money, and I expect them to pay. I don't need a piece of
10 paper to get them to pay me. That's not how I do business. If someone didn't pay me, I'd
11 remind them firmly that they're payment's due, and then bada boom, bada bing – they'd find a
12 way to come up with the money. I can be very persuasive. I am not a loan shark – that would be
13 illegal. I'm not a member of the mob or organized crime. All I know about the mob I learned
14 from James Cagney, Al Pacino, and Marlon Brando in the movies. I know nothin' about how the
15 mob kills people.

16
17 I'm testifying in this case because the prosecutor made me an offer I couldn't refuse. By
18 testifying and telling the truth, the prosecutor has agreed to drop the charges against me for loan
19 sharking 'cause of my "business deal" with Devin Frost. This is not my first scrape with the law.
20 The cops have had it in for me for a while – always looking to nail me with something. Now and
21 then they've busted me for some petty crime, just to flex their muscles. I ain't scared. I never
22 did time in the slammer for more than 90 days. My rap sheet started back when I was a juvie
23 [juvenile]. All of the charges have come from the Irving police. I ain't never had any trouble
24 with the Los Angeles police. In 1986, I was convicted of theft of less than \$1500 and just had to
25 do some road crew work. In 1987, I was convicted of assault in the second degree, and got a
26 suspended sentence, and was on probation for a year. In 1994, I was convicted of extortion, and
27 did over a year in the cooler. Then, in 2003, I was charged with bribery, but I was never
28 convicted. That's the case that involved Detective Riggs. Riggs was accused of tampering with
29 evidence, but it was all a big hullabaloo. In 2004, I was charged with terroristic threatening. The
30 state said I threatened this guy I loaned money to. The case got thrown out because the state's
31 key witness disappeared. In September, 2010, I was charged with assault in the second degree,
32 and that charge is still pending. They say I strangled some guy. Can you believe that? I'm not
33 worried about that charge either. Fuhgeddaboutit - these things have a way of going away.

34
35 They also tried to pin Frost's murder on me. No way. I may not be squeaky clean, but I
36 ain't a murderer. You can ask anybody. Why would I kill Frost? She was makin' good on
37 what she owed me. Sure, I was keepin' tabs on her. Sometimes folks that owe you some dough
38 think about skippin' town. If Frost left town it would be to look for a big score. She always
39 wanted to get some action. Mostly she just would go to goulash joints lookin' for a live game.
40 A goulash joint is a restaurant or bar that runs a regular card game hidden in a back room. A live
41 game is a game with lots of betting action. She was often playing the rush - she enjoyed a short-
42 run of good luck by winning a very large pot of money in one hand. Before Frost started the
43 business, she would, at times, gamble for six days a week, eight hours a day for several weeks
44 and lose thousands of dollars. Frost recently was a desperate gambler looking for a big score to
45 erase her many personal and business debts. She frequently was tapping out – you know losing
46 her entire gambling bankroll and then have to stop playing. But she wasn't a pigeon, you know,
47 an unsophisticated gambler. I would've stopped her, if I thought she was dead money. Dead

1 money is an inexperienced player who has virtually no chance at winning. But I believed she
2 still had a few aces up her sleeve. It ain't smart business if I invest in losers, now, is it?
3

4 At the time of her untimely death, she owed me over \$200,000 due to her gambling
5 losses, but she had made good on nearly \$300,000 of gambling losses before then. I never
6 concerned myself much with where Frost got her money. I just figured she had that ace in the
7 hole. Anyway, I wasn't too worried at the time that I'd get paid. But, I haven't lasted this long
8 in this business by trusting people carte blanche. So I started keeping closer tabs on Frost. I
9 wanted to make sure payments were coming. I have no recollection of choking her. I have no
10 recollection of burning a cigarette butt on her wrist. Frost was a smoker. She could've burned
11 herself accidentally. I don't recall threatening her. Sure, I asked her about when she was going
12 to pay me, but that's all I recall of our conversations.
13

14 I tailed Frost for the two weeks before she died. On the night of March 20th, I staked out
15 Shallots across the alley from the back door to the kitchen. Frost was outside in the alley
16 smoking a cigarette. It was after hours and I thought everyone else left. To my surprise,
17 Freeman came storming out of the kitchen back door and started arguing with Frost. Freeman
18 was in a fit of rage. I didn't hear the entire conversation because my pager vibrated and
19 distracted me, but I heard almost all of it. Freeman said that Frost had ruined the business, the
20 restaurant was bankrupt, and was going to have to close, yadda-yadda-yadda, all because of her
21 gambling debts. It was then I realized that the money was coming from Shallots all along. Then
22 I saw Freeman brandish a kitchen knife and point it at Frost forcing her back into the kitchen and
23 toward the cooler. I could see everything pretty clearly. The alley is only 15 feet wide. And
24 there is a security light that beams directly over the back kitchen door to the restaurant. I know it
25 was a knife I saw because it glimmered when the security overhead light shone on it when it was
26 at an angle. It was about 6 inches long. I was in the shadows so I'm sure that Freeman didn't
27 see me. I later identified Freeman in a line up at the Irving Police Department as the person I
28 saw arguing with Frost that night and forcing her toward the cooler by knife point. I didn't do
29 anything or say anything at the time because, as you can tell from my rap sheet, me and the cops
30 don't always get along so great. I later saw Freeman leave alone. I waited for an hour and then
31 left, but I never saw Frost again. I told the same thing to Riggs a few days after it happened.
32

33 I was charged initially with killing Frost. Like I said before, I didn't do it. Riggs was just
34 hoping it was me. I still didn't say anything about what I saw because I didn't know at the time
35 how Frost died or where she was located. So I didn't realize how relevant it might be. Plus,
36 until I had my attorney with me to make a deal on the loan sharking charge, I wasn't about to say
37 anything about me tailin' Frost because she owed me money.
38

39 Whatever Byrd is saying I said to him/her while we were in the pokey together is just a
40 flat out lie, and Byrd's way of getting some deal. Byrd's a con artist. Byrd probably thought
41 that I would be willing to pay some hush money, and then got stuck in his/her lie when the
42 charges against me were dropped. Why would I confide in Byrd? That makes no sense.
43

44 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
45 belief and knowledge.
46

