

- 1 JUDGE: I think that.
- 2 OSHOWAY: That's no problem.
- 3 JUDGE: Court will admit 6, 7 and 8 of the statements into the record.
- 4 OSHOWAY: Pass the witness.
- 5 HOUGH: I have no further questions of this witness, your Honor.
- 6 JUDGE: Ok. I just have a couple questions, if I might. Now, Officer, you
7 say, you did an investigation involving the allegations of uh,
8 equipment that was taken?
- 9 GERWIG: Yes.
- 10 JUDGE: And . . . you have previously testified that was Mr. Rafferty that
11 informed you that, that was his equipment?
- 12 GERWIG: Yes. Roger Rafferty.
- 13 JUDGE: And were you able to determine the value of that equipment?
- 14 GERWIG: I have the value of what he had paid for it.
- 15 JUDGE: And do you have those records with you? Or how did you determine
16 the value let me ask you how did you determine the value of the
17 equipment?
- 18 GERWIG: He got the value from Lemon Equipment, when he had bought it. They
19 had records of what he'd paid for it.
- 20 JUDGE: And do you have that with you?
- 21 GERWIG: Yes, I do.
- 22 JUDGE: And, was it part of your investigation to determine the value of the
23 items that were taken?

- 1 GERWIG: Yes, it was. To determine whether it was grand larceny or petit
2 larceny.
- 3 JUDGE: And what was the value that you determined through your
4 investigation of the brush hog?
- 5 GERWIG: Uh, four hundred forty-five dollars, (\$445.00).
- 6 JUDGE: And what was the value of the five foot, (5ft) tiller?
- 7 GERWIG: The five foot (5ft) tiller was one thousand four hundred thirty-five
8 dollars, (\$1,435.00). These were the prices that he paid for them,
9 your Honor. I, I don't know what the value of them would be, for
10 sure. There uh, . . .
- 11 JUDGE: . . . did you determine the value of the boom pole?
- 12 OSHOWAY: Judge, I'm gonna interpose an objection . . .
- 13 JUDGE: . . .I'll note your objection . . .
- 14 OSHOWAY: . . . I understand what, what the Court is doing and uh, and you
15 know, I understand this is just, you know, carrying out or bringing
16 out what the Officer investigated. But, this Officer is a,
17 evidentially testifying from uh, some documentation that he's
18 received from uh, another source, not from Roger Rafferty. And uh,
19 clearly we have an authentication problem, we have a hearsay
20 problem.
- 21 JUDGE: Well, I'll note and preserve your objections.
- 22 OSHOWAY: Thank you, Judge.
- 23 JUDGE: Did you determine the value of the boom pole?

- 1 GERWIG: Yes, forty dollars, (\$40.00).
- 2 JUDGE: And did you determine the value of the four row cultivator?
- 3 GERWIG: Yes, three hundred ninety-eight dollars, (\$398.00).
- 4 JUDGE: And the potato plow?
- 5 GERWIG: Yes, of eighty-five dollars, (\$85.00). And I came up with two
6 thousand four hundred three dollars, (\$2,403.00) and there was tax
7 on it, of one hundred forty-four dollars and eighteen cents,
8 (\$144.18).
- 9 JUDGE: And, and, you say that, that value was what it would cost to replace
10 if it were new, is that what you are saying?
- 11 GERWIG: That's what he paid for it when he bought it.
- 12 JUDGE: Ok, and did you determine through your investigation how old the
13 equipment was?
- 14 GERWIG: I'm not for sure how old it was. No, sir.
- 15 OSHOWAY: Judge, may I be permitted to look at the document that the witness
16 was testifying from?
- 17 JUDGE: Let me see this. The Court will direct that Counsel can take a look
18 at the document.
- 19 GERWIG: Your Honor, the uh, the writing on it is the uh, what the Lemon's
20 Equipment Company wrote down for Mr. Rafferty. The address and
21 everything at the top I added to that later.
- 22 JUDGE: Ok. And that was part of your investigation, and was done as part of
23 your investigation?

- 1 GERWIG: Yes, it was.
- 2 HOUGH: State would like to mark this as State's Exhibit 9, your Honor. As
- 3 State's Exhibit 9.
- 4 OSHOWAY: Uh, I continue to object.
- 5 JUDGE: Ok. I have no further questions. Mr. Hough?
- 6 HOUGH: Yes, your Honor, I just have one. I noticed the name at the bottom
- 7 left of Exhibit Number 9. Could you tell us uh . . .
- 8 GERWIG: . . . that is Ms. Marilyn Matheny, and it has here telephone number
- 9 also. She is a representative of Lemon Farm Equipment.
- 10 HOUGH: That's the person that you contacted when you made your
- 11 investigation?
- 12 GERWIG: Yes.
- 13 HOUGH: Your Honor, we offer this as evidence . . .
- 14 GERWIG: . . . now I, I talked to her. But, she didn't give me this, this
- 15 right here she gave it to Mr. Rafferty and he passed it onto me.
- 16 HOUGH: I see.
- 17 JUDGE: I'm going and I assume there's an objection?
- 18 OSHOWAY: Yes, your Honor.
- 19 JUDGE: Court will defer the issue of the admissibility of the exhibit.
- 20 But, the Court believes that it's proper for the litany of questions
- 21 and inquiry as to the investigation. I'll defer the admissibility of
- 22 the document.
- 23 HOUGH: I have no further questions of this witness, your Honor.