

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE HON. JUDGE STEPHEN V. WILSON, JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) NO. 20-CR-00579-SVW
)
RICHARD AYVAZIAN, et al.,)
)
Defendants.)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Video Conference

Los Angeles, California

Friday, April 2, 2021

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1 Los Angeles, California; Friday, April 2, 2021

2 11:33 a.m.

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4 THE COURT: I see the lawyers' names on the
5 screen, and I have a schedule here.

6 Let me start the hearing in this way. I know that
7 the specific purpose of the status conference is with regard
8 to the ex parte application for protective order --
9 application for modified protective order. And there is
10 opposition. And there have been substantial briefs filed
11 with regard to this protective order, which is somewhat
12 unusual, but has to be addressed.

13 Before I can get to that specific question, I
14 would benefit from, perhaps, a better understanding of the
15 indictment. And I'm directing my questions initially to --
16 who is the prosecutor here? It's Andre, Julian Andre.
17 Where's Julian Andre?

18 MR. FAERSTEIN: Your Honor, I'm sorry. This is
19 Brian Faerstein on behalf of the United States. I'm also
20 joined by my colleague, Scott Paetty and Christopher Fenton.
21 Mr. Andre left our office about a month or two ago, but
22 myself and Mr. Paetty have made appearances, and Mr. Fenton
23 has been on the case from the inception.

24 THE COURT: Who are the other assistants?

25 MR. FAERSTEIN: The other AUSA is Scott Paetty

1 from the U.S. Attorney's Office.

2 THE COURT: How do you spell his name?

3 MR. FAERSTEIN: His last name is P-a-e-t-t-y.

4 THE COURT: He is not appearing here today;
5 correct?

6 MR. FAERSTEIN: He is present. I will be taking
7 the lead for the Government, but he is present, as well as
8 Mr. Fenton.

9 THE COURT: I see. So my questions initially are
10 directed to you, and maybe defendants can benefit in some
11 way from my questions also.

12 I read the indictment several times, and it has so
13 many details in it that I want to make sure I get the thread
14 of it and not get lost in the details.

15 So understanding that it's just an indictment and
16 the lawyers should understand that nothing is likely to be
17 decided at this hearing, and my questions are really
18 questions trying to get some insight as to at least what the
19 indictment alleges, which is the starting point.

20 And I'm not interested in how the indictment or
21 the evidence meshes to specific statutes or charges, I'm
22 just interested, in nonlegal term, let's call it "The
23 story." Every case has a story.

24 And so here is my very rough understanding. And
25 I'm not interested in too many details. I'm just trying to

1 get the broad strokes.

2 My understanding is that the indictment alleges
3 that the scheme involved applications for these PPP loans
4 and Small Business Administration loans which appear to be
5 similar in purpose. Maybe there are some distinctions. And
6 that what happened, according to the indictment, was that
7 the defendant -- and the focus as far as I can see from the
8 pleadings -- and I'm doing this also to better understand
9 the motions to suppress which are on calendar for next
10 week -- seem to put defendant Ayvazyan and Terabelian at the
11 helm here, so to speak.

12 And that there was a series of PPP and SBA loan
13 applications for the benefits under those programs. The
14 moneys under those programs were limited to certain business
15 expenses and purposes, and that instead of using those funds
16 for business purposes, they were used for the personal
17 purposes of the defendants buying homes or other things.

18 And that -- and carrying out the scheme -- and
19 this, perhaps, gets closer to the protective order issue --
20 the Government maintains that there were some fictitious,
21 non-existent persons or entities that were the applicants
22 for these loans.

23 Two prominent names in the indictment are Zhadko
24 and Kauichko, and that they are the -- in fact, the
25 indictment so alleges that those are AKAs or names used by

1 Ayvazyan and his wife Terabelian. I don't fully
2 understand -- maybe I should, maybe it's my deficiency, but
3 I don't fully understand the other defendants' roles in the
4 indictment.

5 Were they persons who were similarly situated to
6 Ayvazyan and Terabelian, or were those persons who somehow
7 involved themselves in the scheme to help benefit the
8 Ayvazyan and Terabelian?

9 So, as a first matter, I'll just ask you,
10 Mr. Faerstein, in terms of what I just said, am I close to
11 the mark, or have I misread the indictment?

12 MR. FAERSTEIN: Thank you, Your Honor.

13 You are -- Your Honor is very close to the mark.

14 I will mention that there was an initial
15 indictment in this case, of course, back in November where
16 there were four defendants, Richard Ayvazyan, Marietta
17 Terabelian as Your Honor has already mentioned, along with
18 Richard Ayvazyan's brother, Artur Ayvazyan and his wife,
19 Tamara Dadyan.

20 The indictment at that time alleged, as Your Honor
21 described, a conspiracy to submit fraudulent loan
22 applications for COVID-19 disaster relief fund. And the
23 core component of the conspiracy and the scheme is using
24 fake, stolen and synthetic identities of individuals, as
25 well as entities to submit these fraudulent loan

1 applications for --

2 THE COURT: That's what I described, I thought.
3 And you make a point here about the synthetic and stolen.
4 From my reading of the indictment -- and it has so many
5 details -- it appeared to me that there was only one -- I'll
6 call it a real person -- whose identity was stolen or
7 misused to get these loans and that all the other names of
8 the businesses, at least from the indictment's standpoint,
9 were used or synthetic. I guess that means made up; right?

10 MR. FAERSTEIN: It does, Your Honor.

11 THE COURT: So in terms of real persons whose
12 identity was somehow stolen or misused and manipulated for
13 the purposes of the indictment, how many persons of that
14 kind were there?

15 MR. FAERSTEIN: Well, Your Honor, I was going to
16 mention, the Government --

17 THE COURT: Just answer my question. Listen to
18 what I'm saying. There are a lot of people here, and I'm
19 trying to unearth a better understanding so that I can do my
20 job. This is not the time to argue. I'm just interested in
21 getting my questions answered. Not long-winded answers.

22 So answer my question "yes" or "no" first, and
23 then give me a further answer if there is one.

24 MR. FAERSTEIN: Yes, Your Honor.

25 There are six specific stolen identities of real

1 people alleged in the first --

2 THE COURT: Why didn't you say that at the outset.
3 That was my question.

4 MR. FAERSTEIN: I apologize, Your Honor.

5 THE COURT: Then, are the six people mentioned in
6 the indictment?

7 MR. FAERSTEIN: They are mentioned in the
8 first-superseding indictment, Your Honor.

9 THE COURT: And do these people claim, as per the
10 indictment, that they discovered the misuse because of money
11 unexplainably going to their bank account or the business
12 bank account?

