

1 On behalf of the defendant, Osher Eisemann,
2 Mr. Mahon will present to you his opening argument --
3 not his opening arguments, opening statement.

4 MR. MAHON: May it please the Court, my
5 fellow citizens, and of course members of the jury.
6 The rule of four no's, no investigation, no motive, no
7 victim, no crime.

8 You're going to hear a lot of new terms and
9 new concepts, accounting principles, even possibly
10 Rabbinical law throughout the course of this trial, but
11 here's all you really need to remember: the rule of
12 four no's. No investigation, no motive, no victim, and
13 no crime.

14 In this case, the State of New Jersey has
15 used its vast power to charge an innocent man with two
16 serious crimes. They did so without ever speaking to
17 anyone at SCHI school or the foundation. The first
18 rule of the four no's, no investigation.

19 The attorney general charged Rabbi Eisemann
20 with writing down a loan he supposedly owed to the
21 foundation when the evidence will show there was no
22 loan to write down. No motive.

23 The attorney general charged Rabbi Eisemann
24 with stealing from the school and foundation he founded
25 when the school and the foundation say that they

1 haven't been stolen from. No victim.

2 How can they ever meet this -- their burden?
3 Over the last two days, you have heard how the defense
4 has no burden in this case. It is the State's burden
5 to prove each and every element of the two crimes
6 charged in this case beyond a reasonable doubt.

7 We can sit silent and not say a word
8 throughout this trial. We have no obligation to do so,
9 but members of the jury, we will not be silent. The
10 defense will call the witnesses the State refused to
11 talk to. The defense will provide you with the full
12 picture, all of the facts, and when you hear all of the
13 facts, you will leave this courtroom scratching your
14 head. Some of you may even be angry that the State
15 would spend eight years investigating an innocent man
16 and attempting to tear down his life's work without
17 ever speaking to the victim, without ever speaking with
18 the bookkeeper at the very heart of this case.

19 Remember, members of the jury, this entire
20 two to three-week trial is about one computer entry.
21 The State knows who made that entry. It's undisputed.
22 But here's never -- the State never spoke with that
23 bookkeeper. Had they, she would have told them six
24 years ago. She'll tell you at this trial. No crime.

25 Before we go further, it's important that you

1 have some background on Rabbi Osher Eisemann. The
2 evidence will show that Rabbi Eisemann is a hero in his
3 community, an example of the very best of us.

4 In 1995, he founded a school for children
5 with special needs, the School for Children with Hidden
6 Intelligence. You will hear that this school, referred
7 to as SCHI, that's S-C-H-I, okay, began with just a few
8 students in a strip mall in Lakewood, including his own
9 son, Eliezer.

10 Eliezer was the -- was the inspiration for
11 SCHI 30 years ago. Rabbi Eisemann could not find a
12 suitable school for his then young son, so he tried to
13 do better. SCHI was born, and it grew into a
14 phenomenal success. What was once a small school
15 educating a few students in a Lakewood strip mall has
16 grown into the last best hope of hundreds of families
17 with children suffering from the severest of
18 disabilities across the tristate area.

19 Today, SCHI school sits on a sprawling
20 155,000-square-foot campus and educates a group of
21 hundreds of students from birth through age 21 and
22 beyond. It's a miracle. It's Osher Eisemann's
23 miracle.

24 I'm going to give you a little additional
25 background. The school is primarily funded by public

1 dollars. School districts that are simply unable to
2 educate their most severely disabled students in the
3 district school -- they enter into a district school
4 contract with SCHI to educate their students there.

5 But Rabbi Eisemann could not make SCHI the
6 shining example it is with public dollars alone. So,
7 at the same time or slightly before he founded SCHI, he
8 also founded Services for Hidden Intelligence. We'll
9 call it "the foundation." The foundation is the
10 school's fundraising arm, but it has a broader mission.

11 Rabbi Eisemann also uses the foundation to
12 not only support SCHI but also to help those in need in
13 the community. Among the things it does, it has a
14 summer camp for the disabled children. It funds that.
15 It also buys and supports group homes for those people
16 who graduate from SCHI school and -- and are now
17 adults.

18 Over the years, the foundation has raised
19 many tens of hundreds of millions of dollars for the
20 school and the Rabbi's charitable work.

21 While the school and foundation have grown
22 tremendously over the course of years, the bookkeeping
23 department at the foundation lagged behind. The
24 bookkeepers were primarily members of the local
25 community working part-time with no accounting

1 experience.

2 The evidence will show that Rabbi Eisemann
3 himself is hardly an accountant. He doesn't even know
4 how to turn on a computer. He does not -- he devoted
5 himself instead to meeting the needs -- the educational
6 needs of his students and supporting others in need.
7 That was his focus, his mission, and he supported the
8 students any way he could.

9 By choice, Rabbi Eisemann took half the
10 salary the board of education of the State of New York
11 allowed him to take from the school. Why? Because he
12 wanted to squeeze every dollar he could into programs
13 and services for his students.

