



**State of Lone Star**

**v.**

**Dennis Sloan**

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## STATEMENT OF THE CASE

The State has charged Dennis Sloan with filing a false or fraudulent insurance claim. Sloan filed a claim with Lone Star State Insurance Company, asserting that his home had been broken into and a large amount of jewelry had been stolen. After investigating the claim, both the State and Lone Star State Insurance Company determined that the break-in and theft was arranged by Sloan in an effort to try to obtain funds to avoid foreclosure on his house. The State contends that Sloan paid his caretaker, Terry Tyo, to stage the break-in and theft and that Sloan has secreted the stolen jewelry in a safety deposit box in a Swiss bank. Sloan contends that the theft was not staged and that Duke Remington, his former girlfriend's brother and a former ranch hand at Sloan's ranch, broke in and stole the jewelry to get revenge on behalf of his sister and to get cash to support his drug habit.

## STIPULATIONS REGARDING EVIDENTIARY MATTERS

### Procedural Matters

1. Federal Rules of Criminal Procedure and Federal Rules of Evidence apply.
2. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence in depositions can, if asked, identify the same at trial.
3. Each witness who gave a deposition did agree under oath at the outset of his or her deposition to give full and complete description of all material events and occurrences and to correct the deposition for inaccuracies and completeness before signing the deposition.
4. All depositions were signed under oath.
5. For this competition, no team is permitted to attempt to impeach a witness by arguing to the jury that a signature appearing on a deposition does not comport with signatures or initials located on an exhibit.
6. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.
7. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.

(Revised 3-21-05)



8. "Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts pursuant to National Rules VII(4)(C) and (D) and VIII(5). Any party wishing to file a complaint concerning a violation of this rule shall use the procedure found in rule VIII(4).

9. The State and the defendant must call the two witnesses listed as that party's witnesses on the witness list.

10. All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.

11. It is stipulated that no one shall attempt to contact the problem drafter about this problem before the conclusion of the 2005 National Trial Competition Final Round. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.

12. 2005 should be the current year in which this case comes to trial.

13. Presentation and argument on pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows: (1) the State shall have four minutes to present any pretrial motions; (2) the defendant shall have four minutes to respond to the State's motion(s); (3) the defendant shall have four minutes to present any pretrial motions; and (4) the State shall have four minutes to respond to the defendant's motion(s).

14. This competition permits teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no additions or deletions are permitted to the provided jury instructions.

15. The testimony of Dennis Sloan shall conform to the testimony given by Sloan at his earlier trial.

16. No team member is permitted to question any witness or to argue to the jury the presence or absence of any photographs or castings of the footprints found at Sloan's residence.

#### **Substantive Matters**

1. Dennis Sloan has entered a plea of not guilty and has requested a trial by jury.

2. The trial court has denied a motion to dismiss the indictment.

3. The State and the defense agree and stipulate that Lone Star State Insurance Company is a properly organized and duly licensed insurance company in the State of Lone Star. The State and the defense also agree and stipulate that Exhibit C is a true and correct copy of the Proof of Loss form submitted by Dennis Sloan to Lone Star State Insurance Company in support of his claim and that the values stated on the Proof of Loss form accurately reflect the value of the stolen property. These stipulations may be read to the jury at the request of either the State or the defense.

4. The State and the defense agree and stipulate that testimony from an employee, agent, or records custodian of Lone Star State Insurance Company shall not be necessary in order for the State to admit the Proof of Loss form into evidence.

5. The State and defense agree and stipulate that the State's investigation revealed the presence of the fingerprints of Dennis Sloan, Terry Tyo, Duke Remington, and other ranch employees on the glass and/or door knobs of the french doors leading from the patio into the Sloan residence. This stipulation may be read to the jury at the request of either the State or the defense.

6. The State and the defense stipulate that the trial testimony of Dennis Sloan, starting on page 27, is an accurate transcription of Sloan's testimony taken from the trial record of a jury trial on February 16, 2005, where, at the conclusion of the trial, the jury was unable to reach a verdict.

7. Lone Star Statutes (2004) provide the following:

**25.109 False and fraudulent insurance claims.**

(1)(a) A person commits insurance fraud punishable as provided in subsection (11) if that person, with the intent to injure, defraud, or deceive any insurer:

1. Presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim.

\* \* \* \*

(11) If the value of any property involved in a violation of this section:

\* \* \* \*

- (c) is \$100,000 or more, the offender commits a felony of the first degree.

## WITNESS LIST

Witnesses for the State:

1. Taylor Wise\*\*
2. Duke Remington\*

Witnesses for the Defense:

1. Dennis Sloan\*
2. Terry Tyo\*\*

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Each team must call witnesses 1 and 2 listed for their respective party.

\* This witness must be a male.

\*\* This witness may be either a male or a female.

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR BEXAR COUNTY  
STATE OF LONE STAR

THE 30TH DAY OF NOVEMBER, 2004.

THE STATE OF LONE STAR

v.

DENNIS Sloan

:  
:  
:  
:

CASE NUMBER 2004-1965

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF LONE STAR:

**Count One**

The Grand Jurors of the County of Bexar, State of Lone Star, charge that Dennis Sloan, on the 5th day of November, 2004, in the County and State aforesaid, did unlawfully present false, incomplete, or misleading information to Lone Star State Insurance Company with the intent to injure, defraud, or deceive said insurer of an amount that is \$100,000 or more, contrary to the form of the statute in such cases and made and provided, to wit: Lone Star Statute 25.109.

\*\*\*\*\*  
INDICTMENT FOR FILING A FALSE  
OR FRAUDULENT INSURANCE CLAIM  
\*\*\*\*\*

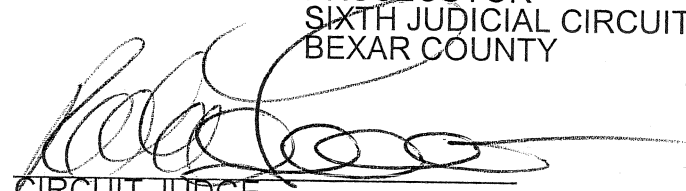
A TRUE BILL:

  
\_\_\_\_\_  
Foreman of the Grand Jury

I, Prosecutor for the Sixth Judicial Circuit, in and for Bexar County, State of Lone Star, do hereby aver, as authorized and required by law, that I have acted in an advisory capacity to the Grand Jurors of Bexar County previous to their returning the above indictment in the above-styled cause.

  
\_\_\_\_\_  
PROSECUTOR  
SIXTH JUDICIAL CIRCUIT  
BEXAR COUNTY

Presented before:

  
\_\_\_\_\_  
CIRCUIT JUDGE

## DEPOSITION OF TAYLOR WISE

Q. Please state your name.

A. Taylor Wise.

Q. How are you employed?

A. I am a detective with the Bexar County Sheriff's Department.

Q. Are you assigned to any particular division?

A. Yes, for the past four years I have been assigned to the crimes against property division.

Q. What types of crimes do you investigate?

A. Anything that deals primarily with property, such as thefts, burglaries, vandalism, and arson.

Q. How long have you been with the Bexar County Sheriff's Department?

A. Not quite fifteen years. It will be fifteen years in May of this year.

Q. Have you been involved with a case involving an alleged burglary at Dennis Sloan's residence?

A. Yes, I am the lead detective on that case.

Q. How did you become involved in the case?

A. On October 29, 2004, the Sheriff's Department received a call from Mr. Sloan indicating that he had arrived home from a trip and found that his house had been broken into. I was assigned to investigate the case.