47 Lou Contralto
48

1 **Statement of Willy A. Freeman, Defendant**
2

3 My name is Willy Freeman. I grew up on a farm in rural Oregon where life was pretty
4 idyllic. We made a lot of our own foods on the farm, butter, cheese, homemade sausage,
5 homemade ice cream, and I suppose that's what got me interested in the culinary arts. After high
6 school, I made the giant leap and moved to New York to attend the Culinary Institute of America
7 (CIA). Moving to a big city from a rural community was an eye-opener. I was pretty naïve, and
8 I probably still am today. At the CIA, I trained with world-renowned, classically trained chefs.
9 It was the time of my life. After the 38 months in the program, I received my Bachelor's degree.
10 It was my dream to one day open my own restaurant, but I was only 21 and I needed to gain
11 more experience and raise some funds. I moved to Portland to be closer to my family, but yet be
12 in a city that could offer me a decent wage and experience. I was thrilled when I landed a
13 position at Grüner, one of Portland's top-rated restaurants. I worked there for 4 years and
14 developed my skills in a variety of areas. I initially started as a pantry chef, making salads, and
15 cold appetizers such as pâté. I also worked as a pastry chef, which is my passion, and poissonier,
16 or fish chef. After those first two years, I was asked to step in as saucier, responsible for
17 sautéing and making all of the sauces for the restaurant. The next year, I became sous chef,
18 which is the second in command. If I took any time off, I used it only to further my skills. I
19 enjoyed entering culinary ice sculpting competitions. I worked long and hard during those years
20 – 6 days a week, usually 10 hour days. But the sacrifices were worth it, if it would help me reach
21 my goal of owning my own restaurant one day.
22

23 I met Devin Frost at a conference of the Western Culinary Association. The conference
24 was about owning your own restaurant. Devin was one of the speakers; she seemed very
25 knowledgeable about the management and finances of owning a restaurant business. She had
26 graduated from the University of Washington with a double major in Foodservice Management
27 and Accounting in 2002, *magna cum laude*. She was extremely bright, energetic, and had an air
28 of sophistication. She came from money and was well connected. You could tell she had
29 already started to make her mark on the culinary world. After the conference, I made a point of
30 meeting her. She was looking to open a fine dining restaurant in Irving, and for a co-partner who
31 could focus on the food preparation aspects of the business. This was the perfect opportunity to
32 further my dream of owning a restaurant. What we lacked in experience, we made up for in
33 enthusiasm and passion. She convinced me that Irving was the best place to start a restaurant like
34 we envisioned. She knew what she was doing – if we started somewhere in Portland, we'd be
35 just one of a thousand places and the rent would be high. We would have a niche in Irving.
36

37 We agreed to a 50-50 split on everything. We each were bringing our respective talents
38 to the table, excuse the pun, and we agreed to each contribute the same working capital. She
39 already had a substantial bankroll of cash to contribute for the start-up. It was like nothing to her
40 to come up with \$100,000. I suppose, in a way I resented that, to be perfectly honest. I've never
41 been in a position that cash was so easily on hand for me. I grew up modestly, and had been
42 skimping and saving while working at Grüner. I emptied my savings of \$40,000 and had to take
43 out personal loans for the other \$60,000 that I was to contribute. So everything I owned in my
44 entire life and for sometime into the future would be invested in our restaurant. I had a lot vested
45 in my restaurant, not only financially, but sweat equity, as well. Of course, I knew it was a risk.
46 Whenever you start a business, especially a restaurant, there is always the risk of failure. And if
47 it failed, I'd probably have to file bankruptcy for not only the business, but personally too.
48

1 Devin took care of all the financial aspects of the business. In hindsight, I should have
2 paid more attention to the financial aspects of the business, but I trusted Devin and we each had
3 our own area of expertise. I handled all aspects of the food preparation and presentation,
4 including menu selection, working with vendors to order food products, and preparing the food
5 or directing the food preparation. While Devin was fully in charge of finances and management,
6 she also had creative ideas for food presentation or preparation, and every now and then she
7 would jot her menu suggestions for the following week on a piece of paper and leave it for me or
8 Georgia Gallo, our sous chef. On the other hand, I have never really understood financial
9 statements or accounting. Devin took care of all of that. When we were starting up the
10 restaurant back in June of 2007, it was her suggestion to put in place a buy-sell agreement funded
11 by insurance. I really didn't understand its purpose, but I signed off on it anyway because she
12 said it was good for both of our protection. She set the amount of the policy and said the income
13 flow from the business would pay for it. Now, I'm thankful that she had the buy-sell in place
14 because it will save the business and me personally. I think of it as her last apology to me for
15 stealing from the business and making things right.

16
17 When we opened in June, 2007, Shallots took off right from the start, and soon became
18 the talk of the town. We had rave reviews from food critics in the Irving New Journal and
19 Oregon Today, and we even were featured in The Oregonian. The business continued to grow
20 over the next three years. We had a steady flow of customers – some very loyal customers from
21 the beginning and new customers every day. Often it was difficult for our customers to get a
22 reservation for a Friday or Saturday evening unless you called weeks in advance. Devin and I
23 were even contemplating opening a new dining experience near the DuPont Theater in
24 downtown Irving in which we would serve desserts exclusively for the after theater crowd –
25 Devin had already worked up the business plan and we had decided to call it “Just Desserts.”

26
27 I was surprised when Devin told me that we were running in the red because business
28 was going so well. My initial thoughts were that perhaps our prices weren't covering our
29 expenses sufficiently, so when I saw that the Chamber of Commerce was presenting a seminar
30 on March 1, 2010 on the topic “Realizing Your Full Potential” to make your business more
31 profitable, I thought I could sharpen my business acumen. The timing was perfect for me to
32 attend the seminar. Devin had just told me about our financial woes the prior week, and the
33 seminar was on a Monday when the business is closed. We're closed on Sundays and Mondays.
34 I spoke with Les Moore, an accountant, immediately after the presentation, and hired Moore to
35 do an audit of the business to see where we could improve – perhaps negotiate with vendors
36 more, or change our pricing. I also learned during the seminar that in the restaurant and retail
37 business there is a lot of opportunity for employee theft. I wondered if our food inventory was
38 “walking off” with some of the employees in the evenings. So, the following day, I purchased a
39 key and padlock to secure the food inventory in our cooler. Exhibit 9 is a true and accurate copy
40 of the receipt for the purchase of the padlock, which I kept and filed with the invoices and bills
41 of the restaurant. The only ones who had a key were Devin, Georgia and me. Devin told me she
42 thought it was a good idea to use the padlock.

43
44 Les Moore came the next day and did an overview of the restaurant and the financials. I
45 agreed to hire Moore for the two-week audit starting March 8. I paid Moore the money for the
46 audit out of my personal funds, which he/she required to be paid in advance. I think it was
47 around \$10,000, but like I said, I'm not good with numbers. The business didn't have the cash
48 flow to pay for the audit, so I advanced the money. When I told Devin about doing the audit, she

1 didn't seem nervous or act suspicious. In retrospect, she always was cool as a cucumber and
2 unflappable, regardless of the situation. I suppose it was a practiced skill from her gambling
3 experiences to have a poker face. Or maybe she thought she had hidden her tracks well enough
4 that we wouldn't find out that she had embezzled so much money from the business.