13 How is it that they knew their identity was
14 misused? I mean, when the application was made in the name
15 of a real person whose identity was misused or stolen, did
16 the PPP or the SBA wire the money to their bank account, or
17 was it somehow directed somewhere else? And, if so, how did
18 these persons know that their identity was misused?

19 MR. FAERSTEIN: Yes, Your Honor. The money was
20 not wired to these individuals, it was wired to bank
21 accounts controlled by the defendants in this case. And as
22 part of the investigation of these fraudulent loan
23 applications, agents have interviewed a number of the
24 witnesses or alleged identity theft victims in sort of
25 trying to figure out did you submit this loan application

1 and they have confirmed they have not.

2 A couple of the other identity theft victims have
3 not been interviewed, but I will also mention there are
4 numerous other individuals that are not alleged in
5 aggravated identity theft counts in the first-superseding
6 indictment, but whose identity we believe, based on
7 interviews with them, have also been used and stolen and
8 used in connection in furtherance of the conspiracy.

9 THE COURT: All right. And I did read -- my
10 research is not complete on the motions that are pending,
11 but I did read the declaration or affidavit by the FBI agent
12 in furtherance of the warrant.

13 Well, before I get to that, let me ask a question
14 about Zhadko and Kauichko.

15 There seems to be a clear dispute between the
16 defendants and the Government as to whether Zhadko and
17 Kauichko are fictitious or real. In the FBI agent's
18 declaration, there is information, at least from that
19 declaration, that the FBI agent says supports the view that
20 they're not real, but the defendants claim they are real.
21 I'm going to ask you briefly what evidence is there that
22 they're not real, and give me your response.

23 MR. FAERSTEIN: Yes, Your Honor. With respect to
24 the identifying information for, for instance, Iuliia Zhadko
25 and the drivers' licenses that were on defendant Ayvazyan's

1 phone and the social security number, that information is
2 not real. There may be an individual named Iuliia Zhadko,
3 but the information in these profiles that the defendants
4 were in possession of is not real.

5 THE COURT: One moment. And you say that the
6 information that you received, was this from the search of
7 the phones at the Miami Airport?

8 MR. FAERSTEIN: Both in terms of the search of the
9 phones at the Miami Airport, as well as the cards that the
10 defendants had on them during that search.

11 THE COURT: But it stems from the search at the
12 Miami Airport?

13 MR. FAERSTEIN: Yes, Your Honor.

14 There's also --

15 THE COURT: Why do you -- yes, it stems from Miami
16 Airport.

17 MR. FAERSTEIN: The agents had previously
18 identified the person Iuliia Zhadko or the identity Iuliia
19 Zhadko before the Miami stop, and they did so in connection
20 with investigating suspected fraudulent loan applications
21 for COVID-19 disaster relief funds.

22 One of the companies that they were investigating
23 in the summer of last year before the border stop in October
24 was a company called Timeline Transport. And that
25 particular PPP loan application was submitted by an

1 individual named Iuliia Zhadko.

2 THE COURT: I know that because that's highlighted
3 in the FBI agent's affidavit.

4 Let me, perhaps, be a little disjointed and
5 backtrack here and ask you how did this all start.

6 MR. FAERSTEIN: How did the investigation start,
7 Your Honor?

8 THE COURT: Yes.

9 MR. FAERSTEIN: Well, after Congress passed the
10 CARES Act, there was an emphasis on trying to root out fraud
11 in connection with the Payment Protection Program, as well
12 as this other program, the Economic Injury Disaster Relief
13 program because those funds were obviously sorely needed by
14 the businesses that legitimately needed them.

15 In this particular case, this company Timeline
16 Transfer was among a few that -- of construction companies
17 that had some hallmarks or question marks that the FBI began
18 investigating.

19 THE COURT: You know, you say a lot of things, and
20 understand I'm not being personally critical, but I have a
21 goal here, and I just can't let you keep on talking.

22 It seems to me what you're saying is that it
23 became -- began with some sort of audit.

24 MR. FAERSTEIN: I can't say whether it was an
25 audit, Your Honor, or an anonymous tip.

1 THE COURT: You can't say because you don't know,
2 or because you feel that you don't want to make that
3 revelation known?

4 MR. FAERSTEIN: I, sitting here right now without
5 going back to the specific warrant affidavit, I can't say
6 because I don't know the specific --

7 THE COURT: Why don't you know? I mean, you
8 should know that. I mean, you're the prosecutor.

9 Are you telling me that you don't know how this
10 all started? I mean, I find that stunning.

11 How did this start?

12 MR. FAERSTEIN: It started with an investigation
13 of a company called Timeline Transport.

14 THE COURT: You said that, and the impression I
15 was getting was that there was this program, and the
16 Government, in its wisdom, said, well, maybe we ought to
17 check to see if everything is kosher about this business,
18 this program. And so they sort of, like the IRS, they do
19 random audits and sometimes the IRS -- someone calls up the
20 hotline and says, you know, "Dr. Smith down the street here,
21 he keeps four sets of books. I know where they are." I
22 mean, you know, all kinds of reasons to start audits.

23 Was this audit started because there were some
24 hallmarks? I mean, we all know the IRS has some gadgetries,
25 algorithms, programs, where they look for indicia of fraud,

1 use that as a starting point and sometimes it's someone who
2 shows up and says, "I've got a good lead for you."

3 How did this one start?

4 MR. FAERSTEIN: Your Honor, I do not know sitting
5 here right now whether it was an audit or algorithms or
6 whether it came in through an anonymous tip. My colleague,
7 Christopher Fenton, will be able to answer that question.

8 THE COURT: Well, who is the lead prosecutor in
9 this case?

10 MR. FAERSTEIN: Your Honor, I'm not sure we have a
11 designated lead prosecutor. I am speaking here today on the
12 ex parte application.

13 THE COURT: You know something, this is just not
14 satisfactory. I mean -- I mean, if it were a defense lawyer
15 who said, you know, "I'm carrying the bags. I'm the guy
16 who's going to try the case" and couldn't answer the
17 questions, I'd be equally perturbed.

18 I mean, I'm taking pains as is my responsibility
19 to understand what's going on because there's a lot at
20 stake, and you're supposed to be helping me, not persuading
21 me, but answering my questions. And I've used that word
22 before stunned by the fact that you don't know how this
23 began. It may not be pivotal, but it --

24 Let me turn to something related.

25 MR. FENTON: Your Honor, this is Christopher

1 Fenton for the Government as well. I can answer your
2 question if it would please the Court.

3 THE COURT: Go ahead and answer.

4 MR. FENTON: Sure. So the Department of Justice
5 worked with an independent expert to audit data from the SBA
6 to try to find certain hallmarks for fraud. What we found
7 in this particular instance, without going into too much
8 detail, unless the Court would prefer that --

9 THE COURT: No.

10 MR. FENTON: -- what we found here is that there
11 was a certain grouping of individuals who appeared to be a
12 ring who were using common types of fraudulent documents and
13 also using fake IDs. One of those fake IDs was
14 Iuliia Zhadko.