Q. What did you do first in your investigation?

- A. I called Mr. Sloan and told him that we would be coming out to investigate.
- Q. Had you had any prior dealings with Mr. Sloan?
- A. No, but Mr. Sloan is a very prominent member of the City of Armadillo society. He is, or at least has been, extremely wealthy and influential. I did not know him personally, but everyone in Armadillo has heard of Mr. Sloan. In fact, the entire state of Lone Star probably knows about Mr. Sloan.
- Q. Why is that?
- A. Mr. Sloan made a fortune in oil and gas and then parlayed that into some incredible stock holdings. He runs a ranch and has a huge house in Armadillo with acres of ranch land around it. The ranch has its own helicopter pad and landing strip. He is on the board of any number of companies and jets around the world all the time. Believe me, everyone knows who Dennis Sloan is.
- Q. I'm showing you what has been marked for identification as State's Exhibit A. Do you recognize this?
- A. Yes, I do.
- Q. What is this?
- A. This is a picture of part of Mr. Sloan's ranch in Armadillo.
- Q. Does this picture fairly and accurately represent what Mr. Sloan's house looked like back in late October or early November of 2004?
- A. Yes, it does.
- Q. Did you take this picture?
- A. No. This picture was published in a magazine that deals with expensive homes that are for sale. I obtained a copy of the advertisement from the magazine.
- Q. Is Mr. Sloan's ranch for sale?

A. Yes, it is.

Q. Do you know why?

A. Well, I heard through the Armadillo grapevine that Mr. Sloan was in financial trouble. It had been on the news that he had been heavily invested in various high-tech stock companies and also in Enron. Between Enron, 9/11, and the slump of the tech market, I heard he had lost a lot of money and could not afford the ranch anymore. Apparently the ranch itself had been losing money for years, but it was a nice hobby when Mr. Sloan could afford it.

Q. Were you able to confirm any of this information during your investigation?

A. I was able to confirm that the ranch is for sale. I also learned that Mr. Sloan is approximately \$325,000 behind on his mortgage payments, that his bank intends to start foreclosure proceedings shortly, and that the Bureau of Land Management has been investigating Mr. Sloan concerning certain operations on his ranch.

Q. When did Mr. Sloan put the ranch on the market?

A. From my investigation, I believe it was in early June 2004.

Q. Did you eventually meet with Mr. Sloan?

A. Yes, I arrived at his house in the early afternoon of October 29.

Q. Is his house located in Bexar County?

A. Yes, it is.

Q. What did you do first?

A. When I first got the assignment and spoke with Mr. Sloan, I told him that I would be sending out a team of evidence collection technicians. He agreed to give them access to the grounds, but he asked to have them wait to access the house itself until I arrived.



Q. Did you find the request unusual?

A. A little.

Q. Why is that?

A. Most crime victims want to have the evidence technicians in and out quickly so that they can start cleaning up.

Q. What happened when you got to the scene?

A. I spoke first with the evidence technicians about what they found outside. They showed me some footprints in the dirt in some planting beds, some footprints on the flagstone patio at the rear of the house, and some broken panes of glass in the french doors to that patio. They had made casts of the footprints in the dirt and taken photos of the footprints on the patio. They were in the process of trying to obtain fingerprints from the french doors.

Q. Did you eventually go inside?

A. Yes, I went inside and met with Mr. Sloan.

Q. What did he tell you?

A. He told me that he had left town on the morning of the 28th to fly to a meeting in New York. He conducted some business, went to a benefit concert, and then stayed overnight at the Ritz. He then flew back on the morning of the 29th. When he arrived home, he discovered the break in.

Q. What did you notice in the house?

A. Well, there was broken glass on the floor of the room inside the french doors. There were also dirty footprints similar to those on the flagstone patio. The footprints trailed off part way through the room, so it was not clear where the burglar had gone from there.

- Q. Did Mr. Sloan tell you whether anything was missing?
- A. Yes, he told me that it appeared the thief had gone straight to his den and removed jewelry from a safe.
- Q. Was anything else missing?
- A. According to Mr. Sloan, the jewelry was the only thing missing. There were a few items that were damaged, but nothing else actually taken.
- Q. What was damaged?
- A. Apparently, there were some family pictures in the den that were smashed on the floor. These were all pictures of Mr. Sloan with his former wife and their daughter. The pictures of his daughter by herself were not damaged.
- Q. Did Mr. Sloan's house have a security system?
- A. Yes, it did. I asked him about that, and he said that the alarm contact on that particular french door had been broken for some time. He had not set the interior system when he left because he thought that the maid service was coming that day. So the alarm system did not go off.
- Q. How did the thieves open the safe?
- A. Mr. Sloan was not sure. He said that the safe was not damaged, but he could not remember if he had locked it the last time he opened it.
- Q. What did you think when you heard this?
- A. Well, my first question was who knew about the safe and who had the combination.
- Q. Did you ask Mr. Sloan about this?

- A. Yes. He indicated that many people knew about the safe and several people know the combination. He mentioned that his former wife and all his household staff know where the safe is, and his former wife and several of his long-time employees have the combination. He also mentioned that he thought his girlfriend, whom he recently broke up with, might have figured out the combination.
- Q. Why did he think that?
- A. Mr. Sloan told me that he had found his ex-girlfriend, Coco Remington, in the den one day not too long before they broke up. She was sitting behind the desk, and when he came in she looked guilty, as if she had been up to something. He kept the combination on a piece of paper under the blotter on the desk, and he thought she might have found it.
- Q. Why did Mr. Sloan think that this was important?
- A. Apparently, Coco had been very upset that Mr. Sloan still had his former wife's Cartier jewelry in the safe. She wanted him to let her wear it, but he refused. Mr. Sloan also said that Coco had threatened to "get back" at him for breaking off the relationship.
- Q. What did you do next?
- A. I asked Mr. Sloan whether he had any photos of the jewelry that was missing. He had a folder in a desk drawer that contained some photos and other documents concerning the jewelry.
- Q. Detective Wise, I'm showing what has been marked as composite Exhibit B for identification. It is a 3-page document. Do you recognize this?
- A. Yes, these are the pictures that Mr. Sloan gave me of the jewelry.
- Q. Are these pictures in the same or substantially the same condition as when Mr. Sloan gave them to you?

- A. Yes.
- Q. Do they fairly and accurately depict the jewelry that was taken?
- A. I don't know. All I know is that this is what Mr. Sloan said was taken.
- Q. What did you do next?
- A. I arranged to meet with Coco Remington.
- Q. Where did you locate her?
- A. I found her at the Armadillo Golf & Country Club, where she was working as a hostess, and I met with her there before the dinner shift began.
- Q. Did you ask her about the burglary?
- A. Yes, and she denied any knowledge of the burglary.
- Q. Did you ask her about the jewelry itself?
- A. Yes. She told me that she had been upset that Mr. Sloan – who she referred to as Denny – would not let her wear the jewelry. But she said that she was over that. She told me that she had left Mr. Sloan when it became apparent to her that he was going to be broke soon and that she had not seen or heard from him since. She intended to move on with her life.
- Q. Did you ask Ms. Remington about her whereabouts on the night of the burglary?
- A. Yes. She indicated that she had been home alone that evening.
- Q. Did you discuss anything else with her?
- A. Yes. I noticed she was wearing a ring that looked like one of the rings that had been stolen. I asked her about that, but she said that it was a fake that she had recently purchased at a flea market.

- Q. Were you able to verify that?
- A. No. She denied having a receipt for the ring, but with her denials and at that point in my investigation, I had no legal basis for collecting the ring. I was later able to get a warrant, but by that time Coco was gone.
- Q. What do you mean, she was gone?
- A. I obtained the warrant only two days later, but by then Coco had quit her job and moved out of her apartment. We have not been able to locate her since then.
- Q. What other investigation did you do?
- A. I spoke with Duke Remington, who is one of Mr. Sloan's ranch hands and also Coco's brother.
- Q. What did you learn from him?
- B. I met him at the apartment where he is currently living and asked him where he was the night of October 28. He told me that he had been at the Dew Drop Inn playing pool with his friends. He denied having anything to do with the break-in at the Sloan ranch.
- Q. So, did that end your investigation?
- A. No. I spoke with the manager of the Dew Drop Inn, and he confirmed that Mr. Remington was there all night on October 28.
- Q. What did you do then?
- A. I went back to interview some of the people who work for Mr. Sloan.
- Q. What did you learn?
- A. I spoke with Terry Tyo, who is the caretaker at Mr. Sloan's house.

