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Massachusetts District Court
Case No. 1:11-cv-12000-RBC
Greenspan v. Random House, Inc. et al

Document 46



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**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

AARON GREENSPAN,

Plaintiff,

v.

**RANDOM HOUSE, INC.; MEZCO, INC.;
BENJAMIN MEZRICH; COLUMBIA
PICTURES INDUSTRIES, INC. a/k/a SONY
PICTURES a/k/a COLUMBIA TRISTAR
MOTION PICTURE GROUP,**

Defendants.

Case No.: 1:11-cv-12000-RBC

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
PLAINTIFF'S MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT**

Pursuant to the Federal Rule of Evidence 201 *et seq.*, Plaintiff Aaron Greenspan hereby requests that this Court take judicial notice of the following exhibit, comprised of a full transcript of the March 16, 2012 episode (No. 460) of the nationally broadcast radio program *This American Life*. While the particular details of the *This American Life* episode vary from those at issue in this case, they parallel the circumstances of these proceedings to an extraordinary degree, and the overall conclusion and purpose of the episode is worthy of the Court's notice: that the distributor of a false story implied to be true (if only by virtue of the medium of its presentation) decided to retract it immediately upon confirming the falsehoods therein, any remaining bits of truth notwithstanding.

Respectfully submitted this 17th day of March, 2012.



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CERTIFICATE OF SERVICE

I, Aaron Greenspan, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

By  _____
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EXHIBIT A

Transcript of *This American Life* Episode #460: “Retraction”

This American Life #460
“Retraction”
3/16/12

PLEASE NOTE: THIS IS A RUSH TRANSCRIPT. THIS COPY MAY NOT BE 100% ACCURATE AND MAY CONTAIN MISSPELLINGS, FORMAT MISTAKES AND OTHER INACCURACIES.

<http://www.thisamericanlife.org/radio-archives/episode/460/retraction>

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From WBEZ Chicago, it's This American Life, distributed by Public Radio International, I'm Ira Glass

And I'm coming to you today to say something that I've never had to say on our program.

Two months ago, we broadcast a story that we've come to believe is not true. It's a story that got a lot of attention. More people downloaded it than any episode we've ever done.

This is Mike Daisey's story about visiting a plant in China where Apple manufactures iPhones and iPads and other products. He's been performing this story onstage as a monologue since 2010. We didn't commission this story, we didn't send him to China. We excerpted the stage show that he's been telling in theaters around the country.

We did factcheck the story before we put it on the radio. But in factchecking, our main concern was whether the things Mike says about Apple and about its supplier Foxconn, which makes this stuff, were true. That stuff is true. It's been corroborated by independent investigations by other journalists, studies by advocacy groups, and much of it has been corroborated by Apple itself in its own audit reports.

But what's not true is what Mike said about his own trip to China.

As best as we can tell, Mike's monologue in reality is a mix of things that actually happened when he visited China and things that he just heard about or researched, which he then pretends that he witnessed first hand. He pretends that he just stumbled upon an array of workers who typify all kinds of harsh things somebody might face in a factory that makes iPhones and iPads.

And the most powerful and memorable moments in the story all seem to be fabricated.

At the time that we were factchecking his story we asked Mike for the contact information for the interpreter that he used when he was visiting China, who he calls Cathy in his monologue. We wanted to talk to her to confirm that the incidents that he described all happened as he describes them.

And When we asked for her information he told us her real name wasn't Cathy, it was Anna and he had a cellphone number for her but he said when he tried it, it didn't work any more. He said he had no way to reach her.

And because the other things Mike told us – about Apple and Foxconn – seemed to check out, we saw no reason to doubt him, and we dropped this. We didn't try further to reach the translator.

That was a mistake.

I can say now in retrospect that when Mike Daisey wouldn't give us contact information for his interpreter we should've killed the story rather than run it. we never should've broadcast this story without talking to that woman.

Instead, we trusted his word. Although he's not a journalist, we made clear to him that anything he was going to say on our show would have to live up to journalistic standards. He had to be truthful. And he lied to us.

All this came to our attention because the China correspondent for the public radio program Marketplace, Rob Schmitz, who lives in Shanghai, heard the story and had questions about it, he had suspicions about it.

And he went out and he found the translator.

And although Mike told us her name is Anna - he now admits, to keep us from finding her - her name actually is Cathy, just like he says in his monologue.

Rob ran the details of Mike's monologue by Cathy and learned that much of the story is not factual. Cathy gave Rob emails between her and Mike that corroborated her version of some of the events.

Today on our show we're going to hear what she said to Rob, and then we're going to talk to Mike Daisey about why he lied to all of you and to me, off the air, during the factchecking process.

And we're going to end our show with someone who actually knows the facts of what happens in Apple's suppliers in China, who's going to review those with us.

I should say, I am not happy to have to come to you and tell you that something that we presented on the radio as factual is not factual. All of us in public radio stand together and I have friends and colleagues on lots of other shows who – like us here at This American Life – work hard to do accurate, independent reporting week in, week out. I and my coworkers on This American Life are not happy to have done anything to hurt the reputation of the journalism that happens on this radio station every day. So we want to

be completely transparent about what we got wrong, and what we now believe is the truth.

And let's just get to it.

Here's Rob Schmitz, who usually reports for Marketplace, in Shanghai.

[Act one. Cathy's Account.]

Rob Schmitz: One of the big things that didn't sit right with me came early on in Daisey's monologue, when he talks about arriving at the gates of the Foxconn factory.

[CLIP] Mike Daisey: And I get out of the taxi with my translator. And the first thing I see at the gates are the guards. And the guards look pissed. They look really pissed, and they are carrying guns.