14 He gave -- he also gave all he could to the
15 foundation from his own funds and -- and by mortgaging
16 his own property. In 2018, for example, Rabbi Eisemann
17 cashed in his retirement funds to loan the foundation
18 over \$100,000.

19 Members of the jury, as a man in his 60s, he
20 cashed out his retirement funds to support his life
21 work. Remember that throughout the trial. Ask
22 yourself would someone who's given everything he has to
23 the school and foundation steal from the foundation?
24 Does this make sense?

25 Today, the foundation owes Rabbi Eisemann

1 over \$600,000. That's the truth. That's what the real
2 evidence will show. But as you've heard, the State has
3 a different story. According to the State, in March of
4 2015, Rabbi Eisemann owed the foundation approximately
5 \$250,000. According to the State, he wanted to write
6 down this loan, so he withdrew \$200,000 from the
7 school, transferred it to two individuals, then to his
8 personal bank account, and back to the school.

9 According to the State, he did all of this to
10 write down his debt, his supposed debt, to the
11 foundation in QuickBooks. But you know something? He
12 -- the State doesn't allege that Rabbi Eisemann stole
13 \$200,000 in actual dollars.

14 This is not a case about a bag of cash.
15 Instead, the State would like you to believe that a
16 paper crime took place, a books and records crime. The
17 State alleges that Rabbi Eisemann stole \$200,000 from
18 the foundation by writing off a loan in QuickBooks, a
19 QuickBooks theft.

20 That is what this case is all about, a
21 QuickBooks theft. Maybe some of you are -- have some
22 familiarity or -- or use QuickBooks. Many of you have
23 simply heard about this computer program for the first
24 time. It's an accounting program. It tracks when
25 money comes into a business and when money leaves.

1 That's all it is, what people owe and what others owe
2 (indiscernible).

3 You have -- you heard me say the foundation
4 owes the Rabbi 600,000 today. At the time of the
5 alleged crime in March of 2015, the foundation owed the
6 Rabbi over \$300,000. The State nevertheless says it
7 was the Rabbi who owed the foundation. I'm sure you're
8 all wondering how could the State interpretation be so
9 different? How could it be so wrong?

10 Members of the jury, this is the most
11 important part of the case. Please pay very close
12 attention. The State analyzed the wrong QuickBooks.
13 The QuickBooks records the State witnesses will testify
14 about are wrong. This isn't my imagination. It's not
15 defense (indiscernible). It's undisputed.

16 You see, in November of 2017, the attorney
17 general, the civil division of these very people, very
18 same attorney general's office now prosecuting Rabbi
19 Eisemann, found that the foundation's QuickBooks, which
20 is all they really have to rely on, weren't accurate,
21 that they were garbage, and they entered into a consent
22 order, a binding agreement with the foundation.

23 Under this consent order, under this
24 agreement, the foundation was required to amend its
25 QuickBooks and make them accurate and provide audited

1 financial statements to the attorney general, audited.
2 It did, because the attorney general required the
3 foundation to get its books in order and hire a
4 certified public accountant, a CPA, to perform a
5 certified audit, and that's exactly what the foundation
6 did. A complete audit was done, certified, records
7 going back to 2013, and then real changes were made in
8 the foundation's QuickBooks records.

9 The same CPA also filed certified audits with
10 the attorney general all the way up to today. These
11 audited financials, which the attorney general has
12 accepted without question every year, by that I mean
13 never heard a peep out of him, showed the foundation
14 owes Rabbi Eisemann hundreds of thousands of dollars.

15 But while the attorney general has accepted
16 the audited financials every year without question, the
17 same attorney general is deliberately ignoring them in
18 this prosecution.

19 Understand the significance of the Attorney
20 General using the wrong QuickBooks in his prosecution.
21 The wrong QuickBooks show that Rabbi Eisemann owed
22 money to the foundation. The right QuickBooks, the
23 correct QuickBooks, the audited QuickBooks, show the
24 foundation owes a lot of money to Rabbi Eisemann.

25 Using the right QuickBooks, there's no loan

1 to Rabbi Eisemann, no write-down, no motive, no crime.
2 The rule of four no's. And second, the State refused
3 to ask the most basic questions, to take the most basic
4 investigative steps.

5 We're not going to hear that much from the --
6 from the school or foundation's bookkeeping department,
7 at least not from them. Instead, they're calling a
8 detective, not just any detective. We'll call him
9 Detective Fredricks (sic).

10 I want you to remember that name. The
11 detective is not a CPA. He's not testifying as an
12 expert witness. He hasn't even spoken with anyone from
13 the school or the foundation.

14 The State is going to put him up on the stand
15 and ask him to read from you -- to you from the very
16 same wrong QuickBooks and conclude that a single entry
17 not made by Rabbi Eisemann, and no one can establish
18 that he even knew about, was intended to write down the
19 supposed loan Rabbi Eisemann supposedly had with the
20 foundation.