- Q. Did you learn anything during that meeting?
- A. Not directly; however, I noticed that Terry was wearing work boots with a pattern on the sole. I later had the crime lab compare the sole pattern with the prints in the dirt in the yard, and they were identical.
- Q. Could you match them with the footprints inside?
- A. No, the footprints inside Mr. Sloan's house were not clear enough for us to match the sole pattern, but we were able to determine that the size was approximately the same.
- Q. Did you learn anything from Terry Tyo?
- A. No. Terry Tyo denied having any knowledge of the break-in, other than that it occurred.
- Q. Did you do anything else?
- A. We learned that Mr. Sloan shipped a box via DHL, which is an international delivery firm, to a bank in Switzerland on October 30. Mr. Sloan insured the package for \$385,000. We were also able to confirm that Mr. Sloan has a safety deposit box at the bank. But Swiss banking laws have prevented us from determining what was in either the box that was delivered or the safety deposit box.
- Q. Did you do any other investigation?
- A. Yes, I learned that Mr. Sloan had withdrawn \$25,000 in cash from his money market account on October 29, 2004.
- Q. Did you ask Mr. Sloan about this withdrawal?
- A. Yes. It seemed like a large amount given Mr. Sloan's current financial circumstances. When I questioned Mr. Sloan, he said it was for living expenses. When I asked for more information about those expenses, Mr. Sloan told me that he had nothing else to say, and he referred me to his lawyer, Chris Jensen.

- Q. What happened next?
- A. Not too long after I learned about the shipment to Switzerland, I received a call from Susan Rochford, who is the claims supervisor at Lone Star State Insurance, or LSSI. She reported that Mr. Sloan had filed a very large claim for the jewelry that was stolen and she believed the claim was fraudulent. She asked for our assistance in investigating the matter.
- Q. When did you get that call?
- A. I got the call November 12, 2004.
- Q. What did you do first?
- A. I met with Ms. Rochford on Monday, November 15, 2004. At that meeting, she provided me with a copy of a Proof of Loss form that had been submitted by Mr. Sloan to LSSI on November 5, 2004.
- Q. Detective Wise, I am showing you what has been marked for identification as State's Exhibit C. Do you recognize this?
- A. Yes, I do.
- Q. What is this?
- A. This is the Proof of Loss form that Ms. Rochford provided to me.
- Q. Is it in the same or substantially the same condition as when you received it from Ms. Rochford?
- A. Yes, it is.
- Q. What did you learn from the Proof of Loss form?
- A. On the form, Mr. Sloan indicated that someone had broken into his home on October 28, 2004, and stolen jewelry from a safe in his den.

Q. What was the amount that Mr. Sloan was claiming?

A. Mr. Sloan was claiming that \$386,975 in jewelry was stolen.

Q. Had LSSI paid the claim?

A. They had not yet paid the claim. LSSI's investigator had discovered the shipment to Switzerland during the course of their investigation. Based on that discovery, LSSI believed that Mr. Sloan had faked the break-in so that he could be paid for the jewelry, but that he had actually sent the jewelry to Switzerland. Therefore, they believed the claim was fraudulent.

Q. Did you agree?

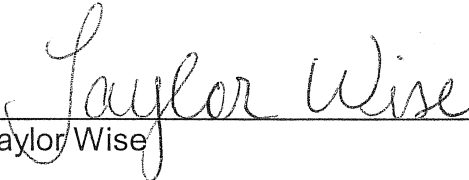
A. Yes, I had reached the same conclusion.

Q. Detective Wise, what do you think happened?

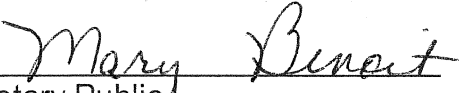
A. I believe that Mr. Sloan had Terry Tyo stage a break in so that Mr. Sloan could make a claim to his insurance company for the jewelry. Clearly, Mr. Sloan could use the \$386,975 to avoid foreclosure.

Q. What about Coco and Duke?

A. I think Mr. Sloan set up the burglary so that he could implicate them. But I don't think they knew anything about it.

  
Taylor Wise

Sworn and subscribed before me  
this 12<sup>th</sup> day of January, 2005.

  
Notary Public



## DEPOSITION OF DUKE REMINGTON

Q. Please state your name for the record.

A. Duke Remington.

A. Mr. Remington, what is your current address?

A. 1758 Red Ranch Road, Apartment B, Armadillo, Lone Star.

Q. How long have you lived there?

A. Since November 1st.

Q. Mr. Remington, are you currently employed?

A. No.

Q. Where were you last employed?

A. I was a ranch hand for Dennis Sloan until October 31, 2004.

Q. What happened on October 31, 2004?

A. Mr. Sloan fired me.

Q. How did you come to be employed by Mr. Sloan in the first place?

A. I had been in prison. While I was in prison, my sister, Coco, started dating Mr. Sloan. When I was released, Mr. Sloan said he wanted to help me make a fresh start, so he hired me to help around the ranch.

Q. Did you have any experience as a ranch hand?

A. Not really. Coco and I grew up here, so I knew how to ride a horse. But I had never worked on a ranch. I had to learn how to deal with the cattle, but everyone was pretty cool about teaching me how to do it.

- Q. How long had you worked for Mr. Sloan?
- A. I had worked for Mr. Sloan for about eight months.
- Q. Why were you fired?
- A. I think I saw some things I was not supposed to see.
- Q. What do you mean by that?
- A. Well, I need to explain a little. I knew that my sister had been planning to break things off with Mr. Sloan because he was going bankrupt. Coco figured she needed to get out before things got too bad. There was also some investigation into how the ranch was being run and she did not want to be involved in that. Since I was Coco's brother, I figured Mr. Sloan would want me off the ranch when she left. But he was pretty cool about it. He told me that I was doing a good job and that there was no reason for me to leave. So I continued to work there even after Coco left.
- Q. What does that have to do with you being fired?
- A. Nothing exactly, except that I was still there after Coco left.
- Q. Okay, do you know anything about a burglary at Mr. Sloan's house?
- A. Sort of.
- Q. What do you know?
- A. Well, Mr. Sloan had been out of town one night and when he came home the next day, he apparently discovered some things missing from his house.
- Q. How did you hear about this?
- A. Well, when the police showed up, everyone started talking. Then Terry Tyo, who has been Mr. Sloan's caretaker for almost 20 years said that someone had broken in and stolen Mr. Sloan's ex-wife's jewelry from a safe in the den.

Q. How did Terry know about this?

A. I don't know.

Q. What happened next?

A. I asked Terry about the alarm, because I knew there was some fancy alarm system that protected the house. Terry said that it had not been set because the maid service was coming.

Q. Did that make sense to you?

A. No, because I knew that Mr. Sloan had canceled the maid service months ago. That was part of the reason that Coco left. Apparently, Mr. Sloan thought that Coco should take over as the maid service.

Q. Did anything else happen around that time?

A. Yes, later that day, I saw Terry put a small box into one of Mr. Sloan's cars. After Terry went back inside, I peeked in the window of the car and saw that the box was being shipped to a Swiss bank. Just then, Terry came out and saw me and started yelling at me to mind my own business.

B. Why does this stand out in your mind?

A. Mr. Sloan has a contract with Federal Express to both deliver and pick up packages. I had seen the FedEx truck at Mr. Sloan's house earlier that morning. If Mr. Sloan was going to send a package, it would usually have gone FedEx. The fact that it did not was odd.

Q. Was there anything else unusual that day?

A. Yes. Later that day, Terry drove up in a new car. I knew that Mr. Sloan had given all of the employees pay cuts a couple of months ago, so I asked Terry about the new car. Terry said that an aunt had died and left a \$25,000 inheritance.

Q. Why was that unusual?

A. Terry and I had talked in the past about how Terry was orphaned as a child and had no family. Terry's only family was Mr. Sloan. Based on those earlier conversations, I knew that Terry did not have an "aunt."

Q. Did you ask Terry about this?

A. I did, and Terry said I needed to stop being so nosy.

Q. Did you have any reason to think more about the incident?

A. Well, after seeing the box being shipped to Switzerland and seeing Terry with a new car, I started to wonder if something else was going on.