I've done reporting at a lot of Chinese factories, and I've never seen guards with guns. The only people allowed to have guns in China are the military and the police...not factory guards.

Later, Daisey meets with factory workers who he says belong to an illegal union, one that's not authorized by the Chinese government.

[CLIP] Mike Daisey: And I say to them, how do you know who's right to work with you? How do you find people to help you organize? And they look at each other bashfully, and they say well, we talk a lot. We have lots of meetings, and we meet at coffeehouses and different Starbucks in Guangzhou. And we exchange papers...

Wait, hold on. Rewind.

[CLIP] Mike Daisey:
...we meet at coffeehouses and different Starbucks in Guangzhou.

Factory workers who make fifteen, twenty dollars a day are sipping coffee at Starbucks? Starbucks is pricier in China than in the US. A reporter friend of mine didn't believe this, either. He said Chinese factory workers gathering at Starbucks is sort of like United Auto Workers in Detroit holding their meetings at a Chinese teahouse.

I talked to other reporters over here - we all noticed these errors - and it made us wonder ... what else in Daisey's monologue wasn't true?

I decided to track down his translator, Cathy, who's a big character in the story.

I could pretend finding her took amazing detective work.

But basically, I just typed "Cathy and translator and Shenzhen" into Google.

I called the first number that came up.

Rob Schmitz: I'm looking for somebody in Shenzhen named Cathy, and that's why I'm calling you; who worked for a gentleman named Mike Daisey, and I'm wondering if you ever worked with a man named Mike Daisey?

Cathy Lee: Yes! He's from America, right?

Rob Schmitz: Did you work with him?

Cathy Lee: Sure.

Rob Schmitz: So that was you, actually?

Cathy Lee: Yes.

Her name is Li Guifen, but with westerners, professionally, she goes by the anglicized name Cathy Lee.

I tell her that Daisey put her in a stage show about Apple and Foxconn. I ask her if she knows about this. Nope. She knew Daisey was writing something, but that's it. She hasn't heard from him since 2010, when he hired her in Shenzhen.

So I fly there to see her and the next day, she takes me to the exact spot she took Daisey – the gates of Foxconn.

[ambient noise]

Rob Schmitz: You guys came here – what, in 2010?

Cathy Lee: Yeah, 2010.

Rob Schmitz: The night before, I sent Cathy a link to the This American Life episode with Daisey. And I brought a copy of his script with me to the gates.

Cathy Lee: You know, I listened to the radio of Michael Daisey. I think it's ok he write things. But some of them he write is true, some of them he write is not true.

But he's not telling the whole truth.

She says a lot of details were exaggerated...some of them were just plain made-up. We start with their itinerary: Daisey makes it sound like he talked to lots of workers - in interviews he's said hundreds - but Cathy says it was maybe 50 people on the outside - they were just at Foxconn's gates for two mornings.

And emails between Daisey and Cathy, which she gave me, show that the chronology of the story that Daisey tells on stage is a fabrication. In his monologue he says he visited Foxconn's gates and then decided to pose as a businessman to get tours of factories. In fact, he visited Foxconn the morning after he arrived in Shenzhen a factory called KTC technology that very afternoon. It was all set up in advance.

Daisey told Ira that he and Cathy visited ten factories, posing as business people. Cathy says it was only three.

And then, there's the guns.

Rob Schmitz: did the guards have guns when you came here with Mike Daisey?

Cathy Lee: No. Definitely no.

Rob Schmitz: So he wasn't telling the truth about that.

Cathy Lee: You know guns are not allowed to be carried by security guards. It's illegal.

Cathy says she's never seen a gun in person, only in the movies and on tv, so she'd remember it.

And there are more important parts of Daisey's story that she says didn't happen.

The biggest is the children. Daisey describes meeting a worker from the iPhone assembly line.

[CLIP] Mike Daisey: And I say to her, you seem kind of young. How old are you? And she says, I'm 13. And I say, 13? That's young. Is it hard to get work at Foxconn when you're-- and she says oh no. And her friends all agree, they don't really check ages. I'm telling you ... in my first two hours of my first day at that gate, I met workers who were 14 years old, 13 years old, 12. Do you really think Apple doesn't know?

In fact, underage workers are sometimes caught working at Apple suppliers. Apple's own audit says in 2010 when Daisey was in China, Apple found ten facilities where 91 underage workers were hired ... but it's widely acknowledged that Apple has been aggressive about underage workers, and they're rare. That's 91 workers out of hundreds of thousands. Ira asked Mike about this on the This American Life broadcast, and he admitted it might be rare, but he stuck by his story:

[CLIP] Mike Daisey: I know that I met people who were there. And I know that I talked to them. I mean there weren't very many as a proportion of the total group. I talked to more than 100 people I met 5 or 6 that were underage.

Ira Glass: All in one group?

Mike Daisey: Yes they were. They seemed like savvy kids honestly.

Rob Schmitz: Do you remember meeting 12 year-old, 13 year-old, and 14 year-old workers here?

Cathy Lee: No, I don't think so. Maybe we met a girl who looked like she was 13 years old, like that one, she looks really young.

Rob Schmitz: Is that something that you would remember?

Cathy Lee: I think that if she said she was 13 or 12, then I would be surprised. I would be very surprised. And I would remember for sure. But there is no such thing.

She'd be surprised, because she says in the ten years she's visited factories in Shenzhen, she's hardly ever seen underage workers.

Then there's the meeting Daisey says he had with workers from an unauthorized union, a secret union. Cathy confirmed that this did happen.

Daisey told Ira that they met with twenty-five to thirty workers, in an all-day meeting. Cathy remembers two workers, she says maybe there were two or three others, and it was couple hours over lunch, at a restaurant.

