

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

No. 17-20238

OLUFOLAJIMI ABEGUNDE,
JAVIER LUIS RAMOS ALONSO,

Defendants.

TRANSCRIPT OF TRIAL PROCEEDINGS

BEFORE THE

HON. SHERYL H. LIPMAN

MARCH 12, 2019

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OFFICIAL COURT REPORTER
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UNREDACTED TRANSCRIPT

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MARCH 12, 2019

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(The following occurred outside the presence
of the jury:)

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6

THE COURT: Let's swear in the interpreter.

7

THE CLERK: Raise your right and be sworn.

8

(The interpreter is sworn:)

9

THE COURT: Do you know where Ms. Hayes is?

10

INTERPRETER: I think she went to the

11

restroom, Your Honor.

12

THE COURT: Okay. All right. Do you-all have

13

any issues to raise before we get going?

14

MS. IRELAND: Not from the Government, Your

15

Honor.

16

MR. GARRETT: No, Judge.

17

MR. PERRY: No, Your Honor.

18

THE COURT: I do need Ms. Hayes, to get her

19

sworn in, because don't you switch back and forth during

20

the -- as we're going along?

21

INTERPRETER: Yes, Your Honor.

22

But I believe we were sworn yesterday, weren't

23

we?

24

THE COURT: Yeah, but I like to be --

25

INTERPRETER: You like to do it every day?

1 **THE COURT:** I would prefer that.

2 **INTERPRETER:** Okay.

3 (Ms. Hayes enters the courtroom.)

4 **MS. HAYES:** Sorry, Your Honor. I didn't
5 realize you needed me.

6 **THE COURT:** Let's get you sworn in on the
7 record, and you can do whatever.

8 (The interpreter was duly sworn:)

9 **THE COURT:** All right. Let's bring the jury
10 back.

11 (The following occurred in the presence of the
12 jury:)

13 **THE COURT:** Y'all may be seated.

14 Actually they stand for you. You can sit when
15 you come in.

16 Did everyone get a good night's sleep?

17 **A JUROR:** Yes.

18 **THE COURT:** Ready for Day Two?

19 **A JUROR:** Yes, ma'am.

20 **THE COURT:** All right. Mr. Flowers.

21 **MR. FLOWERS:** Yes, Your Honor.

22 Government calls Geoffrey Fargo.

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DIRECT - GEOFFREY FARGO

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GEOFFREY FARGO,

having been first duly sworn, took the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. FLOWERS:

Q. Please state your name and spell it for the record.

A. My name is Geoffrey Fargo. It's spelled,
G-E-O-F-F-R-E-Y; last name, Fargo, F-A-R-G-O.

Q. And how are you employed, sir?

A. I work for Crye-Leike Realtors. I'm Director of
Operations and Infrastructure in the IT department.

Q. How long have you been there?

A. I'll be 20 years in April.

Q. Where are you based?

A. Memphis, Tennessee.

Q. And where is Crye-Leike based?

A. Memphis, Tennessee.

Q. Okay. Could you please explain to the jury what
you mean by Director of IT and Infrastructure?

A. How much time do we have? So I'm in charge of
making sure that all of the computer systems and networks
are connected to the Internet or connected to each other
and really enabling all of the people within our company
to get on the Internet safely and securely. We have
approximately 80 branch offices. We have approximately

DIRECT - GEOFFREY FARGO

8

1 3200 real estate agents and about 600 to 800 employees,
2 and I'm in charge of keeping them all on the Internet
3 safely.

4 Q. Let's break that down. You mentioned the word
5 "network." Could you please explain to the jury what you
6 mean by network?

7 A. Sure. A network is just a connection of computers.
8 In the fundamental sense that's what it is. It allows
9 all of us to get online to do whatever we need to do. In
10 my business, in real estate, it allows real estate agents
11 to sell houses and make contract communications and those
12 kinds of things.

13 Q. And how does your job help the real estate agent
14 sell houses exactly?

15 A. Well, it being -- it being the 21st century, being
16 online is important. It's critical, and that's really
17 how all of our agents communicate with each other and
18 their clients.

19 Q. So, "communicate," are you talking about e-mail?

20 A. E-mail, telephone, whatever, but e-mail is huge.
21 If e-mail is down, we've got problems.

22 Q. Now do you also work with the e-mail servers of
23 Crye-Leike?

24 A. I'm the e-mail administrator. So I keep the
25 systems up and running and communicating with the world.

DIRECT - GEOFFREY FARGO

9

1 Q. And where are those e-mail servers located?

2 A. Here in Memphis.

3 Q. Does your job also involve dealing with external
4 threats to Crye-Leike's network?

5 A. Absolutely. Anything connected to the Internet is
6 exposed to external threats.

7 Q. When we say, "external threats," what exactly do
8 you mean by external threats?

9 A. It can -- there's's a whole host of people trying
10 to get your information and trying to get into the
11 network. In the real estate sense they're trying to get
12 transaction natural information. They either are trying
13 to intercept communications between agents and customers
14 or other parts of the real estate transaction. They're
15 trying to hijack log-in information so that they can do
16 that. Those kind of things are the typical things I run
17 into in e-mail.

18 Q. Are they the most frequent external threats that
19 you have seen?

20 A. Every day.

21 Q. How long have you been dealing with that at the
22 company?

23 A. Since I've started, it's always existed. In the
24 past several years, I'd say 5 to 10 years, the threat has
25 grown tremendously industry-wide. I believe that our

DIRECT - GEOFFREY FARGO

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1 particular industry has been targeted in the past, you
2 know, six to eight years.

3 Q. What makes you say that, that they are particularly
4 targeted?

5 A. The frequency of attempted wire fraud or attempted
6 account hijacking, my systems alert me when somebody, for
7 instance, one of my user accounts tries to send out a lot
8 of junk mail; and that happens frequently if credentials,
9 if log-in information are compromised. So I have a lot
10 more instances of that in the past, like I say, six years
11 than I did prior to it.

12 Q. What are some of the main challenges that you
13 confront when dealing with these external threats, sir?

14 A. Well, there's's one of me; and there's a whole lot
15 of people trying to get in. There's one of me, and
16 there's's a whole lot people I'm trying to protect. We
17 have just under 5,000 e-mail accounts in the company and
18 any one of them has a log-in and a password and any one
19 of them, if compromised, could lead to all kinds of
20 trouble.

21 Q. Approximately how many affiliated agents does
22 Crye-Leike have?

23 A. Approximately 3200 and that varies because agents
24 come and go and then the rest of those e-mail accounts
25 either belong to employees, staff. We kind of have the

DIRECT - GEOFFREY FARGO

11

1 whole real estate vertical. So we have got the title
2 company and insurance company and all those things.

3 Q. In what ways do you interact with those agents?

4 A. The agents are independent contractors and they --
5 the way I like the phrase it for people who haven't been
6 involved in real estate is every one of those 3200 people
7 is their own CEO with their own self-interest. They're
8 salespeople. So our interaction generally is focused on
9 getting them connected, getting they online, getting them
10 e-mail addresses; but they may choose to use different
11 methods of communication that are not under my control.

12 Q. So when a Crye-Leike agent comes to you and they
13 say that they have a problem that they're experiencing,
14 what are some of the things that you do in that
15 situation?

16 A. Well, one of the first things we do, if the problem
17 involves e-mail, is we make sure that their passwords
18 have been reset. We make sure that they're running
19 updated antivirus. We advise them in some ways when
20 they're using non-company owned equipment, which is the
21 normal. Then if they're using company-owned equipment,
22 we certainly try to lock that equipment down and make
23 sure it's not compromised.

24 Q. And so from a network's perspective, what are some
25 of the methods you've taken in your job to mitigate a lot

DIRECT - GEOFFREY FARGO

12

1 of problems that we're talking about here?

2 A. Sure. Probably most of you have heard the term
3 "firewall" and may not know what it means but we
4 certainly have those on our network. What that is is
5 essentially a box that everybody connects through to the
6 Internet. That box has rules on it that says you can go
7 here; you can't go there. And so we've done a lot of
8 configuration within that firewall to try to limit access
9 to things that are not necessarily business appropriate
10 or certainly contain malicious sites.

11 Q. Now you used the word "limit." Do you-all just
12 limit internally or also externally as well?

13 A. It depends on what we are trying to achieve, but
14 most of the time we do not allow certain external
15 entities even to come to our network. So if you're
16 trying to browse -- if you're sitting -- if we've
17 determined that we have no business in Slovakia, we may
18 decide not to allow traffic from Slovakia to even come to
19 our network because we are a real estate company. We
20 have that advantage. We're local. So we will set rules
21 in the equipment that says no computers located in this
22 place can connect to us.

23 Q. Now, Mr. Fargo, when you do that, is that the end
24 of story, problem solved?

25 A. I wish, because I wouldn't have all these gray

DIRECT - GEOFFREY FARGO

13

1 hairs in my beard. No. What happens then, it is
2 pretty -- it's not completely trivial but it's somewhat
3 trivial to pretend that you're in a place that you're not
4 on the Internet.

5 There are a lot of addresses on the Internet.
6 Addresses are allocated by region and country and that
7 kind of thing. If we block -- let's just use the example
8 again. We block Slovakia and somebody from Slovakia
9 wants to do something bad, they can use remote control
10 software to go to computer which is in the U.S., which we
11 don't block because we do business in the U.S, and it's
12 an added step for those bad actors but it can be done.

13 Q. What is the benefit for taking those steps from
14 that perspective of the individuals who are using the
15 software?

16 A. From the malicious side?

17 Q. Yes, sir.

18 A. They bypass one of our constraints, and we have to
19 have other constraints against that. The country-based
20 firewall is no longer a factor.

21 Q. Have you also seen problems with potential bad
22 actors using anonymization techniques?

23 A. Absolutely. So that's one way of anonymization
24 right there. That would be an address anonymization.
25 There's's also the possibility -- e-mail is a very old

DIRECT - GEOFFREY FARGO

14

1 technology and it's a very open technology and the goal
2 of e-mail is to allow people to communicate.

3 Unfortunately, it also allows me, if I want to send an
4 e-mail and pretend to be you, I just have to type your
5 name. I don't have to do anything. There's no
6 fingerprinting. There's no confirmation that I'm not
7 you. So, we have a lot of people maybe not anonymizing
8 but pretending to be somebody that they're not.

9 Q. You mentioned earlier a large network of affiliated
10 Crye-Leike agents. Have you found in your position that
11 these agents have varying degrees of technical knowhow?

12 A. Absolutely.

13 Q. And is that a challenge to deal with?

14 A. Absolutely. Because in the end I can put as many
15 boxes and cables and rules and whatnot in place; but when
16 that e-mail comes to you, you have to ultimately try to
17 determine is that legitimate or is that illegitimate. So
18 it comes down to all those 3200 individuals. They're the
19 last firewall against malicious actors.

20 Q. Now your job, you've testified, is you're dealing
21 with external threats. What has been the impact on the
22 company in dealing with these constant external threats?

23 A. Well, it's certainly -- it slows down business
24 because we have to do a lot of verification. Anytime
25 there's a wire transfer that takes place, it used to be

DIRECT - GEOFFREY FARGO

15

1 people were pretty trusting of interactions; and it only
2 takes a couple of times getting burned that you don't
3 trust everything. So there's a lot of communication that
4 takes place back and forth.

5 There's I wouldn't say downtime that exists because
6 of the type of threat; but it adds a lot of labor and a
7 lot of training. We've had to spend more money on more
8 firewalls. Just everything you're running at a
9 heightened sense of urgency.

10 Q. Are there reputationable -- pardon me. Are there
11 reputational concerns as well?

12 A. Oh, absolutely. I mean, you only have to get
13 burned once. I'm certainly mostly an IT guy and I'm
14 mostly concerned with communications and servers and
15 things like that but, yes, you get hit enough times or
16 you run into enough situations where somebody through no
17 fault of your own, through your best efforts, a malicious
18 actor stains the company name, that looks bad on me. It
19 looks bad on everybody in the company. It makes -- if
20 I'm a customer and I sense that a company is not
21 trustworthy, why would I do more business with them?

22 Q. So I must ask -- my last question on this portion.
23 You've been dealing with a lot. Do you see any light at
24 the end of the tunnel in this regard?

25 A. Well, I think people are becoming more aware of the

CROSS - GEOFFREY FARGO

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1 threats out there; but that tunnel's pretty long. We're
2 not there yet, we're working on, and every day is a
3 challenge.

4 Q. Mr. Fargo, I'm finished with my questions for now.

5 Mr. Perry and Mr. Coleman may have some questions
6 for you, but thank you.

7 A. Thank you.

8 **THE COURT:** Thank you, Mr. Flowers.

9 Mr. Perry, any questions?

10 **MR. PERRY:** No cross-examine.

11 **THE COURT:** Thank you, Mr. Perry.

12 Mr. Garrett, any questions?

13 **MR. GARRETT:** Just a few, Your Honor, if Your
14 Honor please.

15 **THE COURT:** Yes.

16 CROSS-EXAMINATION

17 **BY MR. GARRETT:**

18 Q. Good morning, Mr. Fargo.

19 A. Good morning.

20 Q. Just a couple questions, please, sir.

21 A. Yes, sir.

22 Q. First of all, could you tell the jury, please, sir,
23 what kind of skills or training an individual would need
24 in order to, say, hack into Crye-Leike's business
25 accounts?

CROSS - GEOFFREY FARGO

17

1 A. I don't know how much skill or training it would
2 necessarily take for an individual to do that. There are
3 resources out there that provide fairly easy access to
4 lists of, say, user names and passwords; and that does
5 not take a hacker. That takes somebody who knows where
6 to look.

7 Q. That being said, you indicated that a part of your
8 job is to build firewalls and security systems to protect
9 your company's business; is that correct?

10 A. Absolutely.

11 Q. So an individual without any specialized training
12 or skills could hack into your business and get around
13 your firewall?

14 A. The term I wouldn't use -- I would not use the term
15 "hack" as to what we're talking about when we talk about
16 an e-mail compromise. A person -- all a person needs is
17 a user name and password. I don't need to be a locksmith
18 in order to unlock a house. I just need the key.

19 Q. So any individual without any specialized training
20 could misdirect your company e-mails easily?

21 A. They could access e-mails, if they had the log-in
22 and password, they could access anybody's information.

23 Q. What kind of passwords would they have to have?

24 A. They would have to have the e-mail password.

25 Q. And your e-mail password to get into your system?

CROSS - GEOFFREY FARGO

18

1 A. If you're an agent -- if an agent's password is
2 compromised, they could have access to that agent's
3 password and pretend they're that agent and log in.

4 Q. So that individual that's compromising this account
5 would have to have the agent's password or the company's
6 password or some password to allow them into your system.

7 A. In order to access an agent's e-mail, you need an
8 agent's password; and that's it.

9 Q. Can you tell, in situations where you have had bad
10 actors to access your business accounts, can you tell
11 where those communications originated?

12 A. I can't necessarily tell where the communications
13 originated because if -- I think I mentioned before. You
14 can pretend to be a place where you actually are not. I
15 can tell where those communications, the last -- the last
16 hop -- I'm trying be as non-technical as possible -- the
17 last connection before they hit us. So if they remote
18 controlled a computer in the United States, it would
19 appear to me as coming from the United States, even if
20 the person was actually sitting in another place.

21 Q. Could you through further investigation determine
22 that it was not, in fact, coming from the United States?

23 A. That's outside of my scope of capability. That's
24 something that when, once referred to law enforcement,
25 they're able, I think -- and I wouldn't want to speak for

REDIRECT – GEOFFREY FARGO

19

1 them -- they would be more able to do that work than me.

2 Q. I see. And, finally, the person, if a person, a
3 bad actor, was trying to access your accounts, would they
4 have to have any specialized equipment; or what kind of
5 equipment would they have to have in order to do that?

6 A. They only need a computer connected to the
7 Internet. Our real estate agents, when they log into
8 their email, all they need is a computer connected to the
9 Internet; and that's what these people who access these
10 accounts are pretending to be.

11 Q. Could you do it using a cell phone only?

12 A. Absolutely.

13 Q. That will work, too?

14 A. Uh-huh.

15 Q. Thank you, sir.

16 A. You're welcome.

17 **THE COURT:** Thank you, Mr. Garrett.

18 Any redirect?

19 **MR. FLOWERS:** Maybe a few questions, Your
20 Honor, if you will indulge me.

21 REDIRECT EXAMINATION

22 **BY RIGHTTOP:**

23 Q. Mr. Fargo, in dealing with agents, what are some of
24 the most common scenarios you've seen where passwords or
25 account credentials have been compromised?

REDIRECT - GEOFFREY FARGO

20

1 A. I would say there are two main ways that those
2 credentials get out. One of them is through -- you may
3 have heard the term "phishing" where somebody sends an
4 e-mail, pretending to be Bank of America or whatever, and
5 says you need to reset your password and has a fake link.
6 When they click on it, they type in that information and
7 that information enters a database and those databases
8 are shared between multiple bad actors who want to use
9 your e-mail for different reasons.

10 The other way that happens is sometimes you hear
11 about things like LinkedIn or Equifax or something like
12 that where there's big data leaks that happen. We're
13 dealing with agents, like I mentioned, of different
14 capabilities. They may use the same password in 10
15 places and LinkedIn, as a perfect example, has your
16 e-mail address and it has -- if that password has been
17 compromised, it's showing up on a list somewhere and the
18 bad guys, the people who download those lists, have that
19 information and they can use it.

20 So those are the two main ways that I see those
21 things get compromised.

22 Q. Now, you used the comparison earlier about the lock
23 and key. Are the user names and passwords basically the
24 same as the locks and keys that you're talking about
25 there?

REDIRECT – GEOFFREY FARGO

21

1 A. That was the analogy I was going for, yes.

2 **MR. FLOWERS:** I have no further questions,
3 Your Honor.

4 **THE COURT:** Thank you, Mr. Fargo. You may
5 step down.

6 **THE WITNESS:** Thank you.

7 (Witness excused.)

8 **MR. PERRY:** Your Honor, it's my understanding
9 that Mr. Fargo is subject to recall.

10 From the way that you asked your questions at
11 the end, you say it's going to be this part, correct?

12 **MR. FLOWERS:** Not from Mr. Fargo.

13 **MR. PERRY:** Oh, is he released?

14 **THE COURT:** Yeah, he's through.

15 **MR. PERRY:** Thank you, Your Honor. I wanted
16 to make sure he's subject to the Rule, if he was.

17 **THE COURT:** Yeah, I think he's released.

18 **MR. PERRY:** Thank you, Your Honor.

19 **MR. FLOWERS:** Thank you, Mr. Perry.

20 **THE COURT:** Next witness.

21 **MS. IRELAND:** United States calls Colleen
22 Baldwin.

23

24

25

DIRECT - COLLEEN BALDWIN

22

1 **COLLEEN BALDWIN,**
2 having been first duly sworn, took the witness stand and
3 testified as follows:

4 **MS. IRELAND:** May I inquire, Your Honor?

5 **THE COURT:** Let her get comfortable.

6 DIRECT EXAMINATION

7 **BY MS. IRELAND:**

8 Q. Ms. Baldwin, make sure that you keep the microphone
9 in front of your mouth so the court reporter and everyone
10 here can hear you.

11 Would you please introduce yourself and spell both
12 your first and last names for the court reporter?

13 A. Yes, my name Colleen Baldwin; and that is spelled
14 C-O-L-L-E-E-N, B-A-L-D-W-I-N.

15 Q. Ms. Baldwin, what do you do?

16 A. I'm the owner and CEO of a title and escrow company
17 in Bellingham, Washington.

18 Q. What's the name of your company?

19 A. Whatcom Land Title.

20 Q. Can you spell that, please?

21 A. Sure. It's W-H-A-T-C-O-M, T-I-T-L-E, Whatcom.

22 Q. What does Whatcom stand for?

23 A. It's an actual Indian name.

24 Q. Okay. I'm curious. What does it mean?

25 A. So I do not know. I've had lived there 35, 36

DIRECT - COLLEEN BALDWIN

23

1 years.

2 Q. Just thought I'd ask. Is it a reference to a
3 region or a location or an area in Washington?

4 A. In Northern Washington state, Bellingham is about
5 30 minutes south of the Canadian border and 60 minutes
6 north of Seattle.

7 Q. How long have you been with Whatcom?

8 A. I've been with Whatcom Land Title for 36 years.

9 Q. And you said you're the CEO. Is that what you've
10 done the whole time?

11 A. I first started out as a customer service
12 representative, and then I went into title examination of
13 the public records. Became a title officer and was
14 promoted to the title department manager. Then I went
15 into the escrow department and became an escrow closer
16 and manager of the company when my husband and I
17 purchased half-interest in the company in 1994. Managed
18 the company since 1994 and then became the CEO and we
19 bought out the company in nineteen or -- excuse me --
20 2016.

21 Q. So you know all aspects of the business?

22 A. Absolutely I do.

23 Q. Could you briefly explain for us what a title
24 company does?

25 A. A title company, first, is responsible for handling

DIRECT - COLLEEN BALDWIN

24

1 mostly residential transactions for buyers and sellers of
2 property. The average American purchases or sells
3 properties about seven times in their lifetime. So it's
4 a very specialized industry that most people just kind of
5 glance over and trust their personnel and our expertise
6 to guide them through the system.

7 And then we're responsible as escrow agents and
8 limited practice officers to close and handle all the
9 preparation of the real estate sale documents and
10 purchase documents, receiving lender documents, and
11 handling the instructions from buyers, sellers, lenders,
12 listing and selling real estate agents. We are licensed
13 as limited practice officers under the Washington State
14 Supreme Court. So it's a very rigorous study and exam to
15 pass.

16 Q. Now that's a little different from other parts of
17 the country, isn't it?

18 A. Absolutely.

19 Q. Can you elaborate.

20 A. You bet. In Washington state, attorneys are very
21 seldom involved in residential purchase and sale
22 agreements. They defer to us actually as the experts in
23 clearing title to properties to new buyers and for
24 insuring all the documents are properly recorded with our
25 county auditors and then handling the receipt of funds

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1 from the buyer's lender, or cash, if they're able to
2 purchase property with cash, and then providing certified
3 and good funds to the seller for transactions. Attorneys
4 only get involved in commercial transactions pretty much
5 in our part of the country.

6 Q. Do you have to be certified in order to do any of
7 these things?

8 A. Yes. There are many certifications, but the most
9 important one for the company is the limited practice
10 officer license that an escrow officer obtains under the
11 Washington State Supreme Court.

12 Q. And what is ALTA?

13 A. ALTA, which you may hear me reference to, stand for
14 the American Land Title Association. We are, of course,
15 a member of the American Land Title Association.

16 Q. Okay. I'd like to turn your attention to September
17 30th of 2016. Do you remember anything in particular
18 about that day?

19 A. I do.

20 Q. Why does it stand out in your memory?

21 A. It stands out in my memory as, one, 2016 was the
22 busiest year in the real estate market in our county, in
23 our state, and on that particular day we received a
24 fraudulent e-mail transaction or -- excuse me -- e-mail
25 transmittal that was -- it's known as spoofing and the

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1 definition of that is where a fraudster will take the
2 e-mail address from an innocent party and slightly change
3 the e-mail address so it's not noticeable to the obvious
4 person. So you feel very confident in opening up that
5 e-mail in reading those instructions to you. We're
6 handling about 30 to 40 transactions on that particular
7 day with a staff, including support staff, of about 20
8 people, even though at that time we had about 55 people.

9 Q. Why was it so busy that day?

10 A. Fridays are always very busy, and then it was
11 September 30th. The end of the month is known in the
12 real estate community as the biggest day of the month.
13 It's kind of like April 15th for a tax attorney.

14 Q. So the day passed by in an ordinary fashion that
15 day?

16 A. I'm sorry?

17 Q. Did the day pass by in an ordinary fashion that
18 day?

19 A. That day, we were receiving a lot of e-mails; and
20 one of the e-mail instructions changed or allegedly
21 changed instructions that had been previously provided to
22 us during that earlier part of the week from the seller.

23 **MS. IRELAND:** May I approach the witness, Your
24 Honor?

25 **THE COURT:** Yes.

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1 **BY MS. IRELAND:**

2 Q. Ms. Baldwin, I'm showing you a document. It's
3 approximately 21 pages. Do you recognize it?

4 A. I do.

5 Q. Can you just take a look at that, please?

6 A. Absolutely.

7 Q. When you're ready, tell us what it is.

8 A. So this is a compilation of different e-mail
9 instructions we received throughout the day on just one
10 of the approximately 40 transactions we were closing that
11 day, and the e-mail chain was specifically trying to
12 obtain and verify from us: When is this particular
13 transaction going to close today? When is it going to
14 fund today? When are the seller proceeds available that
15 day?

16 Q. Is that something that's important to most people
17 engaging in a purchase of property?

18 A. Absolutely. When you have over \$60,000 in proceeds
19 available to you, an investment in your lifetime, often
20 case as a seller or to anybody, that's a lot of money.

21 Q. Is this a complete or an accurate, I should say, an
22 accurate copy of some of the e-mails that passed between
23 you and your associates on September 30th?

24 A. Yes, it is.

25 Q. Did they involve the purchase of a particular

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1 property?

2 A. Yes, it did.

3 Q. Do you know who the buyer and seller were?

4 A. I do.

5 Q. Can you tell us who they were?

6 A. The seller was Marc Dryer, and I'm sorry. I do
7 know who buyer was. At the moment I do not recall the
8 name.

9 Q. That's okay. Where was the property located?

10 A. It was located in what is known as Sudden Valley
11 which is a suburb about 10 minutes out of downtown
12 Bellingham, and the property street address was Marigold.

13 **MS. IRELAND:** I'd like to offer this as the
14 first numbered exhibit.

15 **THE COURT:** Any objection?

16 **MR. PERRY:** No objection, Your Honor.

17 **MR. GARRETT:** No objection, Your Honor.

18 But, Your Honor, may we approach, please?

19 **THE COURT:** Yes.

20 (The following occurred at the bench:)

21 **THE COURT:** Yes, sir.

22 **MR. GARRETT:** I just want to be clear about
23 the process of the procedure for handling exhibits in
24 Your Honor's courtroom. Normally I was of the opinion
25 that documents, before being shown to a witness, are

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1 marked for identification purposes and then entered into
2 evidence, because some documents for an instance may be
3 shown to a witness that are not entered into evidence but
4 we still need a record of what that document was for, for
5 future reference, if necessary. So, do we have to mark
6 these for identification? I anticipate a lot of exhibits
7 in this case. Do we have to mark these for
8 identification before? What's the Court's --

9 **THE COURT:** We don't typically mark for ID
10 first. They look at it. If they can identify it, you
11 know, they do; and if it comes into evidence, it comes in
12 as an exhibit number. If for some reason it doesn't come
13 into evidence but someone wants it as part of the record,
14 then we would go ahead at that point and mark it for ID
15 so it's part of the record.

16 **MR. GARRETT:** Okay.

17 **THE COURT:** Does that make sense?

18 **MR. GARRETT:** I just wanted to be clear as to
19 what that procedure is, Judge.

20 **THE COURT:** Yeah. So if you ever want, if
21 anyone wants something marked for ID that didn't actually
22 come into evidence, just let me know.

23 **MR. GARRETT:** Okay.

24 **THE COURT:** Does this document have page
25 numbers on it?

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1 **MS. IRELAND:** It does not, Your Honor.

2 **THE COURT:** Does not. Okay.

3 **MS. IRELAND:** Our intent was to staple it, but
4 my stapler is broken. I'm working to find one.

5 **THE COURT:** With multipage documents like
6 that, I mean, it's helpful for the record if they're
7 Bates stamped or page numbered. It's not the collection.
8 It's not keeping it together that I'm worried about.
9 It's someone being able to identify page numbers in the
10 future.

11 Does anyone have an objection to someone just
12 numbering the pages?

13 **MR. GARRETT:** No objection.

14 **MR. PERRY:** No objection.

15 **MS. IRELAND:** We will do it on the break.

16 **MR. GARRETT:** Judge, would it be appropriate
17 then -- I mean, there are various e-mails. Would this be
18 appropriate to be labeled as a collective exhibit?

19 **THE COURT:** Because it's all related to the
20 same transaction, I hate to break it up; but that's what
21 I do a lot with photographs or other things is try and
22 break them up so they can be identified. I think in this
23 particular situation we'll just number the whole exhibit.
24 It's related to one transaction, correct?

25 **MS. IRELAND:** Yes.

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1 **THE COURT:** Does that make sense?

2 **MR. GARRETT:** Can I make the point the
3 description for this exhibit -- what did you call this?

4 **MS. IRELAND:** An exhibit. It's just a
5 collection of e-mails and related documents.

6 **MR. GARRETT:** Okay.

7 **THE COURT:** Related to one property
8 transaction.

9 **MR. GARRETT:** Okay.

10 **THE COURT:** The one single transaction.

11 **MR. GARRETT:** Thank you, ma'am.

12 **THE COURT:** Thank you.

13 (The following occurred in open court:)

14 **THE COURT:** Exhibit 1.

15 (Said item was marked as Exhibit 1).

16 **BY MS. IRELAND:**

17 Q. Ms. Baldwin, I'm going to direct your attention to
18 page 2. At the very top of the document is the notation
19 of a wire verification; is that correct?

20 A. That is correct.

21 Q. Does it identify the escrow officer?

22 A. It does. Lisa Dingle Kyles.

23 Q. What is the date above Ms. Dingle Kyles' name?

24 A. It is October 3rd, 2016, which is a Monday.

25 Q. Now you said that the closing took place on Friday

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1 the 30th. Why is this wire, if you know, dated on the
2 3rd of October?

3 A. The Federal Reserve Board closes at 2:00 on the
4 East Coast, and that is the cutoff time to allow wire
5 transactions to go through. We were initially instructed
6 in writing by the seller that he would pick up his check
7 on Friday or the following week; and we prepared and had
8 ready for him to pick up, submit his identification, and
9 sign off receiving his check.

10 During that day and through that chain of
11 fraudulent e-mails, spoofing, we started getting
12 inquiries. The first inquiry was talking about what time
13 will the funds be available and can the seller now have
14 you wire the funds to his account, investment account, I
15 believe was the implicit instructions. Then they morphed
16 into instructions to, oh, he needs the funds very quickly
17 sent today.

18 Q. Are quick transactions unusual in real estate
19 closings?

20 A. Not at all. It is very rapid-paced. We are
21 receiving about a hundred e-mails per person, either
22 receiving or responding to about 100 e-mails during the
23 course for the transactions that we are handling, in
24 addition to an average of about 50 phone calls and
25 coordinating with the different banks that are sending

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1 the funds, the sellers, buyers, the real estate agents
2 who survive on the commission that they're paid for the
3 transaction and so forth.

4 Q. I would like to next direct your attention --
5 actually let me back up. Who was the real estate agent
6 involved with this transaction?

7 A. The listing agent who represented the seller, Marc
8 Dryer, in this transaction is authorized to provide what
9 is known as third-party instructions to us. Her name is
10 Azam Nader. Our company has worked with her for over 25
11 years.

12 Q. I would like to direct your attention to page 3 of
13 Exhibit Number 1. Is this part of the e-mail chain that
14 you've been talking about?

15 A. Yes, this is the latest or the last instructions
16 and change of the day where they were requesting that we
17 immediately wire the funds to the account in Monterey --
18 Wells Fargo bank account in Monterey, California, and
19 were provided with these alleged wiring instructions and
20 for Marc Dryer and an additional name who was not a party
21 to the transaction but was purportedly to on, on this
22 account with Mr. Dryer and that was Luis Alonso.

23 Q. Is that Number 6 on the list of instructions in
24 this e-mail?

25 A. I'm sorry. I don't understand your question.

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1 Q. Is that --

2 A. Oh, yes, I'm sorry. I understand, yeah. Sorry.
3 Thank you. Yes.

4 Q. And where was the bank located?

5 A. Monterey, California.

6 Q. Okay. Is it unusual for wire proceeds to go to
7 out-of-state banks?

8 A. No, not at all. This is very common.

9 Q. Okay. I would like to direct your attention next
10 to the identification of the sender of the e-mail.

11 A. Yes.

12 Q. What do you see there?

13 A. What I see there is Azam Nader and the following
14 e-mail address located next to it which is very close to
15 her actual e-mail address but is spoofed, which is where
16 it has been slightly altered. I subsequently did verify
17 with her that this was not her e-mail instructions
18 provided to us on behalf of Marc Dryer.

19 Q. Now at the beginning of that line, is that how Azam
20 Nader's name generally appears in e-mail?

21 A. Yes, it is.

22 Q. But it's the actual e-mail address where the
23 communication would go that is not what you expect?

24 A. It's just slightly different, yes.

25 Q. On the day that the seller came -- I think you

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1 testified that the seller came in to pick up his check
2 for the proceeds?

3 A. So later on how we learned of this fraudulent
4 instruction was seller came in following his original
5 instructions to us, that he wanted to pick up his
6 seller's proceeds check. So I had an angry seller
7 yelling at us in our lobby and I then immediately
8 investigated and went through this chain of e-mail.
9 Brought in my management team, my IT specialist, to
10 review this, to work on, on verifying that this was
11 spoofed and that these instructions were not legitimate
12 and were illicit.

13 Q. Did you verify with Agent Nader as to those
14 instructions? Did she instruct as the e-mail indicated?

15 A. She verified that this -- that this particular
16 e-mail and revised instructions to her were absolutely
17 not her instructions and she was absolutely irate to
18 learn that her e-mail address had been duplicitly
19 modified.

20 Q. Okay.

21 A. Now, may I add to that that Azam Nader is
22 originally from the Middle East and speaks and writes in
23 slightly broken grammar. So the e-mail to us with
24 slightly -- with some minor grammatical errors was very
25 typical in our 25 years.

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1 Q. Are e-mail addresses of agents widely available?

2 A. Yes, they are. They are located on when you go by
3 properties that are listed for sale. They're advertised
4 in many circulations, real estate circulations you can
5 pick up in sandwich shops and restaurants and grocery
6 stores.

7 Q. Now who does Whatcom bank with?

8 A. Our trust account which holds the secured funds for
9 buyers, sellers, or lenders is KeyBank.

10 Q. Did they work with Wells Fargo to try and stop this
11 transfer of funds?

12 A. Yes, they did. Once they were --

13 Q. Were they successful?

14 A. They were eventually successful in retrieving some
15 of the funds back to us after some period of time. I
16 immediately that day when I learned I had a seller who
17 was out over \$60,000 --

18 Q. And what did you do?

19 A. Excuse me.

20 Q. There's tissue if you need one.

21 A. I had to go to our company savings to make good
22 funds available to him so that his life was not
23 disrupted.

24 Q. Did this disrupt your business?

25 A. Absolutely.

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1 Q. In what way?

2 A. I had a hysterical escrow closer who realized that
3 she had fallen prey, regardless of all the red flags that
4 we look for and are trained to look for. This one did
5 not appear to be one of those. There were no red flags
6 on this one to us for the reasons I stated previously.

7 Q. And is Bellingham a large community?

8 A. We are a community with a population of about
9 80,000 people; and we serve a county with approximately
10 230,000 community members.

11 Q. And did that affect the reputation of the business
12 in the community?

13 A. Absolutely. Word of this not only gets out into
14 the real estate community, it harms the real estate
15 agents involved in the transaction. It hurts the
16 reputation of our small company. We're the only locally
17 owned title and escrow company in Whatcom County.

18 Q. Now, I just have one final question for you or
19 series of questions.

20 Did you file a report about what happened?

21 A. I filed several reports. First, I needed to get
22 ahold of and work with KeyBank of Washington and filed
23 reports with them of this fraudulent transaction.
24 Certified that it was a fraudulent transaction that had
25 transpired. Then I immediately went to the City of

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1 Bellingham Police Department and filed a report with them
2 to let them know of this. I filed reports with the Wells
3 Fargo private detective that they hired in the county in
4 California with their police office as well. Finally, I
5 filed an IC-3 form which is to report to the Federal
6 Government and the FBI that we were victims of
7 fraudulent, illicit e-mail.

8 **MS. IRELAND:** Ms. Baldwin, I don't have any
9 further questions for you. Defense counsel may.

10 We will pass the witness.

11 **THE COURT:** Thank you.

12 Mr. Perry.

13 **MR. PERRY:** Yes, Your Honor.

14 CROSS-EXAMINATION

15 **BY MR. PERRY:**

16 Q. Ms. Baldwin, you're the CEO of your company,
17 correct?

18 A. Correct.

19 Q. And you moved up in that company, I think, through
20 the Eighties and into the Nineties after you purchased
21 the company.

22 A. Yes. And currently I'm still employed there, yes.

23 Q. Correct. In the Eighties you said you started as a
24 CSR?

25 A. Customer service representative, yes.

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1 Q. Right. Because over in this part of the country
2 attorney offices do a lot of work that you do, correct?