5
6 Business went on as usual those next two weeks during the audit. Devin came in
7 regularly to do her work as she had in the past. Moore continued to do the audit and when I
8 would ask how it was going, he/she said, "It was a work in progress." Then on Friday, March
9 19, I got the shock of my life. Moore informed me that the audit was complete and that Devin
10 had been stealing from the business – nearly \$300,000! I was stunned. I couldn't imagine why
11 she would do that to me – to us. Sure I was angry at the time, who wouldn't be? I probably even
12 said some things in haste, but I wasn't angry enough to kill. It didn't even cross my mind! Sure,
13 I said, I was going to make Devin pay for this – but I meant financially. Devin would have to
14 find the money to make it right. She had lots of rich relatives to help come up with the money.

15
16 I confronted Devin about the thefts after Moore had left the restaurant. I was angry, but
17 controlled. I asked Devin where the money had gone. She then admitted to me that she was a
18 gambler and was in a temporary slump the past 6 months, and was in serious debt to a loan
19 shark, "Lou" she called him/her. She never mentioned a last name for Lou. Devin told me that
20 she owed Lou over \$200,000 and she had already paid over \$300,000, most of which came from
21 the restaurant. She had borrowed money from her rich folks to payoff some of her gambling
22 debts, but they told her that it was the last time they were going to bail her out. Frost explained
23 to me that she had become desperate because Lou had threatened to kill her if she didn't come up
24 with the money. Devin described instances where Lou would choke her or put a lit cigarette to
25 her wrist. It was a whole new world that I was unfamiliar with.

26
27 Yes, I felt betrayed by Devin, but at the same time, I felt scared and sad for her. She was
28 in serious trouble. Her addiction to gambling had taken a promising career in the restaurant
29 business and put her in the gutter with unseemly folks in the underworld. Devin told me that she
30 thought she could string along Lou a little longer. And in response I said, "no, you need to come
31 up with the money right now, or you could get killed." Maybe my naïveté was still working
32 overtime, but I thought there might be a way to help her and get the business back on track. I
33 told her that I would loan her the money to payoff the debt, and in exchange she had to agree to
34 seek professional help for her gambling addiction. Devin agreed. I said, "In exchange I would
35 get her Just Desserts partnership interest." Honestly, I wasn't thinking everything through at the
36 moment because all of this had taken me off guard. I don't even know how I was going to come
37 up with \$200,000 to help Devin out of her jam. I was broke. I had put everything into the
38 business and according to Moore, the business was going to have to file for bankruptcy.

39
40 I didn't sleep a wink on the night of the 19th. I was trying to brainstorm ways to get
41 money for Devin to get her out of this pickle. I thought maybe Devin's best way to get out of
42 this mess was to turn Lou over to the prosecutor for loansharking. I went on the internet and
43 Googled "loansharking" and found out that her contract with Lou was void under the law. I
44 thought she could go to Lou and tell him/her that if he/she didn't void the loan according to the
45 law, that she would have no choice but to turn him/her in to the prosecutor's office.

46
47 The next day, Saturday, March 20, after the dinner crowd and the kitchen staff had gone
48 for the evening, I decided to tell Devin my solution to her problems. Devin stepped out the

1 kitchen door to smoke a cigarette and I followed her. I told her I couldn't think of a way to pay
2 Lou because she had taken so much money out of the business, it was bankrupt and was going to
3 have to close. I explained the idea of Devin telling Lou to void the contract or be turned over to
4 the police or prosecutor. Devin didn't think Lou would be receptive, and we argued over it.
5 Finally, Devin agreed. I didn't see anyone in the alley when we were talking. I never reported
6 this conversation to the police after Devin was murdered because I was afraid if I said anything,
7 Lou would come after me too.

8
9 Lou Contralto is lying about me threatening Devin and "brandishing a knife" – that's
10 ridiculous! Contralto obviously doesn't want the fingers to be pointing at him/her for Devin's
11 murder. Of course, my fingerprints would show up on the kitchen knife, the padlock and the
12 freezer door. I worked in the kitchen and would touch all of those things numerous times
13 throughout the day. The kitchen knife would have been washed that evening and run through
14 our sanitizer. I don't know if that would have eliminated my fingerprints, but I might have
15 picked up the knife after it was washed to see if it needed to be sharpened. I just don't remember
16 now. If I were going to murder Devin, why would I do it at the restaurant where we work and
17 leave my fingerprints on the knife? I also never hesitated when Detective Riggs asked me to
18 give my fingerprints – does that sound like someone who is guilty?

19
20 The last time I saw Devin was about 10:30 p.m. We were locking up to go home for the
21 evening, but Devin was going to stay later to jot down her notes of some ideas she had for next
22 week's menu. I found the note that she had written which had slipped behind one of the kitchen
23 workstations. Exhibit 10 is a copy of the note that Devin left for the menu ideas she had for the
24 following week. I started to lock up the cooler, and Devin told me she would lock it up because
25 she had to check to see if we had the necessary ingredients. She said she would lock up the
26 cooler and the backdoor when she left. As I was leaving out the kitchen back door, I saw a
27 person in the shadows in the alley about 15 feet away. Detective Riggs' diagram attached to
28 his/her police report is an accurate representation of the layout of the restaurant, as well as the
29 street and alley. When Devin was found murdered, I told Detective Riggs about the person I saw,
30 and I went to the police station and looked through a bunch of mug shots. I was able to identify
31 the person I saw as Lou Contralto.

32
33 Given Riggs' prior evidence tampering, I know now why the original of Devin's note,
34 Exhibit 10, was lost in the evidence room. The inkdating tests would have shown that Devin's
35 note was written on the night of her death, which would have shown that I'm innocent. I'm
36 certain Contralto is responsible for Devin's murder. I would not, and did not, kill Devin. We
37 had made amends and we were going to figure out a solution together.

38
39 I later found out that the insurance policy for the Buy-Sell Agreement is \$500,000.
40 Because the business has a negative bottom line now and there had been no updated value of the
41 business, Devin's estate would not share in those proceeds because her interest is currently
42 worthless. However, it is my intention to share a portion of those proceeds with her family. The
43 insurance money has not been issued yet because there is an exclusion clause under the insurance
44 policy if a beneficiary under the policy intentionally caused her death.

45
46 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
47 belief and knowledge.