21 This detective doesn't have any personal
22 knowledge, didn't bother to speak with anyone with
23 personal knowledge, and made up a wild theory based on
24 records the attorney general has said are wrong.

25 That's their case. Now, that's their whole

1 case even though the detective knows full well who made
2 the entry he calls a crime, Rochele Janowski. Remember
3 that name. She's the eyewitness with the State. They
4 may call her, they may not, but for years and years,
5 they didn't speak to her even though they knew about
6 her. Does that make sense?

7 During voir dire, some of you said you watch
8 movies and TV shows, remember? I'm sure you've seen
9 movies and TV shows about trials in courtrooms, okay?
10 Have you ever heard of a case where a prosecution
11 refuses to call the eyewitness? Ask yourself why.

12 You know, something else about movies.
13 Remember Miracle on 34th Street, that very famous movie
14 where at the end of the -- at the end of that movie,
15 Little Lawyer actually proves that a person living in a
16 nursing home, okay, was actually Santa Claus? Why?
17 Because the post office said so, the federal government
18 said so.

19 Well, you don't have to be involved in
20 fictional movies to hear the same story all over again.
21 And you want to know why? Because amended Form 990s,
22 remember that, these are tax returns, were filed with
23 the federal government 2013, '14, '15, '16. They were
24 filed over six years ago.

25 If the federal government had wanted to

1 reject the amended returns, they had three years to do
2 so. Gone. So, just like Miracle on 34th Street, we
3 have a new miracle. The federal government has
4 basically said that those 990s these people just talked
5 about don't count anymore. They no longer exist.
6 They've been supplanted by amended returns after a
7 certified audit.

8 Just remember that. Defense has no burden,
9 but it's -- but we will call Rochele Janowski. The
10 State's known about her for six years. Six years. She
11 worked in the bookkeeping department. She made the
12 single entry that we're talking about. One entry.

13 You know, she's going to testify she was 23
14 years old, had no accounting background, not a CPA, and
15 never used QuickBooks before she took the job. She was
16 trying to balance the books. She was trying because
17 she needed to write checks. So, she wrote this
18 particular entry.

19 Rabbi Eisemann didn't know about it, and
20 that's the reason why we're here. Think to yourself,
21 does the State's theory actually make any sense? Why
22 didn't the State talk to Ms. Janowski six years ago?
23 We wouldn't be here if they had.

24 Why is the State trying to keep the
25 eyewitness (indiscernible)? Why did they? What was

1 Rabbi Eisemann's motive to steal from the foundation
2 that is poured into his heart and soul? Why would
3 Rabbi Eisemann lose everything he had built over
4 decades to write down a so-called loan when there's no
5 evidence whatsoever that anybody was trying to collect
6 on it? Listen closely. The rule of the four no's: no
7 investigation, no motive, no victim, and no crime.

8 At the end of the trial, my colleague, Mr.
9 Vartan, he's going to talk to you again called the
10 summation. He will ask you to return the only verdict
11 supported by this evidence, not guilty on both counts.
12 I thank you for your service, for your close attention.
13 Have a good rest of the day. Thank you very much.

14 THE COURT: Thank you, Mr. Mahon.

15 All right, ladies and gentlemen. We're going
16 to conclude our day early today. I know I kept you
17 downstairs. We're going to bring in our -- the State
18 is going to bring in the first witness tomorrow
19 morning.

20 I'm going to ask that you report to the --
21 report to the jury assembly room at 8 -- by 8:45 and
22 then we'll bring you up at 9 a.m. to hear from the
23 first witness.

24 Again, I want to remind you not to talk about
25 the case among yourselves or with anyone else. Don't

1 do any research. There may be media accounts of this
2 trial. Please don't read anything or -- either online
3 or -- or -- or in print, and we'll see you tomorrow.
4 Thank you for your patience.

5 (Jury exits)

6 THE COURT: All right. Want to close that
7 door, Giovanni (ph.)? Got everybody out?

8 All right, counsel. Is there anything we
9 need to address before tomorrow?

10 MR. VARTAN: I don't believe so, Judge.

11 THE COURT: All right. So, we'll see you
12 tomorrow morning. We're going to go to -- well, I
13 should have reminded them that we're going to -- we
14 have a half day tomorrow, but they know, right?

15 UNIDENTIFIED SPEAKER: Yeah, they -- you gave
16 them a calendar.

17 THE COURT: We gave them a calendar. Yeah.
18 All right. So, tomorrow we'll be here in the -- in the
19 morning. We'll be here until 1:00. We'll take a
20 mid-morning recess.

21 You want to tell us who your first witness
22 is?

23 MR. VALDINOTO: Detective Thomas Page.

24 THE COURT: Page, and how long is he?

25 MR. VALDINOTO: His direct would probably be

1 over an hour.

2 THE COURT: Okay. All right. Thank you.

3 MR. VARTAN: Thank you, Judge. Appreciate
4 it.

5 (Proceedings concluded at 3:30:59 p.m.)
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