3 A. Right.

4 Q. Right. And you said you are a member of ALTA?

5 A. We are a member of the American Land Title
6 Association and certified best practices with American
7 Land Title Association also the Washington Land Title
8 Association.

9 Q. And you're in Washington State, correct?

10 A. Correct.

11 Q. And will you be going to the conference in May in
12 DC?

13 A. Yes, we will; and we are also going to a conference
14 next week here in Memphis, Tennessee.

15 Q. I might be a presenter at the one in DC. I have a
16 small land title company as well. When you do real
17 estate, you said Fridays, Fridays are busy days, correct?

18 A. And the end of the month.

19 Q. Right. And 2016 was probably the best real estate
20 year since 2008, right, since the bubble bust?

21 A. 2008 is when it busted, yes; and 2016 was larger
22 than even the previous years for our company. We have
23 over doubled --

24 Q. In other words --

25 A. -- in size.

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1 Q. I didn't mean to cut you off.

2 A. No, not at all.

3 Q. The cycle in real estate started to go up around
4 2011, correct, or started to incline? You can see a
5 steady incline with '16 being a peak year, right?

6 A. Yes, and it's kind of, if I do just a very immature
7 graph using my hands here, it kind of went like that and
8 then kind of stabilized at that and we're now at 60
9 percent of the market share for our company for --

10 Q. For that area?

11 A. -- for Whatcom County, yes.

12 Q. And in the real estate business, as you said
13 before, I guess it is a business that's known for
14 targeting, I guess, for people trying to target and do
15 what's called business e-mail compromises, getting inside
16 your e-mail, in other words, and all kind of bad actors
17 out there.

18 A. Spoofing, e-mail phishing, many different acronyms
19 we are the target of.

20 Q. Sometimes you might not be in the office and
21 somebody sends an e-mail, saying we need to send this
22 money ASAP to so and so and I can't approve it. Have you
23 ever had that happen to you?

24 A. No, we are always in the office. We have --

25 Q. You're not in trial like me, right?

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1 A. No, no, this is our area of expertise. So we have
2 a team now of approximately 70 employees. So there's
3 somebody always there; and there's secondary
4 authorization, not only for reviewing wire instructions
5 that we receive from buyers or most likely sellers and
6 for sending the wires out. So there's more than at least
7 a double crosscheck system.

8 Q. All right. When you said you had an angry seller
9 at the end of this transaction, because sellers a lot of
10 times at the end of closings, they want their checks,
11 right?

12 A. They want their checks and sometimes they change
13 their instructions because they're purchasing property
14 elsewhere, and that's what it appeared in this case to
15 be.

16 Q. And if something is wrong as far as maybe getting
17 the sales transcript, those type of things, that falls on
18 your head. The transcript as far as from the lender, et
19 cetera, and the information that you're supposed to
20 receive, if you don't have that stuff at the time of
21 closing, people are looking at you, right, or your
22 company at this point, because you're the CEO.

23 A. We are -- well, I have two escrow department
24 managers and, as I said, a team of about 15 people
25 working on that but I am in charge of overseeing all

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1 operations, correct.

2 Q. And best practices certification, I have a best
3 practice certification. You have to go through rigorous
4 examination in order to get it by an independent
5 examiner, correct?

6 A. You don't necessarily have to have an independent
7 agency to do that. You can do a self-certification. It
8 took us several years. It is a, as you said, a very long
9 and rigorous process and is not only approved by our
10 three underwriters, First American Title, which you may
11 have heard of, Old Republic Title Insurance Company,
12 and/or Commonwealth which is a brand of Chicago Title
13 Insurance Company or Fidelity Title Insurance Company
14 which are the seven largest title insurance, three of the
15 largest of seven major title insurance companies.

16 Q. As part --

17 A. -- in the nation. So --

18 Q. And your agency might be required to do more. I'm
19 assuming. I don't know.

20 A. Oh, we do a lot more than that.

21 Q. You have to have at least \$10 million of coverage.

22 A. Oh, absolutely.

23 **THE COURT:** Hang on. There's an objection.

24 **MS. IRELAND:** Can we approach for a moment,
25 Your Honor?

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1 (The following occurred at the bench:)

2 **MS. IRELAND:** I just want to make sure that
3 we --

4 **THE COURT:** Speak up.

5 **MS. IRELAND:** -- don't get personal testimony
6 from counsel when asking questions.

7 **THE COURT:** It's good that --

8 **MR. PERRY:** This is cross-examination, Your
9 Honor; and I haven't asked any inappropriate question. I
10 can develop a rapport, and I've been doing it for 20
11 years. I can always develop a rapport if I have a "like
12 or something similar." I'm not testifying. I'm asking
13 questions. I'm laying a predicate. At the conclusion of
14 each one I'm ask the question. Nothing has been --
15 there's not been a compound question. I've been
16 respectful to the witness and this is just an attempt to
17 set me offtrack on my cross-examination but I can develop
18 a rapport with any witness in this trial.

19 **THE COURT:** You can develop a rapport but
20 there's -- some of what you're asking are not questions.
21 They're statements by counsel and I respect that counsel
22 obviously has experience in this area but the idea of
23 cross-examination is to ask questions.

24 **MR. PERRY:** I will.

25 **THE COURT:** So let's focus on the questions.

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1 **MR. GARRETT:** May I, while we're here, Judge?

2 **THE COURT:** Yes.

3 **MR. GARRETT:** The question I had may not be
4 pertaining to this precisely but if we have -- defense
5 counsel has an objection for this as to hearsay, do we
6 have to approach the bench to let the Court know the
7 basis of our objection or can we say hearsay from --

8 **THE COURT:** You can say hearsay.

9 I think, frankly, Ms. Ireland -- I'm assuming
10 this -- I think Ms. Ireland came to the bench because she
11 doesn't want to say anything in front of the jury to be
12 disrespectful to Mr. Perry.

13 **MS. IRELAND:** That's correct, Your Honor.

14 **THE COURT:** So anything that might by
15 disrespectful, come up to the bench but, otherwise, you
16 can say --

17 **MR. GARRETT:** I've got this thing in my head
18 about no speaking objections, you know.

19 **THE COURT:** If it's hearsay, though, that
20 generally -- you know, if it's not an issue that we need
21 to come to talk more about, you can do it from the
22 counsel table.

23 **MR. GARRETT:** Thank you.

24 (The following occurred in open court:)

25 **MR. PERRY:** May I proceed, Your Honor?

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1 **THE COURT:** Yes, please.

2 **BY MR. PERRY:**

3 Q. Ms. Baldwin, you established that you're a business
4 lady and in Washington State. I'm assuming in business
5 the purposes is to make money, correct?

6 A. Yes.

7 Q. And during the average real estate transaction, you
8 receive payment from the different sources regarding the
9 services that you're providing, correct?

10 A. Correct.

11 Q. Doing the title work, I guess, going to the local
12 courthouses, et cetera, you expect to be remunerated
13 (sic) for that.

14 A. Yes, at the conclusion of all the services, we are
15 remunerated for our escrow services and the title
16 insurance premium to ensure that the buyer receives clear
17 title and has an insurance policy that insures him.

18 Q. Go back to that point in a few minutes. On the
19 date in question, you said that you received -- that
20 there was a package that involved this e-mail, an exhibit
21 that you were shown a little while ago.

22 A. Yeah.

23 Q. Or regarding this transaction.

24 A. There's a series of e-mails, an e-mail chain.

25 Q. Did you ever in your, I guess, in preparing for

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1 your testimony today, have you ever come across the name
2 F.J. Abegunde at all?

3 A. Not to my knowledge.

4 Q. And in that e-mail chain, was there any reference
5 to anything being sent or being taken or directed to,
6 from, et cetera, Mr. Abegunde?

7 A. No, sir, not to my knowledge.

8 Q. Nobody having to do with Mr. Abegunde paid you
9 anything, did he?

10 A. No, sir.

11 Q. And at no point in time -- when you receive your
12 money, do you have to do any kind of background check on
13 where your money or the sources of money that people are
14 paying you in your business?

15 A. We only receive what is known in the State of
16 Washington as good collected funds. So, in other words,
17 the funds we receive must be provided in the form of a
18 wire transfer which is considered immediate good funds
19 that we can use to close the sale of a transaction or
20 they may provide a cashier's check to us which we deposit
21 and must hold overnight for a transaction in order to
22 proceed and then they may pay cash but I do not accept
23 cash over maybe a hundred dollars.

24 Q. And at a closing, typical closing, and you said you
25 receive the wire with the money that's held in some form

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1 of an escrow account, I'm assuming.

2 A. It's held in our escrow trust account. So it's a
3 separate account held from any of our operations. It's
4 exclusively for our buyers, sellers, and our clients'
5 funds.

6 Q. And at the conclusion of that closing, you might
7 write anywhere from 10 checks to 20 checks, depending on
8 how many people you're trying to do what's called settle,
9 settling with the different people, correct?

10 A. Per transaction, multiplied by 30 to 40 on that
11 day, so there are hundreds of signed checks --

12 Q. And --

13 A. -- issued throughout the day.

14 Q. And as you write those checks -- and at the
15 conclusion you write a check to the business or whomever
16 to pay yourself, right?

17 A. Yes, that's the last check's cut, yes, at the
18 settlement, correct.

19 Q. And that's supposed to be the very last check,
20 right?

21 A. It typically is, although an escrow closing is
22 always subject to further audit and settlement if there
23 are any --

24 Q. In cases like this, where there's some irregularity
25 or something goes wrong, you stated earlier you had to go

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1 out of your own pocket, right, or the business pocket?

2 A. Yes.

3 Q. And I'm assuming you might have filed something or
4 what have you to be renumerated for that as well.

5 A. We have not filed anything currently to be
6 renumerated in any way, other than we did receive
7 approximately \$25,000 from Wells Fargo back to our trust
8 account, KeyBank, and then renumerated or reimbursed
9 us --

10 Q. Settle --

11 A. -- with that advancement, yes. So we are still out
12 35,000, plus many thousands of labor dollars.

13 Q. And during the course of the year, as you settle
14 your money at the end of the closings, you never go back
15 and ask who made what money, et cetera, or how that money
16 is paid or how a person can pay for their closing. You
17 don't ask those questions, do you?

18 A. We routinely audit, randomly audit our own files.
19 So I do go back and just review transactions randomly as
20 an audit, as well as companies, but not in the ordinary
21 course of business. I may have misunderstood your
22 question.

23 Q. If John Perry wants to buy real estate and wants
24 you to do the closing -- I live out in Washington -- you
25 don't ask the question how John Perry made his money, do

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1 you?

2 A. No.

3 **MR. PERRY:** I don't have anything further.

4 **THE COURT:** Thank you Mr. Perry.

5 Mr. Garrett, any questions?

6 **MR. GARRETT:** A few questions.

7 CROSS-EXAMINATION

8 **BY MR. GARRETT:**

9 Q. Good morning, Ms. Baldwin.

10 A. Good morning.

11 Q. My name is Coleman Garrett; and I represent Mr.
12 Javier Luis Ramos Alonso.

13 A. Morning, Mr. Garrett.

14 Q. Do you know my client?

15 A. I do not.

16 Q. Do you know who's responsible for the spoofed
17 e-mail that redirected the funds that you testified
18 regarding?

19 A. I personally do not. It is --

20 Q. You don't know whether Mr. Ramos, who's sitting at
21 counsel table here, had anything to do with this
22 transaction, do you?

23 A. I cannot verify that, other than his name was then
24 added to the e-mail; and his bank account number was
25 provided to us for Wells Fargo bank. So his name was on

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1 that account.

2 Q. You don't know who added Mr. Ramos' name to that
3 e-mail, do you?

4 A. I do not know who provided his name and his bank
5 account to us, no.

6 Q. You don't know whether he had any knowledge -- my
7 client had any knowledge of that transaction, do you?

8 A. I actually do. I spoke with a member -- one of the
9 managers of Wells Fargo bank, as well as our own KeyBank
10 investigator, and my understanding is that his --

11 Q. Let me interrupt you --

12 A. Sure.

13 Q. Ms. Baldwin, you don't have any personal knowledge
14 of my client being involved in this in any way, do you?

15 A. I do not.

16 Q. Are title companies in the state of Washington
17 required to be insured and bonded?

18 A. We are insured and bonded. We also are further
19 insured and bonded by our three underwriters -- First
20 American Title Insurance Company, Commonwealth Title
21 Insurance Company, and Old Republic Title Insurance
22 Company -- and have an errors and omissions insurance
23 policy and a fiduciary policy, employment dishonesty.

24 Q. With all of that coverage, you still suffered an
25 out-of-pocket loss for the company?

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1 A. Absolutely. It came out of my employee --

2 Q. The spoof e-mail that you made reference to, you
3 have no knowledge of where that originated from, do you?

4 A. I do not have any personal knowledge, no.

5 Q. And you have no knowledge as to who made those
6 changes on the e-mail that you received, the spoofed
7 e-mail, from the original e-mail, do you?

8 A. I have no personal knowledge, no.

9 **MR. GARRETT:** That's all Your Honor.

10 **THE COURT:** Thank you, Mr. Garrett.

11 Any redirect?

12 **MS. IRELAND:** Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 **BY MS. IRELAND:**

15 Q. Ms. Baldwin, is Whatcom Title the lending agent for
16 purchasers?

17 A. We are the title and escrow agent for buyers and
18 sellers.

19 Q. Do you make the determination on someone's loan
20 being approved?

21 A. Not at all.

22 Q. And who decides -- let me retract that.

23 Do loan officers typically ask purchasers where
24 their funds are coming from?

25 **MR. PERRY:** Objection, Your Honor.

UNREDACTED TRANSCRIPT

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1 This calls for speculation from this
2 particular witness. She's not a loan officer. She just
3 laid that out, and in this particular she's calling for
4 hearsay as well. So for two reasons I don't think that's
5 a proper question for the witness --

6 **THE COURT:** I'll sustain it.

7 **MS. IRELAND:** Pardon me, Your Honor?

8 **THE COURT:** What's your response?

9 **MS. IRELAND:** She takes action based on what
10 others do. It's asking what she takes action upon.

11 **THE COURT:** But she doesn't -- you're asking
12 her about what someone else does. You can ask about any
13 communication that that person makes to her but not what
14 that person asks other people.

15 **MS. IRELAND:** I'll rephrase Your Honor.

16 **THE COURT:** Thank you.

17 **BY MS. IRELAND:**

18 Q. When Whatcom is working with clients, do loan
19 officers -- excuse me -- they have to have the funds to
20 make a purchase; is that correct?

21 A. Yes.

22 Q. Do you rely on documents provided by loan officers
23 that everything is in order and proper?

24 A. Yes, it goes through a rigorous process that I
25 personally have watched and been educated on at different

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1 seminars and also at different banks locally.

2 **MS. IRELAND:** Nothing further. Thank you.

3 May the witness be excused, Your Honor?

4 **THE COURT:** Yes, you may be excused. Thank
5 you.

6 **THE WITNESS:** Thank you.

7 (Witness excused.)

8 **THE COURT:** Next witness.

9 **MS. IRELAND:** United States calls Michael
10 Hinton.

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DIRECT - SPECIAL AGENT MICHAEL HINTON

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1 **SPECIAL AGENT MICHAEL HINTON,**

2 having been first duly sworn, took the witness stand and
3 testified as follows:

4 DIRECT EXAMINATION

5 **BY MS. IRELAND:**

6 Q. Good morning.

7 A. Good morning.

8 How are you.

9 Q. Well, thank you.

10 How are you?

11 A. All right.

12 Q. Would you please introduce yourself to the jury and
13 spell both your first and last name for the court
14 reporter?

15 A. Sure. Hello, my name is Michael Hinton, Jr. I'm a
16 Special Agent with the FBI in the San Francisco division
17 from the Cyber Criminal Squad, which is located in one of
18 our offices.

19 Q. How long have you been with the FBI?

20 A. I've been with the FBI since 2012.

21 Q. Did you have responsibilities with the Bureau
22 before becoming an agent?

23 A. That's correct. In 2012 to about 2016, I was with
24 the Bureau Surveillance Group and then became an agent on
25 the Cyber Squad in 2016.

UNREDACTED TRANSCRIPT

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1 Q. As part of your duties, do you receive leads or
2 requests from other field offices around the country?

3 A. I do, yes.

4 Q. I'd like to direct your attention to a lead from
5 Memphis. Do you recall receiving a lead from Memphis to
6 interview someone in your area?

7 A. I do.

8 Q. Do you recall approximately when that happened?

9 A. This was in the year 2017, presumably March. I'm
10 not 100 percent sure though.

11 Q. Do you remember the person that you were supposed
12 to go and interview?

13 A. Yes.

14 Q. What was that person's name?

15 A. Mr. Ramos.

16 Q. Would you recognize Mr. Ramos if you saw him?

17 A. I believe so.

18 Q. Would you look around the room and let us know if
19 he's here?

20 A. Sure. Yes, he's here.

21 Q. Can you describe something he's wearing and point
22 him out?

23 A. Looks like a tan shirt and headphones.

24 **MS. IRELAND:** May the record reflect
25 identification of Mr. Ramos Alonso?

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1 **THE COURT:** So reflected.

2 **BY MS. IRELAND:**

3 Q. Agent Hinton, what were you asked to do in regards
4 to Mr. Ramos Alonso?

5 A. So, in response to the lead that we got from
6 Memphis, we were asked to go conduct a voluntary
7 interview in regard to what appeared to be a business
8 e-mail compromise. Another agent and myself went to
9 Mr. Alonso's residence which was provided in the lead;
10 and we knocked on the door, let him know that we were
11 there on a voluntary basis, and just wanted to ask him a
12 few questions based on some information we received. He
13 decided to let us into his home, and we conducted the
14 interview.

15 Q. All right. Can you describe the surroundings of
16 Mr. Ramos' residence?

17 A. Sure. It was a smaller area. It seemed to be,
18 like I say, I don't know about, if I would say rural,
19 maybe just sort of a beach town in general, being that it
20 was in the Monterey seaside area in terms of his actual
21 living. It was pretty humble living, smaller area, lots
22 of things sort of around; and I remember that there was
23 just sort of a pallet on the floor. There wasn't a bed.

24 Q. Did you explain to Mr. Ramos Alonso what you were
25 there to talk about?

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1 A. We did.

2 Q. What did you tell him?

3 A. Let him know that we were there to follow up with a
4 few questions in response to a lead from the Memphis
5 division, related to a business e-mail compromise and
6 that we had reason to believe that he had some
7 information regarding that incident.

8 Q. Do you know if Mr. Ramos Alonso is a native speaker
9 of English?

10 A. I don't believe that he is, no.

11 Q. Did you speak in English?

12 A. I did.

13 Q. Did you have the sense that he was able to
14 understand what you were saying?

15 A. I did.

16 Q. Did you phrase your questions in such a manner that
17 they would not be complicated?

18 A. Yes.

19 Q. Okay. At any time did Mr. Ramos Alonso indicate to
20 you that he didn't understand something?

21 A. No.

22 Q. Can you summarize the conversation that you had
23 that March day with Mr. Ramos Alonso on this visit?

24 A. Sure. Essentially we had some, as mentioned, some
25 requests about the records that were sent over. We had

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1 some questions about some funds that were transferred to
2 different bank accounts and things like that. We
3 explained to him that we had reason to believe that he
4 was associated. We provided some images of him at the
5 bank that he did confirm was him.

6 Q. When you say images of the bank, what are you
7 talking about and referring to?

8 A. Specifically pictures of him interacting with
9 someone at the bank.

10 Q. So he acknowledged it was him in the pictures and
11 he did transactions at that bank?

12 A. He did, yes.

13 Q. Were those photos date and time stamped?

14 A. I can't say for sure.

15 Q. Okay. Continue, please.

16 A. So we showed him those images. We asked if he had
17 any information about it. He was very hesitant to speak
18 to us initially for obvious reasons. If the FBI is at
19 your door, I can't become him; but as we sort of spoke a
20 little more, he sort of provided some details and his
21 involvement what was going on.

22 Q. What did he tell you about his involvement?

23 A. He let us know that he was communicating with who
24 he believed to be somebody named Tammy. He had romantic
25 feelings for this person and that he was transferring

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1 money from his own accounts to accounts that this person
2 provided for him to send them to at their request.

3 Q. Okay. So it was Tammy's request; is that correct?

4 A. That's correct.

5 Q. And he acknowledged that he was the person making
6 some of those transactions?

7 A. That's correct.

8 Q. Did you have occasion to speak with Mr. Ramos on
9 another day?

10 A. Yes, we did. So, after Mr. Ramos explained to us
11 sort of his side of things, we let him know that we
12 wanted to collect some of the data from his e-mail
13 accounts, because he let us know that the primary medium,
14 I guess, of communication would be via text message and
15 via e-mail. So we asked him if we could come back and do
16 a consensual search of his e-mail account to gather some
17 information and send it back to the Memphis division. He
18 decided that he was comfortable doing that. He signed a
19 consent form with us the following day and we came and we
20 were able to image some of the e-mails from his e-mail
21 account.

22 **MS. IRELAND:** May I approach, Your Honor?

23 **THE COURT:** Yes.

24 **BY MS. IRELAND:**

25 Q. Agent Hinton, I am handing you a two-page document.

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1 Do you recognize that?

2 A. I do.

3 Q. What is it?

4 A. It is a Consent to Search form in Spanish that was
5 signed by Mr. Ramos.

6 Q. Now you said it is in Spanish.

7 A. Correct.

8 Q. Why did you take a Spanish form with you?

9 A. We wanted to make sure that there was no confusion
10 in sort of the written communication. We felt
11 comfortable communicating verbally with Mr. Ramos; but in
12 the event that there was some issues with reading the
13 written document, we provided this in Spanish just in
14 case.

15 Q. Okay. Were you there when he signed it?

16 A. I was.

17 Q. You watched him do that?

18 A. That's correct.

19 Q. The same person that you identified here today.

20 A. That's correct.

21 Q. And who else had signed that document?

22 A. The other agent, other interviewing agent, which is
23 Special Agent Leon Nikas.

24 Q. Were you present when Agent Nikas also signed?

25 A. I was.

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1 Q. This document, if you could reiterate the date,
2 please.

3 A. Sure. Looks likes March 9th, 2017.

4 **MS. IRELAND:** Offer this as the next numbered
5 exhibit and request to publish, Your Honor.

6 **THE COURT:** Any objection?

7 **MR. GARRETT:** No, Your Honor.

8 **MR. PERRY:** None, Your Honor.

9 **THE COURT:** Exhibit 2.

10 (Said item was marked as Exhibit 2).

11 **BY MS. IRELAND:**

12 Q. Agent Hinton, there are several places where there
13 are the initials "L.R." Why are there numerous
14 indications of those initials?

15 A. So, the reason that those initials are there are to
16 sort of confirm that Mr. Ramos has an understanding of
17 what we're specifically obtaining in the consensual
18 search because it is optional.

19 Q. And what information were you seeking from that
20 e-mail account?

21 A. So, we were looking for information and
22 communication associated with a person that he described
23 to be Tammy and some, I guess, maybe facts surrounding
24 what led to those money transfers, et cetera.

25 Q. Can you read for the record, please, the name of

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1 the account that Mr. Alonso gave you permission to look
2 at?

3 A. Sure. So it looks like alonsoelvis32@gmail.com.

4 Q. And there are several e-mails associated with
5 Tammy; is that correct?

6 A. Yes.

7 Q. Tammy Dolan?

8 A. Yeah.

9 Q. And on the final page, whose signature is here on
10 this line?

11 A. Mr. Ramos.

12 Q. And did you also sign this document?

13 A. Correct, I did.

14 Q. And is your signature the one on the bottom?

15 A. It is.

16 Q. So you had permission to look at Mr. Ramos Alonso's
17 e-mail account. How did you accomplish that?

18 A. Through -- you mean how did we --

19 Q. How did you get the information? How did you look
20 at it?

21 A. He provided it to us.

22 Q. In what format?

23 A. So we were able to, I guess, dump -- I guess I
24 shouldn't use that word -- to download the data from his
25 phone to the -- or rather from one our computers, use

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1 Google Takeout is a tool used to take data from a Google
2 account and save it to our Bureau machine.

3 Q. And the word that you used, "dump," what does that
4 generally in your experience mean?

5 A. Basically to download data or obtain data.

6 Q. What did you do with the date that was obtained
7 from the phone?

8 A. We placed it on a form of digital media and
9 provided that to the Memphis division in response, in
10 conjunction with our documentation about the interview.

11 **MS. IRELAND:** May I approach the witness, Your
12 Honor?

13 **THE COURT:** Yes.

14 **BY MS. IRELAND:**

15 Q. Agent Hinton, I'm going to show you another item.
16 Can you tell me what it is?

17 A. This is the information that we provided to Memphis
18 division in response to the lead.

19 Q. Okay. And that's what was obtained from the phone
20 that was in Mr. Ramos Alonso's position that he gave you
21 permission to look at.

22 A. Correct.

23 Q. Okay. How do you know that this is contents of
24 that phone?

25 A. I was actually able to review it. He confirmed the

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1 content of it.

2 Q. Was it familiar to you?

3 A. It was, yes.

4 Q. Are those your initials and the date of the review
5 on that CD?

6 A. They are, and it is.

7 MS. IRELAND: We would offer this as the next
8 numbered exhibit.

9 THE COURT: Any objection?

10 MR. PERRY: Yes, Your Honor.

11 May we approach.

12 THE COURT: Yes.

13 (The following occurred at the bench:)

14 MR. PERRY: They can't put the document up --

15 THE COURT: Hang on. Mr. Garrett, you need to
16 come forward. Thank you.

17 MR. PERRY: This is -- from my understanding,
18 there's no e-mail related to Mr. Abegunde on this. If
19 it's published to the jury as such without being
20 redacted, it will give a misconception possibility; and
21 based on that, I would like for it to be at least
22 redacted prior to or his name redacted from that e-mail.
23 It can be marked however the Government wants for the
24 contents, but it has nothing to do with Mr. Abegunde.

25 MS. IRELAND: It is the style of the case,

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1 Your Honor; and it is part of the case. It's also a
2 conspiracy.

3 **MR. PERRY:** Right. But when they're given
4 that e-mail back there for consideration, when they're
5 doing whatever they're doing and discussing, I don't want
6 his name related to this e-mail that came from his
7 client. I don't know nothing about that dude over there;
8 and I don't want the jury to have that impression,
9 because it seems like this is some e-mail that has
10 something to do with Mr. Abegunde.

11 And, I mean, if it's -- if it's the genuine
12 purpose of the Government to do it properly, then just
13 redact his name from it and then allow it for the
14 contents of what it has to do but that name at the top on
15 this has nothing to do with him. His man might -- I
16 don't want anybody to get convicted but I don't want my
17 guy getting convicted off something that he has nothing
18 to do with.

19 I don't think Mr. Ramos' name is even on
20 there, if I'm not mistaken. I see it at the bottom; but,
21 you know, I just think it needs to be redacted.

22 **THE COURT:** I got your point.

23 Ms. Ireland.

24 **MS. IRELAND:** Again, it's the style of the
25 case. This is also a conspiracy. These two individuals

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1 are indicted for conspiring with others, other members of
2 the group, to engage in the conduct that's alleged. I
3 don't see that there's any issue with it being labeled
4 and the style of the case. If Your Honor wishes us to
5 write Mr. Ramos' e-mail on it, that's fine. I don't have
6 any problem with that.

7 **THE COURT:** What's -- hang on. What's odd is,
8 I mean, the style of the case would be Abegunde and Ramos
9 and maybe the docket number.

10 **MS. IRELAND:** Oh, I see what you're saying.

11 **THE COURT:** It doesn't have the full --

12 **MS. IRELAND:** No, I would not object to that,
13 no. Both names should be on it. That's an improper
14 style, I think.

15 **THE COURT:** If you're going to -- if you're
16 saying the reason for it on there is because that's the
17 style of the case, then let's put the full style of the
18 case and the docket number.

19 If they do that, Mr. Perry, I'm fine with
20 that.

21 **MR. PERRY:** Your Honor, before we do that, if
22 that's going to be the ruling of the Court, all evidence
23 that comes in should have the style of the case fully on
24 it, because that distinguishes. It's a different piece
25 of evidence that has nothing to do with it.

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1 **THE COURT:** Mr. Perry, I agree. So, I mean, I
2 don't know that literally every piece of evidence,
3 because some documents, you know, if it's a document,
4 that doesn't make sense. If it's something like that
5 that's created by the Government, you're right. Every
6 one of them should have the full style of the case.
7 Frankly, that's good for the record and good for moving
8 forward in terms of keeping up with the pieces of
9 evidence.

10 **MS. IRELAND:** In this particular case, Your
11 Honor, as Agent Henson has reviewed it, identified it,
12 said that it is authentic, in this particular case will
13 Your Honor accept blacking this out?

14 **THE COURT:** Sure.

15 **MS. IRELAND:** On this document.

16 **THE COURT:** Sure. I'm sure Mr. Perry would
17 prefer that.

18 **MR. PERRY:** Yes.

19 **MS. IRELAND:** Okay. Happy to do that.

20 (The following occurred in open court:)

21 **BY MS. IRELAND:**

22 Q. Now, Agent Hinton, you said that Mr. Ramos --

23 **THE COURT:** Hang on. Hang on. We were
24 marking that as Exhibit 3.

25 Any other objections?

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1 **MR. PERRY:** No, Your Honor.

2 **THE COURT:** Okay. Exhibit 3.

3 (Said item was marked as Exhibit 3).

4 **BY MS. IRELAND:**

5 Q. Agent Hinton, you mentioned that Mr. Ramos Alonso
6 told you that he was involved in a relationship with
7 Tammy Dolan; is that correct?

8 A. That's correct.

9 Q. Did he show you any pictures?

10 A. Yes, he did.

11 **MS. IRELAND:** May I approach?

12 **THE COURT:** Yes.

13 **BY MS. IRELAND:**

14 Q. Showing you a single-page document, do you
15 recognize that?

16 A. I do.

17 Q. What is it?

18 A. It's the image that Mr. Ramos showed us of Tammy.

19 **MS. IRELAND:** We would offer this as the next
20 numbered exhibit.

21 **THE COURT:** Any objection?

22 **MR. PERRY:** No objection, Your Honor.

23 (Said item was marked as Exhibit 4).

24 **THE COURT:** Ms. Ireland, I'm not sure if your
25 mic is back on.

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1 **MS. IRELAND:** Thank you, Your Honor. It is
2 now.

3 **THE COURT:** Thank you.

4 **MS. IRELAND:** Permission to publish.

5 **THE COURT:** Yes.

6 **BY MS. IRELAND:**

7 Q. And for the record, Agent Hinton, could you
8 describe what this is?

9 A. It appears to be what's supposed to be a passport
10 image of the individual believed to be Tammy, by
11 Mr. Ramos under my understanding.

12 Q. And you used the words "supposed to be." Is there
13 anything about this image that stands out to you?

14 A. Yes, it appears to be Photoshopped.

15 Q. And why do you say that?

16 A. If you look at the --

17 Q. And you can point on the screen. It will light up.

18 **THE COURT:** We hope.

19 **THE WITNESS:** So, looking at the image and
20 then also if you look at -- oh, wow. Okay. If you look
21 at the I guess the way that things are written in the
22 document, it seems like the, for example, Australian and
23 the date are much clearer than the other portion of the
24 passport. Generally to me that associates something with
25 being some sort of photoshop.

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1 **BY MS. IRELAND:**

2 Q. Have you seen passport photos?

3 A. I have.

4 Q. From a variety of countries?

5 A. Yes.

6 Q. Are they generally in color or in black and white
7 in your experience?

8 A. In my experience, black and white.

9 Q. Did you discuss with Mr. Ramos the nature of that
10 image?

11 A. I did.

12 Q. What did you tell him?

13 A. The case -- the other agent and myself, Agent
14 Nikas, explained to him that it appeared be a very fake
15 passport.

16 Q. How did he respond?

17 A. He seemed shocked by that, bothered by it.

18 **MS. IRELAND:** Agent Hinton, I don't have any
19 further questions at this time.

20 We will pass the witness.

21 **THE COURT:** Thank you, Ms. Ireland.

22 Mr. Perry, any questions?

23 **MR. PERRY:** No, Your Honor.

24 **THE COURT:** Thank you, Mr. Perry.

25 Mr. Garrett, any questions?

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1 **MR. GARRETT:** Yes, Your Honor.

2 CROSS-EXAMINATION

3 **BY MR. GARRETT:**

4 Q. Morning, Mr. Hinton.

5 A. Good morning.

6 How are you?

7 Q. I'm Coleman Garrett, and I represent Mr. Ramos
8 Alonso in this matter.

9 You were one of the agents that interviewed
10 Mr. Ramos Alonso back on March 14th, 2017; is that
11 correct?

12 A. That's correct, sir.

13 Q. Where did this interview take place, sir?

14 A. At his residence initially.

15 Q. Would you again kind of describe for the jury what
16 his residence appeared, how it appeared to you?

17 A. Of course. I'd best describe it as sort of humble
18 living. I remember there being a bicycle inside, if I
19 remember correctly. There was a pad in the bedroom; and
20 it was very quaint, you know, a very small space. Even a
21 living area was pretty close to the kitchen, so small.

22 Q. Do you know if any other individuals lived there or
23 anyone else lived at that apartment other than Mr. Ramos
24 Alonso?

25 A. If I recall correctly, his brother lived there; but

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1 I can't say that a hundred percent. I am not entirely
2 sure.

3 Q. You're not sure.

4 You say there was a pad. What do you mean when you
5 said there was a pad?

6 A. In the absence of a mattress and box spring and
7 bed, there was just let's say, like, blankets and space
8 for someone the lay.

9 Q. Were there any beds in the apartment at all?

10 A. I did not see any beds in the apartment.

11 Q. Any other furnishings in the apartment?

12 A. There was a -- I believe there was a smaller
13 couch-sized chair. It wasn't a plush; but if I remember
14 correctly, it was something like a bench.

15 Q. I see.

16 And when you spoke with Mr. Ramos Alonso, did you
17 ask him if he was employed?

18 A. Yes.

19 Q. What did he tell you?

20 A. He let us know that he was employed at the Crystal
21 Fish.

22 Q. Is that a Japanese restaurant?

23 A. It is.

24 Q. And did he tell you that he started at the Japanese
25 restaurant as a cook and that he -- I'm sorry -- started

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1 as a dishwasher that he also was a cook?

2 A. He did.

3 Q. Did he tell you how long he had been living there?

4 A. He may have.

5 Q. I'm sorry. How long he had been working there?

6 A. He may have, but I don't recall that amount of
7 time.

8 Q. You don't recall.

9 You made the statement early on in your direct
10 examination that he admitted his involvement. He didn't
11 use that terminology, did he? He didn't say, "I was
12 involved," did he?

13 A. I don't know if I can speak to exactly what he said
14 in 2017. He did, based on what he said, he conveyed to
15 me that he was aware of what I was speaking of and that
16 he, I would say, had something to do with it.

17 Q. He had something to do with it.

18 Was he reluctant to talk to you? What was his
19 demeanor?

20 A. He was reluctant to talk to us.

21 Q. Did he know why you were there?

22 A. He knew that we were there for a voluntary
23 interview. He wasn't sure specifically why until we sat
24 down and spoke with him.

25 Q. Had you had any contact or communication with him

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1 prior to your appearance at his apartment on that
2 particular day?

3 A. We had not.

4 Q. And so just for the first time out of the blue two
5 FBI agents shows up at his apartment; is that correct?

6 A. We had not had contact with him prior to that day.

7 Q. No discussion about this matter beforehand, right?

8 A. That's correct.

9 Q. So he wouldn't have known that you were coming.

10 A. Not to our knowledge.

11 Q. Wouldn't have known -- wouldn't have had any way of
12 knowing what the subject of your inquiry was to be; is
13 that correct.

14 A. Not to our knowledge.

15 Q. To your knowledge.

16 You indicated, when you look at the picture of what
17 purports to be a passport picture of someone named Tammy,
18 you indicated to Mr. Ramos Alonso that that was a fake?

19 A. We did.

20 Q. Seemed to be surprised?

21 A. He did.

22 Q. He thought Tammy was real, didn't he?

23 A. He expressed to us that he believed she was real,
24 yes.

25 Q. You told him that Tammy herself was a fake, didn't

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1 you?

2 A. Correct.

3 Q. Told him that he had been scammed, didn't you?

4 A. We did.

5 Q. Told him that she had taken advantage of him, that
6 he had fallen prey to an online romance scam. Didn't you
7 tell him that?

8 A. We told him that we believed the person responsible
9 for building the Tammy persona was associated with
10 criminal activity. We did say that.