Q. Like what?

A. Well, I remembered that two days before the supposed break-in, I saw Terry messing with the lights on the side of the house. Mr. Sloan had lights that had motion sensors in them, so if anyone walked across the yard, the lights would come on. I had been working the evening before, and the lights were working fine. Then I saw Terry on a ladder messing with them. The next day, when I walked across the side yard in the evening, the light did not come on like it was supposed to.

Q. Did you ever ask Terry about this?

A. Yes. I mentioned it to Terry that night.

Q. What did Terry tell you?

A. Terry told me I should mind my own business and stick to ranching.

Q. What happened next?

A. Well, Terry took the box into town and got the new car on October 30. On October 31, Mr. Sloan called me into his office and told me that he thought I had broken into the house since I had a prison record. When I told him that I did not know what he was talking about, he told me that he should have figured that I would lie since I had been in prison and that I was just like all other ex-cons who could not be trusted. And then he fired me.

Q. Now, you are aware that Mr. Sloan has said he believes you broke in and stole the jewelry. Is that what happened?

A. No.

Q. Can you prove that?

A. I don't know about proof. But I did not know that no one was home that night. I thought Mr. Sloan was home. I also did not know that the alarm system was broken, and I don't have the password. I spent that night at the Dew Drop Inn with a bunch of friends. They can tell you that I was there, and so can the owner of the Dew Drop Inn.

Q. What is the owner's name?

A. I know his first name is Clint. I'm not sure of his last name.

Q. Have you talked to Coco since all this happened?

A. Yes, once.

Q. When was that?

A. I called her the night I was fired. I asked her if she knew anything about the break in. She said she did not, but she sounded kind of nervous.

Q. What do you mean?

- A. Well, she was just kind of giggly, which is not like her. And she did not seem concerned that I had been fired and she did not seem to care to hear about the details of what happened. She seemed like she was in a hurry to get off the phone.
- Q. Have you talked to her since then?
- A. No. I went by her apartment, but she was gone and the manager said that she had moved out.
- Q. Have you heard from her at all?
- A. I got a postcard from her a couple of weeks later.
- Q. Duke, I'm showing you what has been marked as State's Exhibit D for identification. Do you recognize this?
- A. Yes.
- Q. What is this?
- A. This is the postcard that I got from Coco.
- Q. Is it in the same or substantially the same condition as when you received it?
- A. Yes.
- Q. How do you know that this is from Coco?
- A. Well, she signed it. Also, this is her handwriting.
- Q. Have you heard anything else from her?
- A. No.
- Q. Do you know what she meant about helping her get what was coming to her?

A. No.

Q. Now, I understand that you have been in prison, is that right?

A. Yes.

Q. What for?

A. Well, I was convicted of dealing in stolen property.

Q. When did that happen?

A. I was arrested back in 1995. My trial took place in 1997, and I was sentenced to ten years, but I got out early because of gain time and prison overcrowding credits. I'm still on probation.

Q. Were you guilty of that crime?

A. Sort of.

Q. What do you mean by that?

A. Well, I was really into drugs at that time. A friend of mine had broken into a big mansion on a lake in Armadillo and had stolen a lot of items. I knew some people who would want to buy those things, so I arranged for them to buy them. So, I did not steal the stuff, but I did help get rid of it once it was stolen.

Q. Have you ever been convicted of any other felonies?

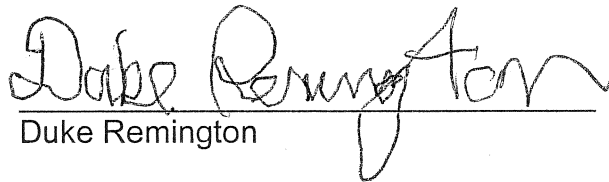
A. Yes.

Q. How many times?

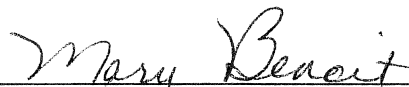
A. Twice.

Q. When were those convictions?

- A. One was in 1990 and one was in 1993.
- Q. Duke, did you break in to Mr. Sloan's house?
- A. No. Why would I do that? I had kicked my drug habit in prison. I was making a new life for myself. I had a good job that let me work outside without a lot of hassles. Why would I want to mess that up?
- Q. Do you know what happened to the jewelry?
- A. I have no idea.
- Q. You mentioned that you are on probation. How long is the remainder of your probationary sentence?
- A. Five years.
- Q. What would happen if you were arrested for this theft?
- A. Well, I assume that would violate my probation.
- Q. Do you have any agreements with the State Attorney's Office concerning your testimony here today?
- A. Yes. If I testify truthfully, the State Attorney's Office will recommend that my probation be terminated.
- Q. Duke, one last question. What size shoes do you wear?
- A. Size eight.

  
Duke Remington

Sworn and subscribed before me  
this 28<sup>th</sup> day of December 2004.

  
Notary Public



## PRIOR TRIAL TESTIMONY OF DENNIS Sloan

### Direct Examination:

Q. State your name.

A. Dennis Sloan.

Q. Where do you reside?

A. Currently, my address is 6734 Twelve Oaks Boulevard, Armadillo, State of Lone Star.

Q. How long have you lived there?

A. I have owned that house since 1978.

Q. Does anyone live there with you?

A. Do you mean in the big house?

Q. Yes.

A. Not now.

Q. When was the last time that anyone else lived with you?

A. My former girlfriend, Coco Remington, lived there with me until late September of 2004. Before that, my wife and daughter lived there with me until the divorce in 2002.

Q. Is your house and ranch property currently for sale?

A. Yes.

Q. Why is that?

A. Several reasons. I suppose it is no secret that I lost a lot of money when the Enron scandal broke and the tech market declined. That has made it very difficult to afford the upkeep on a home and ranch like mine. In addition, now that it is just me, I don't need a place that big. I like to entertain, but I could do that in a smaller place.

Q. Are you facing foreclosure?

A. Yes, the bank has notified me that it will start foreclosure proceedings shortly.

Q. Do you know how far behind you are on mortgage payments?

A. Not exactly. I believe it is around \$325,000.

Q. Turning to October 28, 2004, what happened that day?

A. I had been invited to a charity benefit in New York City. Originally I had declined the invitation because I had other business to attend to, but the morning of the 28th I got a call from a friend practically begging me to attend. So I decided to go.

Q. Who knew that you were going?

A. I'm not sure. I remember telling Terry Tyo that I was going, and, of course, I had to notify the pilot of my jet that we would be going. I think I might have also told Coco I was going.

Q. When would you have told her that?

A. Well, I had just broken things off with her and she had just moved out about a month before that. We still had some dealings that were intertwined and she still had some items at my house. We still spoke from time to time. I remember talking to her that day, and I remember telling her I would be gone that night.

Q. Did you have a fight with her during that phone call?

A. I don't know if you would call it a fight. She was trying to hang on to the relationship. She begged to come with me to the benefit. She said that I had always taken my ex-wife to benefits, and she was upset that I would not take her to this one.

Q. How did the conversation end?

A. I told her that she was not coming to the benefit with me because our relationship was over. I also pointed out that she was not my wife and had never been my wife and therefore it was inappropriate for me to take her to functions where most people would be with their spouses. She told me that I would be sorry that I had said that, and she hung up.

Q. What happened that night?

A. I left around 4 p.m. When I arrived in New York, I went straight to the benefit. I stayed overnight at the Ritz, and then returned to Armadillo early in the morning. I don't recall exactly when I got home.

Q. How did you discover the break-in?

A. I came in the side entrance, so I did not notice anything immediately. I went upstairs to change, and when I came back down I went to the den. When I got in there, I immediately noticed that the safe door was open. I then noticed that certain pictures were smashed. When I checked the safe, I discovered that my ex-wife's jewelry was gone. At that point, I called the police.

Q. What did you do while you waited for the police?

A. I looked around the rest of the house. I discovered a pane of glass broken out of one of the french doors to the terrace and I discovered dirty footprints on the floor.