15 Once we identified that ring using the SBA data,
16 what happened from that date forward was we started to
17 basically follow the money. We followed the money and found
18 that there were other applications submitted by
19 Iuliia Zhadko or that went into Iuliia Zhadko's bank account
20 or bank accounts --

21 THE COURT: Hold on. Because you're getting
22 closer to what I was interested in. You're saying that
23 there were certain hallmarks about the Timeline loan or
24 about Zhadko.

25 In other words, was the initial focus on Zhadko?

1 MR. FENTON: Iuliia Zhadko. The initial focus was
2 on a grouping of individuals that included Iuliia Zhadko.

3 THE COURT: But I mean there must have been a
4 gazillion people applying for loans in this program.

5 How was it that this Zhadko stood out or became
6 the focus of some inquiry?

7 MR. FENTON: Well, in some instances you can
8 readily identify that the individuals are not actually real
9 people by doing background searches.

10 There was also an issue that they were submitting
11 similar supporting documentation. So the SBA data was able
12 to identify that similar types of payroll reports or similar
13 IRS tax forms had been filed, and they would look at the
14 similarities, and say, well, that's strange that this group
15 of companies that otherwise don't have any connection, you
16 know, are submitting similar types of forms.

17 THE COURT: Hold on.

18 And how many companies were identified as
19 applicants by virtue of the focus on Zhadko?

20 MR. FENTON: So -- well, there was a handful of
21 companies that were tied to Zhadko, including Timeline
22 Transport, Top Quality Construction, and then also another
23 one Touring Info Solutions.

24 THE COURT: And are those companies in the
25 indictment? Timeline, I know is. Top -- whatever it was

1 also; correct?

2 MR. FENTON: Yes. And Touring Info Solutions as
3 well.

4 THE COURT: I see.

5 MR. FENTON: And one additional point, Your Honor,
6 that I think would be helpful is that often Department of
7 Justice reviews suspicious activity reports that are
8 provided by banks which provides leads as well. So these
9 are not leads or complaints that are filed, but those are
10 investigations obviously conducted by financial
11 institutions.

12 THE COURT: I see.

13 MR. FENTON: One additional point that I think
14 would be helpful to Your Honor --

15 THE COURT: Was there such a report filed by a
16 bank in this instance?

17 MR. FENTON: Yes, there were SARs reports, yes.

18 THE COURT: And were those reports focused on
19 Zhadko?

20 MR. FENTON: Yes, Your Honor.

21 THE COURT: And none of that to my memory is
22 described in the declaration, the affidavit.

23 MR. FENTON: Well, the Government is not able to
24 rely on SARs for the purpose of search warrants or for
25 alleging crimes, so we don't allege --

1 THE COURT: What is SARs?

2 MR. FENTON: Suspicious Activity Report generated
3 under the bank --

4 THE COURT: I know, but here's what I'm getting at
5 and this maybe doesn't relate to this specific issue. I'll
6 zero in on it hopefully with further questions, but -- I may
7 have the dates off a bit, but my memory is that Miami
8 Airport search occurred, I think, in the middle of
9 October 2020; correct?

10 MR. FENTON: Yes, Your Honor. October 20th.
11 October 19th and 20th.

12 THE COURT: Yeah. And that the indictment was
13 returned early November, mid November.

14 MR. FENTON: That's correct, Your Honor.

15 THE COURT: So given the amount of detail in the
16 indictment, it seemed that -- and, of course, the fact that
17 in the Miami situation, the agents there were prompted by
18 agents who were investigating this case. So it appears that
19 all the documentary evidence in the indictment predated the
20 search.

21 MR. FENTON: That's correct, Your Honor. That's
22 correct.

23 THE COURT: No "and." No "and." Just answer the
24 question. That's the answer; right?

25 MR. FENTON: Yes, Your Honor.

1 THE COURT: I'm going to turn now to the Miami
2 search, not in terms of its legality because the parties
3 have put that issue squarely to the court. I understand the
4 issue, and it has to be resolved, and I will resolve it, but
5 I don't need any further input on that now.

6 My understanding of the Miami search was that
7 Ayvazyan and Terabelian were coming back to the
8 United States from some Caribbean island and that their
9 arrival was tipped off to Customs people by agents, FBI
10 agents.

11 Again, I'm not getting into the Fourth Amendment
12 questioning.

13 When Ayvazyan and Terabelian were questioned and
14 searched, the declaration says they found identity
15 information on Ayvazyan of Zhadko; is that correct?

16 I'm asking you, Fenton. Is it -- you're speaking,
17 or is it now Faerstein? Who is going to speak to that?

18 MR. FENTON: I can answer that question,
19 Your Honor.

20 Yes, identity information was found on
21 Mr. Ayvazyan.

22 THE COURT: And Ayvazyan. And it was Zhadko
23 identity information?

24 MR. FENTON: Yes, Your Honor.

25 THE COURT: And what other identities, other than

1 that in his name Ayvazyan, were found on him?

2 MR. FENTON: A credit card from Viktoria Kauichko.

3 THE COURT: Okay. Those are the two principal
4 things?

5 MR. FENTON: Yes, Your Honor.

6 THE COURT: And was Viktoria Kauichko known to the
7 Government before that?

8 MR. FENTON: Yes, Your Honor.

9 THE COURT: How?

10 MR. FENTON: Through the same process. Because it
11 was a ring, the Government followed the money. And what the
12 Government determined is what was essentially outlined in
13 the October 20th Complaint that was filed, which is that
14 money was used, disaster relief money was used to purchase a
15 house that Mr. Ayvazyan and Ms. Terabelian --

16 THE COURT: I --

17 MR. FENTON: -- so we traced the money that was
18 used to buy that house --

19 THE COURT: Was that all the money that went in
20 escrow?

21 MR. FENTON: That's -- yes, a lot of -- a lot of
22 the funds went into the escrow, not all of them, yes.

23 THE COURT: Now, what other physical evidence was
24 taken or seized from Ayvazyan and Terabelian at that Miami
25 search, other than the identity of Zhadko and Kauichko?

1 MR. FENTON: So there were the credit cards.
2 There was --

3 THE COURT: Credit cards in whose name?

4 MR. FENTON: The credit cards -- the identity
5 document that you referred to, Your Honor, those are credit
6 cards in the name of Iuliia Zhadko and Viktoria Kauichko.
7 So that's what I'm referring to. Credit cards.