11 Q. Mr. Ramos Alonso never indicated to you that he
12 thought that he had done anything wrong, did he?

13 A. No, he didn't offer us a clear indication that he
14 was aware of the activity that was being carried out or,
15 I should say, that he was aware that it was presumably
16 criminal activity.

17 Q. Did he have a computer in his apartment?

18 A. Not that I recall.

19 Q. Did he have Internet service in his apartment?

20 A. I'm not sure if he had Internet service.

21 Q. He indicated to you that he had communicated with
22 Tammy by cell phone; is that right?

23 A. That's correct.

24 Q. E-mails, right?

25 A. That's correct.

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1 Q. Never had a direct conversation, voice conversation
2 with Tammy; is that right?

3 A. So he had direct conversation via e-mail and text
4 message but never over the phone.

5 Q. Never over the phone.

6 He gave you at some point 929 e-mails between he
7 and Tammy, did he not?

8 A. Approximately.

9 Q. And after you told him that Tammy was fake and that
10 he had been the victim of a scam, was he more cooperative
11 with you?

12 A. I would say so. I will say he was cooperative
13 through the interaction.

14 Q. He signed a consent to search and provided all
15 these e-mail communications between he and Tammy; is that
16 correct?

17 A. That's correct.

18 Q. Gave you a copy of the passport pictures to who he
19 thought was Tammy; is that right?

20 A. I want to say we had the passport picture prior to.
21 So we approached with the passport picture.

22 Q. He didn't give you that?

23 A. I can't say for sure to be honest.

24 Q. I see.

25 A. Yeah.

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1 Q. Mr. Hinton, who is Tammy Dolan?

2 A. Who is Tammy Dolan?

3 Q. Yes, sir.

4 A. I'm not aware.

5 Q. Did you make any effort to find out?

6 A. No.

7 Q. You didn't try the find out who Tammy Dolan was?

8 A. No. The nature of the leak that came in from the
9 Memphis division was to interview Mr. Ramos, and we
10 completed that.

11 Q. Do you know if anyone with the FBI tried to find
12 out who Tammy Dolan was?

13 A. I can't say what anyone in the FBI did.

14 Q. Didn't discuss with it anyone as to the identity,
15 true identity, of Tammy Dolan?

16 A. I'm sorry?

17 Q. Didn't discuss with any agents, anyone with the FBI
18 as to who Tammy Dolan was?

19 A. Are you asking if I discussed it with anyone?

20 Q. Yes, sir.

21 A. So I may have speculated with the other
22 interviewing agent.

23 Q. As far as you know, did Tammy Dolan even exist?

24 A. I don't think I have an answer to that question.

25 Q. Do you know whether Tammy Dolan existed or not?

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1 A. I don't know.

2 Q. Don't know.

3 You are clear though that Mr. Ramos Alonso thought
4 Tammy Dolan existed.

5 A. Yes.

6 Q. Aren't you?

7 Did he tell you that he was in love with her?

8 A. He did.

9 Q. Gave you the e-mail. Did you read the e-mails, the
10 900-plus e-mails that he provided? Did you look at
11 those?

12 A. I completed a cursory review. So, I'd say skimmed
13 it at best. I was the sort of half of the interviewing
14 team.

15 Q. Did Mr. Ramos Alonso tell you that Tammy Dolan was
16 from Massachusetts?

17 A. That sounds familiar.

18 Q. Did he tell you that he met Ms. Dolan on an
19 online --

20 A. Yes.

21 Q. -- romantic dating site?

22 A. Yes.

23 Q. Did he tell you that Tammy Dolan told him that --

24 **MS. IRELAND:** I'm going to object to that as
25 double hearsay.

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1 **MR. GARRETT:** I'm sorry.

2 **MS. IRELAND:** A statement, offering a
3 statement of someone who's not a party opponent and
4 double hearsay.

5 **THE COURT:** Mr. Garrett.

6 **MR. GARRETT:** If Your Honor, please we had
7 testimony regarding what information was provided to this
8 agent by Mr. Ramos regarding Tammy Dolan. I'm following
9 up on information that he was given in terms of what his
10 state of mind was and what his knowledge was of this
11 Tammy Dolan person.

12 **THE COURT:** Ms. Ireland.

13 **MS. IRELAND:** If he wants to ask the agent if
14 he took any action based on statements of Mr. Ramos, he
15 can certainly do that.

16 **THE COURT:** Let me see you at sidebar.

17 (The following occurred at the bench:)

18 **THE COURT:** What's the statement that he
19 supposedly made, that Tammy told him?

20 **MR. GARRETT:** If Your Honor please, the
21 agent's entire testimony is based upon statements that he
22 claims that Mr. Ramos Alonso told him. That's been the
23 extent of his testimony.

24 **THE COURT:** Right.

25 **MR. GARRETT:** All of it has been hearsay based

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1 upon his direct testimony, because he has no -- he came
2 to testify about what Mr. Ramos told him.

3 **THE COURT:** Well, I think in terms of the
4 double hearsay, I'm assuming that the implication is that
5 Mr. Alonso told the agent what Tammy allegedly told him
6 that caused him to act in some way. So then that's what
7 I was trying to get at. What specifically were you
8 trying to get at? The question was about to be: Did
9 Mr. Ramos tell you that Tammy Dolan told him something;
10 and whatever that something is that you were about to ask
11 about, what was that specifically?

12 **MS. IRELAND:** Your Honor, we allowed some of
13 the questioning to go. The Government can offer a
14 statement of the party opponent, but the defendant can't
15 offer his own statement. They're hearsay and we did not
16 object initially, but it appears that he's trying to
17 testify through the agent.

18 **MR. PERRY:** I'll chime in. None of it has to
19 do with his client, but I know down the road that's
20 absolutely not true. If the Government offers the
21 statement of my client, I can question regarding the
22 statements that were allegedly given by that party
23 opponent. That's just classic. They're waiving that
24 objection. They're not presenting it for the purpose
25 that -- well, I'm assuming they're presenting it as the

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1 exception to the hearsay Rule. To say that I can't go
2 into the exception of the Hearsay Rule, it does not
3 prohibit me from going into their inquiry regarding what
4 my client said.

5 **THE COURT:** I think the point -- and they put
6 this in the trial brief ahead of time -- was that if they
7 ask about certain statements that were made, you can't
8 then go into some totally unrelated statements. There
9 can be some leeway for completion of statements, but you
10 can't go into unrelated statements.

11 Is that your point?

12 **MS. IRELAND:** That's correct, Your Honor.

13 **THE COURT:** Because that's not permitted.

14 These, though, I mean the statements that
15 Mr. Garrett is going into, you asked, obviously, lots of
16 questions about what Mr. Ramos told this agent about
17 Tammy Dolan.

18 **MS. IRELAND:** About the nature of her, yes.

19 **THE COURT:** So I think Mr. Garrett's questions
20 have been related to what Mr. Ramos told him about Tammy
21 Dolan. So I don't think he's gone beyond anything that
22 you went into, frankly; and if that's your point, you can
23 cross-examine about what they asked him about already.

24 **MR. PERRY:** I just didn't want to waive it
25 down the road.

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1 **THE COURT:** All right. Are we good,
2 Mr. Garrett?

3 **MR. GARRETT:** Yes, ma'am.

4 **THE COURT:** Thank you.

5 **THE CLERK:** The jury asked for a restroom
6 break.

7 **THE COURT:** How much more do you have,
8 Mr. Garrett?

9 **MR. GARRETT:** Judge, I need a break, too, at
10 this point.

11 **THE COURT:** All right. Let's go head and take
12 a break.

13 (The following occurred in open court:)

14 **THE COURT:** We're going to -- I didn't find my
15 good timing for a good break. So I'm going to make it
16 now. We're going to take a break. It's right at 11:00
17 o'clock. So let's take a 15-minute break.

18 Agent, we're in the middle of your testimony.
19 So don't talk to anyone about your testimony during the
20 break.

21 Ladies and gentlemen, don't talk to anyone
22 about the case including each other. Don't talk to the
23 people involved in the case at all. Keep the juror badge
24 on, and enjoy your break. Thank you.

25 (The following occurred outside the presence

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1 of the jury:)

2 **THE COURT:** Anything before we break, counsel?

3 **MS. IRELAND:** No, Your Honor.

4 **MR. PERRY:** No, Your Honor.

5 **THE COURT:** Fifteen minutes.

6 **THE CLERK:** All rise. This Court's now in
7 recess.

8 (Recess.)

9 (The following occurred outside the presence
10 of the jury:)

11 **THE COURT:** So just in thinking, while the
12 jury is still out, about the issues of what defense
13 counsel can go into in crossing, so the Government is
14 entitled to elicit statements of a party opponent. It's
15 actually not an exception to hearsay. It's not
16 considered hearsay. When defense elicits the statement
17 of their own client, that is hearsay. I assess just sort
18 of in general what Mr. Garret's elicited thus far,
19 frankly, repeats mainly what the Government elicited on
20 direct.

21 To the extent, Mr. Garrett, you're going to go
22 more into what Mr. Alonso told them about Tammy Dolan, I
23 think that is part of the sort of completion. I'm not
24 sure there's anything different. It seems to me, as I
25 said, a lot of repeat. I guess the Government could

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1 argue they're still not supposed to elicit it in their
2 case.

3 **MS. IRELAND:** As I understood the question, it
4 was: Did Mr. Ramos tell you what Tammy told him? And
5 that is the problem. What did you do as a result of your
6 conversations with Tammy? Did he discuss in general?
7 It's quote -- like it's an effort to quote Tammy,
8 directing him. It just seemed too far removed, Your
9 Honor; and that was our objection.

10 **THE COURT:** I guess, you know, since I don't
11 know what the answer is, you-all have the 302 or
12 whatever. I don't know what the answer is. So I don't
13 know if the answer would be beyond what really was
14 already elicited or not. That was part of my job.

15 I certainly do think the cleaner way is
16 certainly Mr. Garret's entitled to elicit a statement
17 from someone else that was elicited just to show actions
18 that were taken.

19 So anyone have anything else on that issue?
20 Because I do think -- I'm assuming it's going to come up
21 again. So I kind of want to talk it through and make
22 sure we are sort of heading in the right direction.

23 Anything from anyone else?

24 **MR. GARRETT:** No, Judge.

25 **MR. PERRY:** Nothing.

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1 **THE COURT:** All right. Let's bring the jury
2 back.

3 (The following occurred in the presence of the
4 jury:)

5 **THE COURT:** You all may seated.
6 Yes, Mr. Garrett.

7 **MR. GARRETT:** Thank you, Your Honor.

8 **BY MR. GARRETT:**

9 Q. Mr. Hinton, just a few more questions, please.

10 A. Sure.

11 Q. Mr. Alonso informed you that this romantic exchange
12 of e-mails had occurred over a three-year period; is that
13 correct?

14 A. Correct.

15 Q. And that during -- shortly after they started
16 communicating through these e-mails, that Tammy started
17 asking him for assistance?

18 A. Correct.

19 Q. And he sent her money on numerous occasions?

20 A. That's correct.

21 Q. And the more he sent, the more she wanted; is that
22 correct?

23 A. That's correct.

24 Q. And he complied. He sent her money on numerous
25 occasions; is that correct?

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1 A. Also correct.

2 Q. And she had told him that -- it was his
3 understanding that she needed assistance getting a large
4 inheritance of hers back to the United States; is that
5 right?

6 A. That's correct.

7 Q. He was trying to help her.

8 A. Correct.

9 Q. She had inherited this large sum of money from her
10 father?

11 A. I don't know if she inherited a large sum of money
12 from her father. Are you asking if that's what he told
13 us?

14 Q. Yes.

15 A. That's correct.

16 Q. And you told Mr. Alonso during that interview that
17 Tammy had lied to him, did you not?

18 A. Correct.

19 Q. Told him that she was using him to send and receive
20 stolen funds, didn't you?

21 A. Correct.

22 Q. And after you told him that, he agreed to provide
23 all the communications that he had between he and Tammy,
24 did he not?

25 A. Correct.

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1 Q. And near the end of this interview, you admonished
2 him that he should no longer accept wire transfers,
3 deposit or transfer moneys from anyone else; is that
4 correct?

5 A. Correct.

6 Q. Or he may be subject to criminal prosecution.
7 Didn't you tell him that?

8 A. Correct.

9 Q. To your knowledge he never engaged in that activity
10 again, did he not?

11 A. We didn't follow up or conduct a subsequent
12 investigation. So there's no --

13 Q. To your knowledge he never engaged in any
14 further --

15 A. Correct.

16 Q. At the time that you interviewed Mr. Ramos Alonso,
17 the bank accounts that you made reference to, he told you
18 that all of his accounts had already been closed, didn't
19 he?

20 A. He let us know, correct.

21 Q. And he agreed to contact the FBI in the future if
22 he had any further communications with Tammy or if he
23 could provide any further assistance, did he not?

24 A. He let us know that he was available, if there was
25 a need for us to follow up with him, correct.

REDIRECT - SPECIAL AGENT MICHAEL HINTON

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1 Q. So after your initial contact with Mr. Alonso and
2 he became aware of what your inquiry was all about and
3 that Tammy had tricked him, so to speak, he was
4 cooperative and provided all the information that he had
5 at his disposal, did he not?

6 A. He did provide us the requested information.

7 **MR. GARRETT:** Thank you.

8 **THE COURT:** Thank you, Mr. Garrett.

9 Any redirect?

10 **MS. IRELAND:** Briefly.

11 **REDIRECT EXAMINATION**

12 **BY MS. IRELAND:**

13 Q. Agent Hinton, I just wanted to clarify regarding
14 the passport. The image that has been entered into
15 evidence as Exhibit Number 3 -- as Exhibit Number 4, do
16 you remember whether that was shown to you at the first
17 visit with Mr. Ramos or the second visit? If you don't
18 remember, that's fine. I just wanted --

19 A. I don't remember.

20 Q. Could it have been at the first or the second?

21 A. Absolutely.

22 Q. Okay. In your experience, passport pictures are
23 generally colored or black and white?

24 A. Color.

25 Q. And, finally, Mr. Ramos told you that he sent money

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1 to Tammy; is that correct?

2 A. Correct.

3 Q. Did he appear to have any money?

4 A. Based on his living, I would say he didn't appear
5 to have a great deal of it.

6 **MS. IRELAND:** Thank you.

7 Nothing further.

8 **THE COURT:** Thank you.

9 Thank you, Agent. you may be excused.

10 **THE WITNESS:** Thank you.

11 (Witness excused.)

12 **MR. PERRY:** Before you excuse him, may we
13 approach?

14 **THE COURT:** Yeah.

15 (The following occurred at the bench:)

16 **MR. PERRY:** He was asked a final question
17 regarding passport photos. During his direct testimony
18 he testified that usually it's black and white, you know,
19 the other line of questioning I didn't have anything to
20 do with. On this answer just now he had indicated that
21 it was colored. Based on that I might have some
22 questions, I mean, because I marked it for a reason and
23 there's a point to it that's a greater point but his
24 answer directly contradicted the first --

25 **THE COURT:** Yes.

1 **MR. PERRY:** -- answer.

2 **MS. IRELAND:** I think he misspoke which is to
3 clarify.

4 **THE COURT:** Well, you completed your
5 questioning. I don't generally, you know, allow recross;
6 but it was a very different answer. So if you want to
7 recross on that point only, I'll let you recross. Is
8 that your request?

9 **MR. PERRY:** Yes, if I may.

10 **THE COURT:** Okay.

11 **MR. FLOWERS:** My understanding is that the
12 entire reason for the redirect question was to clarify
13 the mistake.

14 **THE COURT:** But it didn't. There wasn't a
15 complete clarification. There was just a direct
16 contradiction.

17 **MR. FLOWERS:** I see.

18 **THE COURT:** Okay.

19 **MR. PERRY:** Tell you what. Since he asked the
20 question, I'll leave it as it stands. If Mr. Garrett has
21 a question or two regarding it --

22 **MR. GARRETT:** I do not.

23 **THE COURT:** All right.

24 **MS. IRELAND:** May we reopen for clarification
25 since that seems to be the issue?

1 **THE COURT:** But --

2 **MR. PERRY:** That's inappropriate.

3 **THE COURT:** I don't think it's proper.
4 They're laying it because they're thinking about it to
5 try and pursue questions. I don't think that's
6 appropriate.

7 **MS. IRELAND:** Okay.

8 (The following occurred in open court:)

9 **THE COURT:** Agent, you may indeed be excused.
10 Thank you.
11 Next witness.

12 **MR. FLOWERS:** The United States calls Brian
13 Ancona.

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DIRECT - BRIAN ANCONA

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1 ***BRIAN ANCONA,***

2 having been first duly sworn, took the witness stand and
3 testified as follows:

4 DIRECT EXAMINATION

5 **BY MR. FLOWERS:**

6 Q. Good morning, sir.

7 A. Good morning.

8 Q. How are you doing today?

9 A. Very good. Thank you.

10 Q. Can you please state your name and spell it for the
11 record?

12 A. Brian, B-R-I-A-N; Ancona, A-N-C-O-N-A.

13 Q. How are you employed, sir?

14 A. I'm employed by Wells Fargo.

15 Q. In what capacity?

16 A. I'm employed as a financial crimes consultant.

17 Q. Could you please explain to the jury what a
18 financial crimes consultant does?

19 A. What I do is, any financial crime against the bank
20 or customer, I investigate, as long as it doesn't involve
21 a Wells Fargo employee.

22 Q. And were you tasked with investigating a wire
23 transfer that occurred on or about October 3rd, 2016?

24 A. Yes.

25 Q. And did this alleged wire transfer involve a Wells

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1 Fargo customer named Luis J. Ramos Alonso?

2 A. Yes.

3 **THE COURT:** Sir, would you pull that mic down
4 so it's more pointed at your mouth? Thank you, sir.

5 **BY MR. FLOWERS:**

6 Q. And as part of your investigation, what steps would
7 you normally take when you receive information like that?

8 A. Begin with evaluating or examining or reviewing the
9 customer's account to see exactly what happened.

10 Q. Did you do such a review in this instance?

11 A. Yes.

12 Q. And after your review, what did you see?

13 A. I did see that Mr. Alonso's account received the
14 wire, as indicated, with that amount and then that there
15 were withdrawals from the account.

16 Q. Is there a chart that would be helpful in giving
17 your testimony today?

18 A. Yes.

19 Q. Is this chart an accurate reflection of your
20 investigation?

21 A. Yes.

22 Q. Is it an accurate reflection of the steps you've
23 taken in your investigation?

24 A. Yes.

25 **MR. FLOWERS:** Your Honor, may I approach the

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1 witness?

2 **THE COURT:** Yes.

3 **BY MR. FLOWERS:**

4 Q. Do you recognize that chart, sir?

5 A. Yes.

6 Q. Is that the chart that's an accurate reflection of
7 your investigation and the steps that you took?

8 A. Yes.

9 **MR. FLOWERS:** Your Honor, at this time the
10 Government would ask to offer this as a demonstrative to
11 help explain Mr. Ancona's testimony. We are not offering
12 it substantively as evidence.

13 **THE COURT:** Any objection?

14 **MR. PERRY:** No objection, Your Honor.

15 **MR. GARRETT:** No, Your Honor.

16 **MR. FLOWERS:** May we publish?

17 **THE COURT:** Yes.

18 **BY MR. FLOWERS:**

19 Q. So directing your attention, Mr. Ancona, do you see
20 the chart on the screen?

21 A. Yes.

22 Q. Directing your attention to the middle of the
23 document, for the entry of October 3rd, 2016, does that
24 row accurately reflect what you saw over the course of
25 your investigation?

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1 A. Yes.

2 Q. Now, after seeing that information, did you contact
3 Mr. Ramos Alonso?

4 A. Yes, I did.

5 Q. And how did you find the contact information to
6 reach out to Mr. Ramos Alonso?

7 A. Wells Fargo customers provide a primary and
8 secondary contact phone number, and I contacted him with
9 the phone number he provided.

10 Q. Did you speak to the person who identified
11 themselves as Mr. Ramos Alonso?

12 A. Yes.

13 Q. When you spoke to him, what did he say?

14 A. Mr. Alonso stated that he had taken an online job
15 to disburse funds.

16 Q. And then directing your attention to the bottom
17 half of that page, Mr. Ancona -- and am I saying that
18 right, Mr. Ancona? Is it Ancona?

19 A. Ancona.

20 Q. Ancona. My apologies for that.

21 When you reviewed the account, what did these
22 entries on the bottom half reflect? Does it reflect what
23 you saw?

24 A. Yes.

25 Q. And could you please explain in greater detail?

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1 A. Beginning on October 4th, it is the withdrawals
2 from Mr. Alonso's account.

3 Q. And where are these financial transactions taking
4 place? In what state?

5 A. They're taking place in California.

6 Q. Are you familiar with the cities that are listed on
7 this chart?

8 A. Yes.

9 Q. What general area of California are they?

10 A. Northern California.

11 Q. Now, did Mr. Ramos Alonso also provide a list of
12 the accounts into which he conducted financial
13 transactions?

14 A. Yes.

15 Q. Did he provide the customer names as well?

16 A. I'm not 100 percent sure. I'm confident he did. I
17 can guarantee he provided the account numbers.

18 Q. The account numbers. So now directing your
19 attention to the top third of this chart, are those the
20 account numbers, the last four digits I should say, of
21 the account numbers that Mr. Ramos provided?

22 A. Yes.

23 Q. I'll direct your attention to an account ending in
24 9962. Have you located that account, sir?

25 A. Yes.

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1 Q. Who is the account customer?

2 A. Ayodeji Ojo.

3 Q. And one behind it -- and apologize for the
4 pronunciation. Please just do the best you can.

5 A. Oluwabukola Oguntoye.

6 Q. Did you reach out to the customer with the account
7 listed at 9962, Mr. Ojo?

8 A. Yes.

9 Q. What number did you reach him?

10 A. The number he provided to Wells Fargo for contact.

11 Q. Did you make contact with the person whose phone
12 number was on the account?

13 A. Yes.

14 Q. And what was told to you?

15 A. Mr. Ojo told me that the --

16 **MR. PERRY:** Objection. Mr. Ojo is not part of
17 this case, and I don't think that he can testify as to
18 what he told him regarding XYZ.

19 **MR. FLOWERS:** Fundamentally we're not going to
20 be offering this for the truth of the matter that he said
21 but the subsequent steps that were taken with the money
22 as part of this transaction. So it's going to be for
23 non-hearsay purpose.

24 **MR. PERRY:** Your Honor, the alleged purpose at
25 this point, it goes to the truth of the matter. You can

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1 say it's not for the truth of the matter asserted, one
2 way or the other. Under the hearsay Rule, if you're --
3 well, not withdrawing that objection, it's still a
4 violation of rules on confrontation in a criminal case.
5 I still have the right to cross-examine a person who he's
6 eliciting testimony from, a third party. My hearsay
7 objection still stands.

8 **THE COURT:** First, as to hearsay, if it
9 doesn't go to the truth of the matter asserted, it goes
10 to what was done next, then I'll overrule the objection.
11 As to confrontation clause, there's no indication that
12 this was a -- the type of investigatory setting that
13 would implicate the confrontation clause.

14 **MR. FLOWERS:** So, if I may proceed.

15 **BY MR. FLOWERS:**

16 Q. For the non-hearsay reason of the steps that were
17 taken, now we have to get to the basis of what was
18 actually told. What was told to you in that phone call
19 about the nature of the transaction?

20 A. The funds deposited into his account were from a
21 friend in Nigeria for the purpose of purchasing whatever
22 product was requested and then sending it back to
23 Nigeria.

24 Q. So, then as the basis, as the culmination of your
25 investigation, was it determined that the funds needed to

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1 be recalled?

2 A. I'm sorry. Please --

3 Q. As the basis of your investigation, were the funds
4 ultimately recalled by Wells Fargo from the deposits that
5 were made into that account?

6 A. Yes.

7 Q. Did you also attempt to reach the account owner in
8 ending 0759, with the last name of Oguntoye?

9 A. Yes.

10 Q. Were you able to reach that individual?

11 A. I was not able to reach him.

12 **MR. FLOWERS:** If Your Honor -- pardon me. May
13 I just have a moment, please?

14 **THE COURT:** Yes.

15 (Brief pause.)

16 **RIGHTTOP:** We have no further questions of
17 Mr. Ancona at this time.

18 **THE COURT:** Thank you, Mr. Flowers.

19 Mr. Perry, any questions?

20 **MR. PERRY:** Yes, Your Honor.

21 CROSS-EXAMINATION

22 **BY MR. PERRY:**

23 Q. Mr. Ancona?

24 A. Yes.

25 Q. You said that you were employed with Wells Fargo

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1 back in 2016?

2 A. Yes, sir.

3 Q. And are you still currently employed by Wells
4 Fargo?

5 A. Yes, sir.

6 Q. Same capacity, basically?

7 A. Yes, sir.

8 Q. And back then you said that you were -- your job
9 was like a security type of job regarding transactional
10 securities, correct? Security regarding transactions, I
11 guess, that are questionable, they come to you to
12 investigate, as long as it's not an employee of Wells
13 Fargo involved, like an embezzlement case; is that
14 correct?

15 A. The last part about the embezzlement I didn't
16 understand.

17 Q. In other words, I think earlier you said, as long
18 as it does not involve something that involves a Wells
19 Fargo employee, when you were testifying a few minutes
20 ago, you investigate it.

21 A. Yes.

22 Q. And back then you were -- you said that you had a
23 transactional or questionable transactions that were
24 going on during the month of -- well, the one that I
25 guess you were highlighted on, 8/29/2016, it says an

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1 account was opened, 9962. Do you see that account that
2 you testified regarding a few moments ago?

3 A. Yes.

4 Q. And that name is Mr. Ojo at the end of it?

5 A. Yes.

6 Q. And you said you called the person associated with
7 that account, correct?

8 A. Yes.

9 Q. Did you make notes contemporaneously with the call
10 that you placed to that person?

11 A. Yes.

12 Q. And the call that you placed to the person who you
13 talked to, what date is reflected on your notes?

14 A. On the copy notes I have, I don't have the date;
15 but it was near the time or within days of the beginning
16 of this investigation.

17 Q. I understand that. Would it possibly have been
18 during the month of October of 2016?

19 A. Yes.

20 Q. And you placed a call -- now, no way of knowing
21 whether or not the person who's on that call is the
22 person who's associated with the phone number regarding
23 that call -- not the person on the call, rather. The
24 person on that account is the same person who you called
25 and talked to during your phone call, right?

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1 A. Yes.

2 Q. And you said that, yes, that you have no way of
3 knowing.

4 A. That is correct.

5 Q. And all that you know is that's the telephone
6 number that's provided and address provided in that
7 account, right?

8 A. No.

9 Q. What else do you know?

10 A. I ask their name, if it is their name.

11 Q. And when you asked that name and, according to your
12 notes, you took the name of the person who you were
13 supposed to have been take talking to, right?

14 A. Yes.

15 Q. But there's no way to know whether or not, in fact,
16 that person is, in fact, Mr. Ojo or anyone else other
17 than the fact that that is a telephone number associated
18 with an account?

19 A. Yes.

20 Q. And you placed that call to that telephone number;
21 and you said a few moments ago, based on the contents of
22 that call, it ended up with a reversal of the deposit
23 that had been in that account, correct?

24 A. Yes.

25 Q. And from my understanding, based on that call, the

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1 person said it seems to be a mistake of some sort. Pay
2 whomever it is back, correct?

3 A. There was no mention of a mistake.

4 Q. It was -- did your -- you said you wrote specific
5 notes?

6 A. I wrote notes to the best of my ability.

7 Q. Do you have those notes with you right now?

8 A. I have a portion of my notes.

9 Q. You didn't bring all of your notes for testimony
10 today?

11 A. I did not.

12 Q. And based on your memory of something that took
13 place, a call that took place in October of 2016, is it
14 that you don't know exactly or that you're testifying
15 today that you don't recall whether or not there was
16 anything of a mistake?

17 A. I do not recall Mr. Ojo at any point in time making
18 a statement that the deposit into his account was a
19 mistake.

20 Q. All right. You do recall there was absolutely
21 nothing said about "keep the money in my account" or any
22 protest or anything like that at all, right?

23 A. Mr. Ojo did not protest when I asked if he would
24 return the funds.

25 Q. When you say "if he would return the funds," no

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1 funds at that point in time, the exact funds that you're
2 referring to. He didn't have to go down the Wells Fargo
3 or anything like that and write a check to Wells Fargo or
4 pay cash to Wells Fargo, did he?

5 A. No.

6 Q. In fact, he simply said, I'm assuming, that the
7 funds can be paid to whomever those funds belonged to,
8 right?

9 A. He authorized the reverse of the deposit into his
10 account.

11 Q. Because of your inquiry into the account, right?

12 A. Yes.

13 Q. You said that there seems to have been a problem
14 with it and there was no protest at all, right?

15 A. Correct.

16 Q. Do you know what day those funds were deposited
17 into that particular account?

18 A. Into Mr. Ojo's account.

19 Q. Into Mr. Ojo's account.

20 A. I would have to look at my notes.

21 Q. You got them in front of you?

22 A. I do. \$9,000 was deposited in Mr. Ojo's account on
23 October 6, 2016.

24 Q. That would have been well beyond August of 2016,
25 correct?

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1 A. Yes.

2 Q. At least a month would have passed at any point in
3 August, right, if September, in other words, comes after
4 August?

5 A. At least a month.

6 Q. And you're, I guess, somewhat convinced that
7 Mr. Ojo did not make a deposit himself of that amount
8 into any account, right?

9 A. I'm sorry. I don't understand your question.

10 Q. Do you know who deposited that amount into the
11 account of Mr. Ojo?

12 A. Mr. Alonso, if I'm saying his name correctly, told
13 me he conducted the deposit.

14 Q. And based on your information, based on your
15 inquiry, the money was immediately told to pay back to
16 that person for whatever purpose, right?

17 A. Within a short period of time, yes.

18 Q. Did you make a trip to the address that was
19 associated with that, with that particular account?

20 A. Ojo's account?

21 Q. Yes.

22 A. I did not.

23 Q. Did you record the phone call between yourself and
24 Mr. Ojo?

25 A. I did not.

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1 Q. And you-all do have a recording mechanisms, do you
2 not?

3 A. We.

4 Q. You-all have mechanisms that can, I guess,
5 simultaneously tell whether or not the phone call came
6 from your location or to whomever that call is coming in.
7 In other words, do you have where you can read the
8 telephone number that you're receiving or that you're
9 calling at that time?

10 A. Are you asking me if my phone has caller ID?

11 Q. Yes.

12 A. It does.

13 Q. And did it reflect or in anyway recall the
14 particular number that you did on that date? Obviously
15 you have a report of it, right?

16 A. Mr. Ojo did not call me. I called Mr. Ojo.
17 Therefore, there would not be a captured phone number.

18 Q. Did you ever call a number and leave a message or
19 anything of that sort and have to be -- and receive a
20 return call?

21 A. Yes.

22 Q. Regarding Mr. Ojo and this account?

23 A. Regarding this particular investigation, I did
24 receive callbacks from customers involved. I can't
25 exactly recall if it was Mr. Ojo who was the one who

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1 returned my call or whether he answered when I called.

2 Q. And does your notes reflect whether or not there
3 had been a return call?

4 A. Let me take a look.

5 Based on my notes, it appears that, when I called
6 Mr. Ojo, he answered the phone.

7 Q. What date was the deposit made into that account?

8 A. October 6th.

9 Q. What date was the phone call placed?

10 A. I do not have the date down that I contacted
11 Mr. Ojo.

12 Q. But you somehow remembered that it was during the
13 month of October?

14 A. Yes.

15 Q. You've been conducting these type of investigations
16 for other companies prior to working at Wells Fargo?

17 A. Wells Fargo is the only bank I've worked at.

18 Q. And you were in law enforcement for 30 years prior
19 to that?

20 A. Yes, I was.

21 Q. And you have experience in investigating, I guess,
22 bank -- on behalf of banks different transactions prior
23 working for Wells Fargo?

24 A. Prior to working for Wells Fargo, I conducted my
25 investigations for individuals who would contact me, who

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1 were victims.

2 Q. Contacted you through police or contacted you
3 individually like a private investigator?

4 A. Both ways.

5 Q. And the first bank that you had worked for though
6 was Wells Fargo.

7 A. The only bank I worked for is Wells Fargo.

8 Q. That job began back in you said what year?

9 A. 2015.

10 Q. And that would have been about a year before you
11 made this phone call, I'm assuming.

12 A. Awfully close.

13 MR. PERRY: I don't have anything further,
14 Your Honor.

15 THE COURT: Thank you, Mr. Perry.
16 Mr. Garrett?

17 MR. GARRETT: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 Q. Morning, Mr. Ancona.

20 A. Good morning, sir.

21 Q. Could you tell the jury again, Mr. Ancona, when it
22 was you contacted Mr. Ramos Alonso?

23 A. I will have to refer to my notes.

24 Q. If you would, please.

25 A. October 11.

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1 Q. Why, sir, were you contacting him?

2 A. To continue an investigation regarding an
3 unauthorized wire transfer into his account.

4 Q. An unauthorized wire transfer into his account?

5 A. Yes, sir.

6 Q. And this -- do you have the number that you called
7 to reach Mr. Alonso?

8 A. No.

9 Q. You don't know what number you called?

10 A. I don't have that number with me in these
11 documents.

12 Q. Where were you located with you placed that call?

13 A. I placed the call from my office in Fremont,
14 California.

15 Q. And you placed a call to Mr. Alonso where?

16 A. At the number he provided on his Wells Fargo
17 profile.

18 Q. Do you know what location that was?

19 A. The location that I called?

20 Q. Yes, sir.

21 A. I could only assume that it is the location where
22 he stated on his Wells Fargo documents as where he lives.

23 Q. Do you know what that location is, what that
24 address is?

25 A. I believe it was in Seaside, California.

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1 Q. What time of day did you contact him?

2 A. It would have to be somewhere between 9:00 a.m. and
3 5:00 p.m. which are my working hours.

4 Q. You don't know any more precisely than that?

5 A. I do not, sir.

6 Q. When you spoke to him, did you speak in English or
7 Spanish?

8 A. English.

9 Q. Do you speak Spanish?

10 A. No.

11 Q. Do you remember what you asked him?

12 A. I asked him why did he receive the wire into his
13 account.

14 Q. Do you know whether he knew that the money was
15 being deposited into his account before it was deposited?

16 A. Are you asking me if Mr. Alonso was aware that he
17 was going to receive those funds?

18 Q. Yes, sir.

19 A. I do not know that answer.

20 Q. Do you know who actually was responsible for making
21 that deposit?

22 A. It would be the victim company.

23 Q. Do you know whether Mr. Alonso had anything to do
24 with that deposit being made into his account?

25 A. I do not.

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1 Q. So, as far as you know, someone else could have had
2 that money deposited in his account without his
3 knowledge; is that correct?

4 A. That cannot be correct, since Mr. Alonso stated
5 that he took this job to disburse funds which were
6 deposited into his account by his employer.

7 Q. Did he tell you that he took this job to have that
8 money deposited into his account?

9 A. No.

10 Q. So you don't know whether he knew it was going to
11 be deposited or not before it was actually deposited, do
12 you?

13 A. That is correct, sir.

14 Q. I guess, like your previous testimony, this
15 conversation was not recorded.

16 A. No.

17 Q. Wasn't witnessed by anyone else.

18 A. No.

19 Q. What job did he say he took? What was his job?

20 A. He stated that he had taken an online position to
21 disburse funds.

22 Q. An online position. Did you understand what that
23 meant?

24 A. Yes. That means that he had accepted a job off the
25 Internet.

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1 Q. To do what?

2 A. Disburse funds.

3 Q. When you say a job, is this something that he was
4 receiving pay for?

5 A. He stated that his payment would be \$2,000.

6 Q. Is that in your notes?

7 A. Yes.

8 Q. Do you have your notes with you?

9 A. Yes.

10 Q. And can you tell us precisely what your notes
11 indicate in that regard?

12 A. One moment and I'll find it.

13 Q. Would you do that, please?

14 A. On 10-11, Wells Fargo External Fraud contacted
15 Alonso. Alonso took an online job to disburse funds with
16 his payment to be \$2,000. Alonso received instructions
17 to deposit cash into five Wells Fargo accounts and two
18 Bank of America accounts.

19 Q. And this was in your conversation. This was what
20 Mr. Alonso told you; is that right?

21 A. That is what was told to me during a phone
22 conversation.

23 Q. Is that the same Alonso that is seated at counsel
24 table here today?

25 A. I have no idea.

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1 **MR. GARRETT:** That's all I have, Your Honor.

2 **THE COURT:** Thank you Mr. Garrett.

3 Any redirect?

4 **MR. FLOWERS:** Very briefly, Your Honor.