Q. Was anything else missing?

- A. No, the only thing missing was the jewelry.
- Q. Was anything else damaged?
- A. The pane of glass was damaged and there was dirt on the area rug in that room. Also, all of the pictures in the den that had my ex-wife in them were smashed. The pictures of my daughter or just my daughter and me were not damaged. As far as I can tell, nothing else was missing or damaged.
- Q. Why did you still have your ex-wife's jewelry in your safe when you had been divorced for over two years?
- A. She and I had agreed that I would keep the jewelry for my daughter to have when she was older.
- Q. Did Coco know where the jewelry was?
- A. She knew very well where the jewelry was. That jewelry was a major bone of contention for us. She wanted to wear that jewelry when we went out. I had told her repeatedly that I was keeping it for my daughter and that it was not for her. But that did not matter to her. She said jewelry was meant to be worn, not locked away.
- Q. Did Coco know the combination to the safe?
- A. I think so. When I came home one day, she was sitting in the chair behind my desk in the den. When I came in, she looked up with a really guilty look on her face and crumpled something in her hand. I keep the combination to the safe on a small piece of paper under the blotter on the desk, so she could have copied it down then.
- Q. Did you ask her about it?
- A. I asked her what she was doing, and she said she looking for my datebook, trying to find out if I was going to surprise her with a weekend away for her birthday.

Q. Turning back to this incident, did you report the break-in and the theft to your insurance company?

A. Yes, I filed a claim with LSSI shortly after the theft.

Q. Have they paid you for the items that were stolen?

A. No, they, like the police, seem to think that I had something to do with this burglary.

Q. Why would they think that?

A. I suppose because it was well-known that I was having financial trouble. Those people who are jealous of my success are always trying to find ways to put me down. They find it fun to laugh at the misfortunes of others.

Q. Did you have anything to do with the break-in at your residence?

A. No.

Q. Did you pay Terry Tyo to stage a break-in at your residence?

A. No.

Q. What do you think happened?

A. I believe that Duke Remington broke into the house and stole the jewelry and gave it to Coco. She wanted it; she knew where it was; and she knew how to get it. And Duke, being an ex-con, would have no problems doing something like this. I should have known better than to hire him in the first place.

Q. Do you have any evidence that Duke did this?

A. Sure. The boots.

Q. What do you mean by that?

A. I buy all of my ranch hands and helpers boots. Those boots that the police think are Terry Tyo's are the same boots that I bought for Duke and all my other ranch hands. I'll bet if someone had asked to see Duke's boots, they would have matched as well.

Cross-Examination

Q. Mr. Sloan, you withdrew \$25,000 in cash from your money market account at Lone Star State Bank on October 29, 2004, didn't you?

A. Yes, I did.

Q. And the next day, Terry Tyo was driving a new car and talking about a \$25,000 inheritance, isn't that correct?

A. Yes, but that is just strange timing.

Q. So, you did not pay Terry Tyo \$25,000 to stage the break-in?

A. No, I did not.

Q. Mr. Sloan, you told the police that you left the interior alarm system off when you went to New York because the maid service was coming the next day, isn't that right?

A. Yes.

Q. But you had canceled the maid service several months earlier, hadn't you?

A. Yes, but I forgot that when I was leaving. They had come on Fridays for years, and I just forgot as I was leaving that they would not be there.

Q. Did Coco know the light on the side of the house was not working?

A. I don't know.

Q. Did Coco or Duke know that one of the alarm contacts on that french door was broken?

- A. I don't know.
- Q. Did Coco or Duke know that you would forget to set the interior alarm?
- A. I don't know.
- Q. Weren't they awfully lucky to have all of these things go their way?
- A. I don't know. I suppose so.
- Q. How do you explain the DHL package that was shipped to a Swiss bank two days after the theft?
- A. I was concerned about some other valuable items I had in the house. So I shipped them off.
- Q. But you did not use your normal shipper, FedEx, to do that, did you?
- A. No.
- Q. Isn't that because you did not want a record of the shipment?
- A. No, it just seemed more convenient to have Terry take care of it.
- Q. And when Duke asked about that shipment, you fired him, didn't you?
- A. No, I fired Duke because he broke into my house.
- Q. Isn't it unusual that the value you declared for the package is the same as the value of the jewelry that was allegedly stolen?
- A. That is just a coincidence.
- Q. Why haven't you allowed anyone to inventory your safety deposit box to prove that the jewelry is not in it?

Defense Counsel: Objection.

The Court: Overruled.

- A. The contents of my safety deposit box are private. What is in there is my business only.
- Q. So you won't allow that even to clear your name?
- A. No. I shouldn't have to clear my name. I did not do anything.
- Q. You're being investigated by the Bureau of Land Management, aren't you?
- A. Yes.
- Q. And they are investigating whether you were attempting to use land owned by the BLM in violation of your agreement with them, aren't they?
- A. Yes, that is what they are alleging.
- Q. But you say that is not the case either, correct?
- A. Yes.
- Q. So the BLM is out to get you, just like the Bexar County Sheriff's Office and LSSI, isn't that right?
- A. Yes, this is what happens to people who are successful. Everyone questions their success.

[NO FURTHER QUESTIONS FROM THE PROSECUTOR OR THE DEFENSE.]



## DEPOSITION OF TERRY TYO

- Q. Please state your name for the record.
- A. Terry Tyo.
- Q. Where do you live?
- A. I live in a small caretaker's house on the grounds of Mr. Sloan's house.
- Q. How are you employed?
- A. I am employed by Mr. Sloan as a caretaker on his ranch.
- Q. What do your job duties include?
- A. I do pretty much whatever Mr. Sloan asks me to do as far as taking care of the house and ranch and doing whatever he needs to have done to keep things running smoothly.
- Q. How long have you been working for Mr. Sloan?
- A. I have been working for him since 1987.
- Q. Do you have a good relationship with Mr. Sloan?
- A. Mr. Sloan has been like a father to me since I don't have any family of my own.
- Q. Speaking of that, Duke Remington testified at his deposition that you were telling people that you had received a \$25,000 from an aunt. Do you have an aunt?
- A. No.
- Q. Why were you telling people that?

- A. Mr. Sloan knew that I was going to fall on hard times when he sold his house. He told me that he had some money to give me and that he hoped that it would help ease me through the tough times ahead. But he did not want anyone to know that he had given it to me since he was having to cut so many other employee's salaries. So I told people that it had come from an aunt.
- Q. Does this mean that you will say anything to help Mr. Sloan?
- A. Well, not anything, but I will do what I can.
- Q. Shortly before the break-in, did you work on some lights for Mr. Sloan?
- A. Yes, Mr. Sloan told me that one of the lights on the side of the house was not adjusted properly and so it would shine down instead of out when it was set off. He asked me to readjust the light.
- Q. Did you do that?
- A. Yes.
- Q. Did it work after you did that?
- A. Yes.
- Q. Were you aware that there was an alarm contact that was not working on one of the back french doors?
- A. Yes. I would have fixed it, but I did not have the part to do it. Mr. Sloan told me not to worry about it - that he would have the alarm company fix it the next time they were out.
- Q. Where were you on the night of October 28th?
- A. At my house in the caretaker's cottage.
- Q. Was anyone there with you?
- A. No. I just watched television and went to bed.

- Q. Did you hear anything outside that night?
- A. No, but my cottage is far enough away that I would not have heard one pane of glass break.
- Q. How did you learn of the break-in?
- A. When Mr. Sloan got home from New York, he paged me to come to the house. He showed me the den and the broken glass and asked if I knew what happened. I told him that I had not heard or seen anything.
- Q. Was that the end of it?
- A. It was as far as I was concerned. After the police left, I fixed the broken window and I called the alarm company to have them come and repair the contact and check the entire system.
- Q. Did Mr. Sloan ever ask you to deliver a box?
- A. Yes, on Saturday, he gave me a box and asked me to take it to the DHL drop-off point in Armadillo.
- Q. Did this seem unusual to you?
- A. A little. Mr. Sloan has a contract with FedEx and he usually ships everything through them. I knew they had been there earlier that day.
- Q. Did you ask him why this was going through DHL?
- A. Yes, and he told me not to worry about it.
- Q. Did you deliver the package to DHL?
- A. Yes.
- Q. Do you know what was in it?
- A. No.