8 THE COURT: I see. And then they were questioned,
9 and what information -- what did they say in that
10 questioning, if anything, that the Government intends to use
11 or was a lead to something else?

12 MR. FENTON: What statements were made during --

13 THE COURT: Yes. Maybe just make it a broad
14 question. What did they say?

15 MR. FENTON: The Government is not intending to
16 rely on any statements that were made during that
17 questioning --

18 THE COURT: What did they say?

19 MR. FENTON: So they were basically asked, you
20 know, was commonly referred to as the five Ws. The who,
21 what, where, why, and when with respect to who they were and
22 their travel.

23 And when they were confronted about the identities
24 with respect to Mr. Ayvazyan, Mr. Ayvazyan claimed that
25 Iuliia Zhadko was his girlfriend, and he was just concealing

1 that information from his wife.

2 And his wife, when she was confronted with
3 Viktoria Kauichko identity, she said that -- she initially
4 said I don't know who that is, and my husband put that card
5 in there, in my wallet.

6 THE COURT: I see.

7 And what about the other defendants, beginning
8 with Ayvazyan, Dadyan, Grigoryan and so forth? I guess
9 there are two Dadyans here.

10 How did they become part of the indictment? Were
11 they persons who did things to help Ayvazyan and Terabelian
12 in the alleged scheme, or did they have their own scheme?

13 MR. FENTON: So they were co-conspirators in the
14 same scheme. And what is alleged is that the disaster
15 relief funds were fraudulently applied for, and that the
16 proceeds were then taken to buy a variety of different
17 things, including these luxury homes. And the Government
18 was able to follow the money and find that the disaster
19 relief funds were being used to buy these homes. And that's
20 how we initially landed on Richard Ayvazyan and
21 Marietta Terabelian.

22 And then from there we identified the other
23 individuals who were involved in applying for and then
24 moving those criminal proceeds. And then that led us to
25 Artur Ayvazyan and Tamara Dadyan --

1 THE COURT: When you say "moving," what exactly do
2 you mean?

3 MR. FENTON: Well, laundering and spending.

4 THE COURT: So the proceeds of the loans somehow
5 went to the applicants. Let's say Timeline. And then from
6 Timeline, at least according to the FBI affidavit, they were
7 shortly thereafter wired to this escrow account?

8 MR. FENTON: In some instances, yes, but there are
9 other ways that they laundered or spent --

10 THE COURT: How -- give me an example of how some
11 of these other defendants became co-conspirators, according
12 to the indictment.

13 MR. FENTON: Well, sir, so the other
14 co-conspirators all submitted or caused to be submitted
15 fraudulent PPP or EIDL loan applications.

16 THE COURT: In their names?

17 MR. FENTON: Some were in their names, some used
18 fake identities.

19 So, for example, Tamara Dadyan applies for several
20 loans in her own name, but also applied for many loans using
21 stolen, fake or synthetic identities.

22 THE COURT: Stolen, fake, or synthetic. Those are
23 different things. I mean --

24 MR. FENTON: That's right.

25 THE COURT: One is made up names and the other is

1 stolen identities of real people. So you're saying it was
2 both?

3 MR. FENTON: That's correct.

4 THE COURT: And -- but when these other
5 defendants -- when I say "other," I'm referring to anyone
6 other than Ayvazyan and Terabelian -- applied for a loan and
7 got the proceeds, is the Government's documentary evidence
8 that the monies were shortly thereafter transferred to the
9 benefit of Ayvazyan and Terabelian?

10 MR. FENTON: In some instances, yes. Like one
11 example, Your Honor, would be Vahe Dadyan. So he obtained a
12 loan in his own name, using his own company, and then gave
13 nearly all of the proceeds were used to purchase one of the
14 houses. That's correct.

15 THE COURT: Is there an allegation that
16 defendants, other than Ayvazyan and Terabelian when making
17 these fraudulent loan applications, as the indictment
18 alleges, that they did it for their own benefit? In other
19 words, kept the money themselves?

20 MR. FENTON: Absolutely, Your Honor, yes.

21 THE COURT: So how were they -- how were those
22 schemes, even though they are similar in structure, related
23 to Ayvazyan and Terabelian?

24 In other words, if they had their own scheme to
25 obtain funds illegally, how is it tied to this overall

1 conspiracy?

2 MR. FENTON: So the defendants -- the defendants
3 are working together to apply for these loans, teaching each
4 other how to use -- how to get --

5 THE COURT: There's a trial date, isn't there?

6 MR. FENTON: Yes, Your Honor.

7 THE COURT: When is the trial date?

8 MR. FENTON: The current trial date is May 4.

9 THE COURT: So does the Government have some
10 inside witness?

11 MR. FENTON: We do have at least one confidential
12 witness. Yes, Your Honor.

13 THE COURT: And when you say "confidential," was
14 that someone who -- is that a defendant?

15 MR. FENTON: No, Your Honor.

16 THE COURT: And has that person been identified to
17 the defense?

18 MR. FENTON: Not as yet, Your Honor, no.

19 THE COURT: I bet they're curious to know who that
20 might be.

21 When do you plan on telling them?

22 MR. FENTON: Well, Your Honor, so we have, in
23 connection with the application for the modified protective
24 order, we have included provision that would allow us to
25 share that information with their attorneys. The request is

1 that that information not be shared with defendants because
2 there's a concern with respect to the safety of that
3 particular individual.

4 THE COURT: But, in other words, what is the --
5 are there links between these defendants in terms of aiding
6 and abetting each other, or is -- do these defendants -- the
7 defendants other than Ayvazyan and Terabelian have done
8 similar things to what is alleged against Ayvazyan and
9 Terabelian for their own -- just for their own benefit?

10 MR. FENTON: Yes, Your Honor.

11 THE COURT: What is the linkage?

12 MR. FENTON: Well, the linkage is that they're
13 applying for -- they're fraudulently obtaining these funds,
14 and then they're transferring the funds amongst each other
15 in some instances.

16 THE COURT: Is Ayvazyan and Terabelian
17 transferring funds they got from these others too?

18 MR. FENTON: To some of the individuals, yes.

19 THE COURT: I see.

20 MR. FENTON: The theory --

21 THE COURT: What is the Government's theory as to
22 why they're doing that? Why wouldn't they just keep the
23 money?

24 MR. FENTON: Well, it's our understanding that
25 they're taking a large portion of those funds and they're

1 using them to buy houses, and they fancy themselves to be
2 real estate experts and presumably they'd flip them and sell
3 them for some profit as part of an effort to launder money.

4 THE COURT: That is what I was getting at. In
5 other words, let's say, for example, Dadyan filed -- had a
6 false company and false identity, filed for a PPP loan, the
7 money went to that entity and Dadyan used the money to buy a
8 house or a car, or a watch or whatever, wouldn't that be --
9 why is that scheme part of Ayvazyan's scheme?