5 REDIRECT EXAMINATION

6 **BY MR. FLOWERS:**

7 Q. Just a few points of clarification. Now you said
8 the genesis of this was an unauthorized wire transfer.
9 Now when you say "unauthorized," what exactly do you mean
10 by unauthorized wire transfer?

11 A. I think "unauthorized" might be the wrong words to
12 use because someone tricked this company into sending the
13 money. So the money did go out. It was authorized to go
14 out, but it was authorized through a scam.

15 Q. Now, one final question about Mr. Ramos. You
16 stated that he had employment to disburse funds. Is that
17 accurate?

18 A. Yes.

19 Q. Did he say he was in love?

20 A. No.

21 **MR. FLOWERS:** No further questions.

22 **THE COURT:** Thank you. You may step down,
23 sir. Thank you.

24 (Witness excused.)

25 **MS. IRELAND:** Your Honor, may we approach

1 regarding scheduling?

2 **THE COURT:** Hang on one minute.

3 **MS. IRELAND:** My apologies.

4 **THE COURT:** Do you have another short
5 witnesses?

6 **MS. IRELAND:** We do not, Your Honor.

7 **THE COURT:** Okay. All right. Lunch is on the
8 way up now. So that's what we were trying to find out.
9 We are ready for the lunch break. Again, don't talk to
10 anyone about the case, including each other. It's still
11 not time to talk to each other about the case. Don't
12 talk to the people involved in the case at all.

13 I have a hopefully short matter that I'm going
14 to get in over the lunch break. So let's take an hour
15 and 15 minutes. So be ready to come back in at 1:15.
16 Enjoy your lunch. Keep that juror badge on.

17 Yes, sir.

18 **A JUROR:** When they were presenting evidence
19 earlier, when they put it in, I can't remember the words
20 they were using. One of the pieces was different from
21 the other pieces. That was demonstrable or direct or
22 something.

23 **THE COURT:** A demonstrative exhibit.

24 **A JUROR:** Yes.

25 **THE COURT:** So this is something that's not

1 part of the evidence that will go back to you. It was
2 used to help the testimony, the witness, so you can see
3 something and follow along on something just while the
4 witness is testifying. Thanks for asking that question.

5 Anything else?

6 All right. Y'all enjoy your lunch.

7 (The following occurred outside the presence
8 of the jury:)

9 **THE COURT:** Do all have anything, any issues?

10 **MR. PERRY:** No, Your Honor.

11 **MR. FLOWERS:** When did we want to schedule
12 Special Agent Vance's voir dire?

13 **THE COURT:** Good question.

14 Do you anticipate him coming on this
15 afternoon?

16 **MR. FLOWERS:** Potentially this afternoon, Your
17 Honor. It depends on how long our next witness takes,
18 which will probably be a lengthy witness.

19 **THE COURT:** Well, I guess we need to do that.
20 I have something at 12:45. Why don't you all come back
21 at 1:00? Hopefully we can get that in quickly. Why
22 don't we come back at 1:00 for that? Okay. All right.
23 Anything else?

24 **MR. PERRY:** No, Your Honor.

25 **THE COURT:** Thank you.

1 **THE CLERK:** All rise.
2 This Court's now recess.
3 (Recess.)
4 (The following occurred outside the presence
5 of the jury:)
6 **THE COURT:** Agent, come on up and be sworn.

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1 ***SPECIAL AGENT MARCUS VANCE,***

2 having been first duly sworn, took the witness stand and
3 testified as follows:

4 VOIR DIRE EXAMINATION

5 **BY MR. FLOWERS:**

6 Q. Good afternoon, Agent Vance.

7 A. Good afternoon.

8 Q. Please state and spell your name for the record.

9 A. Marcus Vance; M-A-R-C-U-S; V-A-N-C-E.

10 Q. How are you employed, sir?

11 A. I'm a Special Agent with the FBI here in Memphis,
12 Tennessee.

13 Q. What are your responsibility as an FBI agent?

14 A. I work as a Special Agent on the Complex Financial
15 Crimes Squad.

16 Q. When you say complex financial crimes, what exactly
17 do you mean?

18 A. Complex financial crimes include anything that's a
19 financial crime such as wire fraud, bank fraud, money
20 laundering, healthcare fraud, things of that nature.

21 Q. Have you developed any particular specialties
22 within this field of investigating these crimes?

23 A. I'm designated on our squad as the specialist on
24 business e-mail compromise case.

25 Q. Let's back up and go over your background. So

UNREDACTED TRANSCRIPT

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1 before you were a special agent, how were you employed?

2 A. I was a financial analyst and an accountant and
3 then finally a supervisor for the Department of Defense.

4 Q. Could you take us through all those different jobs
5 with the Department of Defense, please?

6 A. Yes. So, the financial analyst and accountant
7 roles were very similar. In those roles I would look at
8 financials, typically large data sets. I would be
9 required and tasked to analyze those, summarize those for
10 my supervisors, brief them on them, look to recognize
11 trends, maybe some anomalies along the way, point those
12 out whether they were good or bad, and typically
13 basically brief that to my supervisor on what I was
14 seeing.

15 Q. So what exactly do you mean by analyze?

16 A. You'd have to go over the numbers and recognize the
17 trends. When you have a bunch of numbers and a large set
18 of data, you need to be able to properly articulate what
19 you are look at and be able to summarize that quickly for
20 upper management so they can make a decision going
21 forward.

22 Q. Have you applied that skill set from the Department
23 of Defense to your job at the FBI?

24 A. I have. It's transitioned very well, I would say,
25 because when I look at financial bank records, it's a

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1 very similar process. You're going to get a voluminous
2 amount of records. You're going to need to be able to
3 analyze it, summarize it, and also recognize those
4 trends. Although the trends may be little different than
5 it was with accounts receivable/accounts payable, it's
6 still the same mindset, recognizing trends, analyzing and
7 understanding what's important, what's not important.

8 Q. Now have you received any training through the FBI
9 on complex financial investigations?

10 A. I have receive numerous training. I went to
11 Quantico, like all agents, and was taught how to do basic
12 investigations. In furtherance of that I've received
13 extensive training in complex financial crimes,
14 specifically money laundering cases. We basically do
15 role scenarios where you're given snippets from an actual
16 case, so things you would have at your disposal like
17 interviews, bank records, communications, receipts,
18 things like that. You're taught how to -- what to look
19 for in a money laundering case, how to connect dots, and
20 how to prepare a case.

21 Q. Approximately how long ago was that?

22 A. That training would have been in the last couple of
23 years probably.

24 Q. How do you stay up to date from that?

25 A. We go to conferences typically on a yearly basis to

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1 stay up to date on the latest things as far as
2 investigations go, because typically crime evolves over
3 time. So the bureau likes to keep us updated on what's
4 the latest techniques, who we can reach out for, for
5 assistance on things. If there's new development, new
6 tools that are at our disposal, they want to make sure
7 that we have those and are using those.

8 Q. Have you presented at any conferences?

9 A. I presented at multiple conferences, yes.

10 Q. Could you please generally describe that for the
11 record?

12 A. I have been asked to speak about business e-mail
13 compromises, including complex financial crimes, to both
14 the FBI, as well as the private sector. I did that at a
15 real estate agency in Denver, Colorado.

16 Q. Can you speak a little bit more about that one,
17 please?

18 A. Yes. So in that scenario we were basically telling
19 the real estate conference both ways that they can
20 hopefully avoid this but basically giving them a larger
21 understanding of how this process works, walking them
22 through the financials, explaining to them that is not a
23 one-man or two-man operation but typically this is a
24 large network with multiple moving parts, just giving
25 them the basic background of what's actually happening

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1 behind the scenes.

2 Q. Were you also selected to brief the FBI director on
3 those topics?

4 A. I was.

5 Q. Can you speak to that?

6 A. The director came to our office for the first time
7 earlier this year. He wanted to know what was going on
8 in the Memphis AOR. So they chose four cases to be
9 presented. They basically wanted to have one from each
10 area, so JTTF, our FedEx platform.

11 Q. You're speaking in acronyms. Please specify
12 exactly what you're talking about.

13 A. JTTF would be the Joint Terrorism Task Force. The
14 FedEx platform would be we have a branch out at FedEx
15 where we help them with the mail and things like that to
16 try to avoid terrorism out there. There was a gang case
17 presented. Then finally I was selected to present my
18 case on complex financial crimes, specifically business
19 e-mail compromises.

20 Q. So let's go through briefly your education. Then
21 we will turn to some your current activities at the
22 bureau. How were you educated?

23 A. I have a finance degree from Ohio State University
24 and a Masters of Business Administration from Ashland
25 University.

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1 Q. And at your MBA, what type of coursework did you
2 have?

3 A. You take graduate level business classes such as
4 marketing, operations management, finance, accounting,
5 strategic policy, things of that nature.

6 Q. From your MBA, where did you go?

7 A. I was already working for the Department of Defense
8 and continued on for about six years before joining the
9 bureau.

10 Q. Let's talk about your current cases. You mentioned
11 that you were on the Complex Financial Crimes Squad. How
12 many large complex financial investigations do you have?

13 A. At any given time I probably have eight to ten
14 cases.

15 Q. What bears upon the complexity? What factors, if
16 any, bear upon the complexity of those?

17 A. The complexity generally is how many subjects and
18 how many victims that you have in a case. So if you have
19 multiple subjects, you're typically going to have
20 multiple victims. If you have both of those, it's going
21 to make your case complex rather quickly.

22 Q. With about your background are you able to take and
23 apply to those cases?

24 A. I basically have been in numbers or financial
25 markets my entire life. So looking -- being able to

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1 looking at the data, break it down, analyze it, look for
2 trends, saving myself time, being able to spot things,
3 things of that nature has assisted me in my
4 investigation.

5 Q. Do you routinely review financial documents as a
6 Special Agent?

7 A. Almost on a daily basis.

8 Q. Could you please speak a little bit more about
9 that?

10 A. In any financial crime, essentially one of the
11 first steps you're going to do is subpoena bank records.
12 Once you get those bank records back, they need to be
13 broken down. They need to be looked at. So I'm going to
14 be looking at those, like I said, typically on almost a
15 daily basis, if not most days of the week.

16 Q. Based on everything that you've encountered as a
17 Special Agent and prior to that, are you knowledgeable
18 about the trends one sees in complex financial crimes?

19 A. I am.

20 Q. Are you knowledgeable about the modus operandi of
21 individuals who engage in those activities?

22 A. I am.

23 Q. Are you knowledgeable of the slang jargon that is
24 used by complex financial criminals?

25 A. I am.

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1 Q. Could you speak a little bit more to those issues,
2 please?

3 A. There's a lot of terminology that's used. There's
4 a lot of different ways to do money laundering. You're
5 going to have various terms such as mules, structuring,
6 cut, chopping the money, cleaning the money, things like
7 that.

8 **MR. FLOWERS:** Your Honor, just, I mean, at
9 this time I would normally go through, like, money
10 laundering, wire fraud, and things of that nature. If I
11 was understanding Your Honor before lunch, I think you
12 were wanting to sort of condense things down as much as
13 possible.

14 **THE COURT:** I think this exercise is about
15 testing his credentials and his experience to be able to
16 testify as one with specialized knowledge.

17 What's the area of specialized knowledge?

18 **MR. FLOWERS:** Complex financial
19 investigations.

20 **THE COURT:** Complex financial investigations.
21 Any voir dire from Mr. Perry or Mr. Garrett?

22 **MR. GARRETT:** No, Your Honor.

23 **MR. PERRY:** Just briefly with me.

24 VOIR EXAMINATION

25 **BY MR. PERRY:**

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1 Q. Special Agent Vance, how long have you been with
2 the FBI?

3 A. Since 2014.

4 Q. And prior to that, you said that you graduated and
5 got a master's in business?

6 A. Yes, sir.

7 Q. And was there a particular specialty within
8 business that you got your master's in?

9 A. Executive management.

10 Q. What year did you get your master's?

11 A. I believe it was 2012.

12 Q. All right. And you got your master's in 2012.

13 Do you understand the concept called arbitrage?

14 A. Arbitrage?

15 Q. Arbitrage?

16 A. Could you clarify.

17 Q. Yes, arbitrage, A-R-B-I-T-R-A-G-E. Have you ever
18 studied the concept of arbitrage?

19 A. I'm not sure if I'm familiar with that term.

20 Q. Did you take any classes designated as arbitrage
21 while you were getting your master's? Where did you get
22 your master's degree?

23 A. Ashland University. It's a school in Ohio.

24 Q. When you were getting your master's from school in
25 Ohio, from Ashland University, did you ever study a

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1 course call arbitrage?

2 A. No, I think we took 12 courses, I believe, to get
3 our MBA. I don't believe arbitrage was one of those.

4 **MR. PERRY:** Your Honor, at this point I'll sit
5 down. Whatever the Court wants to tender him as, I'll
6 leave it up to the Court.

7 **THE COURT:** Do you haven an argument that he's
8 not qualified to testify on complex financial
9 investigations based on lack of knowledge in arbitrage?

10 **MR. PERRY:** I'm not challenging his
11 qualifications. I just had that question.

12 **THE COURT:** I just want to be sure I
13 understand.

14 **MR. PERRY:** Yes, Your Honor.

15 **THE COURT:** Anything, Mr. Garrett?

16 **MR. GARRETT:** No, Your Honor.

17 **MR. FLOWERS:** Before we proceed, Your Honor,
18 we anticipate Special Agent Vance will be the next
19 witness. I do have binders with some of the financials
20 for the parties, as well as for the Court, physical
21 exhibits. For the benefits of the parties, I have tabbed
22 them so they can follow along, in addition to what's on
23 the screen at the relevant time. I would ask permission
24 to pass those out.

25 **THE COURT:** Go ahead and pass them out. I'm

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1 assuming these are all documents they've seen before, but
2 you put them together for all of us.

3 **MR. FLOWERS:** For ease of viewing and trying
4 to expedite things and making them work.

5 I took the tabs off. The tabs are here for
6 the benefit of the parties as they flip through. I was
7 trying to help the parties as much as possible.

8 **THE COURT:** But not the Court?

9 **MR. FLOWERS:** Oh, Your Honor, I do have one
10 for you as well with tabs; but for the actual evidence, I
11 have them untabbed. I thought that in that situation,
12 the copy that goes back to the jury probably having the
13 tabs, I didn't know if the parties have an issue with
14 that.

15 **THE COURT:** My version is the copy that you
16 intend, that has exhibits.

17 **MR. FLOWERS:** That's correct.

18 **THE COURT:** I got you. Okay.

19 Are we ready to bring the jury back in? I
20 think we are.

21 Anything else before we bring the jury in?

22 **MS. IRELAND:** I don't believe so, Your Honor.

23 **THE COURT:** Agent, will you step down?

24 (Witness excused.)

25 **THE COURT:** But don't go anywhere.

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1 **MR. FLOWERS:** Your Honor, while the jury comes
2 in, can Agent Vance take a copy up as well to reference?
3 It will be on the screen as well, the relevant pages. He
4 does have a binder as well with the same documents.

5 **THE COURT:** That's fine, as long as it's the
6 similar documents.

7 (The following occurred in the presence of the
8 jury:)

9 **THE COURT:** You may be seated.
10 Mr. Flowers.

11 **MR. FLOWERS:** United States calls Special
12 Agent Marcus Vance.

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1 ***SPECIAL AGENT MARCUS VANCE,***

2 having been first duly sworn, took the witness stand and
3 testified as follows:

4 DIRECT EXAMINATION

5 **BY MR. FLOWERS:**

6 Q. Good afternoon, sir.

7 A. Good afternoon.

8 Q. Please state your name and spell it for the record.

9 A. My name is Marcus Vance; M-A-R-C-U-S, V-A-N-C-E.

10 Q. Please tell the jury where you are employed.

11 A. I'm a Special Agent with the FBI here in Memphis,
12 Tennessee.

13 Q. And what are your responsibilities at the FBI?

14 A. I'm a Special Agent on the Complex Financial Crimes
15 Squad.

16 Q. What exactly does that mean?

17 A. That means we work crimes that are financially
18 related, so wire fraud, bank fraud, money laundering,
19 real estate fraud, things of that nature.

20 Q. Now prior to the Federal Bureau of Investigation,
21 where did you work?

22 A. I worked for the Department of Defense as a
23 financial analyst and accountant and then as a
24 supervisor.

25 **THE COURT:** Mr. Flowers, I don't know if your

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1 mic is on.

2 **MR. FLOWERS:** That's correct, Your Honor. I
3 apologize. It was not.

4 **THE COURT:** Thank you.

5 **BY MR. FLOWERS:**

6 Q. Where were you educated, sir?

7 A. I have a finance degree from Ohio State University
8 and an MBA, Master's of Business Administration, from
9 Ashland University.

10 Q. So how did you first get involved in this case?

11 A. I got brought into this case when a local real
12 estate agency, Crye-Leike, reached out to the FBI after
13 they were conflicted with multiple cyber-related crimes.

14 Q. Now have you reviewed financial records in this
15 case?

16 A. I have.

17 Q. And were these financial records obtained via
18 subpoena after you received the lead from Crye-Leike?

19 A. Yes.

20 Q. Only as background, did you subpoena bank records
21 for an individual named Javier Luis Ramos Alonso?

22 A. I did.

23 Q. Special Agent Vance, you'll see I believe you have
24 a binder in front of you. It's tabbed with a tab solely
25 for the Government's benefit with "A." Do you see a

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1 series of documents behind that tab?

2 A. I do.

3 Q. What kind of documents are in the series of
4 documents?

5 A. This is the bank documents related to the Bank of
6 America account ending 7688 with the title, "Luis Javier
7 Ramos Alonso."

8 Q. Are these part of the records that you subpoenaed?

9 A. They are.

10 Q. Are they a true and accurate copy of the items that
11 were returned by Bank of America pursuant to your
12 subpoena?

13 A. They are.

14 **MR. FLOWERS:** Your Honor, at this time the
15 Government would move to admit what we have marked as
16 Exhibit A into evidence. We would note that we
17 previously noticed these under 902(11), the 902(11) which
18 comports with 803(6). Defense had an opportunity to
19 review those documents.

20 **THE COURT:** Any objection?

21 **MR. GARRETT:** No, Your Honor.

22 **MR. PERRY:** No objection, Your Honor.

23 **THE COURT:** Okay. What exhibit number are we
24 on?

25 **THE CLERK:** Five.

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1 **THE COURT:** So Exhibit 5 will be a series of
2 documents that are all part of -- from that same account
3 at Bank of America.

4 **MR. FLOWERS:** Yes, Your Honor, same account at
5 Bank of America and they have Bates numbers at the bottom
6 right-hand corner and serialized for quick reference.

7 **THE COURT:** My next question. Thank you.

8 **MR. FLOWERS:** You're very welcome.

9 May we publish the first page in that series?

10 **THE COURT:** Yes.

11 **BY MR. FLOWERS:**

12 Q. Okay. Looking at the top third of that document,
13 please, what account number do you see?

14 A. The account number ending 7688.

15 Q. And what is the name listed on that?

16 A. Luis Javier Ramos Alonso.

17 Q. Turning your attention to the bottom of that
18 document, sir, on what date was that account applied for?

19 A. March 8th, 2016.

20 Q. Does it bear a signature?

21 A. It does.

22 Q. Okay. So now directing your attention to page 1411
23 in this serialized exhibit, if you will, please let me
24 know when you see the document on the screen and are
25 ready to answer questions.

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1 A. I am ready.

2 Q. What do you see?

3 A. This is a combined statement for a checking and
4 savings account at Bank of America for Mr. Ramos's
5 checking account 7688, savings account ending 1758.

6 Q. Solely for the benefit of the jury, what exactly is
7 an account statement?

8 A. And account statement is basically a snapshot in
9 time that's going to reflect the history of an account,
10 given that specific period.

11 Q. Drawing your attention to the top left of that
12 document, who is the owner of that account?

13 A. Mr. Ramos.

14 Q. What is the address?

15 A. 918 Harcourt Avenue, Apartment 3, Seaside,
16 California.

17 Q. And now drawing your attention to the middle of
18 that document, do you see something that says, "Combined
19 Statement"?

20 A. I do.

21 Q. So what's a combined statement?

22 A. A combined statement is simply what it says. It's
23 combining multiple accounts to reflect all-in-one
24 statement. In the case there's a checking account and a
25 savings account that are related. They're reflected all

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1 in one statement.

2 Q. Do you see a line for an account bearing number
3 7688?

4 A. I do.

5 Q. What is the ending balance in that particular
6 account?

7 A. \$97,473.69.

8 Q. Now drawing your attention to the date range on
9 that statement, what is that date range?

10 A. The range is July 23rd, 2016, to August, 24th,
11 2016.

12 Q. Now does that date range hold any significance for
13 your investigation?

14 A. It does.

15 Q. How so?

16 A. The first business e-mail compromise took place
17 within that timeframe.

18 Q. So now I would like direct your attention to page
19 1413 of this serialized exhibit. Again, solely for the
20 benefit of the jury, directing your attention to the top
21 third of that document, what is this?

22 A. So now we are going to draw into the particulars of
23 the account, particularly the check account ending 7688.
24 It's going to give you a breakdown of everything that
25 happened within this month.

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1 Q. And do you see a beginning balance?

2 A. I do.

3 Q. What is the beginning balance?

4 A. The beginning balance on July 23rd, 2016, was
5 \$1,617.11.

6 Q. Do you see a line for deposits and other additions?

7 A. I do.

8 Q. What is that, sir?

9 A. \$154,371.58.

10 Q. Is that amount significant to your investigation?

11 A. It is.

12 Q. How so?

13 A. That is the exact amount of the wire on the first
14 business e-mail compromise.

15 Q. Directing your attention to the line directly
16 underneath that, do you see an entry under withdrawals
17 and other subtractions?

18 A. I do.

19 Q. And what does that say?

20 A. That there were withdrawals and other subtractions
21 of \$58,500 from this account during this timeframe.

22 Q. I would like to direct your attention to the middle
23 of the document on this page. Under "Deposits and Other
24 Additions," do you see an entry for July 25, 2016?

25 A. I do.

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1 Q. Directly in the middle of the page.

2 A. Yes.

3 Q. What is the amount on that?

4 A. \$154,371.58.

5 Q. Now there are items under "Description." Could you
6 please walk the jury through what that says?

7 A. This is a wire. It says "wire in." So it's an
8 incoming. The wire was coming into this account as
9 opposed to out of this account. It gives a date of July
10 25, 2016. It goes on, if you go to the second line, it
11 goes to the origins. That means the person that sent the
12 money. It came from Maxwell & Gold, PLLC.

13 Q. Are you familiar with an entity called Maxwell &
14 Gold over the course of your investigation?

15 A. I am.

16 Q. How so?

17 A. That was the closing attorney firm for the first
18 business e-mail compromise.

19 Q. Directing your attention to the second to last line
20 under "Description," do you see an entry under
21 "Proceeds"?

22 A. Yes.

23 Q. What does that say, sir?

24 A. Says: Proceeds for John Robert Hester for 115
25 Brook.

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1 Q. Can you put all this in laymen's terms please? You
2 used a lot of words there.

3 A. So essentially this is all the pertinent
4 information for a wire received into this account by
5 Mr. Ramos, Bank of America ending 7688. Essentially it's
6 telling you it happened on July 25th, 2016. The person
7 that sent the funds was Maxwell and Gold, PLLC. The
8 reason for the funds being sent were proceeds for John
9 Robert Hester. The amount was \$154,371.58.

10 Q. Now if we can go to the section entitled,
11 "Withdrawals and Other Subtractions," so on the same
12 page, what activity, if any, do you see?

13 A. So on this page there are three transactions that
14 took place, all on the next day, July 26th, 2016.

15 Q. And for what amounts?

16 A. The first one is a cash withdrawal of \$20,000. The
17 second one is a cash withdrawal of \$10,000. The third is
18 a internal transfer of \$9,500.

19 Q. If I can direct your attention to the next page
20 which is 1414, under, "Withdrawals and Other
21 Subtractions," continued, what information do you see?

22 A. There's two more transactions the next day, now
23 July, 27th, 2016. The first is a cash withdrawal for
24 \$9500. The second is an internal transfer for \$9500.

25 Q. For all of those withdrawals, is there a number of

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1 on the page indicative of all of those withdrawals?

2 A. That would be the total amount of \$58,500.

3 Q. Special Agent Vance, I would like to direct your
4 attention to page 1451 of the serialized exhibit. Second
5 line, what information, if any, do you see?

6 A. So just for clarity sake, this is a history of all
7 the wires that would have gone into this account. So it
8 shows four. On the second line, that was the wire that
9 we were just talking about previously. So as payment
10 type, it says it's incoming, as in the money is coming
11 into this account.

12 Q. Now directing your attention to 1453 with the
13 second line, what information does that line contain?

14 A. It gives you an originator name of Maxwell and
15 Gold, PLLC; and then it also lists an address of 51 North
16 Cooper, Memphis, Tennessee.

17 Q. Is that in the Western District of Tennessee?

18 A. It is.

19 Q. So, is this Maxwell & Gold, is this the same
20 information that relates back to the statement we saw a
21 few minutes ago?

22 A. Correct.

23 Q. If I may turn your attention to page 1455, what
24 information does this show?

25 A. So on this line, if you go to where it says,

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1 "Credit ID," this gives you who received the money. So
2 looking at the second line, Luis Javier Ramos Alonso
3 received the money.

4 Q. Is there also an address listed?

5 A. Yes, there's a corresponding address of 918
6 Harcourt Avenue, Apartment 3, Seaside, California.

7 Q. Is this information consistent with the information
8 provided by the account holder?

9 A. Correct.

10 Q. Now, I'll direct your attention to page 1457. The
11 second line, what do you see?

12 A. Under the beneficial name, it lists the name John
13 Hester, comma, R. Alonso.

14 Q. Again, whose account is this?

15 A. Mr. Ramos Alonso's account.

16 Q. Are you familiar with a John Hester over the course
17 of your investigation?

18 A. Yes. He was one of the individuals involved in
19 what was supposed to be the sending and receiving of
20 these funds.

21 Q. Now turning your attention to page 14 -- excuse
22 me -- 1459, what is this line showing?

23 A. So this is back to where we were on the other page
24 where it got cut off. This is the entire description.
25 It notes seller proceed for John Robert Hester for 115

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1 Brookhaven Drive, Oakland, Tennessee, 38060.

2 Q. So, Agent Vance, have you also received photographs
3 back with your subpoena to Bank of America?

4 A. I did.

5 Q. So turning to the next item here on the list, is
6 that one of the photographs?

7 A. It is.

8 Q. Does it bear the date?

9 A. Bears the date July 7th, 2016.

10 Q. Go to the next photograph, please. What is this?

11 A. This is another photo, same day, same location.

12 Q. And to the next one, how about this one?

13 A. So this would actually be the previous day, so the
14 day after the business e-mail compromise, July 26, 2016,
15 again, same store, same location, Seaside, California.

16 Q. So do that's photographs reflect withdrawals on
17 separate days?

18 A. They do.

19 Q. So Special Agent Vance, did you also subpoena Wells
20 Fargo records associated with Mr. Ramos?

21 A. I did.

22 Q. I would like the turn to Tab B, again marked solely
23 for the Government's benefit, Tab B in your binder which
24 contains an additional series of documents also marked at
25 the bottom right-hand corner with various page numbers.

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1 Could you please take a moment to look at those records
2 and then let me know when you're ready to answer
3 questions?

4 A. I am ready.

5 Q. Do you recognize these documents?

6 A. I do.

7 Q. And what type of documents are contained in this
8 section?

9 A. These will be all the documents we received from
10 Wells Fargo including signature card, statements, and
11 backup documentation like checks, cashier checks, wires,
12 anything of that nature.

13 Q. Are these a true and accurate copy of the records
14 that were returned by Wells Fargo?

15 A. They are.

16 **MR. FLOWERS:** Your Honor, at this time the
17 Government would move to admit these records into
18 evidence and ask to publish on the same basis as the
19 first set of records.

20 **THE COURT:** Any objection?

21 **MR. PERRY:** No objection, Your Honor.

22 **MR. GARRETT:** No objection.

23 **THE COURT:** Exhibits 6.

24 **THE CLERK:** Yes, Your Honor.

25 (Said item was marked as Exhibit 6).

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1 **MR. FLOWERS:** Your Honor, may I publish,
2 starting with the first page?

3 **THE COURT:** This is the Wells Fargo, right?

4 **MR. FLOWERS:** Yes, ma'am.

5 **BY MR. FLOWERS:**

6 Q. So we're on the top third of the document. So
7 let's start there. What is this?

8 A. This is titled, "Consumer Account Application,"
9 also known a signature card.

10 Q. In laymen's terms, what is that?

11 A. Essentially it's information that's given by the
12 customer when they apply and set up a bank account. It's
13 going to list personal information such as phone number,
14 their name, other information.

15 Q. Do you see an entry under store name?

16 A. I do.

17 Q. What does it say?

18 A. Fremont and Canyon Del Rey.

19 Q. What does that entry reflect?

20 A. That would be the location of the Wells Fargo bank
21 where the account was set up.

22 Q. Now, turning your attention to the middle of the
23 page under "New Account Information," is there an account
24 number associated with this?

25 A. There are two. There's a checking account and a

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1 savings account.

2 Q. What are the last four of those accounts, sir?

3 A. The checking is 9483. The savings is 8069.

4 Q. So directing your attention to the bottom third of
5 this page, under "Customer Name" what do you see?

6 A. Luis J. Ramos Alonso.

7 Q. Do you see an entry under "Account Relationship?"

8 A. It says sole owner.

9 Q. What does it mean to be the sole owner?

10 A. Essentially means he's the only person with access
11 to this account. It's not a joint account, or there's
12 not multiple names listed.

13 Q. Is there an address listed with this statement?

14 A. There is.

15 Q. What is that?

16 A. 918 Harcourt Avenue, Apartment 3, Seaside,
17 California.

18 Q. Have you encountered that address in other areas of
19 your investigation?

20 A. I have.

21 Q. Where?

22 A. That is the address for Mr. Ramos.

23 Q. I'd like to direct your attention to the next page
24 which is 8668. Is there a phone number associated with
25 this account?

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1 A. There is.

2 Q. What is it?

3 A. 8319155420.

4 Q. And under "Current Employer," what information, if
5 any, is contained?

6 A. It say Crystal Fish.

7 Q. Now I would like to direct your attention to 8679.
8 So what is this document?

9 A. So this is a statement for the 9483 account from
10 June 20, 2016, through July 13, 2016.

11 Q. Solely for the benefit of the jury, what do you
12 mean when you say statement? What do you mean?

13 A. This is just going to give a snapshot of what
14 occurred in this account, money coming in, money going
15 out; and it will give a history of those.

16 Q. Under "Activity Summary," do you see entries?

17 A. I do.

18 Q. What is reflected there?

19 A. It says the beginning balance on June 20 was zero.
20 There's deposits and additions of \$9,952.17. There was
21 withdrawals and subtractions of \$9,052.40, giving you an
22 ending balance on July 13th of \$899.77.

23 Q. Directing your attention to the next page, 8680,
24 you will see transaction history.

25 A. Correct.

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1 Q. And what types of information is reflected in here?

2 A. It's going to give you all the transactions that
3 took place on this account, whether it is deposits or
4 withdrawals.

5 Q. Now with all that in mind, I'll direct your
6 attention to 8690. How do you know that this is part of
7 Mr. Ramos's account?

8 A. It is the same account number, 9483. It also bears
9 his name and address.

10 Q. Is there a date range associated with this
11 particular statement?

12 A. Yes, the range for this one is September 14, 2016,
13 through October 13, 2016.

14 Q. Does that range bear any significance in your
15 investigation?

16 A. It does. That would be the timeframe of the second
17 business e-mail compromise.

18 Q. I would like to direct your attention down to the
19 bottom third of this particular. Do you see an entry
20 under "Activity Summary"?

21 A. I do.

22 Q. What information is reflected?

23 A. So these are the totals of both the beginning
24 balances, all the deposits, withdrawals, and then again
25 the ending balance.

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1 Q. What is the ending balance?

2 A. The ending balance is -- I believe that says -- I
3 can't tell if it's 16 or \$18,790.

4 Q. So then directing your attention to the deposits
5 line, approximately how much money was deposited total
6 over this time period?

7 A. Approximately \$80,000.

8 Q. Then how much was withdrawn?

9 A. Approximately \$65,000.

10 Q. Now I would like to direct your attention to the
11 next page in this exhibit. So that is for the benefit of
12 the record 8691. Now is this page connected to the page
13 we just saw?

14 A. Yes, so this is going to give the full
15 transaction history as opposed to just a summary of it.

16 Q. Do you see an entry of -- first entry for October
17 3rd in that date, in that sequence?

18 A. I do.

19 Q. What information is reflected under the description
20 there?

21 A. So this is an incoming wire. It is going to be from
22 KeyBank National. The originate was Whatcom Land Title
23 in the amount \$60,563.51.

24 Q. Now is that information consistent with what you've
25 encountered over the course of your investigation?

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1 A. Yes, it is.

2 Q. How so?

3 A. It is consistent with the information provided to
4 us about the second business e-mail compromise in this
5 case.

6 Q. I'd like to direct your attention to the second
7 entry under October 4th in this statement. You see
8 entries starting on that date?

9 A. Yes, there's a series of withdrawals made.

10 Q. Okay. And then approximately how many?

11 A. On October 4th, there are two. There are two more
12 on October 5th -- three more on October 5th.

13 Q. Now I want to direct your attention to October 13th
14 on this statement. Do you see entries starting October
15 13th?

16 A. Yes.

17 Q. What's going on there?

18 A. There are two deposits, one for \$9,000; one for
19 \$9,800.

20 Q. Now I would like to turn your attention back to
21 8650, 8650; and in your binder it would be some pages
22 before the one we are evaluating now. So I would like to
23 direct your attention to the top third of this document.
24 What is this document, by the way?

25 A. So this is a store suspense debit. This is

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1 correlated to what Mr. Ancona spoke about previously
2 where there was money recalled from Mr. Ojo's 9962
3 account. It was recalled by the bank because of fraud.
4 So they returned the money back to Mr. Ramos's account
5 from Mr. Ojo's account.

6 Q. What's the date on this particular document?

7 A. 10/13/16.

8 Q. And under "Description/Reason" what information is
9 contained?

10 A. It says: Confirmed fraud regarding wire recall.
11 Approval questions from fraud department.

12 Then it gives an internal case number.

13 Q. Now, has your investigation revealed the bank
14 account from which this \$9,000 was recalled?

15 A. Yes.

16 Q. Did you subpoena record from Wells Fargo associated
17 with that account?

18 A. I did.

19 Q. So now I would like to direct your attention to
20 financial records starting at Tab C in your binder; and,
21 again, solely for purposes of the record the marking of
22 Tab C is exclusively for the benefit of the Government at
23 this point. If you'll look through the series of
24 documents in there and let me know when you're ready to
25 answer questions.

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1 A. I am ready.

2 Q. Okay. What are these documents?

3 A. So just like the previous Wells Fargo account,
4 you're going to have a series of documents including a
5 signature card, combined statements, and then backup
6 documentation for those statements.

7 Q. Are these true and accurate copies of the items
8 that were returned from your subpoena to Wells Fargo?

9 A. They are.

10 **MR. FLOWERS:** Your Honor, at this time the
11 Government would move to admit the serialized exhibit
12 into evidence and respectfully request to publish
13 starting at page 1.

14 **THE COURT:** Any objection?

15 **MR. PERRY:** No objection, Your Honor.

16 **MR. GARRETT:** None, Your Honor.

17 **THE COURT:** Exhibit 7.

18 (Said item was marked as Exhibit 7).

19 **BY MR. FLOWERS:**

20 Q. Starting at page 8556 in your particular exhibit,
21 what is this document?

22 A. This is the consumer account application or
23 signature card for multiple accounts belonging to Mr.
24 Ojo.

25 Q. So let's start with store names, just the basics.

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1 What store was this account applied for?

2 A. Peachtree Biscayne.

3 Q. I'll direct your attention to the remainder of the
4 document starting under "New Account Information." Do
5 you recognize those account numbers?

6 A. I do.

7 Q. And under "Related Customers," the customer name?

8 A. I recognize him as well.

9 Q. Under "Account Relationship," what is said?

10 A. Sole owner.

11 Q. And, again, for the benefit of the jury, what does
12 it mean to be the sole owner?

13 A. That would mean he's the only person on this
14 account.

15 Q. So I would like to now direct your attention to the
16 next page in this exhibit, starting the 8557. Now the
17 top third there, again, the customer listed on the
18 statement.

19 A. Ayodeji Ojo.

20 Q. What is the mailing address associated with this
21 account?

22 A. 1014 Brookwood Valley Circle Northeast, Atlanta,
23 Georgia.

24 Q. Are you familiar that address?

25 A. I am.

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1 Q. How so?