Daisey describes a birdlike woman who showed them a government-issued blacklist of people companies weren't allowed to hire. She remembers the blacklist, but she also remembers that it didn't have an official government stamp. Anything government-issued in China carries an official stamp. So she wonders if the blacklist was real.

Here's another part of that meeting with the illegal union, from Daisey's monologue:

[CLIP] Mike Daisey: There's a group that's talking about hexane. N-hexane is an iPhone screen cleaner. It's great because it evaporates a little bit faster than alcohol does, which means you can run the production line even faster and try to keep up with the quotas. The problem is that n-hexane is a potent neurotoxin, and all these people have been exposed. Their hands shake uncontrollably. Most of them...can't even pick up a glass.

[PLAY SIMULTANEOUSLY AND THEN CROSSFADE INTO]

Rob Schmitz: ..shake uncontrollably. Some of them can't even pick up a glass. Did you meet people who fit this description?

Cathy Lee: No.

Rob Schmitz: So there was nobody who said they were poisoned by hexane?

Cathy Lee: No. Nobody mentioned the Hexane.

Rob Schmitz: Ok. And nobody had hands that were shaking uncontrollably?

Cathy Lee: No.

So where did this come from?

Two years ago, workers at an Apple supplier were poisoned by n-Hexane. It was all over the news in China. But this didn't happen in Shenzhen. It happened nearly a thousand miles away, in a city called Suzhou. I've interviewed these workers, so I knew the story. And when I heard Daisey's monologue on the radio, I wondered: How'd they get all the way down to Shenzhen? It seemed crazy, that somehow Daisey could've met a few of them during his trip.

Cathy suggests that Daisey saw reports about this in the news, and copied and pasted it into his monologue.

Which bring us to the most dramatic point in Daisey's monologue – apparently onstage it's one of the most emotional moments in the show. It comes at this union meeting.

Daisey describes an old man with leathery skin who used to work at foxconn ... making metal enclosures for ipads and laptops. ... he says the man got his hand caught in a metal press, and that it was now a twisted claw. He says he got no medical attention, and then Foxconn fired him for working too slowly.

[CLIP] Mike Daisey: And when he says this, I reach into my satchel, and I take out my iPad. And when he sees it, his eyes widen, because one of the ultimate ironies of globalism, at this point there are no iPads in China. He's never actually seen one on, this thing that took his hand. I turn it on, unlock the screen, and pass it to him. He takes it. The icons flare into view, and he strokes the screen with his ruined hand, and the icons slide back and forth. And he says something to Cathy, and Cathy says, "he says it's a kind of magic."

Cathy Lee: No. This is not true. You know, it's just like a movie scenery.

Rob Schmitz: it sounds like a movie.

Cathy Lee: yeah. Very emotional. But not true to me.

Cathy does remember this guy. But she says the man never told them he had ever worked at Foxconn.

There are other details of Daisey's monologue Cathy says never happened when she was with him: The taxi ride on the exit ramp Daisey says petered out into thin air 85 feet up off the ground. The workers with repetitive motion injuries. The factory dorm rooms Daisey claims they saw. Cathy says they never saw any dorm rooms. The emotional conversation between them, where Daisey touches her hand. Didn't happen that way, she says. Even the conversation where Cathy warns Daisey that interviewing workers at the gates of Foxconn wouldn't work...of course it would work, she told me. She's taken other foreigners to Foxconn and other factory gates for years — it's part of her job. It always works.

Now of course Cathy's memory isn't perfect. This was nearly two years ago - June 2010 - and neither she nor Mike took notes. On some of these things, her memory's hazy. She didn't seem mad at Mike at all.

Cathy Lee: He is a writer. So I know what he say is only maybe half of them or less actual. But he is allowed do do that right? Because he's not a journalist.

Rob Schmitz: I don't know. You're right. He's a writer. He's a writer and an actor.

Cathy Lee: Yeah.

Rob Schmitz: However, his play is helping form the opinions of many Americans.

Cathy Lee: Um....As a Chinese, I think it's better if he can tell the American

people the truth. I hope people know the real China. But he's a writer and he exaggerate some things. So, I think it's not so good.

Rob Schmitz: I wanted to talk to you about what you saw in China....

It's a week later. I'm in my tiny Shanghai studio talking to Mike Daisey, who's sitting in This American Life's studio. Ira's there too - with questions of his own.

Rob Schmitz: How many factories did you visit when you were there?

Mike Daisey: I believe I went to 5.

Rob Schmitz: You told ira 10.

Mike Daisey: I know.

Rob Schmitz: OK.

Mike Daisey: But, now that I'm looking at it, I believe it was 5.

Cathy remembers three.

Daisey also revises the number of illegal union members he met. He originally told Ira 25 to 30. Now he knocks it down to ten. Cathy remember, said it was between 2 and 5.

I ask Mike about the underage workers. I explain to him that Cathy said there weren't any. I tell him that foreigners often think Chinese people look younger than they actually are.

Mike Daisey: Well they did look young, but the girl I spoke with told me she was 13. So I took her at her word, and that's what happened.

Rob Schmitz: Why would Cathy say that you did not meet any underage workers?

Mike Daisey: I don't know. I do know when doing interviews a lot of people were speaking in English. They enjoyed using English with me and I don't know if she was paying attention at that particular point. I don't know. There was a lot of wrangling that Cathy was doing, talking to people and sort of pre-interviewing.

Rob Schmitz: So Mike, according to what you're saying, these are migrant workers who are preteen, 13 or 14 years old, there English isn't going to be very

good. You're telling me that they were speaking English to you, in a way that you could understand?

Mike Daisey: Well, I only know – only one of them was really talkative and that was the main girl I was talking to.

Rob Schmitz: So you have a clear recollection of meeting somebody who was 13 years old?