10 MR. FENTON: Well, they're sharing. I mean,
11 they're sharing the funds. So they may spend the money on
12 individual things here and there; right? So some of the
13 defendants might buy a personal luxury. They might buy a
14 wrist watch, like a Rolex or something of that nature.
15 Another one might buy a Fendi handbag.

16 THE COURT: Are you saying that these defendants
17 bought things together; in other words, as a group?

18 MR. FENTON: They raised the money together, and
19 then they spent the money together on some things like these
20 houses.

21 THE COURT: The houses, were they handled jointly
22 or were they held in individual defendants' names?

23 MR. FENTON: So one of the homes was purchased in
24 the name of Richard Ayvazyan and Marietta Terabelian, and
25 two of the other homes were purchased using the names of --

1 one was purchase name of Iuliia Zhadko, and the other was
2 purchased in the name of another individual, Anna
3 Manukian (ph), who's believed to be a stolen identity. A
4 relative of one of the defendants whose identity was stolen.

5 THE COURT: And let me ask you this. The
6 defendants maintain that these co-defendants are -- they're
7 all relatives; is that your view also? Or do you have a
8 different view?

9 MR. FENTON: Our understanding is they're
10 relatives, they're close family friends.

11 THE COURT: I see.

12 MR. FENTON: Right.

13 THE COURT: And are there any fictitious people in
14 the case related to some of these other defendants, other
15 than Zhadko and Kauichko? Any other names like that?

16 MR. FENTON: Your Honor, are you asking -- just so
17 I can be clear about the question. Are you asking if there
18 are -- if some of the defendants are using other fake names
19 or aliases?

20 THE COURT: Yes.

21 MR. FENTON: Absolutely.

22 THE COURT: I mean, similar at least in style to
23 Zhadko and Kauichko?

24 MR. FENTON: Yes.

25 THE COURT: Just names you believe are synthetic

1 as you call them?

2 MR. FENTON: That's correct.

3 THE COURT: Now, let me ask you about the SBA and
4 the PPP. The way I'm understanding the difference is that
5 in the funding process under the PPP program, the funding is
6 through private banks; and under the SBA process, it's
7 through the Government.

8 Is there some other difference in these programs?

9 MR. FENTON: No, Your Honor. I think that that's
10 the primary difference.

11 THE COURT: And were most of the loans PPP or SBA?

12 MR. FENTON: They -- so most of the loans were
13 PPP, but I mean, it's very close. There are a large number
14 of PPP and a large number of EIDL loans as well.

15 THE COURT: Now, how many of the loans were made
16 with what the Government alleges to be stolen identity of
17 real people?

18 MR. FENTON: So in the first-superseding
19 indictment, there's over 150 fraudulent loans. And this is
20 a rough estimate, Your Honor. But I would say that about
21 85 percent of those were -- used fake or stolen names.

22 THE COURT: But fake or stolen, those are two
23 categories. I'm asking who -- how many of the loans were
24 made by using the stolen identity of a real person?

25 MR. FENTON: Many of the loans. The synthetic

1 identities are really a combination of information that is
2 in part real information and in part fake information.

3 For example, in this particular case, a lot of the
4 identities appear to be Russian foreign exchange students or
5 foreign exchange students from Eastern Europe, and their
6 names and their birthdates are taken and then other
7 information is added to that to build a profile of an
8 individual. And that profile, which we call synthetic, is
9 then used to take out the loans.

10 THE COURT: So what you're describing is a real
11 person whose biography was manufactured?

12 MR. FENTON: Right. And I can give you a good
13 example here. Iuliia Zhadko. It's our understanding that
14 Iuliia Zhadko is a female Russian foreign exchange student
15 who has the date of birth that is on that driver's license,
16 but when you look at the way that Iuliia Zhadko's name has
17 been used in this particular instance, Richard Ayvazyan has
18 turned him into a man and given him additional information.

19 And then if you see in the submission that we made
20 most recently, the ex parte submission, you can see three
21 examples of three different men who are presented to be
22 Iuliia Zhadko. That's a perfect example of a synthetic
23 identity.

24 THE COURT: You know, it almost seems like -- I
25 hate to make humor of such an important issue, but that

1 there is this program on television where the format is --
2 you know, the panel asks questions -- To Tell the Truth. My
3 wife just told me. Where the panel asks questions and then
4 they have to guess who the real person is, and then that
5 real person stands up. It's kind of dramatic. But I'm
6 asking whether the Government has ever met or talked to this
7 foreign exchange student, Zhadko.

8 MR. FENTON: We have not spoken to Ms. Zhadko, no.

9 THE COURT: Do you know -- I mean, you said you
10 thought she's a foreign exchange student. Have you tried to
11 locate her?

12 MR. FENTON: Not at this point, Your Honor.

13 THE COURT: Well, at this point. I mean, the
14 trial could be around the corner.

15 MR. FENTON: That's correct. I don't -- the
16 Government doesn't believe that we need to contact
17 Ms. Zhadko in order to prove our case, but Ms. Zhadko is in
18 Russia as far as we understand it, or at least hasn't been
19 in the United States. She left the United States a long
20 time ago.

21 THE COURT: Well, I mean, is there passport
22 information that gives some information about her coming and
23 going?

24 MR. FENTON: Yes. Yes, Your Honor. These
25 individuals who have been used to build synthetic identities

1 in many instance are Russian or Eastern European foreign
2 exchange students, and we have identified their travel
3 information, saw that they came in on a Visa, saw that they
4 left and never came back, and then we produced that
5 information to the defense.

6 THE COURT: I see. Now, I'm going to ask you --
7 of course, I'm going to immediately turn it over to the
8 defendant because I'm anxious for their answer on this
9 question.

10 My understanding is that defendant Ayvazyan and
11 Terabelian claim that Zhadko and Kauichko are relatives of
12 theirs.

13 Is that what they're saying? I don't know.

14 MR. FENTON: I don't know, Your Honor.

15 THE COURT: They're saying they're real people,
16 and you seem to say the same thing with some qualification.

17 MR. FENTON: Well, but I think, Your Honor, what's
18 important here, if you look at the ex parte submission that
19 we made, the licenses that were found on the defendants for
20 Kauichko and for Zhadko show different people.

21 So for Mr. Ayvazyan to say, "Well, I know who is
22 Zhadko, and he told me it's okay for me to use his
23 identity." Well, Mr. Ayvazyan has been found with three
24 different Iuliia Zhadkos. Which one could possibly be the
25 right one?