2 A. That is Mr. Abegunde's address.

3 Q. Going down just a little bit further on that same
4 right-hand side, is that same address listed?

5 A. It's listed again, yes.

6 Q. And then what does it say under time at this
7 residence?

8 A. It says two years, two months.

9 Q. And under "permanently" at the bottom right-hand
10 corner, "permanently reside in the U.S.," what is
11 reflected on this document?

12 A. It says yes.

13 Q. And is that information, those two entries, is that
14 consistent with your investigation?

15 A. It is inconsistent with my investigation.

16 Q. How so?

17 A. I know mister --

18 **MR. PERRY:** Objection, Your Honor. At this
19 point there has been no foundation as to the truth of
20 this matter asserted. This is a document that's being
21 offered in, from my understanding, at this time as a
22 collective exhibit that he's trying to establish that
23 this is what I've done, et cetera, et cetera.

24 He's going to the truth of the matter in this
25 document which I don't have a chance to cross-examine or

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1 anything to this particular document, which speaks to the
2 essence of hearsay. He's eliciting testimony that speaks
3 to the truth of whether or not Mr. Abegunde stayed at
4 that address, how long. Mr. Abegunde didn't fill out
5 this information or any of that.

6 So the truth of the matter he's getting right
7 now from this witness is inappropriate with this witness.
8 Now if he's collected this document, he's said this is
9 what he's found, that's proper; but this is classic
10 hearsay, Your Honor.

11 **MR. FLOWERS:** It is not hearsay in any way,
12 shape, or form. I simply asked whether the information
13 on there is consistent with what he's seen in other parts
14 of the investigation, which he can answer that, as well
15 as these are bank records that comply with 901(11), as
16 well as 803(6). By definition they're not hearsay.

17 **MR. PERRY:** Consistency with the record -- and
18 I can go up here because --

19 **THE COURT:** Yes, come to sidebar.

20 (The following occurred at the bench:)

21 **MR. PERRY:** He's asking for the testimony that
22 speaks to the veracity of this particular document. Are
23 you confirming that he stayed there? Why? That's not
24 proper from this witness at this particular point in
25 time.

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1 **THE COURT:** Actually he hasn't said -- the
2 question hasn't been: Did Mr. Ojo stay there? The
3 question was: What does the document say, and does that
4 conflict or agree with anything else you found? And the
5 testimony was that it's not consistent with anything
6 that's found. He still hasn't asked the witness whether
7 the witness knows whether Mr. Ojo stayed at that
8 residence, stayed there two years, two months. I mean,
9 there hasn't been any question on those lines.

10 **MR. PERRY:** I tried to do the objection at the
11 right time so there wouldn't be, but right now question
12 is: Is this consistent with your information? Your
13 Honor, he's speaking to the truth of the matter that's
14 asserted in that particular document. He's not -- a 902,
15 document, if he's collected that document, he's allowed
16 to testify that this is what I have collected, yada,
17 yada, yada. He is not allowed to go into questions that
18 establish whether or not the document is speaking to the
19 truth of the matter that's asserted in that document.
20 That's hearsay.

21 **THE COURT:** But he --

22 **MR. PERRY:** And these --

23 **THE COURT:** Hang on. What he's gotten from
24 the witness is that his other investigation says
25 something different. We don't know -- and I don't know

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1 if this question is going to come up -- what's true and
2 what's not true. All he's gotten so far is that the
3 document says one thing. Other things that he's found
4 say something else. I don't know with the way in which
5 the other things have been gotten whether you know what
6 the truth is or not.

7 Do you, Mr. Flowers?

8 **MR. FLOWERS:** I do know it's true.

9 **THE COURT:** You know which one is true.

10 **MR. FLOWERS:** I do know which one is true.

11 **THE COURT:** We haven't gotten that from this
12 witness.

13 **MR. FLOWERS:** Not yet. I was getting ready to
14 move on. I'm just moving on from this question. That's
15 all I was asking about that.

16 **THE COURT:** So at this point this witness
17 hasn't said what is true. This witness is just saying
18 the two pieces of information he has gathered are
19 inconsistent with one another. I don't see a hearsay
20 issue with that.

21 **MR. FLOWERS:** And, Mr. Perry, I won't belabor
22 the point. I'll simply move on to the next series of
23 questions, because I do see what you're saying in this
24 regard. So I won't stay and ask a series of questions
25 related to it. I'm not giving up my ability later on to

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1 ask questions tied to the exhibits, but I will move on
2 based on this.

3 **THE COURT:** Okay.

4 **MR. PERRY:** Thank you.

5 (The following occurred in open court:)

6 **THE COURT:** You may proceed.

7 **MR. FLOWERS:** Yes.

8 **BY MR. FLOWERS:**

9 Q. Just a few additional questions related to this
10 particular statement.

11 Do you see entries under "home phone" and "business
12 phone?"

13 A. I do.

14 Q. What phone number is listed?

15 A. The same phone number for both. It's
16 (979) 739-6723.

17 Q. And then the date of this particular application.

18 A. The date of the application is August 29, 2016.

19 Q. Now I'll direct your attention to 8605. Again,
20 what is this particular document?

21 A. This is the first statement for the 9962 account,
22 August 29th, 2016, through September 9, 2016.

23 Q. For which account holder?

24 A. Ayodeji Ojo.

25 Q. What address?

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1 A. 1014 Brookwood Valley Circle Northeast, Atlanta,
2 Georgia.

3 Q. And I'll direct your attention to the following
4 page which is 8606. Could you please note the date range
5 of this particular statement?

6 A. The date range for this statement is August 29th,
7 2016, through September 9, 2016.

8 Q. And, again, which account?

9 A. The account ending 9962.

10 Q. Now, looking through this transaction history, what
11 are some of the things you see here?

12 A. I see an initial deposit of \$26,900.56 made on
13 August 29th; and then I see several what appear to be
14 debit card transactions in various locations throughout
15 the United States in the subsequent 10 days.

16 Q. What are some of the places around the United
17 States?

18 A. I see Illinois; Atlanta; Las Vegas; Orlando,
19 Florida.

20 Q. Now I would like to direct your attention to 8611.
21 What's the date range of this particular page?

22 A. September 1st, 2016, through September 30, 2016.

23 Q. So I'd like to direct your attention to the bottom
24 third of this page, if I could. Do you see an entry
25 under 9/22?

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1 A. 9/22 or 9/20.

2 Q. The first one, oh, yeah, first one on 9/20, sir.
3 My apologies. What's going on?

4 A. There's a deposit into this account. It's an
5 internal transfer from Mr. Ojo's 9962 account to this
6 account. So he just moved money from one account of his
7 to another. So 20,000 came into this account.

8 Q. Then beginning on 9/22, what's reflected on
9 September 22nd?

10 A. There's an internal transfer that is made to an
11 account for Mackinwa Olubunmi, ending 0762 for, \$10,000.

12 Q. Are you familiar with Mackinwa Olubunmi?

13 A. I am.

14 Q. How so?

15 A. She is the first wife of Mr. Abegunde.

16 Q. So what happens on 9/23?

17 A. There's a reverse transfer. So for whatever
18 reason, these funds were returned the following day for
19 the same amount, \$2,000.

20 Q. Now on 9/28, I believe, do you see a transaction?

21 A. I do.

22 Q. What's reflected in that?

23 A. There's a Bill Pay transaction. It's for 5,000.

24 Q. The following transaction, what does that show?

25 A. There's a \$10,000 transaction, another Bill Pay,

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1 this time to F.J.

2 Q. Are you familiar with F.J.?

3 A. I know F.J. to be Olufolajimi Abegunde.

4 Q. Also simply for the benefit of the jury, what's
5 Bill Pay?

6 A. That's my understanding that Bill Pay is something
7 within Wells Fargo that allows you to exchange money
8 online. It would be similar to Venmo or something of
9 that sort.

10 Q. So now I would like to direct your attention to a
11 document that is titled, "WFOOOO1"; and for the benefit
12 of my colleagues, it's towards the end of this serialized
13 exhibit. What is this?

14 A. So this is the corresponding 10,000-dollar debit
15 coming out of Mr. Ojo's 9962 account with that Bill Pay
16 transaction. It generated a 10,000-dollar check made out
17 to Olufolajimi Abegunde.

18 Q. You used the word "corresponding." Corresponding
19 to what?

20 A. Corresponding to that Bill Pay. So we saw the Bill
21 Pay notation in the transaction history. That's where
22 that money went.

23 Q. How do you know based on this document who is
24 paying whom?

25 A. Because it says "to the order." So that means the

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1 check is made out to Mr. Abegunde. Then we know, since
2 the debit came out of Mr. Ojo's account, that it is from
3 him.

4 Q. What do you notice about the addresses listed on
5 this check?

6 A. I notice that they're both the same address.

7 Q. So now I would like to direct your attention to
8 8615 of this exhibit. What is the date range here, sir?

9 A. This is date range for this statement, 9962,
10 September 10, 2016, through October 11, 2016.

11 Q. Direct your attention to the next page. What's
12 going on here?

13 A. I would first point out, just to clear up what we
14 talked about earlier, you see a debit on 9/20 for
15 \$20,000. So this is just the corresponding \$20,000 that
16 funded that other checking account of Mr. Ojo when I said
17 he moved money from one account to the other. You simply
18 see the money coming out of this account.

19 Q. How do you know it's corresponding?

20 A. Because if you go to the description, it says
21 transfer to Ojo. Then further along it says 9939. So
22 that was his other checking account.

23 Q. Directing your attention in this page to 10/3/2016,
24 do you see an entry at the bottom of this?

25 A. I do.

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1 Q. What does it reflect?

2 A. There is a 3,000-dollar deposit on the day.

3 Q. Okay. So let's go to the next page, 8617. So what
4 is in this transaction history?

5 A. So starting with October 4th, the day after the
6 second BEC, you see a series of deposits into this
7 account. On 10/4, there's a 2,000-dollar deposit. On
8 the 5th there is a 5,000- and a 3,000-dollar deposit.
9 Then on the 6th there's a 9,000-dollar deposit.

10 Q. So on the 6th, does that deposit indicate a
11 location associated with it?

12 A. Yes, it does.

13 Q. What is that?

14 A. Canyon Del Rey Boulevard, California.

15 Q. What significance, if any, does that have in your
16 investigation?

17 A. That is the store location of Mr. Ramos's account.

18 Q. Now, turning to October 11th, do you see a number
19 of transactions that occur on that day?

20 A. Yes.

21 Q. Okay. And what types of things are happening?

22 A. There are a series of debit card transactions
23 starting on the 11th for \$2,000. There's one at a USPS,
24 as well as one at a Publix. Then there's another one for
25 \$1500 at Publix.

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1 Q. Now are you familiar with the locations of these
2 stores?

3 A. I am familiar with the location of the Publix.

4 Q. Where is the Publix?

5 A. It's on 2365 Peachtree in Atlanta, Georgia.

6 Q. Are you familiar with how close that is to the
7 address listed on the account?

8 A. I am.

9 Q. Approximately how close or how far?

10 A. It is less than a half mile.

11 Q. Now, I'd like to turn your attention down to the
12 third entry here on October 11th, 2016. Was does that
13 show?

14 A. That shows an ATM withdrawal.

15 Q. Okay. And how do you know that?

16 A. It is described as such. ATM withdrawal, it gives
17 the date. It gives the location of 2204 Peachtree. It
18 even gives the ATM ID number. Then its amount is \$300.

19 Q. Has your investigation revealed whether Mr. Ojo was
20 in the country at this time?

21 A. It has, and he was not.

22 Q. What's the process of withdrawing money from an
23 ATM, solely for the benefit of the jury?

24 A. It's my understand to withdraw money from an ATM
25 you have to have a debit card to do so.

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1 Q. Directing your attention to 8620, what's the date
2 range on this?

3 A. The date range for this is October 12th, 2016,
4 through November 8, 2016.

5 Q. And, again, with which account is this associated?

6 A. This is a combined. So it's the 9962, as well as
7 that 9939 that we spoke about previously.

8 Q. I would like to direct your attention to the
9 following page, which is 8621. Under "Transaction
10 History," what do you see?

11 A. On 10/14, we see a 9,000-dollar debit. That would
12 be corresponding to that document that we showed
13 previously that was titled, "Wire Recall Fraud"; and the
14 money was returned to Mr. Ramos.

15 Q. Under the description of that event, what does it
16 say?

17 A. It says bank-originated debit.

18 Q. What does that mean to be bank-originated?

19 A. That means that the bank did it themselves.

20 Q. Now, directing your attention to 10/25 on this
21 statement, what transaction is reflected here?

22 A. Both of these accounts have the same marking. They
23 say, "Loss Prevention Closing". One was for \$7,362.42,
24 the other account \$7,048.19.

25 Q. So based on information from Wells Fargo, did you

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1 subpoena any additional accounts that were tied to the
2 alleged cyber event on October 3rd, 2016?

3 A. I did.

4 Q. And I'll direct your attention now to Tab D which,
5 again, is solely for the benefit of the Government in its
6 marking. Would you please review those documents let me
7 know when you are ready to answer questions?

8 A. I'm ready.

9 Q. What are these documents?

10 A. These are the bank returns for an account belonging
11 to Oluwabukola Oguntoye, Account No. 0759 at Wells Fargo.

12 Q. Are they true and accurate copies of the records
13 that were returned by your subpoena to Wells Fargo?

14 A. They are.

15 **MR. FLOWERS:** At this time, Your Honor, the
16 Government would move to admit these documents as a
17 serialized exhibit into the record and respectfully
18 request the ability to publish.

19 **THE COURT:** Any objection?

20 **MR. PERRY:** No objection, Your Honor.

21 **MR. GARRETT:** No objection, Your Honor.

22 **THE COURT:** Exhibit 8.

23 You may publish.

24 (Said item was marked as Exhibit 8).

25 **MR. FLOWERS:** Thank you, Your Honor.

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1 **BY MR. FLOWERS:**

2 Q. So starting with the first page --

3 A. These are different Bates numbers. They're --

4 **THE COURT:** Mr. Gordon, not coming up?

5 **MR. FLOWERS:** Could I go back to the Elmo,
6 please, sir.

7 Your Honor, may I have access to the Elmo,
8 please?

9 **BY MR. FLOWERS:**

10 Q. Special Agent Vance, under "Related Customers,"
11 what do you see?

12 A. There's one named listed, Oluwabukola Oguntoye.

13 Q. What does the account relationship say?

14 A. It says sole owner.

15 Q. What is the address listed?

16 A. 1014 Brookwood Valley Circle, Northeast, Atlanta
17 Georgia.

18 Q. Directing your attention now to the next page which
19 is 00002, what street address is listed?

20 A. 1014 Brookwood Valley Circle, Atlanta Georgia.

21 Q. And in the middle of the page on the right-hand
22 side, you see permanently resides in the U.S. What does
23 this document reflect?

24 A. It says "yes."

25 Q. And is there a phone number associated with this

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1 account?

2 A. I do not see one.

3 Q. And what is the date of account opening?

4 A. September 13th, 2016.

5 Q. I'll direct your attention to page 006 on this
6 exhibit. What is the date range here, sir?

7 A. September 29, 2016, through October 28th, 2016.

8 Q. Whose account is this?

9 A. This is Ms. Oguntoye's 0759 Wells Fargo account.

10 Q. Under "Account Activity," what activity is
11 reflected?

12 A. It shows a beginning balance of \$50; deposits of
13 \$12,450; withdrawals of \$12,500; closing balance on 10/26
14 of zero dollars, zero cents.

15 Q. I'd like to direct your attention to the next page.
16 00007. Again, what is this date range?

17 A. Same date range, September 29, 2016, through
18 October 28, 2016.

19 Q. What activity is reflected?

20 A. Starting on 10/3, which is the date of the second
21 e-mail compromise, you see a series of deposits. The
22 first one is in New York state for \$2,000. Then you have
23 two more or at least -- excuse me -- one more on October
24 4th for \$3,000 in the Atlanta, Georgia, area and then two
25 more on October 5th, one for 5,000, one for 2,000.

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1 Q. So I would like to --

2 **THE COURT:** Mr. Flowers, are you familiar with
3 the Elmo?

4 **MR. FLOWERS:** Somewhat. Would you like me to
5 zoom in, Your Honor?

6 **THE COURT:** I just want you to know that it
7 does zoom in and out, but what you do is your decision.

8 **MR. FLOWERS:** Very good.

9 **BY MR. FLOWERS:**

10 Q. There we go. Can you see it, Special Agent Vance?

11 A. I can.

12 Q. Very good. So on October 13th, what activity
13 starts to be reflected on this statement?

14 A. On October 13 and the subsequent days, you see six
15 2,000-dollar debit card purchases made at Publix,
16 Walmart, and Kroger.

17 Q. Now are you familiar with the locations of these
18 stores?

19 A. I am familiar with the locations of at least of the
20 Publix and the Kroger.

21 Q. So the Publix, where is that located?

22 A. The Publix is located at 2365 Peachtree in Atlanta,
23 Georgia. That's less than a half mile from the address
24 listed on this account.

25 Q. And the other locations with which you are

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1 familiar, how far away is that?

2 A. I know the Kroger on 715 Howe to be approximately
3 two and a half miles from the address listed on this
4 account.

5 Q. Now has your investigation revealed whether Ms.
6 Oguntoye was in the country at this time?

7 A. She was not in the country at this time.

8 **MR. FLOWERS:** Your Honor, at this time I would
9 respectfully request the ability to transition to the
10 other part of my testimony dealing with specialized
11 knowledge and laying the foundation for that.

12 **THE COURT:** Okay.

13 **BY MR. FLOWERS:**

14 Q. So, Special Agent Vance, again for the benefit of
15 the jury, in what group in the FBI-Memphis are you
16 assigned?

17 A. I am on the Complex Financial Crimes Squad.

18 Q. What does that mean?

19 A. That means we work white-collar crimes or crimes
20 that are finance-related, so wire fraud, bank fraud,
21 money laundering, healthcare fraud, real estate fraud,
22 things of that nature.

23 Q. What does the "complex" in complex financial crimes
24 mean?

25 A. Complex means that oftentimes in wire fraud cases

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1 or business e-mail compromise cases you're talking about
2 a large network of individuals. So when you have
3 multiple subjects and multiple victims as well,
4 oftentimes in multiple states your case can get quite
5 complex rather quickly.

6 Q. Let's talk about some of your credentials. Where
7 were you educated?

8 A. I have a finance degree from Ohio State University
9 and an MBA, a Master's of Business Administration, from
10 Ashland University.

11 Q. Before you were with the FBI, what did you do?

12 A. Before I was with the FBI, I spent a little over
13 six years with the Department of Defense as a financial
14 analyst and accountant and then eventually as a
15 supervisor.

16 Q. What are those?

17 A. So, as a financial analyst and as an accountant,
18 they were very similar jobs. They were very data-driven
19 jobs. I was given large amounts of data probably on a
20 daily basis. I did weekly reports, monthly reports. I
21 would take that data, summarize it, put it into charts,
22 put it into reports, summarize my analysis for my
23 supervisors, look to spot trends, whether they were good
24 or bad, those types of things.

25 Q. And have you been able to employ the things that

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1 you were doing with the Department of Defense to your job
2 with the FBI?

3 A. Absolutely.

4 Q. In what capacity?

5 A. Because when I get bank records back, they're often
6 hundreds of pages at a time. You have to learn how to
7 look at large volumes of data and pick out what is
8 important quickly. You need to be able to analyze it.
9 It helps if you can spot trends so you can catch it the
10 first time through and you don't have to go back and do
11 your investigation multiple times. Being able to analyze
12 numbers, have a good understanding of financial
13 background, it was very beneficial.

14 Q. So, at the FBI what types of training have you had
15 in complex financial investigation?

16 A. Like all agents, I was trained to work cases at
17 Quantico when we went there for 20 weeks; but I have been
18 specifically trained to work complex financial crimes,
19 especially money laundering cases. We've been trained.
20 Basically they take cases, and they give us snapshots of
21 it. So they would give us partial interviews, bank
22 receipts, bank documents, maybe some communications; and
23 they train you on what trends the look for, what things
24 to look for, how to work a money laundering case due to
25 their complexity, how to spot trends, those kinds of

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1 things.

2 Q. Does crime stay the same, or does it change?

3 A. Crime evolves over time.

4 Q. What do you do to address that?

5 A. So we attend training. I've gone to multiple
6 white-collar conferences where they have case agents come
7 and present their cases to show you the latest trends and
8 what to look for, what they're seeing in their cases.
9 They have other presenters that come in that give you
10 resources that are at your disposal that you may not have
11 known or you may not have known how they actually
12 perform. So they try to keep you up to date since crime
13 evolves over time.

14 Q. So, Special Agent Vance, have you presented at any
15 conferences?

16 A. I have.

17 Q. What types?

18 A. I have presented at the private sector. I was
19 asked to speak at a National Real Estate Association
20 national conference. I did a presentation on business
21 e-mail compromises.

22 Q. Now, within your group in the FBI, are you a
23 practice group head for a particular area?

24 A. I'm considered the expert on my squad in business
25 e-mail compromises.

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1 Q. Solely for the benefit of the jury, what is
2 business e-mail compromise?

3 A. A business e-mail compromise is when an e-mail is
4 sent out to someone and they believe it to be someone,
5 they believe it to be true, and it subsequently leads
6 them to send out typically a wire, somewhere where they
7 did not want it to go.

8 Q. Now within your job with the FBI, though, is it
9 more financially based?

10 A. Mine is, yes.

11 Q. So in relation to BEC, what are you doing?

12 A. I follow the money.

13 Q. What does that mean?

14 A. In every -- in a wire fraud case, specifically
15 business e-mail compromises cases, it starts out with a
16 wire. Then there's going to be numerous transactions
17 thereafter. It's more than likely going to get passed
18 through multiple accounts before it ends up in its final
19 destination. It's my responsibility to track it all the
20 way through.

21 Q. Let's use that as a point to talk about some
22 additional things. What is money laundering?

23 A. Money laundering is any attempt made to conceal
24 funds or money that was obtained illegally. This is
25 typically done by passing it through multiple financial

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1 institutions or use of other financial instruments.

2 Q. What particular types of incidents have you
3 investigated in the realm of money laundering?

4 A. I have worked multiple business e-mail compromise
5 cases.

6 Q. And what are you doing there?

7 A. I'm simply following the money. So the goal of
8 money laundering is to clean the money. When the money
9 first comes in, as we've heard from Mr. Ancona, someone
10 is going to be looking at this money at the bank. So
11 typically they want to get money out of there quickly and
12 into other accounts and eventually probably through more
13 than one other account. So then eventually by the time
14 it's worked its way from A to B to C to D to end user,
15 the end user feels that the money is clean. They feel
16 like there's no link to the crime anymore. They can use
17 those funds.

18 Q. Now you used the word earlier, though, and I would
19 ask that you expand upon it. It's the word "network."
20 What role, if any, does the idea of a network have in the
21 idea of cleaning money?

22 A. In the idea of cleaning money, there's typically a
23 large network. Oftentimes multiple people involved in
24 the network will not know who the other players in the
25 network are. They simply fill a role typically for some

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1 sort of payment along the way.

2 Q. How do people get recruited to be part of a
3 network?

4 A. In my cases, I have seen it's typically done in one
5 of two ways. One is simply just a money offer. Someone
6 will be approached; and they will tell them, "I got an
7 offer for you. Do you have a bank account?" They'll
8 tell them that they do. They will say, "Okay. I'm going
9 to send money through your account. Then I'm going to
10 tell you what to do once that money is deposited into
11 your account." For your trouble, for the use of your
12 account, you'll get what we call a cut which is another
13 term for them being paid to do that, that role.

14 Q. You mentioned a second way. What's the second way?

15 A. The second way is more of a long game. That's
16 typically the -- it starts out with a romance scam, as we
17 talked about previously. So someone is developed into a
18 relationship with someone online. That may go on for
19 some time. Oftentimes they're sending their own money in
20 the beginning. The ones, their handler, the person
21 giving them the directions to sent their money realizes
22 that that individual has ran out of money. They need to
23 find another role for that person.

24 Typically that role is to be what we would call a
25 mule, someone who's willing to receive the money and then

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1 send it on to someone else. Again, typically they're
2 either getting a cut each individual time or they may
3 have a large amount of money that they're being told,
4 once you've done enough of these transactions, you'll
5 have paid off all the taxes and the fees for the
6 inheritance or the gold over whatever the large pot is at
7 the end of the road.

8 Q. Now in your investigation are you seeing the same
9 amounts transferred each transactions; or is something
10 happening to the money along the way?

11 A. No, it's gradual. So the first time or the first
12 few times that the these mules are used, typically you're
13 seeing a thousand dollars at a time or maybe \$2,000 at a
14 time. Then it gradually builds from there because you
15 have to build the trust of your handlers. They're not
16 going to simply want to drop \$50,000 into someone's
17 account the first time. That person may just keep it.
18 So it works its way up.

19 Q. So with large amounts of money, what tactics have
20 you seen alleged criminals to use in concealing larger
21 amounts of money?

22 A. So, it's very typical in my experience when I
23 subpoena the first account of the mule, I'll go to that
24 date. I'll find that money coming in. Then when I work
25 my way backwards over time, you will see that that mule

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1 has gradually worked their way up from a small dollar
2 amount to a medium dollar amount to eventually a large
3 dollar amount. Then when that large amount comes in,
4 they have specific instructions to get that money out
5 quickly; and there's different ways they're told to do
6 that.

7 Q. Are you familiar with the word "chopped"?

8 A. Yes.

9 Q. What does that mean?

10 A. Chopped is when the money comes into about account,
11 it's already going to be somewhat of -- set off an alert
12 at the bank that such a large amount of money came into
13 someone's account who typically does not have that kind
14 of money coming into their account. It would further set
15 off an alarm if they immediately tried to withdraw the
16 entire amount in one transaction.

17 So it's not uncommon for someone to be instructed
18 to then go to the bank, maybe even go to multiple banks
19 on the same day, and then go back the next day and chop
20 the funds into smaller levels as not to alert the bank.

21 Q. You said alert the bank. Would you speak more
22 about that?

23 A. There's such things as called a Currency
24 Transaction Report that is done by the bank. When
25 someone makes a deposit or withdrawal at the same store

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1 of more than \$10,000, the bank is required by law to
2 write what's called a CTR, Currency Transaction Report.
3 It doesn't mean that anything fraudulent was done. It
4 simply just is required to be filed. So you'll often see
5 people go in and when they chop the funds, 5,000, 8,000,
6 9,000, maybe 9500 or 9900, just try to stay right below
7 that 10,000 level to try to avoid detection.

8 Q. Does money stay in the same form or different
9 versions of money used?

10 A. Typically it does not stay in the same form. In
11 theory, you could receive a wire and just wire it to the
12 next person. Often the case, what I see is that money is
13 converted oftentimes to cash. They will go in. They
14 will chop the funds. They will make internal transfers
15 but oftentimes they will physically withdraw cash and
16 make a deposit to someone else's account at another
17 location.

18 Q. What is the challenge of cash?

19 A. Cash can be very difficult to follow, because of
20 the lack of a paper trail with cash.

21 Q. Can you explain more about the idea of a paper
22 trail, please?

23 A. Yes, so when someone makes withdrawal from their
24 account, there's a corresponding withdrawal. Once that
25 money is out and it's in physical cash form, there's lots

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1 of things you can do with cash that's going to be very
2 hard for an investigator months later to go back and find
3 out where it went. If they take that cash and physically
4 hand it off to another person, if they take that cash and
5 put it in an envelope or a box and mail it through FedEx,
6 that's going to be difficult. If they're just given a
7 bank account of someone else's and they take it and make
8 a deposit, typically there's going to be very little
9 record of that also. So, where I would go to get from A
10 to B, if there's no paper trail, can be very difficult.

11 Q. So, what other challenges have you seen in
12 investigating large money laundering type cases?

13 A. I would say besides the cash element is just the
14 number of players involved. So when an account is
15 chopped and it's chopped into six or seven different
16 people's accounts, first you go from looking at one
17 person's bank accounts to six or seven. Then they
18 typically are going to pass it through at least one more
19 account before it's integrated into the final user's
20 hands. If they each send it on to one or more, you
21 quickly get to 15 or 20 people that you have to track
22 from a single business e-mail compromise.

23 Q. When you're tracking people along this regard, what
24 factors, if any, are you looking at in your investigation
25 to determine whether someone is complicit?

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1 A. As we talked about before, if I can see a clear
2 indicator that you're taking a cut, that you're profiting
3 from this, then you know what you're doing. You know
4 that you're taking a risk to receive money. Another
5 typical indicator is if you're told to do things that you
6 know otherwise would be risky or illegal. Also
7 oftentimes the bank calls the mule and speaks to them;
8 and it is clear indicator to me, if they lie about the
9 source of funds, something is going on.

10 Q. Have you seen in your investigations whether -- and
11 you use the phrase "mules." Do they have a shelf life in
12 the course of a scheme?

13 A. Yes, mules typically have a very short shelf life
14 at last with one particular bank. So it's very common
15 that a mule, they may get away with it for a while before
16 they graduate, as we talked about before.

17 So when they're doing a thousand here, a couple
18 thousand there, they may get away with that for several
19 months; but once a large 50-, hundred, 200,000-dollar
20 wire comes in and they chop it and try to move it,
21 oftentimes the account is either closed within a matter
22 of weeks or at least frozen. Then some banks take longer
23 to eventually close the accounts out.

24 **MR. FLOWERS:** Your Honor, at this time I ask
25 to designate Special Agent Vance as someone with

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1 specialized knowledge in the area of complex financial
2 investigations and respectfully request the ability to
3 show him just a few documents to identify some things
4 that he looked at over the course of the investigation.

5 **THE COURT:** Any further objections?

6 **MR. PERRY:** No, Your Honor.

7 **MR. GARRETT:** Go ahead.

8 **THE COURT:** I will so designate him as a
9 person with specialized knowledge in complex financial
10 investigations.

11 **BY MR. FLOWERS:**

12 Q. So, Special Agent Vance, draw your attention back
13 the page 1413 of Government's -- I believe it is 5, Your
14 Honor -- Mr. Ramos's Bank of America account.

15 Now direct your attention to where the page starts
16 with deposits and other additions, down through
17 withdrawals and other subtractions. Zoom in slightly on
18 that section. Given what you just said, what are you
19 looking at here through the lens of a financial
20 investigator?

21 A. There's a lot of things going on here. The first
22 is this is the only deposit made it into this account,
23 and it's quite a large deposit. So I would take a look
24 at that, followed by, as I talked about previously,
25 cutting and chop the funds. If you look at the

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1 withdrawals section, starting the day after the wire came
2 in, 20,000-dollar cash withdrawal, 10,000-dollar cash
3 withdrawal, internal transfer. This carries on onto the
4 next page.

5 Q. If we go to that next page which is 1414 of the
6 Government's exhibit, what about the dates between those
7 two pages stand out to you?

8 A. So the dates are important. They're making
9 multiple transactions on the same day and subsequent
10 days, trying to do a couple things, trying to get the
11 money out quickly but also trying do it in a fashion
12 that's going to hopefully not alert the bank.

13 Q. And what do you mean by that?

14 A. Simply put, when we talked about the CTR
15 previously, you see a lot of these are \$9500. They're
16 doing that on purpose. They're doing that not to
17 generate a CTR within the bank.

18 Q. Do you see indicates indications of cash
19 withdrawals?

20 A. I do.

21 Q. What does that tell you?

22 A. That means that that money's going to get moved
23 physically either to another individual or to another
24 individual's account and it's going to be very unlikely
25 that I'm going to be able to track that, unless we get

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1 lucky with another part of the investigation that showed
2 some sort of receipt that that person took a picture or
3 kept a bank receipt where they dropped it off, barring
4 that it's lost.

5 Q. Now if I may direct your attention to Government's
6 6, page 8680, do you see the transactions beginning on
7 6/30?

8 A. Yes.

9 Q. So what stands out to you about this, given what
10 you just said?

11 A. A couple of things. First I would note that we
12 note just for the jury's perspective this is Mr. Ramos's
13 Wells Fargo account ending 9483. He makes roughly
14 thirteen, \$1400 every two weeks at that restaurant, so
15 knowing that that's what his normal income is. First of
16 all, it's a flag that there's \$9,000 being deposited in
17 his account in about an eight-day period. The second
18 thing that would stand out is it's all cash-based. It's
19 cash deposits, cash withdrawals. The third thing would
20 be he's clearly taking a cut. He took, when you look at
21 the first transactions on 6/30 so -- and that would be
22 another thing; it was the same day -- money in, money
23 out, hundred dollar profit, follow down, 4500 in, 4200
24 out, 300-dollar cut on that one.

25 Q. If I may direct your attention to 8691 of the same

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1 Government's exhibit, do you see that, sir?

2 A. Yes.

3 Q. Okay. So starting on 10/3, what stands out to you
4 as someone who investigates complex financial crimes?

5 A. That this particular mule has graduated and they
6 received a 60,000-dollar wire this time.

7 Q. And what makes you say graduated?

8 A. Because as we put this in perspective and look over
9 the course of the entire account history, we see that
10 he's gone from a relevantly small level of money coming
11 in and out that's not tied to his income to now a
12 60,000-dollar wire.

13 Q. And then directing your attention to starting on
14 the second entry on 10/4, what, if anything, stands out
15 to you here?

16 A. So, again, next day after the wire comes in, you're
17 seeing multiple cash withdrawals -- 20,000; 9800; then
18 the next day 9800; 10,000; 8,000. So the money is being
19 cut and chopped and passed out to other accounts.

20 Q. Now, I'd direct your attention to this will be
21 Government 7. Please remind the jury which particular
22 account this is.

23 A. We're looking at Mr. Ojo's Wells Fargo account
24 ending 9962. This is the statement September 10, 2016,
25 through October 11, 2016.

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1 Q. What, if anything, stands out to you as the
2 financial investigator?

3 A. So on the days right after the business e-mail
4 compromise, you see money coming in, multiple deposits.
5 On the 4th, \$2,000. I believe previously on the page
6 before this, there's a 3,000-dollar deposit on the day
7 of; but then following on the 5th there's \$5,000 and
8 \$3,000. Then again on the 6th the \$9,000 for Mr. Ramos's
9 account.

10 Q. Are these even money deposits?

11 A. They are.

12 Q. What does that tell you as you're looking at this?

13 A. That's also, again, typical of money laundering,
14 movement. They do it in round dollar amounts in most of
15 the investigations that I've done.

16 Q. So starting on 10/7, you will see a series of
17 purchases authorized. What do you see here?

18 A. I see several. Starting on 10/7, there's a
19 2,000-dollar debit card purchase made at a Publix
20 supermarket.

21 Q. What about the amounts? What does that tell you?

22 A. Well, a few things. I know that oftentimes in
23 money laundering schemes they like to convert the money
24 to cash, but they do it in different ways. One of the
25 ways they do is that they do money orders. Typically

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1 money orders are done at either grocery stores, Western
2 Unions, or United States Postal Service.

3 Q. Now I'll direct your attention to Government's 8.
4 This would be 007, I believe. For the benefit of the
5 jury, which statement are we looking at here, Special
6 Agent Vance?

7 A. This is Ms. Oguntoye's Wells Fargo account ending
8 0759. The statement is reflected from September 29,
9 2016, through October 28th, 2016.

10 Q. Starting 10/30, what activity are you seeing?

11 A. So that's the day of the second business e-mail
12 compromise. You see a 2,000-dollar deposit made in New
13 York State followed by \$3,000 in the Atlanta, Georgia,
14 area on the 4th; a 5,000- and 2,000-dollar deposit made
15 on the 5th in the Atlanta, Georgia, area.

16 Q. As a financial investigator, what stands out to
17 you?

18 A. Again, so you have money coming in. You let it sit
19 for a little bit. Then you convert the cash and move it
20 through a money order. These are done at those Publix,
21 the Walmart, and Kroger. Again, it's indicative of a
22 money order based on the fact that that \$2,000 is around
23 the maximum at a lot of money order places. Plus it's
24 rather uncommon to have an exact charge of \$2,000 six
25 straight times at a grocery store.

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1 Q. Starting at 10/13 as well, is that a similar type
2 of conduct?

3 A. So it's very similar to Mr. Ojo's account. You see
4 the deposits in the days subsequent to the business
5 e-mail compromise and then these debit card purchases
6 made on the dates following.

7 **MR. FLOWERS:** Your Honor, at this time I don't
8 have any additional questions for Special Agent Vance.
9 So I'll hand over the witness to Mr. Perry and
10 Mr. Garrett.

11 **THE COURT:** I think it would be a good time
12 for a break. Is that what you were going to say?