Mike Daisey: Yes.

Rob Schmitz: And twelve years old?

Mike Daisey: Yes of the girl who was thirteen and her friends who represented themselves as being around her age and so the spread there is just an effort to cover the ages that I suspect they are around that age.

Ira Glass: Mike did somebody actually say 12, or did somebody say they were 13 and then you looked at group and you're like OK, maybe one's 12?

M: Yes one person said they were 13. The others with her, and those were the friends I talk about.

Ira Glass: But none said them said they were 12, right? Like, you have one who gave age who was 13, and the others didn't actually give their ages and you're just kind of guessing.

Mike Daisey: That's correct. That's accurate.

Rob Schmitz: Let's talk about the hexane poisoned workers. Cathy says that you did not talk to workers who were poisoned by hexane and were shaking uncontrollably.

Mike Daisey: That's correct. I met workers in Hong Kong going to Apple protests who had not been poisoned by hexane but had known people who had been, and it was like a constant conversation we were having about those workers. So no, they were not at that meeting.

Rob Schmitz: So you lied about that. That wasn't what you saw.

Mike Daisey: I wouldn't express it that way.

Rob Schmitz: How would you express it?

Mike Daisey: I would say that I wanted to tell a story that captured the totality of

my trip. So when I was building the scene of that meeting, I wanted to have the voice of this thing that had been happening that everyone been talking about.

Ira Glass: So you didn't meet any worker who'd been poisoned by hexane?

Mike Daisey: That's correct.

Daisey has not just said these things in his show and on This American Life. The script of his monologue, which is called "The Agony and The Ecstasy of Steve Jobs" was posted online, for anyone to download for free and then perform. In the first 48 hours, 42,000 people downloaded it, according to Daisey.

Since he appeared on This American Life he's been in the press constantly... in newspapers and magazines...he's written op-eds, he's been on television programs and online news sites ... he's become one of the most visible outspoken critics of Apple, and he usually says things like this, from an appearance on MSNBC a month ago:

[CLIP MSNBC]

I saw all the things that everyone's been reporting. I saw underage workers, I talked to workers who were 13, 14, 15 years old, I met people whose hands have been destroyed by doing the same motion again and again on the line.

HOST: Making Apple products?

MD: Yes! [FADE UNDER] carpal tunnel on a scale you can hardly imagine. Making products

Rob Schmitz: Thing is, people believe he saw these things.

And except for the n-hexane, Daisey insisted in our interview that he did see them.

Talking to Daisey was exhausting. There were so many details that didn't check out, and even when he admitted that he didn't see what he claimed he saw, he'd qualify it with something. For instance he admitted that he didn't go on the exit ramp with Cathy like he says in the monologue but insisted that the whole thing did happen ... it's just that Cathy wasn't there.

He insisted that he did see the inside of workers' dorm rooms, but admitted, no, there are no cameras there like he claims in his monologue. There are only cameras in the hallways.

It was never simple. He never just said: "I lied."

Rob Schmitz: Does it matter if the things you've said in this play are untrue?

Mike Daisey: Yeah I think the truth always matters, truth is tremendously important. I don't live in a subjective universe where everything is up for grabs. I really do believe that stories should be subordinate to the truth.

Rob Schmitz: Then in parts of this why didn't you tell the truth?

Mike Daisey: Everything that's in this monologue is built out of the trip I took and time I spent on the ground. So I don't know that I would accept that interpretation. I don't know that I would agree with that.

The morning after this interview, Ira and I called Cathy, to see one last time if we could square Mike's story with hers.

We asked her a bunch of questions: Were you and Mike ever separated at the gates of Foxconn? Could that have been when he met the 13 year old? She said no, she doesn't remember any time when they were separated. Did Mike ever talk to workers in English? She said no, she doesn't remember that, and it's very unlikely the workers would speak English.

Cathy says some things from Daisey's monologue were true: He *was* wearing a Hawaiian shirt. They *did* pose as business people in the factories they visited. And before they did that, Daisey did have a conversation with her about his plan. She says this conversation probably happened on June 2nd when she first met Daisey. He told her that he would pretend to be a businessman and he needed her help. Here's how he tells the story:

[CLIP] Mike Daisey: And she listens to this, and she says, but you are not a businessman. And I say, that's true, I am not a businessman. And she says, and you aren't going to buy their products. I say, that's true, I'm not going to buy their products. And she says, you will lie to them. And I say, yes Cathy, I'm going to lie to lots of people.

That part, says Cathy, was true.

Ira Glass: Rob Schmitz is the China Correspondent for Marketplace, which comes from APM, American Public Media.

Coming up I talk to Mike Daisey about what happened during the fact-checking process with us, and specifically about stuff what he was thinking when he told us that stuff was factual when he knew it was not even close. That's in a minute, when our program continues.

[BREAK]

It's This American Life, I'm Ira Glass. If you're just tuning in, we've learned that a story that we broadcast in January that we thought is factual is not factual. This is Mike Daisey's story about Apple in China. So before the break we heard Rob Schmitz explain what seems to be factual in Mike Daisey's story, what doesn't seem factual in Mike Daisey's story.

When Rob was done with his interview with Mike, I had questions as well about the fact checking process he went through with This American Life producer Brian Reed and I when we were first putting his story on the air. This process of fact checking took days with long emails and conversations with Mike. Brian spoke with 13 people who are knowledgeable about Apple or about electronics manufacturing in China. He combed through Apple's own reports about worker's conditions, he combed through reports by watchdog groups.

And as part of all that – as I said earlier in today's show – when Brian and I asked Mike for contact information for his translator Cathy to confirm that she witnessed the things Mike that describes he told us that her real name was not Cathy, but Anna, which isn't true. He told us the cellphone number that he had for her didn't work any more, that he had no way to reach her.