1 With respect to Ms. Kauichko, it's the same
2 information as well. They were found with identification.
3 There were two different identification documents for
4 Viktoria Kauichko. If you look at them, they are two
5 completely different people. It's impossible for that to be
6 the case that these individuals are giving --

7 THE COURT: I don't know what's possible or not.
8 That's for a jury to decide, not me.

9 What -- now, let me turn to the reason for this
10 hearing. What is, from the Government's standpoint, what is
11 the protective order about? What does the Government want
12 to protect or modify?

13 MR. FAERSTEIN: Yes, Your Honor. This is
14 Brian Faerstein again on behalf of the Government.

15 The discovery that we've produced contains a
16 significant amount of the personally identifiable
17 information that Mr. Fenton has just been describing. The
18 names --

19 THE COURT: Of which people?

20 MR. FAERSTEIN: Well, the individuals we've just
21 described, as well as numerous other individuals. We've
22 submitted some exhibits.

23 THE COURT: Are you talking about the real people
24 whose identity was taken?

25 MR. FAERSTEIN: Both the real people and the

1 synthetic identity or profiles of those people, as well as
2 the drivers licenses.

3 THE COURT: The real people, so-called real
4 people, I can understand the argument, at least on its
5 surface, but why are you wanting to protect the identities
6 of synthetic people?

7 MR. FAERSTEIN: Your Honor, the Government's
8 concern is that the defendants in this conspiracy are using
9 the information of these synthetic identities to apply for
10 these fraudulent loans and to launder the proceeds. And the
11 best evidence of that happening after we brought -- after
12 the initial indictment was returned is that, as we describe
13 in our ex parte application and as the grand jury found in
14 the first-superseding indictment, defendant Ayvazyan, as
15 it's alleged, used the synthetic identity information of
16 Iuliia Zhadko to move money between bank accounts in the
17 name of Iuliia Zhadko and a company called Touring Info
18 Solutions, which has the sole signatory of Iuliia Zhadko and
19 to open a cryptocurrency account and to -- an account at
20 T.D. Ameritrade to move money that is traceable to the
21 fraudulent loan proceeds in this case.

22 Similarly, defendant Tamara Dadyan in this past
23 January and February was using the identity of one of the
24 aggravated identity theft victims in this case whose
25 initials are A.D. to try to access a bank account in A.D.'s

1 name that we allege that she fraudulently set up with other
2 co-conspirators and to obtain the money in that bank account
3 in A.D.'s name by impersonating A.D.

4 THE COURT: But don't these defendants already
5 have that information?

6 MR. FAERSTEIN: Well, Your Honor, the Government
7 seized pursuant to the border search and then also search
8 warrants at seven different locations -- and this is all
9 between October 20th and November 5th -- seized a
10 significant amount of this information. And that consisted
11 of both digital devices, but also hard copy documents,
12 identification documents.

13 One example of that is Exhibit 2 to the
14 Government's ex parte application. And that information was
15 in our possession, and we brought down the indictment on
16 November 17th. And after the protective order, existing
17 protective order, was entered by the Court on December 11th,
18 the Government started to produce discovery the following
19 Monday, on December 14th, and that included the information
20 that we are concerned about. The synthetic identity
21 information, as well as the real victim information.

22 And within days of starting those productions on
23 December 14th, defendant Ayvazyan, Richard Ayvazyan, as we
24 allege and as the grand jury found, started moving money in
25 the Iuliia Zhadko's account and opened additional -- a

1 brokerage and a cryptocurrency account. That is --

2 THE COURT: So your fear is that if the defendants
3 had access to the information they previously allegedly
4 used, that they would continue to launder money?

5 MR. FAERSTEIN: Yes, Your Honor.

6 THE COURT: Now, anything is possible, but now
7 that the defendants know you're glued to these accounts, I
8 mean, human nature being what it is, it's unpredictable, but
9 isn't it less predictable that they would do such a thing,
10 even if they had done it in the past?

11 MR. FAERSTEIN: Your Honor, I wish that -- I wish
12 that could be said, but we have the grand jury finding,
13 making a probable cause finding in the first-superseding
14 indictment that defendants Richard Ayvazyan and Tamara
15 Dadyan did just that with the stolen identity information.

16 THE COURT: You say the grand jury found
17 something. I know that's part of our lure, but you've heard
18 of the adage that the grand jury would indict a ham
19 sandwich?

20 MR. FAERSTEIN: I have, Your Honor.

21 THE COURT: So anyway.

22 Okay. I want to hear now -- it isn't that I've
23 been ignoring the defendants.

24 First of all, defendants don't have to say
25 anything. I mean, I'm peppering the Government with

1 questions to find out some background information only for
2 the purpose of helping me understand the motions and this
3 motion, but I haven't asked the defendants questions because
4 they don't have to say anything.

5 But I am interested in their view of this
6 protective order question. So I would take it that there's
7 probably one common response -- maybe I'm wrong.

8 Is there one lawyer who would best speak to that
9 question, or do I have to hear many lawyers? Who would like
10 to take the lead on that question?

11 MR. RAM: Your Honor, it's Ashwin Ram representing
12 Richard Ayvazyan.

13 THE COURT: Let me see where you are.

14 MR. RAM: Top of the screen, Your Honor.

15 THE COURT: Go ahead, Mr. Ram.

16 MR. RAM: A couple of big picture points
17 specifically with respect to the comments we just heard from
18 the Government with respect to a modified protective order.
19 The Court obviously considered the original protective order
20 and arguments in December, and the question is what has
21 changed from December to now.

22 And the Government is alleging that -- and they
23 went as far as, if I heard correctly, to say that the grand
24 jury found that discovery abuse is occurring. And discovery
25 is being used to commit crimes post -- you know, on pretrial

1 release. That's what I'm hearing.

2 And the problem -- there's several problems with
3 that theory, Your Honor. First and foremost is the
4 explanation you just heard from the prosecutors when you
5 asked them: What is the interdependence here? How are
6 these people connected in any way? Why is this not multiple
7 conspiracies and schemes you're alleging? All great
8 questions.

9 And the answer was: They're all connected.
10 They're passing around funds, information is being shared.
11 I quote, "They're educating each other on how to apply for
12 these loans;" right? So the problem with the Government's
13 theory, Your Honor, is that these identifications, credit
14 cards, name -- what are we talking about when we say
15 identification. The Government is talking about names.
16 They're talking about names in which profiles are built
17 behind those names.

18 THE COURT: And businesses.

19 MR. RAM: And businesses. Absolutely. And if
20 these things are being passed around to groups of dozens of
21 people, dozens; right? We're just at the tip of the sphere
22 according to the Government in their papers. They're still
23 investigating. So if these things are being passed around
24 and aren't contained, any remedial protective order measures
25 even if they were necessary -- and I'll address that in a

1 second -- would be wholly ineffective to accomplish anything
2 the Government is seeking here.