13 **MR. PERRY:** I'm just in sync with Your Honor.
14 No, I wanted to approach, if we could, about something
15 prior to cross-examining but if it is a good time for a
16 break --

17 **THE COURT:** Let's let the jury have a break
18 and deal with your issue.

19 So it's about 2:35. Let me give you a
20 20-minute break. We'll deal with whatever issue we've
21 got to deal with. I want to give them a break as well.
22 So be ready to come to back at five to 3:00.

23 Still not time to talk to each other about the
24 case or anyone else. Don't talk to the people involved
25 in the case at all. You can say this along with me if

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1 you want. Keep the jury badge on. Have a good break.
2 See you at five to 3:00.

3 (The following occurred outside the presence
4 of the jury:)

5 **THE COURT:** Mr. Perry, do you need your issue
6 at sidebar? Is the witness okay?

7 **MR. PERRY:** No, the witness is fine.

8 My question was simply regarding the procedure
9 to cross-examine a witness that's going to be done in
10 parts. How would Your Honor prefer it? As of right now,
11 it is my understanding that Special Agent Vance, had a
12 good deal of investigation in coming out to my client's
13 home, et cetera, down the road. It hasn't been gone into
14 now. I don't want to, I guess for lack of a term, waste
15 the opportunity to go into different things on
16 cross-examination. If I understand that he's going to be
17 brought back subsequently, I can cross him where we are
18 right now.

19 **THE COURT:** Why don't y'all sit down for a
20 minute?

21 I guess, Mr. Flowers, is that right that
22 there's the other part that's still coming as to
23 Mr. Vance?

24 **MR. FLOWERS:** Yes, Your Honor, that is
25 correct.

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1 **THE COURT:** Agent Vance.

2 **MR. FLOWERS:** This was mainly the
3 introductory, the genesis of the case with financials,
4 following the money from then and giving the jury a basis
5 and sort of background in money laundering and things of
6 that nature. There will be a subsequent, assuming Your
7 Honor let's us do that, to other aspects of the
8 investigation subsequent to this.

9 **THE COURT:** So this cross-examination would be
10 limited to the scope of this. You haven't waived by not
11 asking the questions about the other aspects of the
12 investigation. Is there a clear demarcation for you? If
13 we run into problems, we will take them a step at a time.
14 I don't want you to waive anything that you don't wish to
15 waive.

16 **MR. PERRY:** I'm fine with that. I just wanted
17 to draw that line with the Court and make sure that I
18 wasn't -- I don't want to go into something that I
19 shouldn't but I also don't want to waive the opportunity
20 to go into it at the appropriate time either.

21 **THE COURT:** Right.

22 **MR. PERRY:** So that was my inquiry.

23 **THE COURT:** Okay. All right. Anything else?

24 **MS. IRELAND:** Your Honor, that is also the
25 same procedure that we will follow with Agent Palmer for

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1 counsel's knowledge.

2 **THE COURT:** Okay. All right. Anything else
3 we need to address?

4 **MR. PERRY:** No, Your Honor.

5 **THE COURT:** Well, that didn't take as long as
6 I thought it might. All right. Five to 3:00.

7 Agent, don't talk to anyone about your
8 testimony during the break. Thank you.

9 (Recess.)

10 (The following occurred outside the presence
11 of the jury:)

12 **THE COURT:** Anything before we bring the jury
13 back?

14 Missing one of your teammates, Mr. Flowers.

15 **MR. FLOWERS:** She's printing something.

16 Sorry. I ran up the stairs. The instruction based on
17 Special Agent Vance,'s knowledge, should that come before
18 the cross-examination or at what point?

19 **THE COURT:** I already -- I did it. You moved
20 for it, and I recognized it.

21 **MR. FLOWERS:** Wonderful. Thank you. I wanted
22 to clarify.

23 **THE COURT:** Anything else? You know we have
24 elevators in the building.

25 **MR. FLOWERS:** I was running close. So I

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1 couldn't wait for the elevator.

2 **THE COURT:** Actually you were late, but that's
3 another story.

4 Anything else before we bring the jury back?

5 **MR. FLOWERS:** I don't believe so, Your Honor.

6 **THE COURT:** Let's bring the jury back.

7 I like to amuse you, Mr. Garrett.

8 **MR. GARRETT:** I'm laughing because I've got
9 battle scars.

10 (The following occurred in the presence of the
11 jury:)

12 **THE COURT:** You-all may be seated.

13 Mr. Perry, I believe you're up.

14 **MR. PERRY:** Thank you, Your Honor.

15 CROSS-EXAMINATION

16 **BY MR. PERRY:**

17 Q. Special Agent Vance, you have been involved in this
18 case from the beginning, correct?

19 A. That is correct.

20 Q. And this is pretty much your case, along with
21 Special Agent Palmer.

22 A. We're co-case agents; that's correct.

23 Q. And in your review of this case and the review of
24 the information, you've come to find that the person
25 identified, I guess, earlier as Mr. Ayodeji Ojo is a

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1 true, live person, correct?

2 A. That is correct.

3 Q. He's not somebody created by somebody fictitiously,
4 right?

5 A. Correct.

6 Q. And back in August of 2016, Mr. Ojo came to the
7 United States, correct?

8 A. That is my understanding, yes.

9 Q. And is he in any way related to a Mr. Oguntoye,
10 O-G-U-N-T-O-Y-E?

11 A. I say Oguntoye. I don't know if that's correct.

12 Q. Oguntoye.

13 A. They're married is my --

14 Q. And based on your information and review of the
15 case, was she present in the United States back in August
16 of 2016?

17 A. Yes.

18 Q. And back at that time based on your information,
19 they had come to the United States; and they were located
20 in the Atlanta area, correct?

21 A. That's my understanding, yes.

22 Q. So on August 29th, 2016, when this account was
23 opened, Mr. Ojo was in the United States in Atlanta,
24 right?

25 A. Yes.

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1 Q. And now you weren't present at the time that the
2 address or the telephone number was given, correct?

3 A. Correct.

4 Q. And that information was given to someone at Wells
5 Fargo.

6 A. Yeah, that would be my understanding.

7 Q. And you weren't -- do you know who all was present
8 when that transaction or when that, I guess, business
9 deal took place?

10 A. No, I wouldn't know anything other than what's on
11 the signature card about who was present, anything that
12 took place that day.

13 Q. You don't have any testimony regarding whether or
14 not there was a protest regarding the address or
15 telephone number that was given at that time, correct?

16 A. That's correct. I would not.

17 Q. You do know that based on your investigation that
18 Mr. Ojo was a guest of Mr. Abegunde at that time, right?

19 A. That is also my understanding, yes.

20 Q. And you're not here with any testimony regarding
21 whether or not Mr. Ojo owed Mr. Abegunde any money during
22 that time for anything, right?

23 A. I'm in the aware if he owed him any money at that
24 point in time, no.

25 Q. And whether or not there was any sort of deal

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1 regarding the use of that account at that time.

2 A. I have no knowledge of what the use of that account
3 was intended to be.

4 Q. On the date when that August 29th -- and let's go
5 to Tab B in your binder if it follows mine. According to
6 my Tab B, this is the first -- I guess yellow tab. Do
7 you have that?

8 A. Yes, sir.

9 Q. And that is Bates stamp 8667.

10 A. Yeah, we are on the same page.

11 Q. Is that the -- what does that signify? That's the
12 Wells Fargo account, right?

13 A. This is the signature card for two accounts
14 belonging to Mr. Ramos as Wells Fargo.

15 Q. That is somewhere out in California, right?

16 A. It states that it took place at the Fremont and
17 Canyon Del Rey which is in California, correct.

18 Q. Now let's jump tabs. Let's go to Tab C. Are you
19 there?

20 A. Yes, sir.

21 Q. Tab C indicates that it's Bates stamped 8556,
22 right?

23 A. Correct.

24 Q. And this is dated 8/29/2016.

25 A. Correct.

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1 Q. And this would be in Atlanta, Georgia, or in the
2 Atlanta area.

3 A. Yes, I believe Peachtree to be in the Atlanta area,
4 yeah.

5 Q. This is the document for which I started my line of
6 questioning and involving whether or not during that
7 particular time -- and, of course, according to your data
8 and your ability to determine whether or not someone is
9 in the country -- Mr. Ojo is present during that time
10 when this document was created, right?

11 A. Yes, on August 29th, Mr. Ojo was in the country,
12 correct.

13 Q. How do you determine whether or not someone is in
14 the country?

15 A. Through other agencies in the Federal Government we
16 have the ability to track, when people are not from this
17 country, when they're coming in, when they are coming
18 out, based on their passport, visas, things like that.

19 Q. Mr. Ojo seemed to be rather well-traveled to the
20 United States a few times, correct?

21 A. Yes, he came back and forth several times.

22 Q. Also to Canada.

23 A. I'm not privy to that, but he came to the United
24 States multiple times.

25 Q. He came to different locations in the United

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1 States, did he not?

2 A. I know he traveled when he was here. I don't
3 recall where he landed each time.

4 Q. At the time that this account was opened, do you
5 know what amount of money was in that account?

6 A. There was nothing when it was opened. The first
7 deposit was a roughly 26,000-dollar check.

8 Q. Do you remember approximately what time that would
9 have taken place?

10 A. I can check. I believe it was the first day.
11 Flipping forward a few pages, it's August 29th. So the
12 day of, when he set up the account, he deposited his
13 first check.

14 Q. That check had nothing to do with any sort of data
15 breach or any sort of business e-mail compromise that's
16 related to this case, did it?

17 A. Not that I'm aware of.

18 Q. In fact, it had nothing to do with anything that
19 you have investigated in this case, correct?

20 A. I know it was money made out to Mr. Ojo who is
21 affiliated with this case, but I don't know of any other
22 business e-mail compromises or anything like that
23 affiliated with that money.

24 Q. In other words, it's \$23,719 at that time when that
25 account was opened, correct?

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1 A. That is the ending balance ten days later. The
2 account, it was the 26,900.

3 Q. I'm sorry. I read the wrong line. It was \$26,900
4 at that time totally unrelated to any
5 154,000-some-odd-dollar breach.

6 A. Yes.

7 Q. And during that time Mr. Ojo was in town; and he
8 seemingly could have been the person who made that
9 deposit, correct?

10 A. Correct. Again, I was not there.

11 Q. And you said that at some point there seemed to
12 have been according to your testimony a payment made to
13 Mr. Abegunde?

14 A. Uh-huh.

15 Q. Do you remember that amount?

16 A. The one specifically to him was \$10,000.

17 Q. And is it before or after this particular date,
18 according to your information? Are you referring to a
19 time after this account was opened, in other words?

20 A. Correct. It was made within one of these accounts.
21 It would have been after it was opened.

22 Q. Do you remember approximately what time? You can
23 turn that page.

24 A. I believe -- I'll confirm. I believe it's
25 September 28th. Let me find it. Yes, the check is dated

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1 September 28th, 2016.

2 Q. Of course, that will have had nothing to do with
3 any breach related to the Western District of Tennessee,
4 any sort of business e-mail compromise, correct?

5 A. I don't know of any affiliation that that check has
6 specifically with the business e-mail compromise.

7 Q. On October 6, you said that there seemed to have
8 been a payment made from an account related to what
9 you've couched as money that is traceable to a
10 compromise, correct?

11 A. Correct.

12 Q. And this was to the account owed by Mr. Ojo, right?

13 A. Correct.

14 Q. Based on the information from the time that you
15 have investigated this case, is this the only money
16 directly deposited into an account that in any way was
17 related to Mr. Ojo, this 9,000-dollar check?

18 A. That's tied to a business e-mail compromise?

19 Q. In this district, yes.

20 A. Yes, that would be correct.

21 Q. And so the center point is the fact that you,
22 according to your investigation, can trace that
23 particular money to an account and then trace it to
24 Mr. Ojo's account, the \$9,000, right?

25 A. Correct.

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1 Q. And were you present when the gentleman came here
2 from Wells Fargo earlier, the security gentleman?

3 A. Mr. Ancona.

4 Q. Mr. Ancona, correct?

5 A. I was present.

6 Q. And Mr. Ancona said that he made a call to the
7 number that was associated to that account, right?

8 A. That's what he stated, yes.

9 Q. And that based on that call, at the conclusion of
10 it, that money was reversed back and paid to whoever it
11 belonged to, right?

12 A. Yes, I think he believed he said that the bank
13 initiated a return of the \$9,000.

14 Q. Right. The bank initiated the return after that
15 phone call, though, correct?

16 A. That is the order that I understand it to be, yes.

17 Q. And you said that that phone call was, I guess,
18 directed to the telephone number that was directly
19 associated with that account, right?

20 A. Correct.

21 Q. And you said that based on your investigation who
22 did that telephone number belong to?

23 A. I know that the telephone number of Mr. Ojo's
24 account to be Mr. Abegunde's cell phone number.

25 Q. And likewise that address belonged to Mr. Abegunde,

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1 right?

2 A. Again, yes.

3 Q. And to your knowledge, if a person is from Nigeria
4 and visiting for two or three weeks in the United States
5 and attempts to open an account, can that person open an
6 account and give a Nigerian address?

7 A. I'm not certain on how bank-to-bank practices work
8 and how you establish having residency and things like
9 that.

10 Q. You've got specialized knowledge in it. It's not
11 normal that a bank would allow a person from Nigeria or
12 from China or anywhere else outside the scope of the
13 United States to give an address that's not local,
14 related to an account if you're the person representing
15 that bank and you're opening a bank account, right?

16 A. You're going to have to show some sort of address;
17 but as far as what documentation they're going to
18 require, I don't know from bank the bank what that is.

19 Q. It wouldn't be anything outside the scope of your
20 specialized knowledge to expect a person who's a customer
21 service representative or someone opening a bank account
22 to ask can I have a local address associated with this
23 account.

24 A. I would think that would be within normal
25 practices, yes.

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1 Q. Likewise, it would be normal practices to ask for a
2 local telephone number associated with the account,
3 right?

4 A. I don't know about telephone numbers. Since
5 telephones can be international, I don't know if they
6 would require an American number or not. I don't know
7 that that would be within normal practices or not.

8 Q. Now, based on a person with specialized knowledge
9 it's not illegal for me to have the pin number of my
10 brother's bank account, is it?

11 A. Not if you have permission of your brother.

12 Q. Correct. Right. If I have permission of my
13 brother to have his bank card and have his bank account
14 or have his pin number as well, right?

15 A. If he shared that with you, yes, I think that would
16 be okay.

17 Q. And, likewise, to have -- if there's an account
18 that's opened and someone has that pin number in that
19 particular area, that's not in and of itself any sort of
20 offense, is it?

21 A. Again, as long as we're assuming there's
22 permission, I don't think it would be an offense to use
23 someone else's card with their permission.

24 Q. Based on the information you're given, has there
25 ever been anything filed by Mr. Ojo or anyone else

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1 regarding the use of his account or anything filed
2 reversing the money back to that 9,000-dollar amount to
3 anybody?

4 A. I'm not aware of any formal request or review done
5 by Mr. Ojo regarding that money, no.

6 Q. Can you go to that last tab in Section C, please.
7 Bates stamp 8621?

8 A. Yes, sir.

9 **THE COURT:** For the jury's benefit, what
10 exhibit number are you referring to?

11 **MR. PERRY:** I'm sorry. 8621. It's --

12 **THE COURT:** Exhibit 8, is it the last tab?

13 **MR. PERRY:** No, it's not eight. It's seven.

14 **THE COURT:** Okay. Exhibit 7.

15 **MR. PERRY:** I'm sorry.

16 **THE COURT:** Thank you, Mr. Perry. That's all
17 right.

18 **BY MR. PERRY:**

19 Q. What's the date associated with that particular
20 page?

21 A. So this is statement for October 12, 2016, through
22 November 8, 2016, for both it looks like the 9962 and the
23 9939 accounts.

24 Q. And it is tabbed specifically. Can you tell me the
25 purpose for that particular tab or what that page tends

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1 to show that's different than all the other tabs in
2 there?

3 A. This is the final statement for this account. We
4 indicated two transactions on this, the \$9,000 that was
5 returned that was linked to Mr. Ramos and the proceeds
6 from the business e-mail compromise, as well as that both
7 of these accounts were then closed.

8 Q. That would have been after the investigation had
9 started, correct?

10 A. Not our investigation. It would have been after
11 the bank's investigation, if that's what you're asking.

12 Q. Based on whatever the bank was doing at that time,
13 right?

14 A. Yes, the Bank would have concluded their
15 investigation at that point; and the account was closed.

16 Q. And there would not have been a consultation with
17 Mr. Abegunde regarding that at all, would it, according
18 to your record and report and the supplement that you've
19 been --

20 A. I guess that would depend on how they tried to
21 reach out to the person on this account.

22 Q. And you don't have anything in your record
23 indicating that it was reached out to one way or the
24 other, though, right?

25 A. No, my records only reflect that it was

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1 Mr. Abegunde's address and phone number that someone
2 tried to reach out to someone on this account.

3 Q. As it relates to the business e-mail compromise,
4 just for an abundance of clarity, the only transaction
5 that in any way relates to the Western District of
6 Tennessee and the accusations in the case is that one
7 9,000-dollar amount, correct?

8 A. Referring to the \$9,000 that was transferred went
9 from Mr. Ramos's account to Mr. Ojo's account?

10 Q. Yes.

11 A. I would agree. That's where the money went, yes.

12 Q. And there's never been any sort of link to -- from
13 any sort of directions given by Mr. Abegunde or anybody
14 associated with Mr. Abegunde regarding that particular
15 transfer.

16 A. I would disagree with that.

17 Q. You're saying that Mr. Abegunde directed something
18 to anybody towards his account?

19 A. Yes.

20 **MR. FLOWERS:** Your Honor, this may be the
21 time. Could we all see each other at sidebar?

22 **THE COURT:** Yes.

23 (The following occurred at the bench:)

24 **MR. FLOWERS:** So, per Mr. Perry's question
25 earlier about the segments of the order of proof, this

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1 gets into the second portion of proof that we will be
2 putting on in terms of the direction, information, and
3 communications directly from Mr. Abegunde related to the
4 actual control of that account at that time.

5 Certainly the questions, as being asked, Agent
6 Vance is going to or likely answer in the negative like
7 he did; but there's the possibility that, if he gets into
8 it, he's going to get into the communications and things
9 like that that lead us to believe. So I wanted to make
10 Mr. Perry aware of that, as well as the Court.

11 **THE COURT:** Where were you going next? Where
12 are you going now?

13 **MR. PERRY:** Well, I know there hasn't been any
14 sort of a predicate. I don't see anything in my
15 information. Normally if his testimony was concluded and
16 I was crossing, I would go into a whole litany of stuff
17 that I guess I'm going to have to reserve. I mean,
18 that's my last point.

19 Out of fairness I guess to both of us, at this
20 point in time if the Court could ask for the jury not to
21 consider that question or the answer at this point, that
22 will allow us to go into whatever they're going to do by
23 way of proof; and I can go into my cross-examination
24 properly. Based on the case as a whole, I tend to
25 disagree with his answer; but I don't have the ability to

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1 go into it without going into everything at this point.

2 **THE COURT:** Okay. So just strike the last
3 question and answer and then --

4 **MR. PERRY:** Yes, Your Honor.

5 **THE COURT:** -- you'll reserve the rest for
6 when they open it up with their direct.

7 **MR. GARRETT:** Let me inquire, Judge. This
8 bifurcated presentation is kind of difficult to follow.

9 Thinking ahead, when Special Agent Vance is
10 recalled and testifies regarding the fact aspect of this
11 investigation, on cross-examination we're not restricted
12 then from coming back and asking questions regarding
13 testimony that he gave during his specialized knowledge
14 segment of this, are we? The two would merge at that
15 point, would it not?

16 **THE COURT:** I don't know.

17 What's the Government's thought on that?

18 I have trouble, since I don't know all that
19 they're going into, figuring out where the line is.

20 **MS. IRELAND:** Your Honor, my suggestion would
21 be that it be limited, as Your Honor said earlier; and at
22 this time I think it would be appropriate to instruct the
23 jury -- I think it's always appropriate and not trying to
24 second-guess Your Honor -- but regarding the difference
25 between the factual and the specialized knowledge

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1 testimony. We do it in jury instructions, but I think
2 the best practice is also to do it at the time.

3 **THE COURT:** I typically don't give that
4 instruction during the trial because, first, I don't
5 think it means that much to the jury; and, second, it is
6 hard to draw the line. I realize you are trying to
7 present it in a sort of segmented form, but it doesn't
8 come out in segment form because one bleeds over into the
9 next.

10 So my plan was at the end of his testimony to
11 say, you know, the Government has called him for certain
12 points regarding this investigation. They've received
13 permission from me in advance to recall him as to other
14 aspects. So you will see Agent Vance again in the
15 Government's direct. So that part of it I was going to
16 plan to do.

17 As to the other, I don't know where you're
18 talking about that it's best practices; and I don't see
19 that it means anything to the jury to draw lines. We try
20 to tell them that in jury instructions. We will give
21 that instruction.

22 **MS. IRELAND:** Okay. I defer to the Court.

23 **THE COURT:** But as to Mr. Garrett's point, you
24 know, Mr. Garrett, I think we're going to have to take it
25 a little bit at a time because, you know, if you've got

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1 cross-examination questions about this part of his
2 testimony, obviously, I encourage you to make them.

3 Not knowing what he's going to testify to in
4 the second part, it's hard for me to anticipate whether
5 that line is going to be kind of blurry and difficult to
6 tell the difference; but, you know, I think, given that
7 the Government has chosen to present it this way,
8 frankly, my inclination would be to lean in favor of, if
9 there's a question, if there's an issue as to whether it
10 should have been part of the first or second, I'm going
11 to lean toward the defendants in allowing them to ask it.

12 It's an odd -- I mean, I don't mean to be
13 critical. I'm not. It's a different way of presenting,
14 and I think they need some leeway in trying to draw their
15 own lines between the two.

16 **MS. IRELAND:** That's fair.

17 **MR. FLOWERS:** That's fair. The Government
18 appreciates the Court's indulgence with our presentation
19 model. We have a complicated case with a lot of moving
20 parts.

21 **THE COURT:** I understand.

22 Does that help, Mr. Garrett?

23 **MR. GARRETT:** Yes, ma'am.

24 **THE COURT:** Thanks.

25 (The following occurred in open court:)

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1 **THE COURT:** Ladies and gentlemen, I ask that
2 you disregard that last question and answer.

3 Mr. Perry.

4 **MR. PERRY:** That's all I have at this time,
5 Your Honor.

6 **THE COURT:** Thank you, Mr. Perry.

7 Mr. Garrett.

8 **MR. GARRETT:** A few questions, Your Honor.

9 CROSS-EXAMINATION

10 **BY MR. GARRETT:**

11 Q. Afternoon, Special Agent Vance.

12 A. Good afternoon.

13 Q. Let me ask you a few questions about your testimony
14 on direct examination. First of all, with respect to the
15 exhibits that's been put into evidence in this case and
16 as relates to Mr. Ramos Alonso, all of those documents
17 were documents that were created by the financial
18 institutions, other than the signatures on these accounts
19 when these accounts were open; is that correct?

20 A. Yeah, all that would have been sent to me by the
21 bank.

22 Q. And that's not something that Mr. Ramos Alonso
23 created at all, is it?

24 A. Correct.

25 Q. And even though he may have had an opportunity to

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1 review those documents, we don't know at this stage of
2 the game whether he, in fact, reviewed them with respect
3 to any accuracy or mistakes or any issues pertaining to
4 those documents at this point, do we?

5 A. I have no knowledge of Mr. Ramos's state of mind as
6 regards to these bank documents.

7 Q. Thank you. Now you gave testimony regarding how
8 this complex financial crimes scheme works and the
9 various parties, and you made reference to the use of
10 money mules. Let me ask you, Special Agent Vance, based
11 on your specialized knowledge and what you know about
12 this case and procedurally, would Mr. Ramos Alonso's role
13 in this matter, could it be described as a money mule?

14 A. Yes.

15 Q. And that being the case then, in these type schemes
16 then, a money mule would have a handler, would he or she
17 not?

18 A. Yes.

19 Q. And the handler would tell the mule what to do,
20 wouldn't he?

21 A. Correct.

22 Q. The handler would be giving instructions, specific
23 instructions, to the mule to carry out these schemes and
24 to make these transactions happen; is that correct?

25 A. Correct.

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1 Q. You also indicated that it is usual in schemes of
2 this nature where the mule would receive a cut; is that
3 right?

4 A. That is correct.

5 Q. And I believe your testimony was that you looked at
6 certain documents and showed, for instance, that there
7 had been a 4500-dollar deposit and a 4200-dollar
8 withdrawal. Your conclusion was that the difference
9 amounted to a cut; is that correct?

10 A. That would be my interpretation of that, yes.

11 Q. That's not necessarily so, is it?

12 A. That's my interpretation.

13 Q. That's your interpretation; but you don't know
14 whether that is a fact as it relates to this transaction
15 involving Mr. Ramos Alonso, do you?

16 A. Do I know for a fact that the 45 and 4200 resulted
17 in him having a cut of \$300? Is that the question?

18 Q. Yes, sir.

19 A. I do not know that for a fact. I do not.

20 Q. Thank you. As a matter of fact, when you made
21 reference to the cut, what you described as cuts -- and I
22 think there were a couple of those -- were you intending
23 to relate to the jury that this would constitute all of
24 the cuts that Mr. Ramos Alonso may have received or could
25 have received?

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1 A. No, that was not all inclusive. That was just an
2 example from one of THE statements.

3 Q. That was an example as to how the cut portion of it
4 operates from your specialized knowledge of these kind of
5 situations; is that right?

6 A. That's right.

7 Q. So it doesn't mean that -- it didn't mean to
8 indicate that Mr. Ramos Alonso received a cut at all, did
9 it?

10 A. From that particular, I mean, again, that's my
11 interpretation that he was profiting with a hundred
12 dollars and then again with \$300.

13 Q. Because of your specialized knowledge as to how
14 these things operate.

15 A. Based on my training and other investigations that
16 I've done, I see that as a cut.

17 Q. You also, sir, indicated that -- and I think I've
18 got this right. The testimony was that with reference to
19 \$154,371.58 deposited into Mr. Ramos Alonso's account,
20 you said that that wire was received into this account by
21 Mr. Ramos Alonso. What do you mean it was received in
22 that account by him? What did he do to receive it?

23 A. He was the account owner with the funds came in.

24 Q. But he didn't have to do anything, did he?

25 A. He did not have to do anything to receive it. What

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1 happens after then is up to Mr. Ramos.

2 Q. So it may have been deposited in his account
3 without his knowledge; is that correct?

4 A. That is possible.

5 Q. And that would also apply to the 60,000-dollar
6 deposit. We don't know for a fact whether that deposit
7 was made, whether Mr. Ramos Alonso had prior knowledge to
8 that deposit being made.

9 A. Based on Mr. Ancona's testimony, we do.

10 Q. You have his prior knowledge that he knew that the
11 deposit was going to be made?

12 A. He stated that Mr. Ramos had obtain an online job
13 where he receives money and then receives instruction on
14 what to do with that money and that is, in fact, what
15 happened on this instance.

16 Q. But before the deposit itself was made, is there
17 any indication that he had any knowledge of its coming?

18 A. That he had knowledge that it was coming? If you
19 were employed and that is your understanding, I would
20 believe that you had to know it's coming.

21 Q. I'm talking about this specific deposit though.

22 A. I do not know for a fact that he knew it was coming
23 into his account.

24 Q. I'm hesitant because I want to stick to what the
25 area that you have testified in so far; but in terms of

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1 moneys received by Mr. Ramos Alonso, cut, if he received
2 any, was there any determination made by yourself or
3 anyone involved in this investigation as to the total
4 amount that he may received?

5 A. I don't know a total amount. I know that he was
6 taking a cut for a long period of time.

7 Q. And do you know whether the moneys that remain in
8 his account that you would identify from your experience
9 and observations as cut, whether he personally withdrew
10 that money for any personal use?

11 A. As far as the BEC, what did he do with that money?
12 Is that what you're asking me? It's my understanding
13 that he sent that money on to strangers.

14 Q. Speaking of the distributions from that account, to
15 your knowledge is there any indication that Mr. Ramos
16 Alonso knew any of the individuals that these monies were
17 disbursed to?

18 A. It is my understanding that he neither knew who was
19 sending him the money or who he was sending the money on
20 to.

21 Q. So that --

22 A. So, in other words, he did not know either end of
23 the transactions, only that the money was coming into his
24 account and that he was sending it out per his
25 instructions.

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1 Q. Just following instructions.

2 A. That's my understanding.

3 **MR. GARRETT:** That's all, Your Honor.

4 **THE COURT:** Thank you, Mr. Garrett.

5 Any redirect?

6 **MR. FLOWERS:** No, Your Honor, not at this
7 time.

8 **THE COURT:** Okay. Agent, you may step down.

9 Ladies and gentlemen, the Government asked in
10 advance for permission to present some evidence in
11 segments. So you will see -- and I gave them that
12 permission. You will see the agent testify again as to
13 different issues.

14 All right. Next witness.

15 **MS. IRELAND:** May we approach just a moment,
16 Your Honor?

17 (The following occurred at the bench:)

18 **MS. IRELAND:** Our origin intent was to begin
19 testimony the of Agent Palmer at this point. We had
20 hoped Your Honor would allow us to present expertise and
21 knowledge on the BEC's portion, later present the
22 computer forensics portion, and then that back portion at
23 the end. Just wanted to make sure that was okay.

24 **THE COURT:** Break him up into three?

25 **MR. FLOWERS:** It should be shorter that way,

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1 Your Honor.

2 **MS. IRELAND:** In getting things before the
3 jury in a clean and easy way, to understanding best use
4 of time, that's why we wanted to approach, to see what
5 Your Honor thought.

6 **MR. PERRY:** I mean, that's -- I don't
7 understand why it would necessitate three different
8 opportunities to testify. I can understand two because
9 it is complex; but three puts me in a predicament,
10 speaking for myself, being able to cross effectively.
11 It's odd and at some point we will get up and I guess
12 I'll have to ask one question or limit it without --
13 seems redundant and without amplifying the testimony of
14 that particular witness.

15 Like I said, given the nature of the case and
16 the fact that it's a complex case, I can understand
17 having to separate the expertise; and then I'm assuming
18 they want to go into when they talk to Abegunde and
19 executed the search warrant and gathering certain data
20 and those things. From a continuity sake, I think one
21 witness can testify to those things at that appropriate
22 time.

23 **MS. IRELAND:** The issue is that Agent Palmer
24 would be -- certain things will be admitted through his
25 forensic examination of the data but the devices are not

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1 yet in evidence because he did not collect them. So
2 we're trying to present the evidence in a way that
3 follows the line of the case but also doesn't jump the
4 gun on things that aren't yet in evidence because, if for
5 some reason they don't come in, that testimony is not
6 going to be relevant.

7 **THE COURT:** So one segment is business e-mail
8 compromises.

9 **MS. IRELAND:** Yes, Your Honor.

10 **THE COURT:** One segment is how you get
11 information off the devices.

12 **MS. IRELAND:** Correct.

13 **THE COURT:** Neither of those have any facts
14 related to this case as part of them?

15 **MS. IRELAND:** The only thing that we would do,
16 Your Honor, is show a selection of e-mails in the same
17 fashion that some bank statements were used with Agent
18 Vance, to illustrate an arc.

19 **MR. FLOWERS:** The forensic portion will just
20 be forensics of devices, devices of Agent Palmer, and
21 would not be factual in nature at that point. It would
22 just be explaining the forensics.

23 **MR. PERRY:** Why can't the bifurcation be with
24 the specialized knowledge section? In other words, say
25 that you have special knowledge in gathering data or

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1 business e-mail compromises and then, likewise, you have
2 knowledge in, like, whatever the --

3 **THE COURT:** Yeah, I think -- I understand that
4 it may not, the jury may not know when you do the
5 extraction part where it is going to hook up but that
6 should go into the other part of the -- there should be
7 just two segments.

8 **MS. IRELAND:** Then we will not be calling
9 Agent Palmer at this time.

10 **THE COURT:** All right.

11 (The following occurred in open court:)

12 **THE COURT:** Next witness.

13 **MR. FLOWERS:** The Government calls Carlos
14 Carrasquillo.

15 May I have just a moment, Your Honor?

16 **THE COURT:** Yes.

17 **MR. FLOWERS:** Your Honor, apparently he
18 literally just stepped out.

19 **THE COURT:** We'll see if Agent Vance can come
20 up with him. Is there another witness?

21 **MR. FLOWERS:** We were anticipating we would
22 have to be going to Round Three.

23 (Pause.)

24 **THE CLERK:** Please raise your right hand and
25 be sworn.

DIRECT - CARLOS CARRASQUILLO

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1 **CARLOS CARRASQUILLO,**

2 having been first duly sworn, took the witness stand and
3 testified as follows:

4 DIRECT EXAMINATION

5 **BY MR. FLOWERS:**

6 Q. Good afternoon, sir.

7 A. Good afternoon.

8 Q. Could you state your name and please introduce
9 yourself to the jury and spell your name?

10 A. I'm Carlos Carrasquillo. I'm going to spell my
11 last name. It's C-A-R-R-A-S-Q-U-I-L-L-O.

12 Q. And how are you employed?

13 A. I'm employed by Customs and Border Protection.

14 Q. What's your role at Customs and Border Protections?

15 A. I'm assigned to the FBI Joint Terrorism Task Force
16 at the Atlanta airport.

17 Q. And at the Atlanta airport, what do you do at the
18 airport?

19 A. So at the airport I mainly conduct, like, terrorism
20 investigations, aviation security matters, and pretty
21 much whatever comes to us.

22 Q. How long have you been at the Atlanta airport?

23 A. Been there for 11 years now.

24 Q. And specifically do you assist in effectuating
25 arrests?

UNREDACTED TRANSCRIPT

DIRECT - CARLOS CARRASQUILLO

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1 A. Yes, sir.

2 Q. And what is that like?

3 A. So we get lots of requests from different
4 locations, local police department, major cities. They
5 come from all over. So usually what we do is identify
6 where the person is traveling to or coming from and meet
7 them at the gate and conduct the arrest there.

8 Q. Is Atlanta a busy airport?

9 A. Yes.

10 Q. How busy?

11 A. It's very busy. We get one landing/one takeoff
12 every 45 seconds. So, it's very busy.

13 Q. Approximately how many arrests do you assist with
14 on a weekly base?

15 A. Two to three.

16 Q. How long have you been doing this?

17 A. Well, with this group, two years but I've been at
18 the airport, like I said, for 11 years. That's my
19 permanent station.

20 Q. Now, you stated that you are actually employed by
21 Customs and Border Patrol. How does that work and being
22 with the FBI as well?

23 A. Protection, Customs and Border Protection. I'm
24 sorry.

25 Q. Customs and Border Protection. I'm very sorry.

DIRECT - CARLOS CARRASQUILLO

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1 Customs and Boarder Protection. So are you familiar with
2 something called the TECS database, T-E-C-S?

3 A. Yes.

4 Q. What is that?

5 A. TECS is a database that houses information on
6 travelers, meaning international travel.

7 Q. What types of information is logged in this
8 database?

9 A. So we collect -- and this is transmitted by the
10 different airlines that fly international -- first name,
11 last names, dates of birth, document number, country of
12 citizenship, and flight information.

13 Q. Now are airlines require to submit this
14 information?

15 A. They are.

16 Q. What happens if they do not?

17 A. If they do not, they get fined by Customs. I
18 believe my understanding is that they get fined a
19 thousand dollars per passenger.

20 Q. What is the time horizon within which an airline
21 must report that information on a traveler?

22 A. So they're required to transmit the data to Customs
23 and Border Protection at least 72 hours before departure.
24 If, for example, the reservation happens within those 72
25 hours, we get information like the moment you purchase

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1 the ticket pretty much.

2 Q. Are you able to query that database?

3 A. Yes, sir.

4 Q. You're able to generate reports from that database.

5 A. Yes, sir.

6 Q. What's the process by which you do that?

7 A. So basically you log into TECS and conduct a person
8 query. Fill in the blanks, first name, last name, date
9 of birth, document number, if you happen to know it; and
10 that's pretty much it. The system generates a report.

11 Q. And do you know that system to be reliable?

12 A. Yes.

13 Q. Now have you prepared or generated reports in
14 connection with this case?

15 A. Yes.

16 Q. Could you please for the benefit of the jury
17 describe how that came to be?

18 A. So last week -- I cannot remember if it was Tuesday
19 or Wednesday -- I got a request by the case agent, David
20 Palmer, requesting, we call it crossing information on
21 two passengers or he gave me two names.

22 Q. Did you receive identifiers for those individuals?

23 A. I did.

24 Q. Did you put the individual identifiers into the
25 TECS database?

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1 A. Correct.