And when I had Mike in the studio I asked why he misled us about all that Mike said he didn't want us to contact her because, he said, he thought that she did not want to be mentioned in his monologue and didn't know that she was mentioned in his monologue and that the idea of being named in his monologue would frighten her. When we asked Cathy about this she said that wasn't true at all. So I asked Mike the next logical question.

[Act two. Mike's Account.]

Ira Glass: Were you afraid that we would discover something if we talked to her?

[pause]

Mike Daisey: No, not really.

Ira Glass: Really? There was no part of you which thought, like, ok, the hexane thing, didn't really happen when I was there and... did you feel like there was something that we would discover by talking to her?

Mike Daisey: Well I did think it would unpack the complexities of, of like how, how the story gets told.

[overlap, inaudible]

Ira Glass: What does that mean, unpack the complexities?

Mike Daisey: Well it means, it means that, you know, just, like the hexane thing. I mean I think I'm agreeing with you.

Ira Glass: I mean with the hexane, we approached you and asked you specifically about that. There's an email that, that Brian sent you, about the hexane. He wrote, "Apple's 2011 report" – this is the responsibility report – "acknowledges the hexane problem at two plants, one at Wintek and another at a logo supplier but not at Foxconn. These workers you were talking to, in the monologue, were they from Foxconn do you remember or from other plants?"

And, and at that point you could have come back to us and said 'oh no no no I didn't meet these workers, you know, this is just something I inserted in the monologue based on things I had read and things I had heard in Hong Kong' um, but instead you lied further and you said, you wrote, "The workers were from Wintek and not Foxconn."

Why not just tell us what really happened at that point?

[long pause]

Mike Daisey: I think I was terrified. [breathing]

Ira Glass: Of what?

[long pause]

Mike Daisey: – That---

[long pause]

Mike Daisey: I think I was terrified that if I untied these things, that the work, that I know is really good, and tells a story, that does these really great things for

making people care, that it would come apart in a way where, where it would ruin everything.

Ira Glass: When we were getting ready to go on the radio, in the weeks leading up to it, I and Brian told you and we wrote emails, like I have an email here Brian wrote you at some point with a list of like, wait, is this stuff exactly, you know, right? And it included like the population of Shenzhen and like tiny little, like you know, where'd you get this number from?

And he writes at the top "Here's a list of things I want to run by you. Some are questions I have just for clarifying facts and in a few I've suggested minor language tweaks for accuracy" – this is like for numbers, and he writes "Being that news stations are obviously a different kind of form than the theater we wanted to make sure that this thing is totally, utterly unassailable by anyone who might hear it."

And then you wrote back to him, you said, "I totally get that. I want you to know that makes sense to me. A show built orally for the theater is different than what typically happens from news stations. I appreciate you taking the time to go over this." And so you, like, you understood that we wanted it to be completely accurate in the most traditional sense.

Mike Daisey: Yes, I did.

Ira Glass: You put us in this position of going out and vouching for the truth of what you were saying and all along, in all of these ways, you knew that these things weren't true. Did you ever stop and think, okay these things aren't true and you have us vouching for their truth?

Mike Daisey: I did, I did. I thought about that a lot.

Ira Glass: And just what did you think?

Mike Daisey: I felt really conflicted. I felt... trapped.

Ira Glass: Did you worry that I would either say, like, okay, well, not enough of this is true in the traditional way that we need it to be or verifiable in the way we need it to be and so like we can't run it, or did you worry, like okay, you'd accidentally end up with two versions of the story, and that would raise a question about like what really happened, like, was that the kind of thing you were thinking?

Mike Daisey: The latter. I worried about the latter a lot more. [Pause] After a certain point, honestly... [breathing]

[long pause]

Ira Glass: Wait after a certain point, what?

Mike Daisey: Well I started a sentence and then my nerve failed me, I stopped talking.

Ira Glass: [overlapping] Okay.

Mike Daisey: So that's what you saw. So, I'm working on it. It's coming.

[long pause]

Mike Daisey: I can't say it.

Ira Glass: What's the general kind of area that it's in?

Mike Daisey: Oh I'll just say it, I'll just say it, what the... After a certain point, I would have preferred the first option.

Ira Glass: That we would just kill the story and not do it on the radio.

Mike Daisey: There was a point.

Ira Glass: And then since, since the show went out over the radio, did you worry that all this would come out? [Pause] I mean literally, I don't think that's a hard question, I'm saying, I'm saying since--

Mike Daisey: [overlapping] No it's not, I'm so sorry—

Ira Glass: I mean since then, did you worry, like, that somebody would talk to Cathy, and she would contradict you, or...

Mike Daisey: No I worried about it all the time. [Pause] I don't know if this is a wise thing to be doing, like, telling you it into this microphone, in this conversation, but, yeah, I mean, I was kind of sick about it. Because I know that so much of this story is the best work I've ever made.

Ira Glass: You once did a show about James Frey?

Mike Daisey: I did.

Ira Glass: Who's famous for writing, was it—it's a memoir, right?

Mike Daisey: Mm hm.

Ira Glass: That, that he claimed was true but then it came out that it wasn't true and kind of famously went on Oprah and she went at him and there's a *New York Times* review of your monologue about James Frey that says in it, this is *The New York Times*, "Daisey admits in the monologue that he once fabricated a monologue because it connected with the audience. After telling this lie over and over it became so integrated into the architecture of his piece that it became impossible to remove, or perhaps to distinguish what really happened." Is that what happened here?

Mike Daisey: I don't think that's precisely what happened here, because I do remember meeting this... girl.

Ira Glass: And the man with the hand.

Mike Daisey: Yes.