3 THE COURT: Say what you just said again. I
4 didn't hear.

5 MR. RAM: Sure, Your Honor.

6 So basically if these identifications, business
7 names, synthetic information, whatever we want to call it,
8 if it's being passed around to dozens of people as part of
9 this grand conspiracy that the Government has alleged, any
10 protective order now, you know, five months after the fact,
11 would have no ability to cabin what's already out there in
12 the community for dozens of people that aren't even charged
13 yet. That's point number one, Your Honor.

14 Point number two, if I may, is even more directly
15 to the point, and it's devastating to the Government. They
16 noted in their briefs in December, Steptoe and Johnson,
17 that's my law firm, Your Honor, has mechanisms to track and
18 identify and record who is reviewing discovery. When, how
19 long they spend on a single page, and whether anything is
20 downloaded, forwarded or otherwise manipulated. Okay? That
21 was an accurate representation.

22 And the -- where the Government literally hits the
23 wall here, Your Honor, is that we can affirmatively prove,
24 if you look at Exhibit 4 attached to the Government's
25 opposition to the ex parte application, Richard Ayvazyan

1 spent less than 20 seconds on average flipping through the
2 relevant pages of the discovery the Government has
3 identified.

4 THE COURT: I know. But I'm still a yellow pad
5 and pencil guy.

6 MR. RAM: Yes.

7 THE COURT: How long does it take to look at a
8 screen and write something down on a yellow pad?

9 MR. RAM: That's a great question, Your Honor. So
10 what we've seen from the data, which we provided to the
11 Court I believe in our submission under seal, in camera, is
12 there's -- literally it's consistent with flipping through
13 these pages. And unless they're alleging that Richard
14 Ayvazyan is rain man, and he's just picking up data:
15 Account numbers, names, date of births, driver's license
16 numbers as these pages are flipping every 20 seconds, I
17 mean, we have a different case here.

18 And, by the way, if that was true, Your Honor, I'm
19 also a pen and pad guy, but if that was true and Ayvazyan is
20 rain man and he's picked up these numbers just by flipping
21 through them every 20 seconds, again, another protective
22 order modifying conditions here would be wholly ineffective
23 because it's already in his head, and it's already in the
24 heads of the other defendants.

25 I won't speak for Tammy Dadyan because I'm not her

1 attorney, her attorney's on the line. I can tell you, and
2 Mr. Minassian can speak to it, it's unclear she's even
3 reviewed a single page of discovery, let alone flipped
4 through a page at a time.

5 So, you know, there's two fundamental core
6 problems here, Your Honor. One is there's been no
7 containment, so to speak, as to point one, and it's already
8 out there. We can't unring that bell. There's people in
9 the community that can be making transactions -- and,
10 frankly, the more fundamental point to address here is
11 there's this group of Ukrainians or Russians that are out
12 there, the Government says they don't exist, they're not
13 real, they're fake, or even if they are real, they're not
14 the people who applied for these loans. And the Government
15 has repeatedly said in their briefs, this is a simple and
16 straightforward case. We agree. We absolutely agree.

17 At trial, the question is going to be: Are the
18 Ukrainians real or some composite people purporting to be the
19 Ukrainians, are they real? And did they shout from the
20 rooftops to the Armenian people and many of the people who
21 are charged in this case, you should apply for a PPP loan.
22 It's free Government money, and we'll help you do it.

23 And the question is: Did that happen? Are they
24 real, or are people purporting to be these Ukrainians real?
25 It's that simple.

1 And as for the protective order --

2 THE COURT: I don't agree with that. I mean, at
3 least from what I've seen so far, I don't think it's that
4 simple because the defense will have to contend with at
5 least a declaration as proveable with a lot of
6 circumstantial evidence.

7 MR. RAM: I agree a trial would be necessary,
8 Your Honor, but just to come back to the key points on the
9 protective order here, the last point really is, if what the
10 Government is alleging is true in both the initial
11 indictment where there was one alleged real person versus
12 the superseding indictment where there's now six alleged
13 real people, right, whose identities were used in aggravated
14 identity theft counts, if that is true, the information is
15 already out there and known to each of the defendants
16 charged currently and unindicted co-conspirators, according
17 to the Government's view of the world, and that's not going
18 to change. One.

19 And two, there has been no material change in
20 circumstances from where we were at in December. My client
21 is going to plead not guilty, when he's arraigned on the
22 superseding indictment as to these new money laundering
23 charges. And fundamentally, the question is, is there a
24 Iuliia Zhadko out there running around engaging in
25 transactions, right, whether his name is really Zhadko or

1 not. Is he doing this?

2 THE COURT: Is it a he or a she?

3 MR. RAM: It's a he, Your Honor. As far as --

4 THE COURT: I see. And your position is this
5 Iuliia Zhadko is real?

6 MR. RAM: Yes, Your Honor.

7 THE COURT: And have you met that person?

8 MR. RAM: I have not, Your Honor.

9 THE COURT: Do you anticipate -- you don't have to
10 answer this or not -- that that person will appear at the
11 trial?

12 MR. RAM: I do anticipate that that person or an
13 agent for that person would be, and I would be relying on
14 the Government to make that available to us. But I know my
15 client is very interested in having the testimony of Zhadko
16 and some of the other -- frankly, some of the other
17 Ukrainians and Russians that are part of --

18 THE COURT: Are these Ukrainians and Russian people
19 in the United States now, or are they back in their home
20 country?

21 MR. RAM: From what I understand, some are back in
22 their home country. That was accurate when the prosecutor
23 represented that.

24 THE COURT: Do any of the other lawyers wish to
25 weigh in on this issue?

1 MR. JOHNSON: Yes, Your Honor. This is
2 Peter Johnson on behalf of Vahe Dadyan.

3 THE COURT: Who are are you speaking on behalf of?

4 MR. JOHNSON: On behalf of defendant number 8,
5 Vahe Dadyan.

6 We join the co-defendant counsel's statement, but
7 also add specific prejudice to Vahe Dadyan.

8 As the Court knows from reading the papers, there
9 were only two individuals that were alleged of discovery
10 abuses in this case. There are six other defendants that
11 are not alleged, but just simply are grouped into this.

12 And the specific prejudice to Mr. Dadyan is that
13 they're attempting to review hundreds of thousands of pages
14 of documents in the middle of a pandemic, and it would be
15 virtually impossible for me to sit down with the -- with
16 Mr. Dadyan and go through these documents when it's -- we
17 join that it's unnecessary.