2 Q. Did that generate a report?

3 A. Yes, sir.

4 Q. Did you prepare a report in connection then with
5 those passengers?

6 A. Yes, sir.

7 **MR. FLOWERS:** May I approach, Your Honor?

8 **THE COURT:** Yes.

9 **BY MR. FLOWERS:**

10 Q. What are those, Agent Carrasquillo?

11 A. So these are the crossing histories for Ayodeji Ojo
12 and Oluwabukola Oguntoye.

13 Q. And are they true and accurate copies of the report
14 that you generated using the TECS database?

15 A. Yes, sir.

16 **MR. FLOWERS:** Your Honor, at this time
17 Government would respectfully request to move to admit
18 these into evidence and request to publish to the jury.

19 **THE COURT:** Any objection?

20 **MR. PERRY:** Your Honor, just for simplicity
21 sake, he handed us -- can you hand the copies of both but
22 to us separately? So I'd like just my own copy to
23 follow.

24 No objection, Your Honor.

25 **THE COURT:** All right. So, Exhibit 9 is next?

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1 **THE CLERK:** Yes, Your Honor.

2 **THE COURT:** As to Mr. Ojo and Exhibit 10 the
3 other report.

4 (Said item was marked as Exhibit 9).

5 (Said item was marked as Exhibit 10).

6 **BY MR. FLOWERS:**

7 Q. So I'm going to zoom out at first; and I'll zoom
8 in, Agent Carrasquillo. Which individual is connected to
9 this particular report?

10 A. I'm sorry?

11 Q. Which individual is connected to this report?

12 A. Ayodeji Ojo.

13 Q. Now, again, this is for the benefit of the jury.
14 Could you just walk them through all of the items
15 displayed on this report?

16 A. So on the first line, as you can see, there's first
17 name, last name listed, the date of birth. The document
18 type is "P" for meaning passport and then the document
19 number. The date and time of in this case, outbound or
20 departure from the U.S. Three columns over on the right
21 past the date, you can see that "O." That means
22 outbound. Delta Flight 54, Delta meaning "DL" there and
23 then the status "on board" and that information is
24 actually confirmed by airline.

25 Q. When you say confirmed by the airline, what do you

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1 mean by that?

2 A. That means the person actually was aboard the
3 aircraft. It's confirmed someone with this name scanned
4 a ticket to board that specific gate.

5 Q. My understanding is you can touch the monitor and
6 actually mark on it, please.

7 The second to last line, if you would, under date
8 and time.

9 A. This one.

10 Q. Yes, what date is that?

11 A. September 15, 2016.

12 Q. And then under I/O, what letter is reflected?

13 A. "O."

14 Q. So then based on this information, a person known
15 as Ayodeji Ojo, would it be accurate to say, departed the
16 country on September 15th, 2016?

17 A. Yes, sir.

18 Q. Now how are you able to tell the next time this
19 individual came into the country?

20 A. So, as you can see, if you look up, the person was
21 booked to return on January the 25th; and if you look on
22 the far right under "status," right here, it says not
23 board. So then the reservation was changed for the 27th,
24 two days later, which is that one right there.

25 Again, for February the 1st, 2017, again, not

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1 board; and then the next inbound into the country is
2 February the 6th, 2017, and confirmed on board.

3 Q. Thank you very much.

4 Now I'll transition to Ms. Oguntoye.

5 **MR. FLOWERS:** May I publish Government's 10,
6 Your Honor?

7 **THE COURT:** Yes.

8 **BY MR. FLOWERS:**

9 Q. Again, solely for the record, which individual is
10 tied to this particular report?

11 A. That would be Oluwabukola Oguntoye.

12 Q. Now, directing -- the same types of information on
13 this report as is reflected in the report we just saw.
14 Okay. So if I may direct your attention to the second to
15 last line on date and time, could you please mark that?

16 A. There, September 15th, 2016.

17 Q. And then under I/O, what does that column reflect?

18 A. That's an "O."

19 Q. Based on that, would the traveler with the last
20 name of Oguntoye have departed the United States on
21 September 15, 2016.

22 A. That is correct, sir.

23 Q. And then you know that how from the status column?

24 A. Because it show as on board, confirmed by the
25 airline again.

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1 Q. Based on this report with the information that you
2 put into the database, when was the next time that Ms.
3 Oguntoye was gained remittance into the United States?

4 A. That is December 18 of 2016, this block right here.

5 Q. Thank you very much, Agent Carrasquillo.

6 Have you encountered the defendant -- one of the
7 defendants, Mr. Olufolajimi Abegunde, in this case
8 before?

9 A. Yes, sir.

10 Q. Could you please identify him by what he's wearing
11 and where he is sitting?

12 A. It's the gentleman with the black suit and white
13 shirt and glasses.

14 **MR. FLOWERS:** Your Honor, could we please have
15 the record reflect that Agent Carrasquillo has identified
16 the defendant, Mr. Abegunde?

17 **THE COURT:** So reflected.

18 **BY MR. FLOWERS:**

19 Q. What were the circumstances of that encounter, sir?

20 A. So I had received information from the case agent
21 indicating that mister -- I'm sorry. I forgot the last
22 name.

23 Q. Abegunde.

24 A. Abegunde was scheduled to depart the United States
25 actually from Atlanta, continuing to Fort Lauderdale,

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1 with the Dominican Republic as his final destination. He
2 indicated to me that he had a warrant for his arrest. So
3 he requested our assistance to arrest Mr. Abegunde.

4 Q. Did you provide assistance?

5 A. Yes, sir.

6 Q. Now, what happened with the first time that you
7 attempted to provide assistance?

8 A. So, I identified the departure gate or flight. I
9 went to the gate. Everyone boarded the aircraft, but
10 Mr. Abegunde did not show up for the flight.

11 Q. What did you do then?

12 A. So I asked -- I asked one of the representative
13 from the airline, from Spirit Airlines. I wanted to find
14 out what was the reason for Mr. Abegunde to not travel.

15 Q. Were you able to discern the reason?

16 A. Yes.

17 Q. Now, when actually did you -- when did you next
18 after that encounter Mr. Abegunde?

19 A. That was a week after.

20 Q. Okay.

21 A. I want to say it was, like, seven days after.

22 Q. What were the circumstances of that, sir?

23 A. So, again, he was supposed to depart, again, for
24 the Dominican Republic. Again, I went to the gate. The
25 aircraft door was about to close, and Mr. Abegunde had

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1 not checked in or showed up for the flight. So I asked
2 one of our officers that I know -- he patrols different
3 concourses of the Atlanta airport. I asked him to go to
4 the main terminal where Spirit Airlines has a counter or
5 presence in an attempt to identify him.

6 Q. Was Mr. Abegunde located that same day?

7 A. Yes.

8 Q. What happened?

9 A. So the officer told me that --

10 **MR. PERRY:** Objection to what the officer told
11 him, Your Honor.

12 **MR. FLOWERS:** It's going to inform his next
13 steps that he takes in going to encounter the defendant.
14 So it's not offered for the truth of what is being said.
15 It would show the next step in the evolution of events.

16 **MR. PERRY:** Your Honor, and I'm not quite sure
17 what Mr. Flowers is saying, what the truth of the matter
18 is on this; but basic hearsay is an out-of-court
19 statement for the truth of the matter asserted. In this
20 particular instance he's basing his information on how he
21 arrested based on what an officer said and I'm assuming
22 related to Mr. Abegunde and his actions. Particularly in
23 this particular -- in this case the Court had a hearing
24 where the arrest was described --

25 **THE COURT:** Let's sidebar.

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1 (The following occurred at the bench:)

2 **MR. PERRY:** Previously, from the detention
3 transcript, from the detention appeal, there was
4 testimony offered that Mr. Abegunde was attempting to
5 flee the United States which (A) he wasn't. (B) There's
6 no testimony that he was made by one of the officers. I
7 think the way that the transcript reads is that, "What
8 happened next?" And it said, well, one of the officers
9 who was arresting indicated that it appeared that
10 Abegunde made him and attempted to leave the airport.
11 That's not what happened at all.

12 But if that -- if he's not the person who's
13 indicating that Mr. Abegunde was attempting to flee, it
14 gives a false impression to the jury and it is a pivotal
15 point in this consideration, in this particular
16 proceeding. I don't want to go into what somebody told
17 him. If he walked up to him and arrested him, that's
18 just what happened.

19 **MR. FLOWERS:** So I certainly appreciate
20 Mr. Perry's comment. The testimony is going to be he
21 received word they found Mr. Abegunde. The effect was he
22 went to then where Mr. Abegunde was. It's the effect on
23 the listener. It's not the truth of whatever is going to
24 be said. It's why he took the next step to go to
25 Mr. Abegunde.

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1 **THE COURT:** So the statement is not going to
2 be: I saw him trying to run out of the airport --

3 **MR. FLOWERS:** That's correct.

4 **THE COURT:** -- anything like that. Be careful
5 of anything like that.

6 **MR. FLOWERS:** Yes, thank you.

7 (The following occurred in open court:)

8 **THE COURT:** You may proceed, Mr. Flowers.

9 **BY MR. FLOWERS:**

10 Q. So, Agent Carrasquillo, I can't remember exactly
11 how I phrased the question but: Based on what you heard
12 from that particular officer, did you go to where
13 Mr. Abegunde was?

14 A. Yes.

15 Q. Okay. What did you see when you got there?

16 A. So when I got there, the officer was right next to
17 Mr. Abegunde. Mr. Abegunde was already placed in cuffs.
18 He was sitting down, and he had a male companion to his
19 left.

20 Q. And approximately how much time elapsed from when
21 you received word that they had identified Mr. Abegunde
22 and you got to the scene?

23 A. I want to say about five, not more than ten
24 minutes.

25 Q. Was he seated when you came upon the scene?

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1 A. Yes, sir, he was.

2 Q. You said he was handcuffed. Just generally
3 describe that, please. What's that look like?

4 A. He was just sitting down; and his hands were, like,
5 right behind him.

6 Q. What was he wearing?

7 A. He was wearing a jacket.

8 Q. And when you got there, with did you do?

9 A. So when I got there, I asked Mr. Abegunde -- I
10 identified myself and asked him to stand up for safety
11 because that area is not as secure area. This is before
12 you actually go through TSA, the security checkpoint. I
13 searched Mr. Abegunde for weapons.

14 Q. And what, if anything, did you find?

15 A. So I found that he had two cell phones on him.

16 Q. What do you after you found cell phones?

17 A. So right after that, Mr. Abegunde wanted to give
18 some property to his male companion.

19 Q. What happened then?

20 A. So, I told him that that was not allowed, that
21 whatever belonged to him needed to stay, to remain with
22 him.

23 Q. Where did you take Mr. Abegunde after this?

24 A. So after that, we went through security check
25 point, TSA; and we proceeded to the FBI office located in

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1 a different concourse.

2 Q. For point of clarity, the FBI office is located
3 past secure?

4 A. Past secured, almost opposite side of the airport.

5 Q. After you got Mr. Abegunde to the FBI location,
6 what did you do?

7 A. So, once we got to the office, I proceeded to
8 create a personal property inventory.

9 MR. FLOWERS: Okay. Your Honor, may I
10 approach?

11 THE COURT: Yes.

12 BY MR. FLOWERS:

13 Q. Do you recognize that?

14 A. Yes, sir, this is the receipt for personal property
15 I wrote for Mr. Abegunde.

16 Q. Is your signature on this document.

17 A. Yes, sir.

18 Q. Where is that?

19 A. It's at the bottom left.

20 Q. Is this a true and accurate copy of the receipt for
21 property that you created that day?

22 A. It is, yes, sir.

23 MR. FLOWERS: Your Honor, at this time the
24 Government would move to admit this into evidence and ask
25 to publish.

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1 **THE COURT:** Any objection?

2 **MR. PERRY:** No objection, Your Honor.

3 **THE COURT:** Exhibit 11.

4 (Said item was marked as Exhibit 11).

5 **MR. FLOWERS:** I'm sorry about that.

6 **BY MR. FLOWERS:**

7 Q. Okay. Based on this inventory, Agent Carrasquillo,
8 do you see where it says -- do you find where the cell
9 phones are included on this piece of paper?

10 A. Yes, sir.

11 Q. Please mark them on the screen.

12 A. First cell phone starts right here (indicating).

13 Q. Then the second one, please?

14 A. Second one goes right after it.

15 **MR. FLOWERS:** Your Honor, may I again
16 approach?

17 **THE COURT:** Yes.

18 **BY MR. FLOWERS:**

19 Q. Do you recognize those items, sir?

20 A. Yes, sir.

21 Q. What are those?

22 A. Two cell phones that came from Mr. Abegunde.

23 Q. How are you able to recognize them?

24 A. I remember one of the phones had the broken screen,
25 and I also recognized the cases.

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1 Q. Now, are those in substantially the same condition
2 as when you took them off his person?

3 A. Look the same to me, yes, sir.

4 Q. For the benefit of the jury, after you take
5 evidence like that, what do you do with it?

6 A. So what we do is we actually log it into a system
7 and physically take all the evidence into the evidence
8 room and turn it over to them.

9 Q. Did you follow that procedure here?

10 A. I did.

11 Q. And after it goes into the system, what happened
12 with these particular items?

13 A. So after we log it with the evidence room, the
14 items go to whatever they need to go, in this case the
15 Memphis evidence room.

16 **MR. FLOWERS:** Your Honor, at this time the
17 Government respectfully requests these items be marked
18 for identification purposes. We'll introduce them
19 substantively through a subsequent witness.

20 **THE COURT:** All right. Let's mark the Samsung
21 with the light blue case as Exhibit 12 for ID and the
22 other with the brown case Exhibit 13 for ID.

23 (Said item was marked as Exhibit 12 and 13 for
24 identification.)

25 **MR. FLOWERS:** May I have a moment, please.

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1 **THE COURT:** Yes.

2 **MR. FLOWERS:** Government passes the witness,
3 Your Honor.

4 **THE COURT:** Thank you, Mr. Flowers.
5 Mr. Perry, any questions?

6 **MR. PERRY:** Yes, Your Honor, briefly.

7 CROSS-EXAMINATION

8 **BY MR. PERRY:**

9 Q. Mr. Carrasquillo, correct? Close enough?

10 A. Yes, sir.

11 Q. You said you first came into contact with
12 Mr. Abegunde back in February of 2018?

13 A. I want to say it was January, 2018, maybe the last
14 week, a few days before the first of February.

15 Q. That wasn't the date on the actual arrest at the
16 airport, right?

17 A. No, it was not the same date, no, sir.

18 Q. Did you see him during the week before?

19 A. No.

20 Q. Okay. So you're saying that you came in contact
21 with his name.

22 A. Correct.

23 Q. All right. You actually came in contact with this
24 person back in February of 2018.

25 A. Correct.

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1 Q. And I have February 7th, 2018. Does that sound
2 correct?

3 A. Sounds correct.

4 Q. You said that, when you came upon him, he had cuffs
5 on him already, right?

6 A. Correct.

7 Q. And did he have a lot of clothing items with him?

8 A. On him, you mean?

9 Q. Correct.

10 A. Yes, he had like -- he had a bulky jacket, kind of
11 bulky.

12 Q. I mean, items typical of someone about to leave the
13 country.

14 A. Yes.

15 Q. He had underwear?

16 A. I do not know that.

17 Q. I mean, it's not listed on your sheet. Would you
18 like to look at your form, your receipt of property form?

19 A. Yes.

20 Q. You said that -- I'm assuming that you detailed the
21 property that he had, correct?

22 A. Correct.

23 Q. And if he had property, you would have written it
24 on the form, right?

25 A. Correct.

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1 Q. You didn't have any baggage at all written on that
2 form, correct?

3 A. There's a black backpack listed.

4 Q. And in black backpack, did it have underwear in it?

5 A. I do not remember.

6 Q. Did it have toothpaste?

7 A. I do not remember.

8 Q. Toothbrush, any of that type of stuff?

9 A. I do not remember.

10 Q. You don't recall anything about the backpack,
11 right?

12 A. Correct.

13 Q. In fact, was not the computer in the backpack?

14 A. There was other items, yes. There was a computer.
15 There was a flash drive.

16 Q. You remember all those items, but you don't
17 remember any clothing items at all.

18 A. We usually list, like, high-value items, you know,
19 if he's got like cash or credit cards, bank cards.

20 Q. Let's just take out the specificity which I was
21 asking. You usually would list clothing, right, just the
22 word "clothing" if he had clothing, correct?

23 A. Yes.

24 Q. And there's no word or designation as clothing on
25 there.

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1 A. Correct.

2 Q. And so it's not breaking any sort of law to come
3 into an airport and change your future travel plans from
4 a kiosk as opposed to doing it at home, correct?

5 A. Correct.

6 Q. If a person wanted to do that, because there's
7 actually savings in doing it that way, as opposed to
8 doing it at home. There's nothing wrong with that, is
9 it?

10 A. I believe so.

11 Q. You believe that there's something wrong with it or
12 that there's nothing wrong with it?

13 A. There's none. I mean, if you want to change your
14 reservation, I mean, it's up to that person, right.

15 Q. If a person, in their minds, if they wanted to save
16 money on travel plans, future travel plans, they go to
17 the airport and they put their future travel plans into
18 the kiosk or wherever, there's nothing illegal or wrong
19 about that, correct?

20 A. Correct.

21 Q. And on that particular day he had not made it
22 actually past what I'm calling the gate -- and you can
23 give me the right terms for it -- the gate to actually do
24 travel, where you have to go through and get, go through
25 the security.

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1 A. Security.

2 Q. He hadn't made it to a security checkpoint, had he?

3 A. You're correct, sir.

4 Q. And he hadn't attempted to go a security
5 checkpoint, had he?

6 A. To my understanding, that's correct.

7 Q. So he's in the airport; and when you first come
8 upon him, he's in handcuffs, right?

9 A. Correct.

10 Q. And he's not up there, arguing or anything like
11 that or causing a commotion, according to your report.

12 A. Correct.

13 Q. He's simply sitting there and the items that you
14 said he didn't -- when you said he attempted to give it
15 to his friend, his buddy's standing there next to him,
16 right?

17 A. Correct.

18 Q. He's not under arrest or anything, is he?

19 A. No.

20 Q. He wasn't a part of David Palmers' call to you as a
21 result of any investigation.

22 A. Correct.

23 Q. And you had no reason necessarily to know that
24 Mr. Abegunde would have known that he was being
25 investigated or that there was someone to be on the

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1 lookout for him with you, right?

2 A. Correct.

3 Q. So he's in the airport and he hands his items to
4 his friend or tries to and said, no, that stuff's got to
5 come to with me, right?

6 A. With him. It has to remain with him.

7 Q. Right. Well --

8 A. Because it's his belongings.

9 Q. Did it remain with him when he went to the
10 detention center in Atlanta?

11 A. No.

12 Q. It remained, I thought, with you, right, or with at
13 least the room, however you --

14 A. The evidence room, yes, sir.

15 Q. And so, in other words, you weren't asking him to
16 leave the stuff with himself. You were asking him to
17 leave it with himself so that he could give it to you,
18 right, and so that you could send it to Mr. Palmer?

19 A. Yes.

20 Q. And in that particular date, that wasn't -- he
21 wasn't, in other words, trying to throw the cell phone,
22 telling him to run, or throw the backpack, telling him to
23 take off, anything like that, was he?

24 A. No.

25 Q. He simply was saying can I hand this to my friend;

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1 and you said, no, that has to stay with us.

2 A. With him. Like I want to keep his property with
3 him.

4 Q. Until you can inventory it, right?

5 A. Correct.

6 Q. Once you inventoried it, did it remain with him?

7 A. In essence, yes, because it follows the case.

8 Q. No, no, no. I'm asking did it remain with Mr.
9 Abegunde.

10 A. Physically, no.

11 Q. So physically it remained with you in the evidence
12 room, right?

13 A. Yes, sir.

14 Q. And it remained under your dominion until you sent
15 it to the Western District of Tennessee.

16 A. Until the evidence room transferred it over to
17 Tennessee, yes, sir.

18 Q. Were you the person that's in charge of signing
19 anything in regards to transferring it to the Western
20 District of Tennessee?

21 A. Oh, no, sir.

22 Q. So you just sign it in to the evidence room, I'm
23 assuming.

24 A. Correct.

25 Q. You were asked some questions regarding the -- is

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1 the system called TECS?

2 A. Yes, sir.

3 Q. The TECS system TECS, right?

4 A. That's correct.

5 Q. You were shown some dates on that text system.

6 A. Yes, sir.

7 Q. And the TCS system and flight history, that's in
8 regards to Mr. Ojo, right?

9 A. Mr. Ojo, yes, sir.

10 Q. And I'm always butchering this other name, but the
11 name is T-E-M-I-T-O-P-E.

12 A. That would be -- that's a different person. I have
13 Oguntoye as the last name.

14 Q. Spell Oguntoye.

15 A. O-G-U-N-T-O-Y-E.

16 Q. Okay. And I was reading the next column. The next
17 column has another name and then a name under that. Do
18 you see, if you look at the last column of that page?

19 A. Oh, yes, I see that now.

20 Q. That's where I was reading the T-E-M-I-T-O-P-E. It
21 appears to be a middle name, correct?

22 A. Correct.

23 Q. Going back to that, in other words, on these two
24 sheets, these are evidently being offered to detail the
25 flights of two people that you're aware of based off your

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1 ability to operate that TECS system?

2 A. Correct.

3 Q. Or the manipulate it in order to get data from it.

4 A. To create the report, yes, sir.

5 Q. In creating that report, if you look down on the
6 dates of, as it relates to Mr. Ojo, says his date of
7 birth is 5/10/1983, right?

8 A. Yes, sir.

9 Q. And then it goes over, and it talks about whether
10 or not he had boarded or not boarded at a particular
11 time. Not on board means that he had scheduled a flight
12 or had done what was necessary with his passport, et
13 cetera, and for one reason or another didn't get on the
14 flight.

15 A. Correct.

16 Q. If you go to the bottom line dated August 26th,
17 2016 --

18 A. Yes, sir.

19 Q. -- did he make that flight?

20 A. Yeah, yes, sir.

21 Q. And is that leaving Atlanta or arriving in Atlanta?

22 A. That's arriving into Atlanta.

23 Q. So he arrived in Atlanta on August 26th, 2016.

24 A. Correct.

25 Q. And what date did he depart?

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1 A. He next departed September 15, 2016.

2 Q. Go to the Oguntoye sheet.

3 A. Oguntoye. I'm sorry.

4 Q. Same question: What date did she appear to have
5 arrived?

6 A. August 26th, 2016.

7 Q. What date does it appear that she departed?

8 A. September 15th, 2016.

9 MR. PERRY: Nothing further from this witness.

10 THE COURT: Thank you, Mr. Perry.

11 Mr. Garrett, any questions?

12 MR. GARRETT: No questions, Your Honor.

13 THE COURT: Thank you, Mr. Garrett.

14 Any redirect?

15 MR. FLOWERS: No, Your Honor.

16 THE COURT: Okay. Thank you, sir. You may be
17 excused.

18 (Witness excused.)

19 THE COURT: Next witness.

20 MR. FLOWERS: Special Agent Kevin Hall.

21

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25

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1 **SPECIAL AGENT KEVIN HALL,**

2 having been first duly sworn, took the witness stand and
3 testified as follows:

4 DIRECT EXAMINATION

5 **BY MR. FLOWERS:**

6 Q. Would you please state your name and spell it for
7 the record?

8 A. My name is Kevin Hall. First name, K-E-V-I-N; last
9 name, H-A-L-L.

10 Q. And how are you employed, sir?

11 A. I'm employed with the Federal Bureau of
12 Investigation, also known as FBI.

13 **THE COURT:** Can you, sir, move the mic closer
14 to you or you lean up to it?

15 **THE WITNESS:** How's that?

16 **THE COURT:** Much better. Thank you.

17 **BY MR. FLOWERS:**

18 Q. To what group are you assigned?

19 A. I'm assigned to the Cyber Squad in Atlanta.

20 Q. Could you please explain to the jury what some of
21 your responsibilities for the Cyber Squad are?

22 A. So I'm an investigator from the Cyber Squad. We
23 look into investigations. Specifically I look into
24 investigations on business e-mail compromises or wire
25 fraud that are assisted with computers and other

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1 technical means.

2 Q. So what was your background before the FBI?

3 A. Before the FBI, I was an attorney at a top 100 law
4 firm in DC.

5 Q. What kind of law did you practice?

6 A. I was on the financial institutions practice group.
7 Specifically, we advised other financial institutions --
8 banks, credit unions -- on how the comply with different
9 regulations. Specifically I advised them on money
10 laundering and know-your-customer regulations.

11 Q. Now do you recognize Mr. Olufolajimi Abegunde?

12 A. Yes, I do.

13 Q. Could you please identify him by what he's wearing
14 and where he is sitting?

15 A. He's sitting at the end of that group of tables
16 with the blue tie and glasses.

17 **MR. FLOWERS:** Your Honor, let the record
18 reflect that Special Agent hall has identified the
19 defendant.

20 **THE COURT:** So reflect.

21 **BY MR. FLOWERS:**

22 Q. How did you first encounter Mr. Abegunde?

23 A. I first encountered him with the interview I
24 conducted on behalf of the Miami office.

25 Q. And when was that?

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1 A. March, 2017.

2 Q. Did you say Miami?

3 A. Yes, I did. I meant Memphis.

4 Q. That's quite all right. Why were you there?

5 A. I was there -- so Memphis asked my office to go and
6 interview Mr. Ojo and they provided the address of 1014
7 Brookwood Valley Circle.

8 Q. Now when you went to that address, did you find a
9 Mr. Ojo?

10 A. No, I didn't.

11 Q. So let's just back up, I guess. When you first got
12 there, what did you do?

13 A. When I first got there, it's probably about 8:00,
14 830 in the morning. Myself and another agent approached
15 the apartment, knocked on the door, knocked a couple of
16 times. Eventually Mr. Abegunde answered the door.

17 Q. And what was the environment like?

18 A. We walked inside. He invited us inside. We asked
19 if we could ask him a few questions. He said sure.
20 Invited us in. We came in. He sat us down at the
21 kitchen table. It was kind of cluttered. There was a
22 lot of belongings stacked on the table and on the floor
23 and on the countertops and everywhere else in the
24 apartment.

25 Q. With you walked in, were you able to observe the

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1 living conditions in front of you?

2 A. Yes.

3 Q. And from your perspective did it seem like the
4 defendant lived alone?

5 A. No.

6 Q. What did you see?

7 A. So we saw multiple sets of belongings of clothing.
8 There was kids cereal there. There was a lot of food
9 that had been partially eaten and kind of left out. He
10 told that us he had recently returned the night before
11 from a trip overseas. So he just gotten the back and yet
12 there was partially eaten food everywhere.

13 Q. Did the defendant agree to an interview?

14 A. Yes, he did.

15 Q. Did he appear to be nervous to you?

16 A. No.

17 Q. How did he seem?

18 A. He seemed normal, natural, fine, collegial.

19 Q. Where did you interview?

20 A. We interviewed him at the kitchen table. It was
21 immediately inside the hallway.

22 Q. And based on why you were there, how did the
23 interview start?

24 A. We started the interview, which is typical, with
25 just some general background questions. What's your

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1 name? What's your phone number, e-mail address? Do you
2 live here? How are you employed? Things along that.

3 Q. Did you clarify that it was voluntary to speak with
4 you at that time?

5 A. Yes.

6 Q. Did you also identify your credentials and that you
7 were with the FBI?

8 A. Yes, we identified ourselves, showed the
9 credentials; and he agreed to speak with us.

10 Q. So, what was his reaction when you stated that you
11 were there to ask questions about Mr. Ojo?

12 A. He didn't react at all. He said okay. Happy the
13 answer your questions.

14 Q. And how did the interview proceed from there?

15 A. So we asked him about Mr. Ojo. How are you -- how
16 do you have knowledge of him? How do you know him? He
17 explained that they were friends, that he had stated --
18 that he had used that address to -- I guess he needed to
19 receive a bank check from Bank of America because the
20 account was closed. He said that he visited
21 occasionally. The last time he had seen him was
22 approximately a month prior after the birth of his -- of
23 Mr, Ojo's child.

24 Q. Did you discuss employment or work history at all?

25 A. Yes, we asked him as part of the questioning is:

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1 How are you employed? What do you do for a living? He
2 said he weren't currently employed. He was trying to
3 start a business. Asked him how do you pay rent, buy
4 groceries, things along that lines. He said he was using
5 savings from two companies that he had sold, that he had
6 owned in Nigeria. He sold those companies and was using
7 that revenue to live on while he had set up a startup
8 company.

9 Q. What was this startup company envisioned to be?

10 A. The startup company was called F.J. Williams. It
11 as basically designed to be a competitor with Western
12 Union to facilitate money transferring between the United
13 States and Nigeria.

14 Q. Were you there at that time to ask about a
15 financial transaction involving Mr. Ojo?

16 A. Yes.

17 Q. Did Mr. Abegunde claim to have any knowledge of
18 Mr. Ojo being involved in financial transactions?

19 A. No. He said he wasn't aware of Mr. Ojo making any
20 financial transactions. He said that the only financial
21 transactions he was aware of was just the need to use an
22 address in order to receive a check from Bank of America.

23 Q. So did Mr. Abegunde say whether his new business
24 was operational at all at that time?

25 A. It was not. He was still in the process of

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1 applying for the licenses. You need a state license and
2 federal license in order to operate a money transfer
3 business. So he's in the process of applying for those
4 licenses. He had also approached Mr. Ojo at the time to
5 ask him to facilitate applying for those licenses because
6 you need another one on Nigerian side. Mr. Ojo, he said,
7 had worked in the financial industry I believe as an
8 investment banker with the Central Bank of Nigeria. So
9 he was asking him the help set up F.J. Williams.

10 Q. Did Mr. Abegunde say whether he conduct financial
11 transactions at that time?

12 A. No, he didn't.

13 Q. Did you explain at that time that you were there
14 because of a portion of allegedly fraudulent proceeds had
15 wound up in an account with Mr. Ojo's name?

16 A. Yes.

17 Q. And was there any reaction to that?

18 A. Yes. We asked him if he was aware of Mr. Ojo
19 receiving any sort of fraudulent transactions? He said,
20 no, Mr. Ojo does not -- has integrity. He's not one that
21 participates in fraud schemes. That led us to ask about
22 the Nigerian black market currency exchange.

23 Q. Before you explain, what is Nigeria black market
24 currency exchange?

25 A. So basically what that means is there's a financial

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1 condition in Nigeria where there's some inflation
2 problems between the U.S. dollar and Naira. A lot of the
3 Nigerian economy uses the U.S. dollar for its
4 transactions. So consequently there's a very high demand
5 to get and buy U.S. dollars. The problem is that the
6 existing exchange rate is not -- it is
7 government-controlled. So it's deflated. Consequently
8 the black market sprung up which has a lot better
9 exchange rates between the Naira and the U.S. dollar.

10 So Nigerians who are in Nigeria who want to come
11 to the U.S. to make purchases, to buy things in the U.S,
12 they need dollars. So they go to the black market to buy
13 dollars.

14 Q. Is that how Mr. Abegunde explained the system?

15 A. Yes.

16 Q. Did he appear to be knowledgeable of how the system
17 worked?

18 A. Yes, he was actually explaining it in great detail
19 on how it worked. I was yet unfamiliar with how the
20 entire thing worked at the time. I had some familiarity
21 with it but not in the detail which he provided.

22 Q. Based on your experience with the FBI, did you
23 identify any potential issues with that system and
24 confront Mr. Abegunde about it?

25 A. Yes, so the problem which I told him was that

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1 essentially if there's this high of a demand in Nigeria
2 and if people are going to Nigeria and they go to a
3 seller and say, "Hey, I need some U.S., dollars," he
4 says, "Okay. Deposit Naira into my account here." And
5 then he contacts -- the seller contacts someone in the
6 United States and says, "Hey, I need you to deposit U.S.
7 currency in my customer's account in this account here."

8 Now no money actually moves between Nigeria and the
9 United States. So I explained to him, I said this is a
10 lopsided system. If you have on one end people just
11 depositing Naira and on the other end you have all of the
12 sellers just depositing dollars, they're going to run out
13 of dollars. So they have to acquire those dollars from
14 somewhere. I told him based on our experience those
15 dollars are funded by fraud.

16 Q. What was his reaction to that?

17 A. His reaction was that he condemned those who
18 committed fraud but then proceeded to justify that anyone
19 who basically uses those proceeds, transfers those
20 proceeds, spends those proceeds, or otherwise handles
21 that money that came from fraud is not engaged in any
22 sort of criminal activity.

23 Q. Now to you did that raise any red flags as an
24 investigator?

25 A. Yes.

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1 Q. How so?

2 A. I explained to him that, despite thinking that, the
3 reality was that people who used the proceeds of fraud or
4 transfer the proceeds of fraud may actually be
5 participating in criminal activity.

6 Q. What was the defendant's reaction to that?

7 A. He emphatically disagreed and said that, no, that
8 was not the case, that the only one who was actually
9 committing fraud is the person who initially told a lie
10 of some sort to receive the funds. Anyone else who
11 handled the funds after that was not.

12 Q. When you say "emphatically," what do you mean by
13 emphatically?

14 A. It was an emotional response as in not just a
15 casual disagreement of you believe what you believe and
16 I'll believe what I believe. It was an emphatic, "No,
17 you're wrong. This is the way it is."

18 Q. Again, just to clarify, you had identified yourself
19 being there from the Federal Bureau of Investigation.

20 A. Yes.

21 Q. And then you essentially warned him about
22 fraudulent proceeds.

23 A. Yes.

24 Q. He still disagreed with you.

25 A. Yes.

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1 Q. Now at this point did you warn the defendant
2 against money laundering?

3 A. Yes.

4 Q. How so?

5 A. I explained to him that this kind of behavior,
6 whether you want to agree with it or not, is, in fact,
7 indicative of money laundering and that you open yourself
8 up to criminal liability if you participate in such
9 activities.

10 Q. Did Mr. Abegunde seem forthcoming throughout the
11 interview?

12 A. Yes.

13 Q. As you were observing him, did he give you any
14 indication that he was untruthful?

15 A. No.

16 Q. Now if you learned that Mr. Abegunde lied during
17 the interview, would that surprise you?

18 A. A little bit, yes.

19 Q. So was this your final visit to Mr. Abegunde's
20 address?

21 A. No.

22 Q. So what happened? When was your next visit?

23 A. So, approximately a year later -- so this would be
24 March of 2018 -- again, Memphis sent a request to the
25 Atlanta office to go and execute a search warrant at the

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1 same address, the 1014 Brookwood Valley Circle.

2 Q. Now prior to executing the search warrant, what
3 steps, if any, did you take?

4 A. We took two steps. The first was to speak to the
5 manager's office to verify who, in fact, lived at the
6 apartment; and the second step was to conduct physical
7 surveillance on the apartment to see if we could actually
8 verify who lived there.

9 Q. Let's concentrate on the physical surveillance
10 piece of that. Did you conduct that surveillance?

11 A. Yes.

12 Q. And what did you see during that surveillance?

13 A. During that surveillance I saw an elderly female,
14 an adult female who was pregnant, and then a young child,
15 approximately toddler age. They came home in I believe
16 it was in a Nissan Maxima. They got out, walked down the
17 hallway, unlocked the door, and went inside.

18 Q. Based on what you saw during surveillance, how, if
19 at all, did that impact your subsequent steps for the
20 search warrant?

21 A. So in preparation for the search warrant, once we
22 identified how many people were there, that would help
23 determine how many agents we need to bring and also to
24 issue the warnings and caution statements such as, hey,
25 there's a young child present. So, consequently, just be

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1 aware of that and how things may transpire.

2 Q. Did you follow those protocols on the morning of
3 the search?

4 A. Yes.

5 Q. Could you walk us through or walk the jury through
6 the process of that, that you took on the day of the
7 search warrant?

8 A. Sure. So we arrived at the location. We knocked
9 on the door, knocked a couple of times. Eventually the
10 adult female who's pregnant, she answered the door. She
11 was very confused. We told her, hey, just calm down.
12 It's okay. We're just here to execute a search warrant.
13 We asked her to step outside. Moved her off, down the
14 hallway so she was out of the way.

15 She said, "Hey, my child's inside. My daughter's
16 inside. Can I go get her? Can I get her?"

17 We said, no, just stay here. Just tell us where
18 she is. She told us which bedroom she was in, which bed
19 she was in. We informed the rest of agents, hey, this is
20 where the child is. She's sleep. She's in this bed.
21 Just be aware of it.

22 We called out the other adult female. She came
23 out. We sent her down the hallway as well. We went
24 inside the apartment and found the child in the bed and
25 where she was supposed to be. Looked through the rest

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1 the house to make sure there was nobody there and then
2 invited everybody back inside the house and had them sit
3 in the living room.