- Q. What type of shoes do you wear when you are working?
- A. I have a pair of size 8 Texas Steer steel-toed work boots.
- Q. Do you know why the police would have found footprints matching your boots in the dirt on the side of Mr. Sloan's house the morning after the break-in?
- A. I had worked in that area the day before. They might have been left then.
- Q. Do you know why the police would have found dirty footprints matching your boots in the room inside the french doors from the terrace mixed with the broken glass?
- A. No, but these are not rare boots. Mr. Sloan has me buy these at Wal-Mart for all of the ranch hands. I'm sure they sell a lot of pairs to other people as well.
- Q. Did you have any kind of relationship with Coco Remington?
- A. Well naturally I knew her and I dealt with her almost every day while she was living with Mr. Sloan.
- Q. Did you like her?
- A. No. I thought she was a little common and low class for Mr. Sloan.
- Q. Were you glad when she moved out?
- A. I don't know if glad is the word. I hoped Mr. Sloan would find someone better.
- Q. Do you think she had anything to do with the break-in?
- A. Yes.
- Q. Why do you think that?
- A. I knew from Mr. Sloan that she always wanted that jewelry and her brother, Duke, was working there at the time after having just gotten out of prison. With Mr. Sloan gone, that was the perfect chance for her to get the jewelry.

- Q. How long had Duke been working there?
- A. I think it was about eight months before this happened.
- Q. Did you like Duke?
- A. He seemed like a nice enough guy, but if it had been up to me, I would not have hired him.
- Q. Why is that?
- A. Well, he was just out of prison. But Mr. Sloan has a soft spot for people having a tough time, and Mr. Sloan thought that he would help Duke out by giving him a job and trying to get him away from the people he had hung out with before.
- Q. Now, would Coco or Duke have known that Mr. Sloan was going to be gone the night of October 28?
- A. Not that I know of.
- Q. Would Coco or Duke have known about the alarm on the french door not working?
- A. Not that I know of.
- Q. Would Coco or Duke have known that the interior alarm was not turned on?
- A. Not that I know of.
- Q. But you knew all those things, right?
- A. I suppose so.
- Q. And your footprints were found mixed with the glass on the floor, right?
- A. No. The police found footprints the same size as mine in the same kind of boots, but they were not my footprints.

Q. Do you know whose footprints they were?

A. I believe they were Duke Remington's footprints.

Q. Why do you think that?

A. Well, the only thing that was taken was the jewelry that Coco always wanted. And the only photos that were smashed were the ones that had Mr. Sloan's ex-wife in them. A random burglar would have had no reason to take just those items and smash just those pictures.

Q. But won't it help Mr. Sloan to get the insurance money for these items?

A. I suppose in the short term. But Mr. Sloan cannot save his home and his lifestyle with only \$387,000. It may sound like a lot to you and me, but that is not a lot of money to Mr. Sloan.

Q. But it is enough to save his house from foreclosure, isn't it?

A. I wouldn't know about that.

Q. And you have a job until the house sells, don't you?


A. Yes.

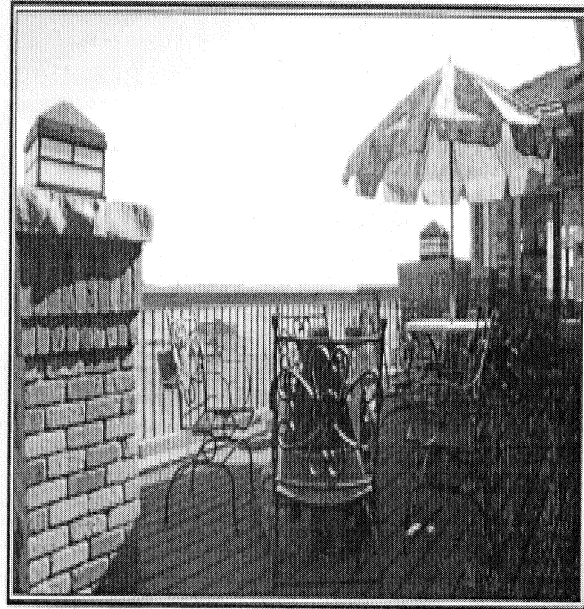
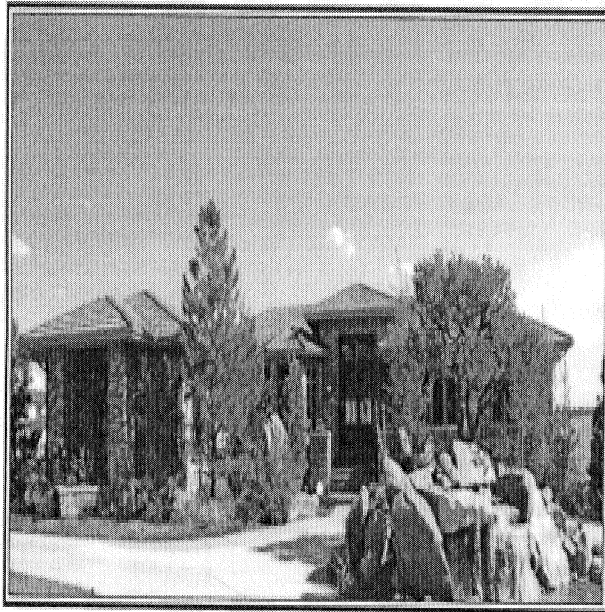
Q. So it is to your benefit if Mr. Sloan continues to own the house for a while, even though it is for sale, isn't it?

A. Yes, I suppose that is true.

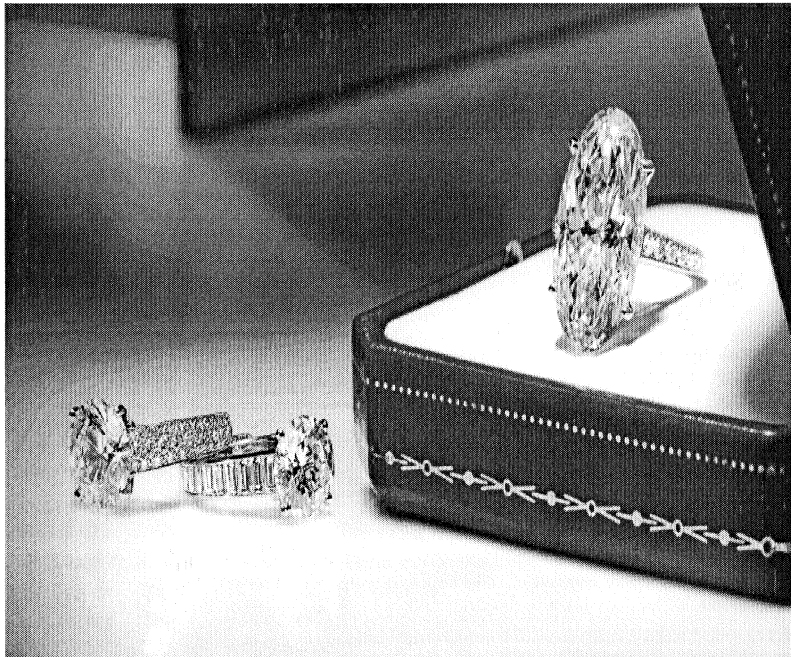
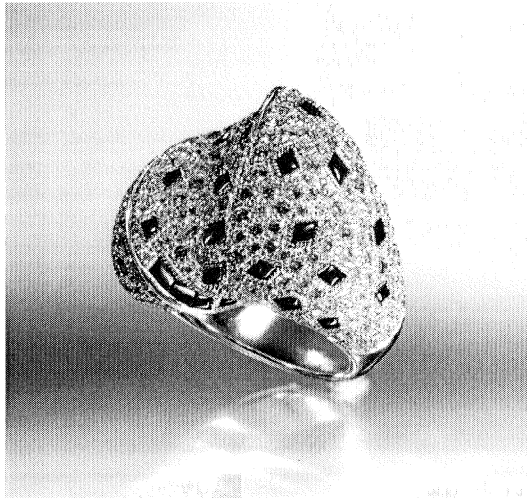
  
\_\_\_\_\_  
Terry Tyo

Sworn and subscribed before me  
this 29<sup>th</sup> day of December 2004.