18 So for those reasons, we would ask the Court to
19 deny the relief for the Government.

20 THE COURT: Last matter is the matter of
21 discovery. The defendants maintain that the Court issued an
22 order ordering the Government to complete discovery by
23 March 15th of this year and that that hasn't happened; that
24 the Government is still filtering or handing over documents
25 to the defendants as we speak.

1 What is the status of discovery?

2 MR. FAERSTEIN: Yes, Your Honor. And defendant
3 Richard Ayvazyan filed a motion on this last night, but this
4 goes to something Mr. Ram said.

5 THE COURT: Who represents Mr. Ayvazyan? Ram?

6 MR. FAERSTEIN: Mr. Ram.

7 First of all, the Government has complied with the
8 Court's discovery cutoff order for the discovery cutoff of
9 March 15th. Mr. Ram mentioned a moment ago that there are
10 no changed circumstances in this case since December. That
11 completely disregards the fact that there's a
12 first-superseding indictment that has significantly expanded
13 this case. It's doubled the number of defendants --

14 THE COURT: The first-superseding indictment
15 occurred after that discovery order. Is that what you're
16 saying?

17 MR. FAERSTEIN: No, Your Honor. The
18 first-superseding indictment was returned on March 9th and
19 it was unsealed on March 11th.

20 THE COURT: Of this year?

21 MR. FAERSTEIN: Of this year, Your Honor.

22 THE COURT: So that had to be after the Court
23 issued an order setting the March 15th discovery cutoff.

24 MR. FAERSTEIN: Yes, Your Honor. The Court's
25 order -- and, you know, of course, I'm interpreting it, but

1 the Court's order, as we understand it, pertains to
2 discovery relating to the indictment that was returned by a
3 grand jury on November 17th, 2020. We continued
4 investigating because the indictment now contains over 150
5 alleged fraudulent loans, not just 35 as the initial
6 indictment did, and it now contains four additional
7 defendants. And it contains money laundering conspiracy and
8 additional substantive counts on everything that's charged.
9 And it's a much broader indictment that has a lot of
10 discovery that supports the charges in this significantly
11 expanded indictment.

12 So we could not produce the discovery relating to
13 the new indictment, the investigation that we've been doing
14 since December until this new indictment was unsealed and we
15 arrested three of the four new defendants, but we
16 couldn't -- we couldn't produce that information relating to
17 the new charges, not the old charges, and we actually stated
18 that expressly in our discovery letter that went out to the
19 defendants on March 12th. We said that a substantial amount
20 of the discovery relates to the new charges and the new
21 defendants.

22 THE COURT: Okay. Okay.

23 MR. FAERSTEIN: Sorry, Your Honor.

24 THE COURT: So what is the intention from this
25 point forward? When is this going to end? I mean, is this

1 going to be a career project, or is there some cutoff where
2 you say we have enough -- I don't know why 35 wasn't enough
3 if you can prove it --

4 By the way, I always like to fast forward to the
5 trial because that's what I think that I should do. Are
6 there going to be 150 separate trials on each transaction?

7 MR. FAERSTEIN: No, Your Honor. And as we've
8 alleged in the superseding indictment, we have overt acts in
9 furtherance of the conspiracy to commit mail and wire fraud,
10 as well as the money laundering. And that describes a
11 number of the specific, fraudulent loan applications that
12 are indicative of the overall conspiracy.

13 THE COURT: How many of these 150 loans that you
14 say are now in this new indictment are going to be the
15 subject of evidence at the trial?

16 MR. FAERSTEIN: You know, Your Honor, I think --
17 we're thinking about how to present that in the most
18 efficient manner possible and, you know, whether it's
19 through summary chart and a summary witness or series of
20 summary witnesses from various lenders. That is something
21 we will seek to accomplish in an efficient manner as
22 possible, but it's unfortunate that we are continuing to
23 investigate, but we have the obligation where this fraud is
24 continuing even after the initial indictment and we're
25 continuing to investigate --

1 THE COURT: Well, are there -- of these additional
2 instances beyond the 35 or so that you mentioned in the
3 first indictment, are they loans that you just uncovered
4 that were made previous to the first indictment, or are you
5 saying that between the first indictment and the new
6 indictment there are over 100 fraudulent loans made?

7 MR. FAERSTEIN: Well, Your Honor, we've had --
8 we've been working to identify --

9 THE COURT: You know, Mr. Faerstein, I asked you a
10 question, and I expect an answer. You have a wind up.
11 Baseball pitchers, it's okay. Not lawyers. No wind ups.

12 Tell me what's the answer.

13 MR. FAERSTEIN: We identified additional loan
14 applications that we believed were fraudulent after the
15 initial --

16 THE COURT: How many between the 35 and the 150
17 you now claim?

18 MR. FAERSTEIN: How many were previously not
19 identified before the first indictment?

20 THE COURT: How many new loans did you uncover
21 after the first indictment that are now part of this new
22 indictment?

23 MR. FAERSTEIN: Your Honor, I can't give you a
24 specific or an approximate number on that.

25 THE COURT: Maybe Fenton has the answer.

1 What's the answer, Fenton?

2 MR. FENTON: Some of the loans were known to the
3 Government at that time, but they had not yet been tied to
4 the defendants. And we also believed that there were
5 additional co-conspirators that would be charged later.

6 THE COURT: What about the dates of loans? In
7 other words, what was the date of the initial indictment,
8 the one we issued the protective order on?

9 MR. FENTON: Mid November.

10 THE COURT: So between mid November and March 11th
11 I thought I heard --

12 MR. FENTON: That's correct, Your Honor. The
13 loans --

14 THE COURT: How many of the new loans in the
15 March 11 indictment were loans that were dated between
16 November of 2020 and March 11 of 2021?

17 MR. FENTON: Zero.

18 THE COURT: All right. That's an answer.

19 Let me thank the parties for appearing. You know,
20 this Zoom, it's not in-person stuff. I mean, it's hard to
21 manage. The purpose of the hearing was just as I stated and
22 the parties have responded. Sometimes I'm a little curt,
23 but that's not because I don't respect the lawyers, it's
24 because sometimes in this Zoom thing, there's no body
25 language. When we're in court, the lawyers can see the body

1 language. And, generally, if the lawyer is experienced,
2 they respond, but here there's no body language. It's
3 almost like a telephone call. So the only way I have to cut
4 you off is to cut you off, so no disrespect intended.

5 But thank you for giving me the information. I'm
6 going to chew on it and probably give you some direction
7 this afternoon as to how we want to approach.

8 Thank you.

9 *(Thereupon, at 12:58 p.m., proceedings adjourned)*

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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript format is in conformance with the regulations of the Judicial Conference of the United States.

Date: April 8, 2021

Lisa M. Gonzalez
/s/ _____
Lisa M. Gonzalez, U.S. Court Reporter
CSR No. 5920