48 Willy A. Freeman
49

1 **Statement of Joel/Joelle Byrd, Witness for the Defense**

2 My name is Joel/Joelle Byrd. I'm also known as "J. Byrd." I have other aliases too, but I
3 haven't used them for over a year. I am 27. I grew up in Sacramento, California. It wasn't your
4 "Everybody Loves Raymond" sort of atmosphere around home, so I ran away when I was 17.
5 I've moved around a lot since then – mostly in California – and used my charmin' personality to
6 make ends meet. I ain't gonna lie to you, I've definitely had my run-ins with the law. In 2003, I
7 was convicted of conversion because I took someone's property as ransom because they owed
8 me money. I also served time for check deception in California in 2004 and again in 2006. In
9 2007, I was charged with insurance fraud, but the charges were later dropped. About a year or so
10 ago, I left the California because it was getting a little hot for me with the law and some people
11 who thought that I had scammed them. I came to Irving looking for a new life, and thought I
12 could put all the past behind me and start over. I'm shootin' you straight here – I stole
13 someone's identification information, and immediately got busted for it. I pled guilty, and am
14 currently servin' time in the slammer.

15 The jail was getting overcrowded, so they were movin' a bunch of the inmates from the
16 Mill Creek Correctional Facility to the Columbia River Correctional Institution. On the day they
17 moved me from Mill Creek to Columbia River, they were movin' Lou Contralto too. We were
18 in the wagon together. The drive between Mill Creek and Columbia River takes about an hour,
19 so we had lots of time to talk. We had run into each other several times before at some of the
20 casinos in Las Vegas, where I was lookin' for some easy mark, and Lou was shakin' someone
21 down for money they owed. Lou was a shylock. You know, someone who lends money at an
22 extortionate rate of interest. I stayed out of Lou's way, and never turned him/her in, so Lou
23 trusted me. But that was just petty stuff, this was murder – capisci?

24 We was just chattin' you know , like "what you doin' time for" and yadda yadda yadda.
25 And Contralto tells me that he/she was arrested for murder, but was gonna get out because he/she
26 had connections inside. Contralto didn't tell me who was on the "inside." I figured it was a bent
27 cop. So, Contralto starts telling me the whole story. Contralto says this person, Frost, was into
28 Contralto for some big money. Frost had one foot in two different worlds, a business world and
29 a gambling world and walked a fine line between the two. I knew Devin Frost, but didn't know
30 she had been whacked. Frost had been in some of the riverboat casinos that I went to.

31 I had watched Frost play. She was a maniac. In poker, that means a player who plays
32 very loose and aggressive, often raising with just about anything. Contralto said she was a
33 "fish," a poor player, and that he/she should have had Frost swimming with the fishes long ago.
34 Frost was on a "tilt," according to Contralto. "Tilt" is a poker term for a player who has played
35 too long, lost too much money and no longer has any sense of judgment. Contralto said "Once
36 you're on a tilt, you're making bad decisions, you're putting yourself in bad situations."
37

38 Contralto said he/she had recently learned, "Frost had bled her business dry, and was
39 worthless." Frost couldn't even make payments for the juice - the interest on the loan. Contralto
40 said he/she overheard Frost say that she was going to threaten Contralto with going to the cops if
41 Contralto didn't walk away from the money Frost owed him/her. Now, don't ask me, but that
42 would be a stupid thing to do. Like some loanshark is going to say, "oh yeah, please don't turn
43 me in, and I won't make you pay me the money you owe me." So, Contralto says to me, with
44 no emotion or nothin', like it was just another day in the park, "So I had Frost iced." And when
45 he/she said "iced" Contralto didn't mean go to the refrigerator to cool down, if you know what I

1 mean. Contralto said he/she wanted Frost to suffer too, because it was no longer just 'bout
2 money, but Frost thinkin' he/she could turn on him/her. So Contralto said he/she forced Frost
3 into a cooler for a slow death.
4

5 Contralto also told me that he/she did a god job of "cleaning." Contralto said he/she
6 covered his/her tracks to make sure it didn't come back on him/her. Contralto described to me
7 how he/she wore gloves so his/her finger prints would not be there.
8

9 I tried to call Detective Riggs twice to tell him/her what Contralto told me. But, Riggs
10 never showed up to my cell. Freeman did come to see me when he/she was out on bail. I don't
11 know how he/she heard that I knew anything. Normally, I'm no stoolie, but my soft underbelly
12 got the better of me; I thought I should help an innocent person. Willy was naïve and vulnerable,
13 and was gonna take the rap for this. I couldn't let that happen when I knew the truth. Freeman
14 said he/she would make it up to me somehow. But, I said, "Fuhgeddaboutit."
15

16 You know, I got no reason to lie. Whatta I get out of this? It's not like I'm testifying for
17 the prosecution and gettin' a reduced sentence. And it ain't like, Freeman's got dough to pay for
18 my testimony. There's no reason for me to make this stuff up. Plus, how would I know so many
19 details? And this cockamamie story about me havin' to stick with a story once I started down
20 that road is crazy. I'm in enough trouble as it is – I don't need perjury on my rap too.
21

22 I know you gotta wonder why Contralto would blabber all of this to a low life like me.
23 I'm a nobody. I think I was just a tool for Contralto. Contralto probably wanted to get word out
24 on the street that he/she means business so that people would fear him/her, pay their debts and
25 not turn on him/her. When you're in that racket, the best thing ya' got goin' for ya' is the fear
26 factor. Contralto probably wasn't worried about sayin' he/she had killed Frost because with
27 his/her "inside" connections, there was no way he/she was going to see the four walls of a cell.
28

29 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
30 belief and knowledge.
31

32 Joel/Joelle Byrd
33

1 **Statement of Pat Ives, Witness for the Defense**
2

3 My name is Pat Ives. I am a Professor of Criminology at Portland State University. I am
4 also a licensed private investigator in Oregon and California. A true and accurate copy of the
5 abbreviated version of my curriculum vitae is attached as Exhibit 11. Of course, I have had
6 many more publications, such as journal articles, and chapters written for books, book reviews,
7 and a host of seminar presentations and lectures. But I presume the abbreviated version of my
8 curriculum vitae will demonstrate that I am well-recognized as an expert in the study of
9 organized crime.
10

11 Reliable information about organized crime is not always easy to obtain. However, I
12 have devoted my research and teachings to organized crime, including the historical background
13 of organized crime, theories and research, specific crime groups and their operations, and law
14 enforcement strategies to counter organized crime. I am currently a co-director of the
15 International Association for the Study of Organized Crime, a professional association of
16 criminologists, researchers, teachers and students, founded in 1984, which holds meetings in
17 conjunction with American Society of Criminology. IASOC works to promote greater
18 understanding and research about organized crime in all of its manifestations.
19