4 Q. When you take precautions like that and checking
5 every room, what are the primary reasons for doing so?

6 A. The primary reason is to look for other individuals
7 that are in the house who, you know, we may not be aware
8 of. Mostly that's just for safety considerations to see
9 if there's anyone else there.

10 Q. Now you mentioned that there were other individuals
11 in the apartment at that time. Who were they?

12 A. Just the three that I mentioned. Let's see. The
13 older female, she was the mother of the adult female who
14 was pregnant; and then the daughter, the young child was
15 actually the adult female's daughter.

16 Q. Do you remember any of the names?

17 A. Yes, the adult female, her name was Ms. Macinwa. I
18 don't remember her mother's name, and I don't remember
19 the child name.

20 Q. Now when you were going through and doing the --
21 scene of the search warrant, did you see any luggage
22 visible?

23 A. No.

24 Q. Did you see any other indications that they were
25 there on a short stay?

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1 A. No.

2 Q. What, in fact, did you see?

3 A. I saw there was a lot of clothing, both the child's
4 clothing and female clothing, just kind of around the
5 apartment. They knew exactly where everything was. When
6 they asked to get child breakfast, we said sure. Go
7 ahead. There was food for the child there. Everything
8 was available for them. Her own personal laptops and
9 computers and phones were there.

10 Q. Was the child who was there, was that
11 Mr. Abegunde's child?

12 A. I don't know.

13 Q. So let's turn to what was located during the
14 search, Agent Hall. What types of items did you find
15 when you were doing the search?

16 A. We found several financial statements; letters from
17 banks; bank statements; hard drives; computers; laptops,
18 phones; notepads with people's names, addresses, Social
19 Security numbers, and birth dates on them; several
20 different IDs; very large stack of credit cards. There
21 might have been some checkbooks and some other financial
22 documents and a few applications for immigration and I
23 believe some other F.J. Williams-related business
24 materials. I don't recall exactly what they are.

25 Q. Now when you locate items during the search, what's

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1 the process by which you follow to catalog those items?

2 A. Once those items are identified, the photographer
3 comes over and takes a picture so it shows where we found
4 them. They're then captured, and the agents who found
5 them put them in a bag. They write and log on the back
6 exactly what the item is and where they found it. It is
7 then sealed, added to the evidence item log, and then all
8 of those items are then collected and taken back to our
9 office which are then submitted directly into evidence.

10 Q. Did you follow that procedure in this case?

11 A. Yes.

12 Q. Now, after following the proceed, what happened to
13 the items?

14 A. The items were then requested to be shipped from
15 Atlanta to Memphis for the case agent to review.

16 Q. Do you recognize that, sir?

17 A. Yes.

18 Q. What is that?

19 A. This is a CD, a collection of digital documents
20 that I've reviewed yesterday or -- I'm sorry -- today.

21 Q. Were those documents items that were taken from the
22 defendant's residence?

23 A. Yes.

24 Q. And have you reviewed them and are they -- have you
25 reviewed the disk?

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1 A. Yes, I reviewed it.

2 Q. The items on there, are they a true and accurate
3 copy of the items that were taken from the defendant's
4 apartment?

5 A. Yes.

6 **MR. FLOWERS:** Your Honor, at this time the
7 Government would ask to mark that disk for identification
8 purposes. As with the phones during the last witness, we
9 will attempt to bring items in through subsequent
10 witnesses.

11 **THE COURT:** Any objection?

12 **MR. PERRY:** No objection for identification.

13 **THE COURT:** So Exhibit 14 for ID.

14 (Said item was marked as Exhibit 14 for ID).

15 **MR. FLOWERS:** May I approach?

16 **THE COURT:** Yes.

17 **BY MR. FLOWERS:**

18 Q. Do you recognize that, sir?

19 A. Yes.

20 Q. What is it?

21 A. It is a MacBook laptop that we seized at the
22 apartment.

23 Q. After seizing the laptop, did you follow the
24 evidence procedure that you outlined previously?

25 A. Yes.

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1 Q. And after following that procedure, was that also
2 then scheduled for transmission to FBI-Memphis?

3 A. Yes.

4 **MR. FLOWERS:** Your Honor, at this time the
5 Government would request to mark that also for
6 identification and attempt to bring it in subsequently
7 through subsequent witnesses.

8 **THE COURT:** Is there something on top of it?

9 **THE DEFENDANT:** It is the evidence sticker.
10 Oh the power cord.

11 **THE COURT:** Power cord?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** Exhibit 15 for ID.

14 **MR. PERRY:** No objection.

15 (Said item was marked as Exhibit 15 for ID)

16 **BY MR. FLOWERS:**

17 Q. Do you recognize that, sir?

18 A. Yes.

19 Q. What is it.

20 A. It is a one of the external hard drives that we
21 seized.

22 Q. Solely for the benefit of the jury what's an
23 external hard drive?

24 A. An external hard drive, this one in particular is a
25 solid state. It is a data collection device which you

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1 can plug into a laptop to extend its digital memory.

2 Q. And you found that during the search of the
3 apartment?

4 A. Yes.

5 Q. Did you follow the same evidence collection
6 procedures you outlined previously?

7 A. Yes.

8 Q. Is it substantially in similar condition as when
9 you found it.

10 A. Yes.

11 **MR. FLOWERS:** Your Honor, at this time the
12 Government would ask to mark the external hard drive for
13 identification purposes.

14 **THE COURT:** Any objection?

15 **MR. PERRY:** No objection.

16 **THE COURT:** Exhibit 16 for ID.

17 (Said item was marked as Exhibit 16 for
18 identification.).

19 **BY MR. FLOWERS:**

20 Q. Do you recognize that item, sir?

21 A. Both of them.

22 Q. What are in there?

23 A. One is a hard drive, is the other is a USB storage
24 device.

25 Q. Were those located in the search of the defendant's

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1 apartment?

2 A. Yes.

3 Q. Are they substantially the similar condition as
4 when you found them?

5 A. Yes.

6 Q. Did you follow the same evidence collection
7 procedures that you identified previously.

8 A. Yes.

9 **MR. FLOWERS:** Your Honor at this time the
10 Government would move to mark both for identification
11 purposes but would ask for clarity of the record to mark
12 them separately.

13 **THE COURT:** Any objection?

14 **MR. PERRY:** No objection.

15 **THE COURT:** So, Exhibit 17 is the hard drive,
16 the other external hard drive; and 18, that's a USB.

17 **THE WITNESS:** It's just part of one of those
18 old wristbands, and they stuck a USB on the end of it.

19 **THE COURT:** Okay. That's Exhibit 18.

20 (Said item was marked as Exhibit 17 and 18.).

21 **MR. FLOWERS:** May I approach again?

22 **THE COURT:** Yes.

23 **BY MR. FLOWERS:**

24 Q. Do you recognize those, sir?

25 A. Yes.

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1 Q. What are they?

2 A. It's a series of photographs That we seized at the
3 apartment.

4 Q. The photographs, do they appear to be in
5 substantially the similar condition as when you found
6 them?

7 A. Yes.

8 **MR. FLOWERS:** Your Honor, at this time the
9 Government would move to admit those into evidence.

10 **THE COURT:** Any objection?

11 **MR. PERRY:** I would like to --

12 **MR. FLOWERS:** Yes, my apologies. May I
13 approach?

14 **THE COURT:** Yes.

15 **MR. PERRY:** No objection, Your Honor.

16 **MR. GARRETT:** No objection.

17 **THE COURT:** They're not numbered or anything
18 like that, are they?

19 **MR. FLOWERS:** We have digital versions that we
20 can provide numbered versions. These are the raw
21 versions. So during the break or overnight, Your Honor,
22 we are happy to number these for clarity and for clarity
23 in the record.

24 **THE COURT:** Okay. That will be Exhibit 19.
25 (Said item was marked as Exhibit 19).

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1 **MR. FLOWERS:** 19. Your Honor, may I publish
2 one of these photographs?

3 **THE COURT:** Yes, although I want you to keep
4 them in the same order and try and count which one you're
5 publishing so the record will be clear which one you
6 published.

7 **MR. FLOWERS:** Your Honor, for the sake of the
8 record, the photograph that I am publishing is the first
9 one in the list of the photographs; and I'll also with
10 your permission show defense counsel so that they know.

11 **THE COURT:** Okay.

12 **BY MR. FLOWERS:**

13 Q. Do you recognize the defendant in that photograph.

14 A. Yes.

15 Q. Now female in that photograph, is that the female
16 that was in the apartment the morning of the search?

17 A. No.

18 Q. How do you know?

19 A. The female in the apartment was much shorter and
20 less -- weighed less and didn't wear glasses.

21 Q. Do you recognize that item, sir?

22 A. Yes.

23 Q. What is it?

24 A. A copy of an ID card and a photograph and a gate
25 key.

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1 Q. Do you recognize those items from the search?

2 A. Yes.

3 Q. Were they seized during the search?

4 A. Yes.

5 Q. Are they in substantially the same condition as
6 when you found them?

7 A. Yes.

8 **MR. FLOWERS:** Your Honor, at this time the
9 Government moves to admit the items into evidence; and we
10 will show them to defense counsel.

11 **MR. PERRY:** No objection, Your Honor.

12 **MR. FLOWERS:** May I publish, Your Honor?

13 **THE COURT:** Let's mark them first. Exhibit
14 20.

15 **THE CLERK:** 20.

16 (Said item was marked as Exhibit 20).

17 **THE COURT:** There are three items in this?

18 **MR. FLOWERS:** Yes, Your Honor, they're
19 related. So for the sake of the record, labeling them as
20 one item shouldn't be an issue.

21 **THE COURT:** Yes, you may publish.

22 **BY MR. FLOWERS:**

23 Q. What is that, sir?

24 A. It's a military identification card.

25 Q. And what does it say under "sponsor"?

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1 A. Says "Edchae Monya Caffey."

2 Q. And the ID is for whom?

3 A. Olufolajimi Abegunde.

4 **THE COURT:** What else was in the --

5 **MR. FLOWERS:** Pardon me. It's a copy of the
6 identification card and a plastic item and then a
7 photograph.

8 **THE COURT:** Okay.

9 **MR. FLOWERS:** Appears to be, yes.

10 **THE COURT:** Thank you.

11 **MR. FLOWERS:** May I approach, Your Honor?

12 **THE COURT:** Yes.

13 **BY MR. FLOWERS:**

14 Q. Do you recognize that item, sir?

15 A. Yes.

16 Q. What is it?

17 A. It's a copy of a marriage certificate.

18 Q. Where's that located?

19 A. State of North Carolina.

20 Q. Where was that found?

21 A. This was found -- sorry. This was found when we
22 conducted the search in the apartment.

23 Q. Is it a fair and accurate copy of what you found
24 during the search?

25 A. Yes.

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1 **MR. FLOWERS:** At this time the Government
2 moves to admit that into evidence.

3 **THE COURT:** Any objection?

4 **MR. PERRY:** No objection.

5 **THE COURT:** Exhibit 21.

6 (Said item was marked as Exhibit 21).

7 **MR. FLOWERS:** May I approach, Your Honor.

8 **THE COURT:** Yes.

9 **BY MR. FLOWERS:**

10 Q. Special Agent Hall, as best as you can read it, who
11 are the individuals listed on this marriage certificate?

12 A. Applicant 1 at the top is Ms. Caffey; and then
13 Applicant No. 2 is Mr. Abegunde.

14 **MR. FLOWERS:** May I have a moment?

15 **THE COURT:** Yes.

16 **BY MR. FLOWERS:**

17 Q. Special Agent Hall, just a few more questions and
18 my apologies.

19 After you left the defendant's apartment during
20 your initial interview of him, did Mr. Ojo call you?

21 A. Yes, he did.

22 Q. Approximately how soon after that visit did he
23 call?

24 A. Almost immediately. The address is located maybe
25 15 minutes from our office. As we left, we left our

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1 business cards and asked Mr. Abegunde, if he had contact
2 with Mr. Ojo, to go ahead and have him call us.

3 By the time we left his apartment and went straight
4 back to our office, both myself and the other agent had
5 multiple missed calls on each one of our phones; and then
6 as I was standing at my desk, reviewing the phone calls,
7 another phone calls came in. The person who answered the
8 phone identified himself as Mr. Ojo.

9 Q. And what, if anything, was discussed?

10 A. I asked him about the Bank of America account, the
11 use of the 1014 Brookwood Valley Circle address, and
12 whether or not he had participated in any fraudulent wire
13 transactions.

14 Q. Did you learn anything?

15 A. Yes, he said that he indeed used the address to
16 open a bank account, the purpose of which was to receive
17 some money, approximately \$20,000. He said that he did
18 get the \$20,000; but the bank who sent the money
19 immediately sent the money back, returned the funds, and
20 closed the account.

21 Q. Did he identify the source of the funds?

22 A. He said it was from a Mr. Alonso.

23 Q. Did he identify anyone else as the source of the
24 larger amount of funds?

25 A. No.

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1 **MR. FLOWERS:** One more moment, please, Your
2 Honor.

3 **THE COURT:** Yes.

4 **BY MR. FLOWERS:**

5 Q. Oh, Special Agent Hall, you testified that it was a
6 Bank of America account. Was it a Wells account or a
7 Bank of America account?

8 A. I'm sorry. The Bank of America account was the one
9 sending him the check. The Wells Fargo account was the
10 one that sent the wire transfer.

11 **MR. FLOWERS:** Thank you.

12 No further questions. The Government passes
13 the witness.

14 **THE COURT:** Thank you.

15 Mr. Perry.

16 CROSS-EXAMINATION

17 **BY MR. PERRY:**

18 Q. Special Agent Hall, you testified that the first
19 time that you had come in contact with Mr. Abegunde was
20 in March of 2017, right?

21 A. Yes.

22 Q. And this was, I guess, part of an investigation
23 that had started in the Western District of Tennessee.

24 A. Yes.

25 Q. You had been contacted and asked to go to that

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1 location because I'm assuming at that time you were
2 located in the Atlanta area?

3 A. Yes, correct.

4 Q. Go out to talk to Mr. Abegunde; and I think,
5 according to your testimony, he was welcoming to you.

6 A. Yes.

7 Q. He had you come on in.

8 A. Yes.

9 Q. And he didn't ask for any lawyer or anything like
10 that at that time, did he?

11 A. No, he did not.

12 Q. You identified yourself as a person with the
13 Federal Bureau of Investigations?

14 A. Yes.

15 Q. And when you identified yourself, did he ask you to
16 leave or tell you to leave or anything like that?

17 A. No.

18 Q. In fact, he asked you to sit down; and y'all
19 talked.

20 A. Yes.

21 Q. You told him the purpose for your visit, right?

22 A. Yes.

23 Q. You were there because of an account that belonged
24 to a gentleman named Ojo; and he indicated that he knew
25 Mr. Ojo, right?

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1 A. Yes.

2 Q. He said he and Mr. Ojo were friends.

3 A. Yes.

4 Q. Said he had known him for a number of years?

5 A. Yes.

6 Q. And knew him from college, right?

7 A. I believe so.

8 Q. Did you take actual written notes while you were
9 there?

10 A. Yes, I did.

11 Q. Do you have those with you?

12 A. I do not.

13 Q. Right now you're testify from your memory pretty
14 much.

15 A. Yes.

16 Q. And this is testimony from an event that took place
17 back in March of 2017.

18 A. That's correct.

19 Q. And you said that you were sitting there with
20 Mr. Abegunde. Mr. Abegunde tell you that he had come to
21 America on a student visa?

22 A. I don't recall him saying that.

23 Q. Did you know why he was in America?

24 A. No.

25 Q. Did you ask him anything about why he was in

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1 America?

2 A. I don't believe so, no.

3 Q. Now, there actually were two agents, right?

4 A. That's correct.

5 Q. And you were there, and what was the other agent's
6 name? Do you remember?

7 A. Yes.

8 Q. What was his name?

9 A. Special Agent Tyson Fowler.

10 Q. And while you were talking, you're relatively
11 cordial with Mr. Abegunde, correct?

12 A. That's correct.

13 Q. And Mr. Fowler was somewhat less than cordial, was
14 he not?

15 A. I don't recall.

16 Q. Your questions were general about what had been
17 going on, what you were sent there for, in other words,
18 telling him that you're there regarding transactions that
19 had taken place on an account, right?

20 A. That's correct.

21 Q. And you never said anything that would be construed
22 as insulting to Mr. Abegunde, did you?

23 A. I do not believe so.

24 Q. But you did correct mister -- what was the Special
25 Agent's name that you just said a second ago?

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1 A. Mr. Fowler.

2 Q. Mr. Fowler asked him a direct question about why
3 are Africans always trying to take funds from Americans,
4 correct?

5 A. I don't recall him saying that.

6 Q. You don't recall saying or offering from your own
7 mouth that it's not just Africans, that it's other people
8 that take money from accounts in America?

9 A. I don't recall.

10 Q. You don't recall correcting him at all during that.

11 A. No.

12 Q. But you're not saying that didn't happen, though,
13 right?

14 A. Correct.

15 Q. All right. So while you're there, you're being, I
16 guess, cordial. You're asking him questions. He's
17 answering your questions, right?

18 A. That's correct.

19 Q. And you were asked moments ago about would you be
20 surprised if he had lied to you about anything; and your
21 response was you would be, right?

22 A. Yes.

23 Q. You've been on investigations; and you interviewed
24 people who were lying to your face, correct?

25 A. That's correct.

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1 Q. And you have done this for how long now?

2 A. Approximately two and a half years.

3 Q. Assuming in two and a half years you've interviewed
4 a number of individuals, have you not?

5 A. Yes.

6 Q. And you went through Quantico.

7 A. That's correct.

8 Q. You also went through the ability to interrogate
9 effectively, did you not?

10 A. That's correct.

11 Q. And you also were a practicing attorney for a while
12 in Washington, DC, with one of the top 100 firms in DC,
13 correct?

14 A. That's correct.

15 Q. And how long were you an attorney, practicing
16 attorney?

17 A. Practicing, almost three years.

18 Q. And so right now I guess you came out of your final
19 years of schooling. I'm assuming you went from practice
20 directly to the FBI.

21 A. There's a time period in between but yes,
22 occupationally, yes.

23 Q. So you've pretty much been an attorney since after
24 2010 or prior to?

25 A. I graduated in 2012.

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1 Q. Based on your information and your ability to ask
2 questions to a perfect stranger, you said that he was
3 candid with you, right?

4 A. That's correct.

5 Q. He was answering your questions directly. He's not
6 trying to go around the world with you, right?

7 A. That's correct.

8 Q. And, in fact, he even engaged in an intellectual
9 debate with you, right?

10 A. That's correct.

11 Q. You said that based on your information that if
12 money is coming to different accounts, based on
13 arbitrage -- have you ever studied arbitrage?

14 A. Yes, I have.

15 Q. So you are familiar with the term "arbitrage,"
16 right?

17 A. Yeah.

18 Q. Arbitrage is buying and seeling of currency from
19 one nation to another.

20 A. That's correct.

21 Q. And being in a top 100 firm in Washington, DC, had
22 you ever dealt with any sort of arbitrage or arbitrage
23 arrangements?

24 A. Not while I was there, no.

25 Q. Did you start studying it as Special Agent with the

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1 FBI?

2 A. Yes.

3 Q. And at the time you said, as you're talking to
4 Mr. Abegunde, he seemingly had known more about the
5 buying and selling of currency than you did, right?

6 A. That's correct.

7 Q. And he's telling you that you can buy and sell
8 currency, that at that point I think he had indicated
9 that in Nigeria the currency that he dealt with on a
10 regular base was the Naira?

11 A. Naira.

12 Q. And naira at that point in time was based on that
13 particular country's economy, was less in value than the
14 United States dollar, right?

15 A. That's correct.

16 Q. In fact, I think back when you would have been
17 there the Naira was trading close to \$160 per American
18 dollar, right?

19 A. I don't know, but that sounds approximately right.

20 Q. And Mr. Abegunde was abundantly clear he's never
21 directed anybody to put money in any account; and he
22 thinks that might be fraud if it's taken from somebody
23 inappropriately, right? Let me rephrase the question.

24 Mr. Abegunde told you that fraud is deplorable, right?

25 A. Yes, he did.

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1 Q. And he said and he recognizes that some people in
2 Nigeria might engage in fraud.

3 A. Yes.

4 Q. As well as in other countries and that people who
5 engage in fraud is clearly wrong, right?

6 A. Yes.

7 Q. And you, in fact, told him at that point in time
8 that if there are exchanges of money and you don't know
9 where the money might be coming from that that very well
10 might be money laundering, correct?

11 A. Yes, I believe that's what I said. I lost you in
12 your last statement. Can you repeat it?

13 Q. If you don't know where the funds -- you told
14 him -- in other words, you gave him an admonition. You
15 said you need to make sure you know where the money's
16 always coming from in your company, right?

17 A. Yes.

18 Q. And he told you, "I'm trying to start a company.
19 I've actually started two in the past, and I sold them
20 effectively," right?

21 A. Yes.

22 Q. And, in fact, he was candid with you about the fact
23 that he had been in America for a period of time, right?

24 A. Yes.

25 Q. And he was trying to be an entrepreneur, right?

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1 A. Yes.

2 Q. And now you gathered information down the road. A
3 year later you came back to his house, right?

4 A. That's correct.

5 Q. When you got back to his house, do you know one way
6 or the other if he had taken you up on your advice
7 regarding registering with the Georgia Department of
8 Banking?

9 A. No.

10 Q. And do you know whether or not he had registered by
11 that time with the IRS?

12 A. No.

13 Q. Do you know whether or not by that time he had
14 actually put together some documents regarding his
15 company and how not to engage in money laundering? One
16 way or the other, do you know that?

17 A. No.

18 Q. Do you know whether or not after your conversation
19 with him it inspired him to try to have different forms
20 of engagement within his own company, one way or the
21 other? In other words, did he take you at your word? Do
22 you know that?

23 A. No, I don't know.

24 Q. But you know that, while he was there, it seems
25 that he was being candid with you, right?

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1 A. Correct.

2 Q. He was being truthful with you, right?

3 A. Yes.

4 Q. And you received a call from a person that based on
5 your information and training was Mr. Ojo, right?

6 A. That's correct.

7 Q. In fact, this wasn't a month later or two weeks
8 later, was it?

9 A. No.

10 Q. It was between the distance that would take you to
11 get from upstairs to downstairs, right, that you got the
12 call from Mr. Ojo from the time that you got from
13 Mr. Abegunde's house, correct?

14 A. Yes.

15 Q. And it was real quick. In other words, it's the
16 type of call that happens like this. "Hey, an FBI agent
17 just left. You need to call him, Man. You need to call
18 him now." That seems like the type of urgency that would
19 have made somebody call you. Is that not true?

20 A. That's conceivable.

21 Q. All right. And you don't -- you weren't there. So
22 you don't know exactly how that call took place, right?

23 A. No.

24 Q. But you do know that he Mr. Ojo called you, right?

25 A. That's correct.

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1 Q. All right. Mr. Ojo calls you; and you ask him the
2 questions about the account and whether or not he had
3 received money from somebody else, right?

4 A. That's correct.

5 Q. And he didn't at any point say that Mr. Abegunde
6 told him to receive money in that account while you're
7 talking to him directly, did he?

8 A. Not that I recall, no.

9 Q. He didn't at any point tell you that Mr. Abegunde
10 told him anything regarding that account, whether or not
11 to open it or receive money from anybody in the Western
12 District of Tennessee, did he?

13 A. Not that I recall, no.

14 Q. But he did tell you that he had been in America
15 back in August of 2016, did he not?

16 A. I don't recall the August 2016, but he did say he
17 had recently been in America.

18 Q. He said he had recently been there; and he had not
19 been back since he left, I guess, right? Or did you go
20 into that question with him?

21 A. I don't recall asking him that question, no.

22 Q. When you're there, you asked him specific questions
23 about whether or not he had engaged in this one
24 transaction regarding the bank that you said a few moment
25 ago. At first you said Bank of America; but then you

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1 were corrected in another question that said you could
2 have gotten that wrong, a different bank, right?

3 A. Yes.

4 Q. Do you remember what that bank's name was?

5 A. Wells Fargo.

6 Q. Wells Fargo. You're asking him specific questions
7 about Wells Fargo, right?

8 A. That's correct.

9 Q. You go out the that location at that particular
10 point in time. Have you ever hear the name Edchae
11 Caffey?

12 A. Not before the interviews, no.

13 Q. And you went out there. Nobody sent you to that
14 man's house to ask him about who he married, why he
15 married, or any of those questions did he? Did you talk
16 to Special Agent Palmer, or what Special Agent did you
17 talk to whose located in the Western District of
18 Tennessee.

19 A. I spoke with Special Agent Palmer, but I don't
20 recall if that was before the initial interview or just a
21 report afterwards.

22 Q. When you talked to him or when you talked to
23 whatever Special Agent, you went to Mr. Abegunde's home
24 with a specific course in mind, right?

25 A. Yes.

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1 Q. And that was questions regarding this transaction
2 that took place from Wells Fargo to whatever bank account
3 or from whatever bank to that particular Wells Fargo,
4 right?

5 A. From what I recall, yes.

6 Q. That was why you were there, right?

7 A. Yes, from what I recall.

8 Q. And then later you get into an inquire regarding
9 Edchae Caffey, right? The name Edchae Caffey comes up at
10 what point?

11 A. I don't remember.

12 Q. But you're familiar with it being involved in the
13 case at this point, right?

14 A. Yes, but I don't know if it was at the initial
15 interview or whether it was at the subsequent search
16 warrant.

17 Q. At the initial interview, did you ask Mr. Abegunde
18 to give you a copy of his wedding certificate?

19 A. No.

20 Q. Did you ask Mr. Abegunde when you first talked to
21 him to show you his wedding pictures?

22 A. No.

23 Q. Did you ask Mr. Abegunde during the interview when
24 you are talking about all these different deals, with
25 being registered in the Department of Georgia Banking,

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1 being registered with the IRS, all the items that you
2 talked about that you had this intellectual conversation
3 with Mr. Abegunde, did you ask him how much he loved his
4 wife?

5 A. No.

6 Q. Did you ask him if he cared about his wife?

7 A. No.

8 Q. Did you ask him about Ms. Caffey at all then?

9 A. Not that I recall then.

10 Q. Did you ask him to compare pictures to see whether
11 or not one woman was a big woman and one woman was a
12 little woman?

13 A. No.

14 Q. You didn't ask him anything to do with any sort of
15 marriage fraud at all, did you?

16 A. Not that I recall.

17 Q. That, in fact, didn't develop until you went back
18 the his house back in, what, March of when?

19 A. The search warrant was March of 2018.

20 Q. That was one year later.

21 A. Approximately one year.

22 **MR. PERRY:** I don't have anything further.

23 **THE COURT:** Thank you, Mr. Perry.

24 Mr. Garrett?

25 **MR. GARRETT:** Just a couple of questions,

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1 Judge.

2 CROSS-EXAMINATION

3 **BY MR. GARRETT:**

4 Q. Special Agent Hall, you made reference in your
5 direct testimony to the name of Mr. Alonso. At what
6 point who were you talking to when that name came up?

7 A. When was I first introduced to that name, or when
8 did I ask?

9 Q. No, sir. In your direct you testified regarding a
10 conversation that you had with Mr. Ojo?

11 A. Yes, that's correct.

12 Q. Was that a telephone conversation that you had with
13 Mr. Ojo?

14 A. Yes.

15 Q. There was some question about the source of the
16 \$20,000 that had been deposited in his account?

17 A. Yes, correct.

18 Q. And what account was that, that it had been
19 deposited in?

20 A. Mr. Ojo's.

21 Q. What was said regarding Mr. Alonso in that
22 consideration?

23 A. I asked him if he was familiar with the receipt of
24 the wire transfer. He said yes. Mr. Ojo said yes. Then
25 Mr. Ojo said that he had received that money from a

UNREDACTED TRANSCRIPT

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1 Mr. Alonso.

2 Q. At that time did you have any idea as to who
3 Mr. Alonso was?

4 A. No.

5 Q. Did you know where Mr. Alonso was located?

6 A. Yes.

7 Q. Did you have any follow-up questions regarding
8 Mr. Alonso and that transaction?

9 A. Not that I recall.

10 Q. So the only statement that you had during that
11 conversation was that he, Mr. Ojo, represented to you
12 that the money came from Mr. Alonso.

13 A. Yes.

14 Q. Saw no documentation to that effect; is that
15 correct?

16 A. Not that I recall.

17 Q. And don't know whether this is a true statement or
18 not, right?

19 A. Not that I recall.

20 **MR. GARRETT:** That's all, Your Honor.

21 **THE COURT:** Thank you, Mr. Garrett.

22 Any redirect?

23 **MR. FLOWERS:** Very briefly, Your Honor.

24 REDIRECT EXAMINATION

25 **BY MR. FLOWERS:**

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1 Q. Special Agent Hall, when you are interviewing
2 someone, can you always tell whether they're telling the
3 truth?

4 A. No.

5 Q. Why not?

6 A. Well, specifically what we are trained in is to
7 recognize signs of deception, which can be interpreted as
8 a number of different ways. It can mean they're simply
9 lying. It could mean they're simply withholding the
10 truth and telling you pieces of truth. We don't really
11 have any way to determine that right at the time.

12 Q. In other parts of your interview, the defendant, if
13 I'm understanding your testimony correctory, told you
14 that his company was not yet operational.

15 A. That's correct.

16 Q. But was he speaking to you with great knowledge
17 about this whole system of currency exchange?

18 A. Yes.

19 Q. Did he saying anything about actually doing
20 currency transactions at that time?

21 A. No.

22 Q. Now as an investigator, as an attorney before that,
23 I'll ask you: Can licensed companies still commit money
24 laundering?

25 A. Yes.

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1 Q. Why?

2 A. Because the regulations simply mandate reporting
3 requirement. The company itself can still did whatever
4 it wants.

5 Q. Are regulations a stamp of approval?

6 A. As far as to approve the actions by which --

7 Q. No, are they a stamp of approval that the
8 activities that you're going to do are not illegal?

9 A. No.

10 **MR. PERRY:** Objection, Your Honor. He can't
11 lead this witness he's still his witness. He's trying to
12 elicit -- his question is calling for the answer and his
13 body inflection the answer that he wants from this
14 particular witness and it clearly is still his witness.

15 **THE COURT:** I'm not sure if body language can
16 be leading, but be sure and ask only non-leading
17 questions --

18 **MR. FLOWERS:** Yes, Your Honor.

19 **THE COURT:** -- Mr. Flowers.

20 **BY MR. FLOWERS:**

21 Q. Just to piggyback off that last question, why
22 aren't licenses a shield of subsequent criminal behavior?

23 A. Licenses are simply an approval to operate a
24 specific type of business. They're not a dictation of
25 what you may or may not do. The business itself can

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1 still conduct it's business. It can do whatever it
2 wants, but the license just gives them approval to
3 operate in a certain sector.

4 Q. Are you familiar with the concept of a shell
5 company?

6 A. Yes.

7 Q. What's that?

8 A. A shell company is essentially a company that was
9 created that exists only on paper. It has all the
10 appropriate licenses, documentation, applications. It
11 exists legally as an entity, but in and of itself it
12 doesn't do anything. It doesn't make any money. It
13 doesn't have any debts. It doesn't have any loans. It
14 doesn't have any employees. It's just a piece of paper.

15 **MR. FLOWERS:** No further questions, Your
16 Honor.

17 **MR. PERRY:** Your Honor, on that last question,
18 he opened, if we might approach.

19 **THE COURT:** Yes.

20 (The following occurred at the bench:)

21 **MR. PERRY:** That last question, that is
22 something that was not gone into in this witness in
23 direct or cross-examination regarding shell companies.
24 He doesn't have any or has not been tendered as a person
25 with specialized knowledge, I don't believe. I'd like

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1 that question regarding a shell company compared to the
2 what he's investigating at this point, he can't go into a
3 different area totally on redirect and leave me --

4 **MR. FLOWERS:** It's not -- I respectfully
5 disagree with Mr. Perry. It is not a completely new
6 area. I asked question as natural follow-ups of your
7 clients using his licensure as a shield against
8 subsequent activity. The witness, who is an
9 investigator, who warned your client against money
10 laundering --

11 **THE COURT:** To me Mr. Flowers.

12 **MR. FLOWERS:** -- and personal knowledge of
13 these activities. I respectfully disagree with you,
14 Mr. Perry.

15 **THE COURT:** I thought it was within the scope
16 of the cross. As you were went into he was establishing
17 this company or you were trying to leave the impression
18 that he established this company in response to this
19 conversation with the agent. So I think it was within
20 the scope.

21 **MR. PERRY:** Okay.

22 **THE COURT:** Leave it there.

23 **MR. FLOWERS:** Thank you, Your Honor.

24 Apologize, Mr. Perry.

25 (The following occurred in open court:)

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1 **THE COURT:** Agent, you may step down.

2 (Witness excused.)

3 **THE COURT:** Is there another short witness?

4 **MR. FLOWERS:** Very likely not, Your Honor, no.

5 **THE COURT:** Really long witnesses left?

6 **MR. FLOWERS:** We anticipate the remainder of
7 the witnesses to have some length to them, Your Honor.

8 **THE COURT:** All right. Well, I think, rather
9 than get into one that we probably can't finish, I think
10 it would be better to break now. It's about 5:15. It
11 has been a long day. So I'm going to let the jury go for
12 the night.

13 Tomorrow I think we are at the same time,
14 yeah. I've got what I hope is a short matter. I'm not
15 sure what the matter is, but I've got a short matter at
16 9:00. So let's get going again at 9:15. Be ready to
17 come in. Same routine, be here early enough to pick your
18 lunch that sort thing. Get a cup of coffee if you want a
19 cup of coffee and ready to come in.

20 Don't talk to anyone about the case including
21 each other or anyone at home. Don't talk to anyone
22 involved in the case at all. Leave the juror notes here
23 in the room. If there's media, don't watch it. Don't
24 listen to it. Don't read it. Again, I don't know that
25 anyone who came through the courtroom was media; but,

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1 again, the only information you shall get about the this
2 case is what you get while you're in this courtroom with
3 us. Okay?

4 Any questions about anything? All right. We
5 will see you in the morning. Get a good night's sleep.
6 Thank you.

7 (The following occurred outside the presence
8 of the jury:)

9 **THE COURT:** If you all would sit down for a
10 minute. so where are we? Because I'm looking at a lot
11 more names on list; and, of course, I have no idea what
12 they're going to testify about. So where are we in your
13 general schedule?

14 **MS. IRELAND:** Your Honor, my sense is that
15 we're a little ahead of schedule.

16 **MR. FLOWERS:** Yes.

17 **THE COURT:** That's good news.

18 **MS. IRELAND:** We thought we would start with
19 that.

20 **THE COURT:** Which means that --

21 **MS. IRELAND:** We're hoping I would say that we
22 should be able to wrap proof by late Thursday, early
23 Friday.

24 **THE COURT:** That wasn't the schedule I was on.
25 Okay.

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1 **MS. IRELAND:** Maybe earlier.

2 **THE COURT:** All right. We will see how it
3 goes tomorrow. Anything else I should know about the
4 schedule?

5 **MR. FLOWERS:** Not from the Government, Your
6 Honor.

7 **MR. PERRY:** No, Your Honor.

8 **THE COURT:** All right. Anything else we need
9 to address?

10 **MS. IRELAND:** No, Your Honor.

11 **THE COURT:** I think tomorrow we will get an
12 initial draft of the jury instructions to you that just
13 has everything, you know, in yellow that we still need to
14 resolve based on the proof; and there are, as I
15 understand it, two jury instructions that the Government
16 has offered that the defendants are not agreed to. Most
17 of the rest I think is agreed to.

18 **MS. IRELAND:** And, Your Honor just to be
19 particular, Mr. Abegunde has agreed to what's there. We
20 don't have Mr. Ramos's input whatsoever.

21 **THE COURT:** Okay. Well, Mr. Garrett will have
22 a set to review then.

23 All right. Anything else?

24 **MR. FLOWERS:** Not from the Government.

25 **THE COURT:** All right. See y'all in the

REDIRECT – SPECIAL AGENT KEVIN HALL

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1 morning at 9:15. Thank you.

2 (Adjournment) .

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C E R T I F I C A T E

I, Mark S. Dodson, do hereby certify that the foregoing 294 pages are, to the best of my knowledge, skill and ability, a true and accurate transcript from my stenotype notes in the matter of:

UNITED STATES

vs.

OLUFOLAJIMI ABEGUNDE, JAVIER LUIS RAMOS ALONSO

Dated this 27th day of December, 2019.

S/*MARK S. DODSON*
Official Court Reporter
United States District Court
Western District of Tennessee