  
\_\_\_\_\_  
Notary Public

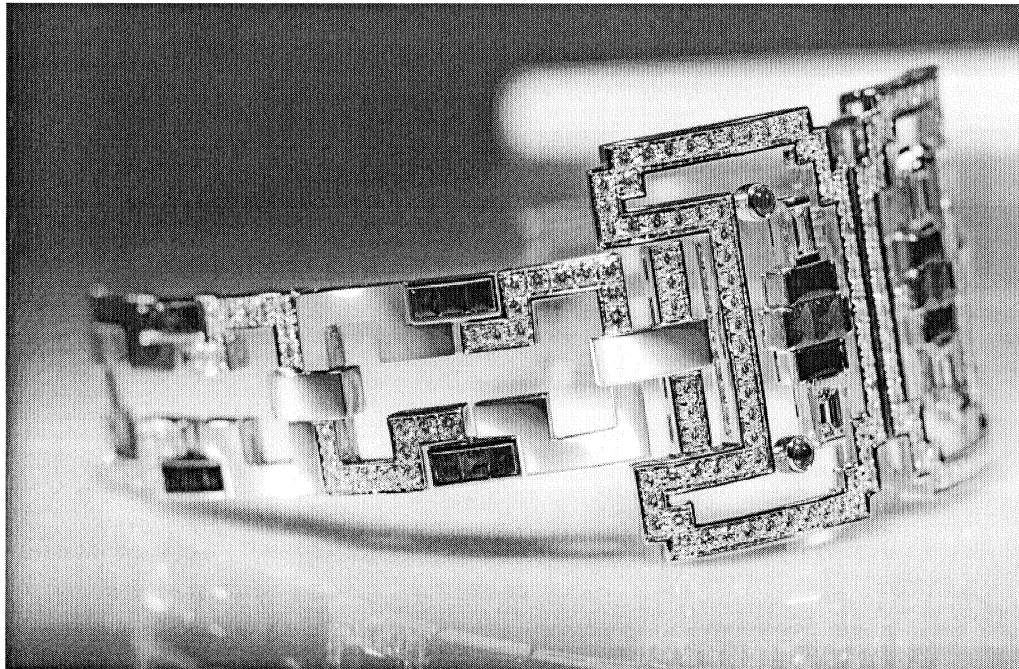
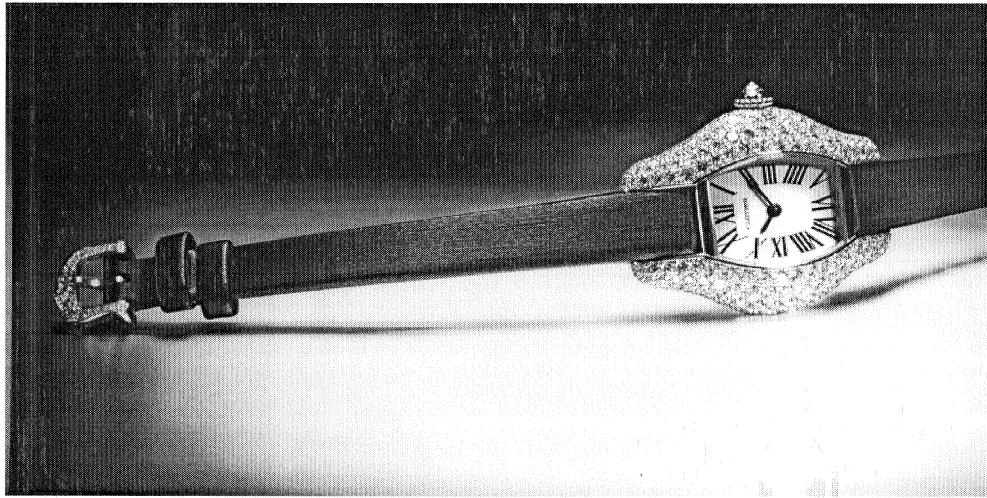


**EXHIBIT A**



**EXHIBIT B**





**EXHIBIT B**



**EXHIBIT B**

**LONE STAR STATE INSURANCE**  
**PROOF OF LOSS FOR THEFT**

Name: Dennis Sloan  
Address: 6734 Twelve Oaks Blvd Armadillo Lone Star 55447  
Policy No.: 3502894  
Date of Loss: 10/28/04

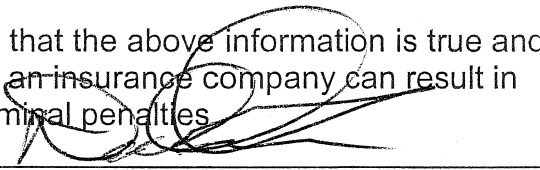
Explain what happened: I left to go out of town on October 28. When I returned the next day, I discovered that someone had broken into the house and stolen jewelry from the safe in my den. The glass in the french doors was broken.

List the items taken or damaged and their value (attach additional pages if needed):

ITEM	VALUE
<u>Cartier diamond &amp; anyx ring</u>	<u>\$40,300</u>
<u>Cartier 15-ct diamond solitaire ring</u>	<u>\$225,000</u>
<u>Cartier Tonneau Arrondie watch</u>	<u>\$33,800</u>
<u>Cartier diamond, ruby &amp; onyx bracelet</u>	<u>\$78,000</u>
<u>Cartier wishknot bracelet</u>	<u>\$675</u>
<u>Cartier wishknot pendant</u>	<u>\$3125</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

Was the theft reported to the police? yes  
List police report number: 04-10-2080  
Investigating Officer: Taylor Wise  
Contact number (if known) 555-0660

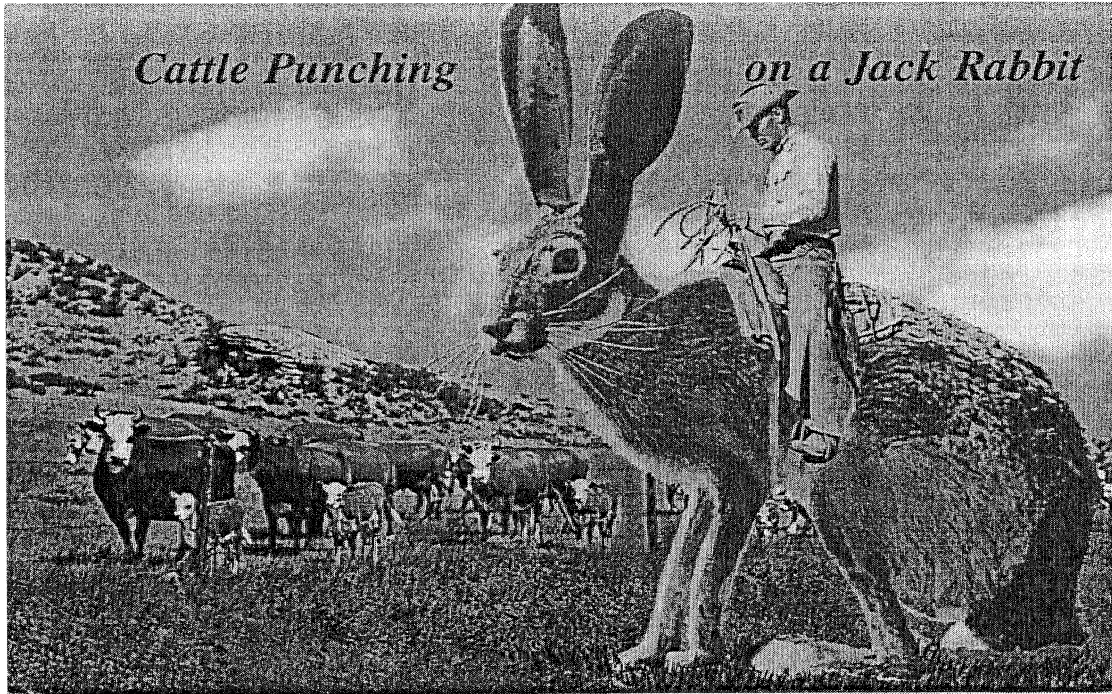
I, Dennis Sloan, swear of affirm that the above information is true and correct. I understand that making a false claim to an insurance company can result in the forfeiture of insurance coverage as well as criminal penalties.