20 A significant portion of my research and studies has been on the type of crimes, and
21 particularly murder, committed by people within organized crime. The underlying crimes in
22 organized crime are the typical selection of preferred mob rackets and methods: loan sharking,
23 bookmaking, extortion, income tax evasion, and income tax fraud. Intimidation, violence,
24 murder and obstruction of justice is used to further their goals. The wise guy life is a sharp and
25 cocky, cash-driven subculture. Sure they can come across as good fellas, and some are not
26 complete strangers to doing some good, but ultimately the colorfully monikered gangsters do
27 their deeds through deception, intimidation, violence, and murder.
28

29 Men and women within organized crime have a particular signature when committing
30 crimes, which takes one of two avenues: either (1) committing the crime in such a heinous
31 fashion so as to send a message to other would be wrong-doers against the mob/mafia, or (2)
32 skilled use of hiding the crime or their connection to it. An example of the former is the Italian
33 rope trick. The Mafioso wraps a rope around the victim's neck and a tug of war ensues as the
34 victim is strangled to death. Also as a public warning, the mob, on occasion, tied victims to a tree
35 in the wilderness and slashed the victim to draw blood for wild animals to feed upon.
36

37 Organized crime's use of hiding the crimes or their connection to the crime definitely has
38 its own signature. Each mob group has their own preferred style, but often word spreads of
39 another group's style and sometimes there are copycats among the mob. And, compared to a
40 non-career criminal, it is far more sophisticated and skilled. We've probably all heard of
41 "swimming with the fishes" in which the mob would tie the victim to a cement block and throw
42 them in a body of water. Another popular "signature" method of the mob is to hide a corpse in a
43 false bottom of a casket of another person. Other disposal methods included dismemberment,
44 burial, or placing the body in the trunk of a car and having it crushed in a junkyard.
45

46 Mafia gangsters also would often kill and dispose of the body into a barrel. The barrel
47 would be dumped in the ocean or shipped by rail to another city. The last known highly
48 publicized barrel murder was reported in 1976 when the body of Johnny Roselli was found in a

1 55 gallon oil drum in the Florida Everglades. Roselli was a conspirator with U.S. CIA's plot to
2 assassinate Fidel. Another example is Ice Pick Willie Alderman from Minnesota. This method
3 of murder is done to make it look like the person died of natural causes. Surrounded by four
4 killers, an ice pick is forced through the victim' eardrum that goes into the brain. This causes a
5 cerebral hemorrhage and can often be difficult to detect.
6

7 One of the more notorious mob men is Richard Kuklinski, who earned the nickname
8 "Iceman" following his experiments with disguising the time of death of his victims by freezing
9 their corpses in an industrial freezer. The condition of the body is sometimes the only means
10 available for the field officer to estimate the time of death. Generally, body temperature is used
11 as an indicator post-mortem interval during the first 12 to 24 hours of death. Kuklinski himself
12 claims that he used a Mister Softee ice cream truck for this purpose. Later on, he said that he got
13 the idea from a hitman named Mister Softee, who drove a Mister Softee truck to appear
14 inconspicuous. Kuklinski's method was uncovered by the authorities when Kuklinski once failed
15 to let one of his victims properly thaw before disposing of the body on a warm summer's night,
16 and the coroner found chunks of ice in the corpse's heart. This methodology gained some
17 popularity among those involved in organized crime in the late 1990's and into the 21st Century.
18 It is still fairly common today to find mob victims frozen in industrial coolers.
19

20 I have reviewed all of the statements prepared in this case, Detective Riggs' Investigation
21 Report dated March 26, 2010 and the diagram of Shallots. I have also reviewed the autopsy
22 report, fingerprint analysis, and all photographic evidence of the crime scene and the victim. It is
23 my understanding that due to the gruesome nature of the photographs of the decedent that these
24 photographs are not part of the evidence of this case with the exception of the photograph of the
25 victim's dying message to identify her killer. I did not go to the crime scene, nor have I
26 undertaken any independent physical examinations of the victim or fingerprint analysis.
27

28 Based upon my review of the foregoing, and my extensive knowledge and expertise in
29 studying criminal behavior in organized crime, it is my opinion, that Devin Frost was murdered
30 by a person involved in organized crime. Devin Frost was significantly in debt to the mob. She
31 had not made recent payments and had been punished in typical fashion by the mob with
32 cigarette burns and strangulation, signatures of Lou Contralto. Lou Contralto became aware that
33 the restaurant was bankrupt and that there would be no more payoff. Frost became a liability for
34 Contralto, rather than a source of revenue, and even more so if Contralto thought that Frost
35 would turn him/her in to the cops. The methodology used in this crime is also consistent with a
36 mob hit. The use of an industrial freezer to hide the victim's time of death and the "cleaning" of
37 the crime scene is indicative of a sophisticated skill level of crime inherent in organized crime
38 and completely inconsistent with the method and mode of a person committing a crime in the
39 heat of passion.
40

41 I am also extremely critical of the police investigation in this matter. I have done a
42 significant amount of research in the study of corruption in law enforcement. One reason the
43 mafia and mobs have survived for years is, in part, because of a few corrupt police officers, who
44 have lost or tampered with evidence, or tipped off the mob. Detective Riggs should never have
45 been assigned to the investigation of this case. Detective Riggs was previously accused of
46 tampering with evidence involving a bribe from Lou Contralto. I am unconvinced that Riggs
47 exerted his/her independence when first arresting Contralto. The charges were later dropped and,

1 I believe, it could have easily been a ruse to throw us off. The entire investigation was
2 compromised due to Riggs' involvement.
3

4 I have been paid \$3000 to render an expert opinion in this case. I came into the case with
5 no preconceived notions, and strictly looked at the facts as they were presented. I have spent a
6 total of 4 hours reviewing the statements and evidence, and then I have additional time incurred
7 in providing this statement as well as my testimony in court. I have testified in numerous cases
8 in which organized crime may be a factor. I have testified both for the prosecution and the
9 defense. Normally, my rate is \$5,000 to render an expert opinion, but because I went to school
10 with one of the attorneys for the defense, I have discounted my rate as a professional courtesy.
11

12 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
13 belief and knowledge.
14

15 *Pat Ives* _____

Shallots	
01/14/10	
1 – Tuna tartar	\$8.95
1 - Bruschetta	\$4.95
2 -Lettuce Wedge salads	- \$9.90
1 - Pork Medallions w/ wine reduction	– \$19.95
1 - Macadamia crusted Chilean sea bass with Roasted red pepper coulis	- \$21.95
1 – side of Roasted Asparagus with Hollandaise	- \$5.95
1 -glass house Merlot	- \$6.95
1 - glass house chardonnay	- \$5.95
1 – Mini Baked Alaska	- \$4.95
1 - Flourless Chocolate cake & raspberry coulis	- \$5.95
Sub-total	\$95.45
Tax	<u>5.76</u>