Ira Glass: Is it what happened here with the hexane?

Mike Daisey: No, no, because I didn't, um, no I made a choice to put that, you know, I made a choice to put that detail in that scene, in that way.

Ira Glass: I have such a weird mix of feelings about this, because I simultaneously feel terrible, for you, and also, I feel lied to. And also I stuck my neck out for you. You know I feel like, I feel like, like I vouched for you. With our audience. Based on your word.

Mike Daisey: I'm sorry.

So that was last week, and I told Mike that if he had anything else he wanted to say he should get in touch.

And over the weekend, Mike let me know that he did want to come back in – he had something he wanted to say, and on Tuesday he showed back up at the studio. And – I'll be honest – I thought he was going to admit more of the monologue wasn't factually accurate, wasn't truthful. But that isn't why he wanted to come in. Je he was sticking by his story ... but he wanted to explain the context for what he did, and he said the context was this: when he was in China in 2010, there was a lot of coverage of workers' conditions at Foxconn because of a series of suicides there. And then he says, while he was there, the coverage stopped - in China, and internationally the coverage stopped, the news cycle moved on. And he says that made a strong impression on him, seeing the coverage vanish like that, seeing people suddenly not interested in the workers there anymore.

And he wanted to make a monologue that would make people care. That was his goal.

Mike Daisey: And everything I have done in making this monologue for the theater has been toward that end – to make people care. I'm not going to say that I didn't take a few shortcuts in my passion to be heard. But I stand behind the work. My mistake, the mistake that I truly regret is that I had it on your show as journalism and it's not journalism. It's theater. I use the tools of theater and memoir to achieve its dramatic arc and of that arc and of that work I am very proud because I think it made you care, Ira, and I think it made you want to delve. And my hope is that it makes – has made- other people delve.

Ira Glass: So you're saying the story isn't true in the journalistic sense?

Mike Daisey: I am agreeing it is not up to the standards of journalism and that's why it was completely wrong for me to have it on your show. And that's something I deeply regret. And I regret that the people who are listening, the audience of This American Life who know that it is a journalistic enterprise, if they feel misled or betrayed, I regret to them as well.

Ira Glass: Right but you're saying that the only way you can get through emotionally to people is to mess around with the facts, but that isn't so.

Mike Daisey: I'm not saying that's the only way to get through to people emotionally. I'm just saying that this piece, in how it was built for the theater, follows those rules. I'm not saying it's the only way to do things.

Ira Glass: I guess I thought that you were going to come in and say that more if it wasn't true because, um, there are parts of it I just don't buy based on what you've said. I don't believe you when it comes to the underage worker. Like, it seems credible that your translator if she saw an underage worker, it seems credible that she says that she would remember that kind of thing because it'd be so unusual. That seems credible. And I don't believe you when it comes to the guy with the twisted hand because your translator who was there doesn't remember that he said he worked for Foxconn and doesn't remember the incident with the iPad. And I might be more inclined to believe you but you admit to lying about so many little things – the number of people who you spoke to, the number of factories that you visited – you admit to making up an entire group of characters who didn't exist, who were poisoned by hexane and the only person who was with you said these things didn't happen. So when it comes to underage workers and the man with the claw-hand it's like - I don't believe that that happened.

Mike Daisey: All I can tell you is that I stand by what I told you before – that I stand by those things.

Ira Glass: That those things happened – those specific things.

Mike Daisey: Yes. And I stand by it as a theatrical work. I stand by how it makes people see and care about the situation that's happening there. I stand by it in the theater. And I regret, deeply, that it was put into this context on your show.

Ira Glass: Are you going to change the way that you label this in the theater, so that the audience in the theater knows that this isn't strictly speaking a work of truth but in fact what they're seeing really is a work of fiction that has some true elements in it.

Mike Daisey: Well, I don't know that I would say in a theatrical context that it isn't true. I believe that when I perform it in a theatrical context in the theater that when people hear the story in those terms that we have different languages for what the truth means.

Ira Glass: I understand that you believe that but I think you're kidding yourself in the way that normal people who go to see a person talk – people take it as a literal truth. I thought that the story was literally true seeing it in the theater. Brian, who's seen other shows of yours, thought all of them were true. I saw your nuclear show, I thought that was completely true. I thought it was true because you were on stage saying 'this happened to me.' I took you at your word.

Mike Daisey: I think you can trust my word in the context of the theater. And how people see it -

Ira Glass: I find this to be a really hedgy answer. I think it's OK for somebody in your position to say it isn't all literally true, know what I mean, feel like actually it seems like it's honest labeling, and I feel like that's what's actually called for at this point, is just honest labeling. Like, you make a nice show, people are moved by it, I was moved by it and if it were labeled honestly, I think everybody would react differently to it.

Mike Daisey: I don't think that label covers the totality of what it is.

Ira Glass: That label – fiction?

Mike Daisey: Yeah. We have different worldviews on some of these things. I agree with you truth is really important.

Ira Glass: I know but I feel like I have the normal worldview. The normal worldview is somebody stands on stage and says 'this happened to me,' I think it happened to them, unless it's clearly labeled as 'here's a work of fiction.'

Mike Daisey: I really regret putting the show on This American Life and it was wrong for me to misrepresent to you and to Brian that it could be on the show.

Ira Glass: Mike Daisey.

I wanted to say, before we leave this subject, that I and my co-workers at This American Life take our mistake in putting Mike's story on to the air very seriously. As I said earlier in the program, when Mike told us that it would be impossible for us to talk to his interpreter for fact-checking purposes, we should've killed the story right there and then, and to do anything else was a screw-up. This was an usual situation for us. Generally, if we are working with a non-journalist on a story, one of our producers is actually there for every step of the tape gathering and the reporting so we know what is true.