  
\_\_\_\_\_  
Signature of Insured

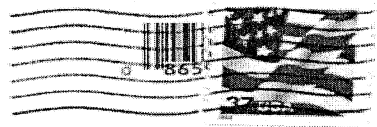
Sworn and subscribed before me  
this 4th day of November 2004.

Anna Smith  
\_\_\_\_\_  
Notary Public

**EXHIBIT C**



Some Cowboys use their favorite Stone for Cattle Punching and, as you can see, prefer the Jack Rabbits.  
 Price © Smith-Southwestern, Inc.



Thanks for helping  
 me get what was  
 coming to me!!  
 Coco

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 Mesa, Arizona 85227 © 1969 • Printed in U.S.A. • 0983165

Duke Remington  
 1758 Red Ranch Rd  
 Apt B  
 Armadillo, Lone Star  
 55555

**EXHIBIT D**

## PRELIMINARY JURY INSTRUCTIONS

Ladies and gentlemen of the jury:

You have been selected and sworn as the jury to try the case of the State of Lone Star vs. Dennis Sloan.

This is a criminal case. Dennis Sloan is charged with filing a false or fraudulent insurance claim. The definition of the elements of this crime will be explained to you later.

It is your solemn responsibility to determine if the State has proved its accusations against Dennis Sloan beyond a reasonable doubt. I will decide which laws apply to this case and explain those laws to you. You will decide what the facts of this case are and apply the law to those facts. Thus, the function of the jury and the function of the judge are well defined, and they do not overlap. This is one of the fundamental principles of our system of justice.

Your verdict must be based solely on the evidence, or lack of evidence, and the law. The indictment is not evidence and is not to be considered by you as any proof of guilt. The case must be tried only on the evidence presented during the trial in your presence and in the presence of the defendant, the attorneys, and the judge. Jurors must not conduct any investigation of their own. Accordingly, you must not visit any of the places described in the evidence, and you must not read or listen to any reports about the case. Further, you must not discuss this case with any person and you must not speak with the attorneys, the witnesses, or the defendant about any subject until your deliberations are finished.

Before proceeding further, it will be helpful for you to understand how a trial is conducted. At the beginning of the trial, the attorneys will have an opportunity to make an opening statement, in which they may explain to you the issues in the case and summarize the facts that they expect the evidence will show. Following the opening statements, witnesses will be called to testify under oath. They will be examined and cross-examined by the attorneys. Documents and other exhibits also may be received as evidence.

After all the evidence has been received, the attorneys will again have the opportunity to address you and to make their final arguments. The statements that the attorneys now make and the arguments that they later make are not to be considered

by you either as evidence in the case or as your instruction on the law. Nevertheless, these statements and arguments are intended to help you properly understand the issues, the evidence, and the applicable law, so you should give them your close attention. Following the final arguments by the attorneys, I will instruct you on the law.

You should give careful attention to the testimony and other evidence as it is received and presented for your consideration, but you should not form or express any opinion about the case until you have received all the evidence, the arguments of the attorneys, and the instructions on the law from me. In other words, you should not form or express any opinion about the case until you retire to the jury room to consider your verdict.

The attorneys are trained in the rules of evidence and trial procedure, and it is their duty to make all objections they feel are proper. When a lawyer makes an objection, I will either overrule or sustain the objection. If I overrule an objection to a question, the witness will answer the question. If I sustain an objection, the witness will not answer, but you must not speculate on what might have happened or what the witness might have said had I permitted the witness to answer the question. You should not draw any inference from the question itself.

During the trial, it may be necessary for me to confer with the attorneys out of your hearing, talking about matters of law and other matters that require consideration by me alone. It is impossible for me to predict when such a conference may be required or how long it will last. When such conferences occur, they will be conducted so as to consume as little of your time as necessary for a fair and orderly trial of the case.

### **FINAL JURY INSTRUCTIONS**

Members of the Jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

In this case, Dennis Sloan is accused of Filing a False or Fraudulent Insurance Claim.

Before you can find Dennis Sloan guilty of Filing a False or Fraudulent Insurance Claim, the State must prove the following three elements beyond a reasonable doubt:

1. Dennis Sloan presented or caused to be presented a written or oral statement as part of or in support of a claim for payment under his policy with Lone Star State Insurance Company.
2. Dennis Sloan knew that the statement contained false, incomplete, or misleading information concerning a fact material to his claim.
3. Dennis Sloan intended to injure, defraud, or deceive Lone Star State Insurance Company.

A "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-ray, test result, or other evidence of loss, injury, or expense.

"Value" means the market value of the property at the time and place of the offense, or if that value cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense. If the exact value of the property cannot be ascertained, you should attempt to determine a minimum value. If you cannot determine a minimum value, you must find the value is less than \$20,000.

The law does not require that the insurance company pay the claim before a defendant may be found guilty of filing a false or fraudulent insurance claim.

Dennis Sloan has entered a plea of not guilty. This means you must presume or believe that Dennis Sloan is innocent. This presumption stays with Dennis Sloan as to each material allegation in the indictment through each stage of the trial until it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the defendant's presumption of innocence, the State has the burden of proving the following two elements:

1. The crime with which the defendant is charged was committed.
2. The defendant is the person who committed the crime.

The defendant is not required to prove anything.



Whenever the words “reasonable doubt” are used, you must consider the following:

A reasonable doubt is not a possible doubt, a speculative, imaginary, or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if after carefully considering, comparing, and weighing all the evidence, there is not an abiding conviction of guilt or, if, having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced during this trial, and to it alone, that you are to look for that proof. A reasonable doubt as to the guilt of the defendant may arise from the evidence, a conflict in the evidence, or a lack of evidence. If you have a reasonable doubt, you should find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable or less reliable than other evidence. In doing so, you should consider how the witness acted as well as what he or she said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness's testimony agree with the other testimony and other evidence in this case?
6. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?



7. Had any pressure or threat been used against the witness that affected the truth of the witness's testimony?

8. Did the witness at some other time make a statement that is inconsistent with the testimony he or she gave in court?

9. Was it proved that the witness had been convicted of a crime?

10. Was it proved that the general reputation of the witness for telling the truth and being honest was bad?

You may rely upon your own conclusions about the witnesses. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

The defendant in this case has become a witness. You should apply the same rules to consideration of his testimony that you apply to the testimony of the other witnesses.

There are some general rules that apply to your deliberations. You must follow these rules in order to return a lawful verdict:

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending on you to make a wise and legal decision in this matter.

2. This case must be decided only upon the evidence that you have heard from the answers of the witnesses and have seen in the form of exhibits and these instructions.

3. This case must not be decided for or against anyone because you feel sorry for anyone or are angry at anyone.

4. Remember the lawyers are not on trial. Your feelings about them should not influence your decision in this case.

5. Your duty is to determine if the defendant has been proven guilty or not guilty in accordance with the law. It is the judge's job to determine the proper sentence if the defendant is found guilty.

6. Whatever verdict you render must be unanimous; that is, each juror must agree to the same verdict.

7. It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited for talking to a lawyer about his or her testimony.

8. Your verdict should not be influenced by feelings of prejudice, bias, or sympathy. Your verdict must be based on the evidence and on the law contained in these instructions.

Deciding a proper verdict is exclusively your job. I cannot participate in that decision in any way. Please disregard anything I may have said or done that made you think I preferred one verdict over another.

Only one verdict may be returned as to the crime charged. This verdict must be unanimous, that is, all of you must agree to the same verdict. The verdict must be in writing and, for your convenience, the necessary forms of verdict have been prepared for you. They are as follows:

**[READ VERDICT FORM]**

In just a few moments, you will be taken to the jury room by the bailiff. The first thing you should do is elect a foreperson who will preside over your deliberations like the chairperson of a meeting. It is the foreperson's job to sign and date the verdict form when all of you have agreed on a verdict in this case and to bring the verdict back to the courtroom when you return. Either a man or a woman may be the foreperson of the jury.

Your verdict finding the defendant either guilty or not guilty must be unanimous. The verdict must be the verdict of each juror as well as of the jury as a whole.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdicts. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For two centuries, we have agreed to a constitution and to live by the law. No one of us has the right to violate the rules we all share.