01-14-10	
✓	96.34
✓	83.24
✓	164.32
✓	54.80
✓	97.66
✓	123.76
✓	114.93
✓	82.54
✓	66.44
✓	79.91
✓	85.56
✓	99.33
✓	58.75
✓	93.99
✓	65.00
✓	74.45
✓	92.34
✓	123.98
✓	78.78
✓	116.43
✓	224.56
✓	95.87
✓	183.24
✓	48.56
✓	64.34
✓	114.56
✓	2583.68

Exhibit 3
Deposit Slip and Cash Register Receipt

Deposit													
Shallots Acct# 34533245 February 11, 2010	<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">Coins:</td> <td style="width: 15%;">43.00</td> </tr> <tr> <td>Cash:</td> <td>325.00</td> </tr> <tr> <td>Checks:</td> <td>219.93</td> </tr> <tr> <td>Subtotal:</td> <td>587.93</td> </tr> <tr> <td>Less Cash Rec'd:</td> <td>-0-</td> </tr> <tr> <td>Total:</td> <td>587.93</td> </tr> </table>	Coins:	43.00	Cash:	325.00	Checks:	219.93	Subtotal:	587.93	Less Cash Rec'd:	-0-	Total:	587.93
Coins:	43.00												
Cash:	325.00												
Checks:	219.93												
Subtotal:	587.93												
Less Cash Rec'd:	-0-												
Total:	587.93												
1 st Irving Bank, Irving, OR													

02-08-10
✓ 39.65
✓ 92.34
✓ 99.00
✓ 114.32
✓ 178.67
✓ 154.36
✓ 86.45
✓ 119.60
✓ 45.54
✓ 92.34
✓ 136.45
✓ 78.84
✓ 91.70
✓ 85.16
✓ 123.55
✓ 48.56
✓ 78.84
✓ 93.25
✓ 44.21
✓ 116.87
✓ 46.78
✓ 90.91
✓ 143.22
✓ 99.00
2299.61

02-09-10
✓ 36.54
✓ 46.78
✓ 86.98
✓ 99.00
✓ 78.84
✓ 83.45
✓ 92.34
✓ 77.44
✓ 154.36
✓ 178.67
✓ 183.77
✓ 92.34
✓ 144.68
✓ 114.32
✓ 86.45
✓ 48.56
✓ 93.25
✓ 87.36
✓ 136.45
✓ 119.60
✓ 98.46
✓ 85.16
✓ 48.56
✓ 92.34
✓ 178.67
✓ 123.98
✓ 91.70
✓ 67.18
✓ 93.25
✓ 45.54
✓ 123.55
3089.57

Exhibit 4
Check and Check Register

Shallots	Date: 2/25/10	#1099
4356 Kirkwood Hwy. Irving, OR 97652		
Pay to the Order of: Devin Frost		\$3000.00
<u>Three Thousand and 00/1000</u>		Dollars
<u>/s/Devin Frost</u>		

Check Register				
				11,345.22
02/21/10	1094	Let Us Produce	165.00	11,180.22
02/21/10	1095	Meat Market	465.00	10,715.22
02/22/10	1096	Vineyard Wines	455.85	10,259.37
02/22/10		deposit	825.36	11,084.73
02/23/10		deposit	923.45	12,008.18
02/24/10	1097	Laundry Time	122.35	11,885.83
02/24/10		deposit	654.92	12,540.75
02/25/10	1098	Supplies Unlimited	93.45	12,447.30
02/25/10	1099	VOID		12,447.30
02/29/10	1100	Let Us Produce	128.00	12,319.30

PARTNERSHIP CROSS-PURCHASE WITH BUY-SELL AGREEMENT

This Agreement is made June 15, 2007, by and between Willy A. Freeman and Devin Frost.

WHEREAS, the above named individuals are partners doing business under the firm name of Shallots, LLP at 4356 Kirkwood Highway, Irving, OR, the respective partnership interests of the partners being divided equally; and

WHEREAS, the partners desire to ensure the continuity of harmonious management of the partnership by providing for the purchase of a partnership interest by the other partner in the event a partner dies;

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, it is agreed by and between the parties as follows:

FIRST: Upon the death of a partner, the surviving partner shall purchase and the legal representative of the estate of the deceased partner shall sell to such surviving partner, the partnership interest owned by the deceased partner for the price established in accordance with the provisions of the SECOND and FOURTH Article.

SECOND: Unless and until a new value is established as herein provided, the value of the respective partnership interest of the partners for purposes of this agreement is \$100,000 each. At the end of each fiscal year, the partners shall agree upon the value of their respective shares. If the partners have not made such determination within two years of the death of a partner, an independent certified public accountant shall determine the value of the deceased partner's interest.

THIRD: In order to assure the availability of funds for the purchase of the partnership interest of a partner by the other partner, the partnership has purchased insurance on the lives of each partner. The partners may purchase additional insurance as Devinmed necessary.

FOURTH: Upon the death of a partner, the other partner may immediately collect the proceeds of the policy on the life of the deceased partner. If the proceeds of all the policies on the life of the deceased partner are not sufficient to purchase the deceased partner's interest, the surviving partner shall be obligated to pay the remaining balance to the deceased partner's estate. If the proceeds of all the policies on the life of the deceased partner are in excess of the purchase price of the deceased partner's interest, the surviving partner shall be entitled to any excess funds.

Upon payment of the purchase price of the partnership interest of the deceased partner the legal representative of the estate of the deceased partner shall execute and deliver to the surviving partner such instruments as shall be necessary to transfer complete title to the surviving partner.

IN WITNESS WHEREOF, the partners have executed this agreement the day and year first hereinabove written.