When we do our own reporting we subject it to the same standards as other reporting that you hear on public radio. I was a reporter and a producer for the big daily news shows before I started this program, and we follow the same rules of reporting here that I followed there. We vet and we check our stories and when we present something to you as true, it's because we believe in its factual accuracy.

Which brings us to Act Three.

Act Three: The News That's Fit to Print.

So to end today's program, all of us here at our show, we wanted us to review, one more time, what exactly do we know about working conditions for the people who make iPhones and MacBooks and other apple products in China. And to answer that question we turn to New York Times reporter Charles Duhigg. In January, he and Times correspondent David Barboza wrote the newspaper's front page investigative series about this very subject. Duhigg says that a lot of what we know about the conditions for Apple workers in China comes from Apple itself, which issues a report each year on this.

Charles Duhigg: In addition, there's a number of organizations in China that are either advocacy organizations or either sort of watchdog organizations that have also gone into factories and published reports. So, I can kind of walk through what we know and precisely how we know it.

Ira Glass: Great.

Charles Duhigg: So in 2005, Apple created what was called the Supplier Code of Conduct. And the Supplier Code of Conduct said that these are the standards that we expect anyone who's making an Apple product to abide by. One of those, and in fact that one that's probably most violated, is that they said that no one should work more than 60 hours per week that's working inside a factory that's making an Apple product.

We know from Apple's own audits and the reports that have published that at least 50 percent of all audited factories, every year since 2007, have violated at

least that provision. More than half of the workers whose records are examined are working more than 60 hours per week.

Ira Glass: Now, is that necessarily so bad? I mean, aren't a lot of these workers moving to the city to work as many hours as possible? They're away from their families; they're young; and they're there to make money and they don't care.

Charles Duhigg: That's exactly right. You know, when we talked, my colleague David Barboza, as well as a number of translators have spoken to a number of employees in these factories and that's exactly what they say. And Apple says that as well. They say look, one of the reasons why there is so much overtime that's inappropriate, and in some places is illegal, is because the workers themselves are demanding that overtime. Now, workers don't always say that. What workers often say is that they feel coerced into doing overtime – that if they didn't do overtime when it's asked of them, that they wouldn't get any overtime at all and that financially they would suffer as a result.

So there are two stories here about how much people have to work. And there's a number of people that we have spoken to, The New York Times has spoken to, who have told us, for instance, that they've had to do two 12 hour shifts in a row, so they're effectively almost working a full day – they're called continuous shifts. So I think when we talk about the conditions inside where Apple products are made, we can sort of put them into two buckets. There's basically harsh work conditions; people being asked to work shifts that are too long; people being asked to stand or sit in backless chairs; people being asked to work in plants that are still under construction. Or, people living in dorms that are provided by the companies, Foxconn and others, where they say that those conditions – the living conditions – are harsh. Workers have told us where they are live in dorm rooms where there's anywhere from 12 to sometimes 20 or 30 people stuffed into a single apartment. So, it's very, very crowded, very unpleasant conditions. That's the first bucket of issues. And those are all kind of, we wouldn't like to work there. It sounds really unpleasant. I do not think that you would find any factory in America where you would find those same conditions and you would not find any Americans who would tolerate those conditions. That being said, I think that China is a little bit different and that the expectations, particularly as a developing nation of workers, are a little bit different. I don't think holding them to American standards is precisely the right way to look at the situation.

The second the bucket, which is much smaller, is actually safety and life-threatening issues. And what we know about those conditions are isolated incidents that either injured or claimed lives. So, one of the best examples of this was last year within a seven-month period there were two explosions inside factories where iPads were being produced that killed four people and injured 77 others. Both of those explosions were caused by dust that's created through the

process of polishing the aluminum that makes up the case of the iPad. Prior to those explosions, there was a report released by this group SACOM, or Students and Scholars Against Corporate Misbehavior.

Ira Glass: An advocacy group.

Charles Duhigg: An advocacy group. Warning about safety conditions in at least one of the plants and saying that there's dust here and dust is a known safety hazard.

Ira Glass: In all kinds of plants

Charles Duhigg: In all kinds of plants, right. All types of dust, you have to remove it or else it can explode. SACOM had sent a report, SACOM says, to Apple and to Foxconn weeks before this explosion occurred, saying things need to be changed. The explosion that occurred in a city named Shen Du that killed four people, proceeded by a number a number of months, a second explosion that happened in Shanghai, at a completely different plant in a completely different factory, but that had the same root cause. And so what people, critics of Apple, have said is if Apple had taken this first explosion seriously enough, they could have gone in and they could have required every company, every plant, where aluminum polishing was occurring, to improve conditions, and they could've prevented or averted the second explosion.

Ira Glass: Yeah, you write in your article, um, you point out that the second explosion happened seven months after the first one and you quote a man named Nicholas Ashford, who's a former chairman on the National Advisory Committee on Occupational Safety and Health, which advises the U.S. Department of Labor. He said, "It's gross negligence after an explosion occurs not to realize that every factory should be inspected." He said, "If it were terribly difficult to deal with aluminum dust, I would understand, but do you know how easy dust is to control? It's called ventilation. We solved this problem over a century ago."

Charles Duhigg: That's exactly right. That was what Mr. Ashford had told us. Um, but again, these two buckets. I think the important thing here is that some of these are simply very, very harsh conditions and some of these are life-threatening situations and the life-threatening conditions, as far as we know, seem to be limited to a relatively small number of incidents.

Ira Glass: In the investigative series Duhigg did with David Barboza for the Times, they note that in Apple's own reports - year after year - Apple finds that violations of its own labor standards continue in its plants. Last year there were slight improvements but these go up and down and the problems include very serious ones. And in their series they quote an unnamed former Apple executive with firsthand knowledge of all this as saying - quote - "If you see the same pattern of problems, year after year, that means the

company's ignoring the issue rather than solving it. If we meant business, core violations would disappear."