Devin Frost

Willy A. Freeman

Exhibit 6 1/3
Investigation Report

Incident Information			
Case # 071023-14			Officer J. Riggs
Date of Investigation 03/23/10	Time 08:30 am		
Location of Incident/Street Address 4356 Kirkwood Hwy: Shallots Restaurant	City Irving	County Edgewater	
Type of Incident/Crime/Description of events Homicide – Body located in locked cooler			
Persons Involved (full and complete name known)			
Victim – Devin Frost (deceased) DOB: 05/13/82 Female 4’11” 102 lbs			
Vehicle Information N/A	Make/Model/Year/Color/Style/etc. N/A	License # N/A	State N/A
Investigation Report			
<p>03/23/10 08:00 - Called to the scene by patrol officer of Irving Police Dept. because suspected organized crime hit. Victim's body discovered lying on floor of restaurant's cooler by restaurant cook, Georgia Gallo.</p> <p>03/23/10 08:30 – Arrived on scene. Controlled and assessed scene. Diagram of restaurant attached. Body does not appear to have been moved or compromised. Victim appears to have died from hypothermia; the body is pale and waxy. There appears to be no recent outward signs of physical trauma to victim or evidence of physical disturbance in cooler. Will wait conclusions of autopsy. Body lying on floor of restaurant cooler next to bacon strips spelling “Killer – I.” Victim holding an additional bacon strip in hand next to bottom of last letter – appears to intend to spell letter “L.” Victim shows some signs of non-recent physical trauma – ¼” round burn mark on inside of right wrist; bruising on neck consistent with someone grabbing her at neck. No evidence of break-in at restaurant. Nature of death, use of cooler, is consistent with mob hit.</p> <p>03/23/10 09:20 - Interviewed Gallo and other kitchen staff. Victim is co-owner of restaurant. Witnesses state victim's body had not been moved prior to my arrival. Gallo arrived at restaurant through kitchen back door at 07:15. No sign of disturbance noted by witness. Approximately 15 minutes later, Gallo unlocked door to cooler and discovered body, then called 911. Only Gallo and restaurant owners, Devin Frost and Willy Freeman have keys to lock for doors to restaurant and cooler. Lock is new to cooler and staff. Some inconsistency in remembering to lock cooler at the end of the day. Gallo and kitchen staff do not know who would want to harm Frost. Witnesses suspected Frost had a gambling problem and owed money to loan sharks. Kitchen staff observed Lou Contralto lurking in the alley across the street frequently, and most recently on Saturday, March 20th. Victim was seen and heard from last on Saturday evening at Shallots up until closing time.</p> <p>03/23/10 10:00 – Interviewed Willy Freeman, co-owner of Shallots. Freeman last saw Frost at 20:30 on March 20th at Shallots. Freeman typically handled menu selection, worked with vendors to order food products, and assisted with some food preparation. Frost occasionally made menu suggestions, but was primarily in charge of bookkeeping and business management. However, according to Freeman on Saturday, she had stayed behind to make notes to chef for following week's menu. No such notes located. Frost was going to look at inventory in cooler and then intended to padlock cooler door. Freeman states cooler door was unlocked when he/she left. Freeman had recently purchased a padlock for cooler, due to concerns of employee theft. Keys for restaurant and cooler padlock were distributed only to Gallo, Frost and Freeman. As Freeman was leaving the restaurant, he/she noticed a person standing in the shadows in the alley across the street. After being shown mug shots at the station, Freeman identified person as Lou Contralto. Freeman stated that he/she had recently hired a forensic accountant, Les Moore, to determine cause for company's financial struggles despite steady business. Moore's investigation revealed Frost had been skimming from business. Freeman questioned Frost about thefts on Friday, March 19th. Frost explained to Freeman that she liked to gamble but had been very unlucky lately, and thus had borrowed money from a loan shark, Contralto. Frost owed Contralto over \$200,000. According to Freeman, Frost had been physically accosted with a gun held at her head, cigarette burns, and being choked by Contralto to come up with past due</p>			

payments. So, Frost took money from business. According to Freeman, Frost said she had become desperate to payoff the debt because her life had been threatened by Contralto. Freeman offered to give Frost a personal loan to payoff the debt, if Frost sought help for her gambling addiction.

03/23/10 11:30 – Interviewed remaining restaurant staff. Consistent statements as that offered by kitchen staff. No one had seen Frost since Saturday evening, but restaurant is closed on Sunday and Monday. Employees were unaware of skimming by Frost and noticed no suspicious behavior. Several witnesses had observed Contralto in alley across from back of kitchen door.

03/23/10 12:45 – Went to victim’s residence. No disturbances to residence. Unopened mail from Saturday, March 20th. Newspapers from Sunday and Monday were lying on front steps undisturbed. Voicemail messages unretrieved on cell phone and home phone from Saturday thru present. No unusual calls or mail. Computer spreadsheet of debt owed to Contralto showed balance of \$208,500.

03/23/10 4:30 – Interviewed Les Moore. Confirmed had undertaken forensic accounting investigation at the request of Freeman due to financial struggles in the restaurant business. Moore started engagement on March 8, 2010 and completed the engagement on March 19th. Moore discovered that Frost had been skimming from company. Total sum stolen by Frost was \$273,958. Moore stated that Freeman appeared enraged when he/she learned of theft and Freeman said “Frost would pay for this.” Moore overheard Freeman confronting Frost later on the 19th and that Frost would get her “just desserts.” Moore also overheard parts of a phone conversation between Frost and unknown person making promises for payment and threats being made.

03/26/10 – Autopsy results show death caused by hypothermia. No other physical trauma causing death noted. Time of death cannot be determined through physical examination of the body since it was frozen. Autopsy dates cigarette burns to have occurred 2 weeks prior to death and strangulation of neck, non-life-threatening, to have occurred less than one week prior to death.

03/26/10 – Contralto’s fingerprints are not detected on padlock to cooler, cooler door, or doors to restaurant, per fingerprint analysis.