Though when I asked Charles Duhigg about this, he says not everyone at Apple sees it that way.

Charles Duhigg: When I talked to Apple sources, they sort of respond to that in two ways. First of all they say: we feel as a company we are limited in how many changes we can make. We can only push our suppliers so far. Others from within Apple, former Apple executives, say: that's a self-imposed limitation. If Apple demanded x and said, "we're willing to fire you if we don't get x" then x would happen immediately.

Ira Glass: One of the things that you and David Barboza write about in your series is that, is you write about the tight profit margins for Apple suppliers. Could you just explain how that works and how that factors into this?

Charles Duhigg: Absolutely, 'cause that has a huge impact on this. Apple is known as being one of the most aggressive negotiators in terms of the prices that they're willing to pay. Because everyone knows that if you land Apple as a client, it helps your reputation enormously. So essentially, every supplier out there wants to work with Apple because it's like a badge that they can bring —

Ira Glass: That they can bring the quality, they can bring the volume.

Charles Duhigg: Exactly. Apple's the gold standard. As a result, Apple has this enormous negotiating power, and they use it, I am told by our sources, very aggressively to come in and basically say, "Show us your entire cost structure, every single part of what you pay and what you... and piece of your, your, your internal economics, and we are going to give you a razor-thin profit margin that you're allowed to keep."

Now, a number of companies and a number of activists outside of companies and other companies have said this is part of the reason why conditions are so harsh among Apple suppliers, is because they literally don't have the money to pay for better conditions. That once Apple comes in and says, "We're gonna give you a razor-thin profit margin," that's when companies start cutting corners, or they can't afford to hire more people in order to work on the line, so that you don't have to work these long stretches.

Ira Glass: One of the most interesting things and one of the newest things, that I think you pointed out in this series, is that the cost of labor in an iPhone, if it were made in the United States, would be only about \$65 more per phone. I mean that's a lot of money if you're manufacturing stuff, um, but with iPhones selling with hundreds of dollars of profit in each phone, Apple could still make a profit if

it were manufacturing in the U.S., and you have an entire article where you lay out that is not actually the main reason these are made overseas at this point.

Charles Duhigg: That's exactly right. And, and that \$65, that's the high-end estimate. Some people told us that you could, from a labor perspective you could build the iPhone in the United States for just ten extra dollars a phone if you're paying American wages. But wages, labor is such an enormously small part of any electronic device, right?

Compared to the cost of buying chips or making sure that you have a plant that can turn out thousands of these things a day or being able to get strengthened glass cut exactly right within, you know, two days of this thing being due, that's what's important. Labor is almost insignificant. What is really important are supply chains and flexibility of factories. You want to be able to be located right next to the plant that makes the screws so that when you need a small change to that screw factory, you can go next door and say, "Give it to me in six hours," and they can say, "Here you go." Because if that factory was in another state or on another continent, it would take two weeks. It's the flexibility within the Chinese manufacturing system, that's what you can do in Asia that you can't do in the United States.

Ira Glass: There's, there's a bunch of incredible stories you tell in that article, and one of them is you talk about the number of industrial engineers needed to oversee 200,000 assembly line, line workers. You say there's 8,700 industrial engineers that you need. And so to get this plant going, to get this particular operation going that you were writing about—I can't remember which one it is—you said it would take nine months to find those 8,700 industrial engineers in the United States, and in China, how long it took?

Charles Duhigg: 15 days. And that 15 day figure? The guy who told me that, also told that that's because they kind of drug their heels on it a little bit. They probably could've done it faster.

Ira Glass: But to get to the normative question that's kind of underlying all the reporting and all the discussion of this, the thing that we all want to know when we hear this is like, "Wait, should I feel bad about this?" As somebody who owns these products, should I feel bad? And I don't know that I feel so bad when, when I hear this.

Charles Duhigg: So it's not my job to tell you whether you should feel bad or not, right? I'm a reporter for the New York Times, my job is to find facts and essentially let you make a decision on your own. Let me, let me pose the argument that people have posed to me about why you should feel bad, and you can make of it what you will.

And that argument is there were times in this nation when we had harsh working conditions as part of our economic development. We decided as a nation that that was unacceptable. We passed laws in order to prevent those harsh working conditions from ever being inflicted on American workers again.

And what has happened today is that rather than exporting that standard of life, which is within our capacity to do, we have exported harsh working conditions to another nation.

So should you feel bad that someone is working 12 to 24 hours a day in order to produce the iPhone that you're carrying in your pocket—

Ira Glass: Well, now like, when you say it like that, suddenly I feel bad again, but okay, yeah. [laughter]

Charles Duhigg: I don't know whether you should feel bad, right? I mean—

Ira Glass: But, but finish your thought.

Charles Duhigg: Should you feel bad about that? I don't know, that's for you to judge, but I think the the way to pose that question is... do you feel comfortable knowing that iPhones and iPads and, and other products could be manufactured in less harsh conditions, but that these harsh conditions and perpetuate because of an economy that you are—

Ira Glass: Right.

Charles Duhigg: —supporting with your dollars.

Ira Glass: Right. I am the direct beneficiary of those harsh conditions.

Charles Duhigg: You're not only the direct beneficiary; you are actually one of the reasons why it exists. If you made different choices, if you demanded different conditions, if you demanded that other people enjoy the same work protections that you yourself enjoy, then, then those conditions would be different overseas.

Ira Glass: Charles Duhigg. You can find the series he did with David Barboza about Apple in China at the New York Times website. It's called "The iEconomy."

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