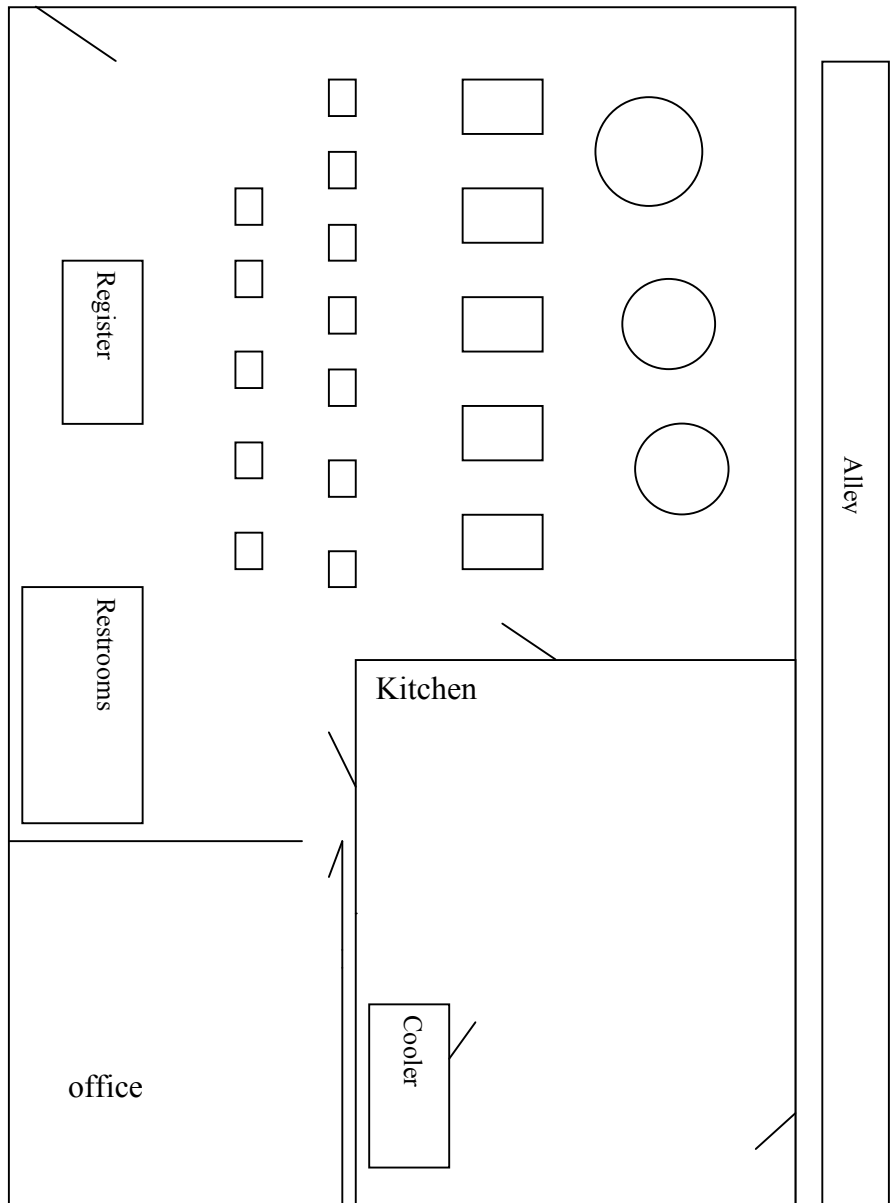
03/26/10 – 13:30 – Contralto read Miranda rights. Refuses to make statement, and requests to have lawyer present. Contralto arrested.

Signature (required) Detective J. Riggs

Date 03/26/10

Diagram of Shallots

4356 Kirkwood Highway



Key:

／ denotes door

Not to Scale

Supplemental Investigation Report			
Case # 071023-14		Officer J. Riggs	
Date of Initial Investigation 03/23/10			
Location of Incident/Street Address 4356 Kirkwood Hwy: Shallots Restaurant	City Irving	County Edgewater	
Type of Incident/Crime/Description of events Homicide – Body located in locked cooler			
Victim – Devin Frost (deceased)			
Supplemental Investigation Report			
<p>03-27-10 11:00 Contralto, in presence of counsel, provides statement. Frost owed Contralto over \$200,000 due to gambling losses. Contralto says Frost was making payments but he/she had been tailing Frost to make sure she didn't skip town. Contralto was present night of March 20th in alley across street from Shallots back door to kitchen. Contralto observed Freeman arguing with Frost and telling her she ruined her business, and that they were bankrupt and would not be able to continue to operate. Then Contralto saw Freeman brandish a kitchen knife and point it at Frost making her go back into the kitchen toward the cooler. Contralto later saw that Freeman left alone. Contralto waited for a ½ hour then left. Frost never left.</p> <p>03-27-10 14:30 Freeman brought in for questioning. Confronted with Contralto's statement. Freeman was adamant that it was all lies, and just Contralto's way of escaping murder. Freeman consents to provide fingerprints.</p> <p>03-29-10 8:00 Returned to Shallots to retrieve kitchen knife. Several paring knives located and only one kitchen knife with an 8 inch blade. Sent to lab for fingerprint analysis.</p> <p>03-29-10 9:00 Moore questioned further about financial aspects of Shallots. Restaurant is bankrupt. Moore had advised Freeman that would have to close business. Moore also aware that Freeman is the beneficiary of a \$500,000 insurance policy for a buy-sell agreement for a deceased partner's interest in the business.</p> <p>03-30-10 Additional fingerprint analysis results received. Fingerprint analysis shows that Freeman's fingerprints are on padlock to cooler, cooler door, and kitchen knife.</p> <p>03-30-10 16:00 Contralto released. Freeman arrested.</p>			
<i>Signature (required) Detective J. Riggs</i>		Date 03-30-10	



*Exhibit 9
Padlock Receipt*

Liberty Lock & Key
1451 Kirkwood Hwy
Irving, OR

03/02/10 12:30 pm

1 – Lg. Padlock/key \$19.49

Subtotal \$19.49

Tax \$ 1.17

Total \$ 20.66

Cash \$ 21.00

Change \$ 0.34

Thank you for letting
us serve you.

*Chilled Cerviche with Citrus-Infused
Creme Fraiche*

*Jumbo lump crabcakes and
marinated portobello mushroom
stacks*

*Beef tenderloin medallions tartar
drizzled with poppy seed cream
sauce*

*Sesame and lavender crusted sea
scallops with a lemon-ginger and
white wine reduction sauce*

Devin

PAT IVES, PH.D.
CURRICULUM VITAE

Education

Indiana University, Bloomington.

M. A. in Sociology, 1970; Ph.D. in Criminal Justice 1972.

University of Chicago

B.A. in Sociology, *magna cum laude* 1968.

Present Positions

Professor of Criminology, School of Criminal Justice

Portland State University

1988- present, Department Chair, 2002-2004

Co-Director International Association for the Study of Organized Crime

New York, New York

1989-present

Prior Academic Appointments

Professor, Department of Criminal Justice

University of Washington, Seattle

1984-1988.

Assistant and Associate Professor, Department of Criminal Justice

Indiana University, Bloomington

1972 - 1984

Memberships and Positions:

Consultant, National Criminal Justice Commission, 2004-2006

American Society of Criminology, President 2001-2004

Task Force on Law and Enforcement, President's Commission on Organized Crime 1996-2000

Honors and Awards

Distinguished Leader in Criminal Justice, Academy of Criminal Justice Sciences

American Society of Criminal Justice, Fellow 1998 – present

Fullbright Research Fellowship 1992- 1993

Graduate School Fellowship, Indiana University 1970-72

Special Dissertation Research Grant, Indiana University Foundation 1972.

Publications

No Law and Order: Organized Crime New York: John Wiley, 2005

Wiseguys Finish First New York: John Wiley, 2003

Kuklinski: The Iceman Cometh New York: Harper & Row, 2000

Organized Crime: A Study in Methodology of Crimes Simon and Schuster, 1998

Bent Cops and Tampered Evidence Indiana University Press, 1972.

Notes: