

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE PRESIDING

- - -

United States of America,)
PLAINTIFF,)
VS.) NO. CR 20-579 SVW
Richard Ayvazyan, et al.,)
DEFENDANT,)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA

JURY TRIAL - DAY TWO

VOLUME 1 - A.M. SESSION

WEDNESDAY, JUNE 16, 2021

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1 LOS ANGELES, CALIFORNIA; WEDNESDAY, JUNE 16, 2021

2 9:00 A.M.

3 - - - - -

4
5
6 (The following proceedings were held outside the
7 presence of the jury:)

8 THE COURT: Okay. We are present with the parties
9 and counsel. You may be seated.

10 Just some short comment on some of the matters
11 that happened yesterday. We are going to begin promptly
12 at 9:00 o'clock. I don't intend this to be a lengthy
13 hearing, but the main purpose is to let whoever is left
14 to make the opening statement, I don't know if you intend
15 to get into Grigoryan's plea agreement in your opening
16 statement, but does anyone intend to do that?

17 MR. JOHNSON: This is Peter Johnson on behalf of
18 Vahe Dadyan, no.

19 MS. WIRSCHING: Jennifer Wirsching for Artur
20 Ayvazian. No, your Honor.

21 THE COURT: Okay. Good. So I will take that
22 issue up later but, just briefly, I have spent the
23 evening looking into the matter, and, in my view, the
24 lawyer for Terabelian, Ryan Fraser, improperly used the
25 plea agreement in the opening statement. But I am not

1 going to get into that further now until we have a break
2 because it is going to take up a little time. I do think
3 the government's proposed instruction is appropriate, and
4 I intend to give that at a later point but I don't want
5 to delay the proceedings.

6 Is it 9:00 o'clock now?

7 THE CLERK: It is 2 after.

8 THE COURT: 2 after. Let's get the jury.

9 MR. JOHNSON: Just one issue.

10 THE COURT: No issues.

11 MR. FENTON: Your Honor, we just have one
12 housekeeping matter.

13 THE COURT: No housekeeping matters. We start at
14 9:00 o'clock.

15 (The following proceedings were held in the
16 presence of the jury:)

17 THE COURT: Good morning, members of the jury.
18 The parties, counsel and the court appreciate your being
19 so punctual. I know it takes a special effort, and, as I
20 said, once you are all here we can begin promptly and we
21 are going to do that. I hope we can do this every day so
22 we complete the trial in the most efficient way.

23 We are going to continue with the opening
24 statements. So who intends to make the next opening
25 statement?

1 MS. WIRSCHING: I will, your Honor. Jennifer
2 Wirsching for Artur Ayvazian.

3 THE COURT: Yes. Thank you.

4 MS. WIRSCHING: My name is Jennifer Wirsching. I
5 am going to be speaking for Artur Ayvazian.

6 Artur Ayvazian is a hard-working family man.
7 He is a blue collar truck driver. He didn't graduate
8 from high school but supports his family and his children
9 by hauling goods over long stretches of the road often
10 late into the night and early hours of the morning. He
11 sometimes doesn't even get home at night.

12 Nearly ten years ago in 2012, Artur Ayvazian
13 established a small business to manage his trucking jobs.
14 Artur Ayvazian named his small business Allstate Towing
15 and Transport. Once his small business was established,
16 he opened bank accounts for the small business, Allstate
17 Towing and Transport.

18 All of these things will be shown by the
19 evidence that is presented to you.

20 What the evidence will not show is that Artur
21 Ayvazian posed as another person. The evidence will not
22 show that Artur Ayvazian used fake identifications. The
23 evidence will not show that Artur Ayvazian filed any
24 false applications. The evidence will not show that
25 Artur Ayvazian concealed any funds.

1 And perhaps, most importantly, the evidence
2 will not show that Artur Ayvazian conspired with anyone
3 to do any of those things.

4 Thank you.

5 THE COURT: Thank you, Ms. Wirsching.

6 Is there another party who wishes to make an
7 opening statement?

8 MR. JOHNSON: Yes, your Honor.

9 THE COURT: Okay. Go ahead, sir.

10 MR. JOHNSON: A victim or a participant?

11 THE COURT: This is on behalf of your client?

12 MR. JOHNSON: Yes, your Honor.

13 THE COURT: Vahe Dadyan; correct.

14 MR. JOHNSON: My name is Peter Johnson, and I
15 represent Vahe Dadyan.

16 This is Vahe Dadyan, a husband, a father and a
17 legitimate business owner. In May of 2020, he filled out
18 a PPP loan in his own name for his own business, a single
19 loan. He applied for that loan with the help of his
20 cousin, Tamara Dadyan, and his cousin at the time
21 convinced him, yeah, you have a legitimate business,
22 apply for the loan. I can fill it out.

23 MS. AHN: Objection. Not in evidence, your Honor.

24 THE COURT: I mean, what grounds?

25 MS. AHN: These facts are --

1 THE COURT: I can't hear you. I'm sorry.

2 MS. AHN: These facts are not anticipated to be in
3 evidence, your Honor.

4 THE COURT: Well, in an opening statement, members
5 of the jury, as I said, the lawyers have a duty to only
6 tell you what evidence they will introduce or they
7 anticipate another party will introduce. And it is
8 improper for any lawyer, government or defense, to make
9 an opening statement that is unsupported by matters that
10 will be the subject of evidence. I don't know these
11 things now because I am just like you, I am waiting to
12 hear the evidence.

13 But was that your point?

14 MS. AHN: Yes, your Honor.

15 THE COURT: All right.

16 Then, proceed, Mr. Johnson.

17 MR. JOHNSON: The evidence that you will see in
18 this trial and the evidence that will come from that
19 stand is that the PPP loan application was filled out on
20 a mobile phone. The evidence you will also see is that
21 the PPP loan application, the single application by
22 Mr. Vahe Dadyan was submitted from the home of Tamara
23 Dadyan.

24 You will hear witnesses talk about IP
25 addresses and things like that. That is what the

1 evidence will be coming from that stand. You will also
2 hear evidence that Mr. Dadyan had a bank account in his
3 own name, in his own business: Wells Fargo. There is no
4 concealment of any kind of money from Mr. Dadyan. The
5 question at the end of this trial will be is he a victim
6 or a participant.

7 Now, what is important in this case is that
8 two big things you have to pay attention to. The
9 government has the burden of proving beyond a reasonable
10 doubt, but they have to show back in May of 2020 there
11 was two things: Number one, proof beyond a reasonable
12 doubt of a guilty act. The second is proof beyond a
13 reasonable doubt of a guilty mind. These are two big
14 things that I need the jury to pay attention to.

15 To put it in context, you can think of a case
16 like a bank robbery, and I know this case is not a bank
17 robbery but think of it like that just for a second. And
18 at the end of the trial, the question is is Mr. Dadyan
19 the taxi driver or the get-away driver. That is the
20 important question. And we can talk about, over the next
21 two weeks, you will see 20-plus witnesses get on the
22 stand here, and you will hear -- there are so many
23 documents, but I need to you pay attention to those two
24 things.

25 We are not disputing the act. He submitted

1 the loan for Voyage Limo, but he is the single loan in
2 this case with his own name and his own business. What
3 we are saying here today is Tamara Dadyan submitted the
4 application on his behalf because he didn't understand
5 English very well, and he needed somebody to guide him
6 through it.

7 A victim or a participant? The evidence in
8 this case again will be some times exhausting. And who
9 was exhausted yesterday? I mean, I was. I was exhausted
10 at the end of the day. I mean, there were things that
11 were just flying by me in the end. And it is scary
12 because we have to pay attention not to all the evidence
13 of this guilty act but we have to see evidence coming
14 from there that Mr. Dadyan had the mind set that he
15 knowingly jumped in as a participant and not a victim.

16 That is what we are looking for here. So it
17 is a criminal case, and we are asking you all to really
18 pay attention. Again, this is important. We are all
19 going to be exhausted over the next two weeks. We are
20 all going to try to figure out what is going on, but we
21 have to think about the taxi driver or the get-away
22 driver, the participant in this or the victim.

23 Let me just briefly go over the evidence and
24 how we will know at the end of this trial that he is not
25 jumped in as a participant. The evidence you will see

1 again is that there is a single loan in his name. You
2 heard evidence of stolen identities, credit cards and we
3 saw even yesterday that things put up on the screen.

4 MR. FENTON: Objection, your Honor. He is making
5 reference to --

6 THE COURT: What ground?

7 MR. FENTON: He is making reference to the
8 evidence.

9 THE COURT: I can't hear you. I'm sorry. I just
10 can't hear you.

11 MR. JOHNSON: I understood it. I will make a
12 clarification. I am not -- the evidence -- we didn't
13 hear any evidence. Who would be surprised to believe
14 that we didn't hear any evidence so far. Nothing. The
15 evidence actually comes from that stand. Everything that
16 people are saying if it were this side or that side, they
17 are just statements about what the evidence will show.
18 Instead, you all, the 12 of you or 16 of you, are the
19 most important people in the room.

20 You evaluate not what we are saying but what
21 happens there, and that is what we are looking for as
22 evidence that he knew, was a knowing participant and
23 jumped in instead of being a victim, and we are asking
24 you to pay attention to the presumption of innocence.

25 So, again, this is the evidence you will see.

1 You will see evidence again of that single loan, but you
2 won't hear evidence of Mr. Dadyan applying for a loan in
3 somebody else's name. Fictitious identifications. No
4 searching of his home. Think about this when you hear
5 all of this evidence: Did they search his home to find
6 evidence. You won't see it.

7 What you will see is in the home of Tamara
8 Dadyan, a photograph of what we will argue that is the
9 intent to take his identification. You will see text
10 messages from other people in the case. What you won't
11 see is a text message from Mr. Dadyan jumping in. And it
12 is significant because you will read those text messages.

13 MR. FENTON: Objection, your Honor. This is
14 argument.

15 THE COURT: That is argument. You can outline
16 what evidence will be introduced on behalf of your client
17 or whether there will be no evidence, but don't tell the
18 jury what is important or significant aside from what you
19 said about the importance of their paying close
20 attention.

21 MR. JOHNSON: Understood, your Honor. I would
22 like for you all to pay attention to the text messages
23 that you see, and what you will see in those text
24 messages is not from Mr. Dadyan, but he is referred
25 specifically as the idiot by Tamara Dadyan. You will not

1 see evidence of Mr. Dadyan with gold coins, expensive
2 jewelry, diamonds, homes, all the evidence that the
3 government talked about. That is not connected in any
4 way to Mr. Dadyan.

5 I am asking you to keep the presumption of
6 innocence alive, to pay attention to the evidence that
7 comes from that stand as to what he knew and when he knew
8 it. And unless and until the government proves beyond a
9 reasonable doubt that he knowingly jumped in, was more
10 than a victim, knowing that he was a participant, I am
11 asking you to find him not guilty. So that is what I
12 will be asking at the end of this trial. Thank you, and
13 I look forward to the evidence.

14 THE COURT: Thank you, Mr. Johnson.

15 Government, call your first witness.

16 MS. AHN: Your Honor, before the first witness is
17 called, the government would like to move into evidence
18 certain items that have been supported by 90211
19 certifications.

20 THE COURT: Is it necessary for that witness?

21 MS. AHN: Yes, your Honor. They will be
22 referencing load files.

23 MR. LITTRELL: Your Honor, we would make a motion
24 to exclude all fact witnesses at this point before the
25 witness is called.

1 THE COURT: I can't hear you.

2 MR. LITTRELL: I just want to make sure the court
3 orders that all witnesses are excluded before we start.

4 THE COURT: Yes. If there are any potential
5 witnesses in the courtroom at this time, you should
6 proceed to the witness room and wait there until you are
7 called. You should not be here until your presence is
8 needed to testify. Okay. Go ahead.

9 MR. LITTRELL: Your Honor, I see one more fact
10 witness is left. Mr. Clark is still here.

11 THE COURT: Who?

12 MR. LITTRELL: Jeffrey Clark.

13 THE COURT: He can stay here.

14 MR. LITTRELL: Very well.

15 THE COURT: Go ahead.

16 MS. AHN: Yes, your Honor. The government would
17 like to move into evidence Exhibits 1A through 1S. So
18 all the letters between A and S for Exhibit 1. Exhibit
19 2A through 2Q. So all the evidence between 2A and the
20 letters between A and Q. Exhibits 3A through 3S. So all
21 the exhibits between A and S. Exhibits 4A through 4Y.
22 So all the exhibits of the letters 4A through Y.
23 Exhibits 5A through 5Z. So all the letters between A and
24 Z for Exhibit 5. Exhibits 6A through 6Y. So the letters
25 between A and Y for exhibit 6.

1 Exhibits 30, 31, 32 and 33. Exhibits 34, 35
2 and 36. Exhibits 83, 38, 39, 40, 41 and 42.

3 MR. JOHNSON: Can you repeat that last part?

4 MS. AHN: 34, 35, 36, 83,

5 THE COURT: Received in evidence.

6 MS. AHN: Yes, your Honor. We may have some
7 further, but we will leave that for another time, your
8 Honor.

9 THE COURT: Let's get the witness.

10 MS. AHN: Yes, your Honor. The government would
11 like to call SBA witness Kathleen Littwin.

12 (The witness was sworn.)
13

14 DIRECT EXAMINATION

15 BY MS. AHN:

16 Q Good morning, Ms. Littwin. Please state and spell
17 your name for the record, please.

18 A Kathleen Littwin, K-A-T-H-L-E-E-N, L-I-T-T-W-I-N.

19 THE COURT: Keep your voice up if you can,
20 Ms. Littwin.

21 MS. AHN: Thank you.

22 Q Are you employed?

23 A Yes.

24 Q Where do you work?

25 A The United States Small Business Administration.

1 Q And what is the mission of the SBA?

2 A To assist small businesses.

3 Q How long have you worked at the SBA?

4 A Almost 16 years.

5 Q Do your duties involve managing SBA programs?

6 A Yes.

7 Q Do you manage loan officers as part of that job?

8 A Yes.

9 Q Is the term Paycheck Protection Program or PPP
10 familiar to you?

11 A Yes.

12 Q What is that?

13 A It is a program that was established by the CARES
14 Act, and that program assists businesses with keeping
15 employees employed during the Covid pandemic.

16 Q And could you explain for the jury what the CARES
17 Act is?

18 A It is legislation that was passed during 2020 that
19 provided assistance where SBA could guarantee loans that
20 would provide funding for businesses to pay employees.

21 Q And who provides the funds for the PPP?

22 A Participating lenders.

23 Q Is that in the private sector?

24 A Yes.

25 Q You mentioned a guarantee. Are PPP funds

1 guaranteed by the SBA?

2 A Yes. They are 100 percent guaranteed.

3 Q Are they also forgivable?

4 A Yes, they are.

5 Q Can you explain what that means for the jury?

6 A If the borrower meets certain requirements after a
7 certain time period, they can apply to have the loan
8 forgiven so that they do not have to repay that loan.

9 Q Based upon your experience at the SBA, are you
10 aware of the application process for a PPP loan?

11 A Yes.

12 Q Did the SBA initially receive those applications?

13 A No.

14 Q Who did the applications go to?

15 A The participating lender.

16 Q In the private sector?

17 A Yes.

18 Q Can you generally describe the process of a PPP
19 application, though, for the jury?

20 A Yes. The applicant will go to a participating
21 lender. They will submit the application. The
22 participating lender will review that application and
23 then submit that to the SBA.

24 Q Is supporting documentation included with the
25 application sent to the lender?

1 A Yes.

2 Q Does the SBA receive information about the
3 application?

4 A Yes.

5 Q What role, if any, does the SBA employ in the
6 authorization of the loan?

7 A They issue a loan number and pay a fee to the
8 lender.

9 Q You mentioned businesses applying. Who is eligible
10 to apply for a PPP loan on behalf of a business?

11 A The owner of the business or an authorized
12 representative for the business.

13 Q You have also referenced providing an application.
14 Is there a form used to provide that information for the
15 application?

16 A Yes.

17 Q Who issued that form?

18 A SBA.

19 Q Are you generally familiar with that form?

20 A Yes.

21 MS. AHN: Your Honor, request permission to
22 publish Government Exhibit 2E which was previously
23 admitted pursuant to 90211 certification.

24 THE COURT: All right.

25 Q BY MS. AHN: Do you recognize this form? Without

1 speaking to the content, just the form generally.

2 A Yes.

3 Q What is it?

4 A The PPP application.

5 Q Does this form describe how much a business is
6 eligible to receive?

7 A Yes.

8 Q Can you direct the jury to that section, and, after
9 you direct it, I would ask that it be magnified.

10 A There is a box that states average monthly payroll,
11 and see if I can -- that box indicates a blank where they
12 fill in the average monthly payroll for the business.

13 Q Is there a calculation next to it?

14 A Yes.

15 MS. AHN: I would just ask that the whole section
16 be magnified.

17 Q What is that calculation?

18 A It indicates times 2.5 plus EIDL which stands for
19 Economic Injury Disaster Loan, call net of advance, if
20 applicable equals loan request.

21 Q I will ask you about EIDL in a sec. I just want to
22 focus on the PPP Section here. So if the average monthly
23 payroll reported on the form is higher, is a business
24 eligible to receive more PPP money?

25 A Yes.

1 Q Does this PPP form also ask for the number of
2 employees?

3 A Yes.

4 Q Does an applicant have to have employees to receive
5 PPP money?

6 A Yes.

7 Q Why does a business have to have employees?

8 A The purpose is to pay payroll.

9 Q Does the form also ask for identification numbers?

10 A Yes.

11 MS. AHN: Let's clear the screen if we.

12 Q Can. Where does it ask for identification numbers?

13 A In the section applicant ownership, there is a box
14 that indicates some abbreviations of TIN, EIN and SSN.

15 MS. AHN: Could we magnify that section, please.

16 Q And what is a TIN, EIN or SSN?

17 A It is a tax identification number, an employer
18 identification number or a Social Security number.

19 Q Is that a unique number?

20 A Yes.

21 Q Does the form also ask for information on who owns
22 the business applying for the loan?

23 A Yes.

24 Q Is that displayed on your screen there?

25 A Yes.

1 Q And who is displayed as the owner for this
2 particular business?

3 A Mark Zindroski.

4 Q Based upon your experience for the SBA, does the
5 SBA ask for certifications?

6 A Yes.

7 Q What are certifications?

8 A It is asking the applicant to certify as to the
9 truthfulness of the information provided on the
10 application.

11 Q Why is that important?

12 A We must rely on the information that the applicant
13 is providing to us to be able to issue the loan.

14 Q Were these loans issued over a short timeframe or a
15 reduced timeframe?

16 A Yes.

17 Q And what was that?

18 A We were trying to get assistance into these
19 business owners' hands as quickly as possible. We want
20 them to keep their business owners employed or to keep
21 them from closing their doors. Assistance is very
22 important to ensure that these businesses do not go out
23 of business.

24 Q Were certifications requested for the PPP form?

25 A Yes.

1 Q And were they required in order to submit the form?

2 A Yes.

3 MS. AHN: So I would like to go to the next page.

4 Next page after that. Okay.

5 Q Do you see what is on your screen, Ms. Littwin?

6 A Yes.

7 Q Are these the certifications?

8 A Yes.

9 Q Is there a signature that is required as part of
10 this application?

11 A Yes.

12 Q And who is allowed to sign?

13 A The owner of the business or the authorized
14 representative.

15 Q And, here, whose signature is indicated?

16 A Mark Zindroski.

17 Q You mentioned earlier that there is a certification
18 required for truthfulness and accuracy. Can you point it
19 out for the jury.

20 A The second to last paragraph, it states -- do you
21 want me to --

22 Q You can just mark it for the jury?

23 MR. SILVERMAN: Your Honor, we would ask for a
24 limiting instruction on statements of law.

25 THE COURT: What did you say?

1 MR. SILVERMAN: We would ask for a limiting
2 instruction that the court will instruct on what the law
3 is at the conclusion of the trial, and this is just being
4 offered into evidence and received into evidence for the
5 purpose of showing knowledge.

6 THE COURT: You may be seated.

7 Proceed.

8 Q BY MS. AHN: Could you also -- was there also
9 limitations on the use of PPP funds for businesses who
10 received them?

11 A Yes.

12 MR. SILVERMAN: Objection, your Honor.

13 THE COURT: Overruled.

14 Q BY MS. AHN: Was that included in the certification?

15 A Yes.

16 Q Can you point to where that is for the jury?

17 A The third bullet.

18 Q Was there also a certification relating to
19 supporting documentation?

20 A Yes.

21 Q Can you point to where that is for the jury?

22 A The fourth bullet.

23 Q Thank you. Directing your attention to the first
24 certification, is a date indicated there?

25 A Yes.

1 Q What was that date?

2 A February 15th of 2020.

3 Q Why is that date significant if at all?

4 A It is the date that the business needed to be in
5 operation to be eligible for assistance.

6 Q So if a business did not begin operations until
7 March of 2020, could it receive PPP funds?

8 A No.

9 Q If a business did not exist until March of 2020,
10 could it receive PPP funds?

11 A No.

12 Q Ms. Littwin, just as a general matter, does a
13 business need to exist at all to have PPP funds?

14 A Yes.

15 Q Was there a limited amount of money available for
16 PPP loans?

17 A Yes.

18 Q Were there -- were there more than one round of PPP
19 loans provided?

20 A Yes.

21 Q Did money in fact run out for PPP during one of the
22 rounds?

23 A The timeframe for PPP first round did end. Yes.

24 Q And what happens once the money is gone?

25 A No more assistance is provided.

1 Q Even for legitimate businesses?

2 A Yes.

3 MS. AHN: Go ahead and clear the screen now.

4 MR. JOHNSON: Your Honor, this is Peter Johnson.

5 I just wanted to make sure that the jurors, if
6 you could check to make sure that the jurors could see
7 the witness.

8 THE COURT: We went into that yesterday. I will
9 take that up later.

10 MR. JOHNSON: I understand, your Honor.

11 THE COURT: And I am understanding that the
12 witnesses are on the screen; is that correct? They are
13 all on the screen.

14 MR. JOHNSON: I apologize, your Honor. I didn't
15 know that.

16 THE COURT: All the jurors can see the witnesses.

17 Let's proceed.

18 MS. AHN: Yes, your Honor.

19 Q You mentioned EIDL or the Economic Injury Disaster
20 Loan Program earlier. Are you familiar with that
21 program?

22 A Yes.

23 Q Is that through your work at the SBA?

24 A Yes.

25 Q And you mentioned that you managed SBA programs.

1 Does that include EIDL?

2 A Yes.

3 Q Can you generally describe what the EIDL program
4 does?

5 A It provides working capital. It is assistance to
6 the business for economic injury to pay for items that
7 the business cannot pay for because of the disaster.

8 Q Were EIDL funds distributed in response to
9 Covid-19?

10 A Yes.

11 Q Can you describe how that happened to the jury?

12 A A disaster was declared because of Covid. That
13 opened up funding for the SBA disaster loan program.
14 That program allows for funding directly from SBA. With
15 the CARES Act, it broadened that program.

16 Q Thank you. Were certain industries eligible for
17 Covid-19 EIDL funds?

18 A Yes. The disaster programs opened to corporations,
19 LLC's, sole proprietorships, independent contractors, and
20 it was also broadened to including agriculture
21 enterprises.

22 Q Were small businesses eligible?

23 A Yes. Only small businesses.

24 Q Who provides the funds for EIDL loans?

25 A The federal government.

1 Q Is that through the SBA?

2 A Yes.

3 Q Is there a particular office with the SBA
4 responsible for transmitting the funds?

5 A Yes.

6 Q Where is that office located?

7 A It is the Denver Finance Center in Colorado.

8 Q It is physically in Colorado?

9 A Yes.

10 Q Are you familiar with the EIDL application process?

11 A Yes.

12 Q Can you generally describe that process?

13 A The applicant will go to the SBA web page. They
14 will click on the link to apply for an Economic Injury
15 Disaster Loan. They will submit the information that is
16 requested. SBA will then review that information, make a
17 determination on approval. Once it is approved, a loan
18 number will be issued. They will sign the closing
19 documents, and the funds will be disbursed.

20 Q Is supporting documentation required for an EIDL
21 loan?

22 A During the initial phase, no.

23 Q Why not?

24 A We have to rely on the information they are
25 providing to us to provide timely assistance.

1 Q What makes it timely?

2 A We are trying to get funds in the hands of these
3 businesses as quickly as possible so that they don't fail
4 so that they can meet their obligations. If they are
5 closed, they don't have any revenue coming in, and they
6 need these funds to continue their operations.

7 Q Can businesses provide supporting documentation?

8 A Yes.

9 Q You mentioned earlier that there was limited
10 funding for PPP. Is that also true for EIDL?

11 A Yes.

12 Q In addition to a loan, does the EIDL program offer
13 other funds for businesses?

14 A Yes.

15 Q Can you describe that for the jury.

16 A There is also a program called the EIDL advance.
17 It is a grant program. It is on the same application as
18 the Economic Injury Disaster Loan. And you can apply for
19 that additional assistance, that additional grant on that
20 application.

21 Q What is that -- what is that funding predicated on,
22 if anything?

23 A At the time, it was based on the number of
24 employees.

25 Q Who is eligible to apply for EIDL funds on behalf

1 of a business whether it is a loan or or an advance, who
2 is eligible to apply for those funds on behalf of the
3 business?

4 A The owner of the business or an authorized
5 representative.

6 Q Is there an application form associated with that
7 process?

8 A Yes.

9 Q Does it have a name?

10 A The Disaster Business Loan Application.

11 Q Are you familiar with the form generally?

12 A Yes.

13 MS. AHN: Your Honor, request permission to
14 publish Government Exhibit 2L, I believe the fourth page.

15 THE COURT: You may.

16 MS. AHN: Can you go to the next page.

17 Q I recognize the font is a little small so we will
18 magnify when needed.

19 Do you generally recognize what is shown on
20 the page?

21 A Yes.

22 Q What is it?

23 A This is the application data.

24 Q When you say application data, is this the actual
25 application form?

1 A It is the data that they enter into the application
2 form.

3 Q Is this information received by the SBA from the
4 applicant?

5 A Yes.

6 Q And how is this information submitted?

7 A Through the SBA web page online.

8 Q Does this form ask for information on business
9 expenses?

10 A Yes.

11 Q What kind?

12 A The business revenues.

13 Q Can you generally show the jury where that is, and
14 we will magnify it for you.

15 A I believe it is line 34. Sorry. I gave you the
16 wrong number.

17 MS. AHN: Do you mind just highlighting the
18 questions and magnifying them.

19 Q Do you mind pointing out to where that might be on
20 the form?

21 A Question 14.

22 Q What kind of expense does it ask for?

23 A The gross revenues for the 12 months preceding the
24 date of the disaster, January 31, 2020.

25 Q Does the reported information impact the amount of

1 funds a business is eligible to receive under EIDL?

2 A Yes.

3 Q How does it impact it?

4 A We use that information to calculate the eligible
5 loan amount.

6 Q Could providing false information about these
7 expenses influence the SBA's to approve a loan?

8 A Yes.

9 Q Would inflating these numbers inflate the amount of
10 money a business is eligible for?

11 A Yes.

12 Q Are EIDL funds only authorized for certain uses?

13 A Yes.

14 Q What are those uses?

15 A It is for working capital to meet business
16 obligations that the business cannot meet because of the
17 disaster.

18 Q Does the form generally tell us whether an
19 applicant asked for an advance?

20 A Yes.

21 MS. AHN: Let's go ahead and clear the screen.

22 Q Is that showing on your screen?

23 A Yes.

24 Q Can you show us on the screen where that is?

25 A Question 68.

1 Q All right. Can you go ahead and mark it on your
2 screen.

3 Did this particular applicant ask for an
4 advance?

5 A Yes.

6 Q How can you tell?

7 A This is a check box, and the applicant checked that
8 box. It shows a value of 1 which means they checked the
9 box.

10 Q Next to the type check box, it says required no.
11 What does that mean?

12 A That means it is not a required field. They do not
13 have to answer that field.

14 Q Does this form also ask for the number of
15 employees?

16 A Yes.

17 Q How does that impact a business' eligibility for an
18 advance?

19 A At the time of this application, the number of
20 employees related to the amount of the grant you would
21 receive. If you stated one employee, you would receive
22 \$1,000, up to 10 employees you would receive \$10,000.

23 Q You mentioned certifications before. Does the EIDL
24 form include certifications?

25 A Yes.

1 Q What does that certification require?

2 A That the information provided is truthful and it
3 states that SBA is relying on that information to offer
4 the loan.

5 MS. AHN: Could we go to question 72. Great.

6 Q And I see that you have highlighted on the screen.
7 Is that the certification that is required?

8 A That is a portion of it, yes.

9 Q Did this person make the certification?

10 A Yes.

11 Q Can you direct us to how you know that is true?

12 A This is a check box, and the value shows 1 which
13 means that they checked the box.

14 MS. AHN: I am going to ask that we exit out of
15 the magnification and highlight the text below the end of
16 the question.

17 Q You mentioned that it shows part of the
18 certification. Does this include additional
19 certifications?

20 A Yes.

21 Q If the SBA learned that false information was
22 provided with the loan application, would that affect the
23 lending decision?

24 A Yes.

25 Q After an EIDL application is approved initially,

1 what happens next?

2 A After it is approved, SBA will send an e-mail
3 advising them to log in and sign the loan closing
4 documents. They will log into their portal account and
5 sign the loan closing documents, and, then, once that has
6 been completed, we will disburse those funds, the loan
7 funds.

8 MS. AHN: I am going to go ahead and clear the
9 screen. Could we go to Government Exhibit 24, page 10.

10 Q Do you recognize this?

11 A Yes.

12 Q What is it?

13 A It is the loan authorization and agreement. It is
14 the terms and conditions of the loan.

15 Q Is this required to close the loan or to disburse
16 the funds?

17 A Yes.

18 Q Does this form describe permissible uses of the
19 funds?

20 A Yes.

21 MS. AHN: Can we go to the next page.

22 Q Can you point out generally where that is?

23 A The second paragraph.

24 Q What is the permissible use of the funds described
25 there?

1 A Working capital to alleviate economic injury caused
2 by the disaster occurring in the month of January 31,
3 2020, and continuing thereafter. And, then, there is
4 also a \$100 fee for the recording of the UCC.

5 Q What does UCC stand for?

6 A Uniform Commercial Code. It is a document that we
7 file to have collateral, to secure collateral for the
8 loan.

9 Q Would the use of the funds for purely personal
10 expenses qualify?

11 A No.

12 Q Does this form also contain certifications?

13 A Yes.

14 Q Did you see that on your screen?

15 A Yes.

16 MS. AHN: Highlight that section. Is that -- go
17 ahead and clear the highlighting.

18 Q Is that section magnified on your screen?

19 A Yes.

20 Q Does this contain additional certifications
21 regarding the truth and accuracy of the form?

22 A Yes.

23 Q Does this form also require a signature?

24 A Yes.

25 Q From who?

1 A The owner of the business or an authorized
2 representative.

3 MS. AHN: Let me exit out of the application.
4 Next page.

5 Q Is this form signed?

6 A Yes.

7 Q Who is it signed by?

8 A Lulu Ozodco(Phon.), owner, slash, officer of
9 Timeline Transport, Inc..

10 Q If an applicant did not intend to use the funds for
11 business expenses, would that influence the SBA's
12 decision to approve the loan?

13 A Yes.

14 Q If the business had no operations, would it be
15 eligible for EIDL funds?

16 A No.

17 Q If it had no employees, would it be eligible for
18 EIDL funds, employees -- if the business had identified
19 employees but, in fact, had no employees, would it be
20 eligible for EIDL funds?

21 MR. JOHNSON: I'm sorry, your Honor. I don't
22 understand the --

23 THE COURT: Just make an objection. Legal
24 grounds.

25 MR. JOHNSON: Objection, your Honor, as to clarify

1 the question.

2 MS. AHN: I am happy to rephrase, your Honor.

3 Q If the business falsely reported employees, would
4 that impact the BSBA's decision on approving a loan?

5 A Yes.

6 Q If the identified owner was not a real person,
7 would that impact the SBA's decision to approve the loan?

8 A Yes.

9 MS. AHN: No further questions at this time, your
10 Honor.

11 THE COURT: Cross-examination.

12 MR. SILVERMAN: I would ask -- a few people have
13 gone in and out of the courtroom, I would ask you just
14 reiterate that no witnesses are in the courtroom.

15 THE COURT: If there are any witnesses in the
16 courtroom, they should proceed to the witness room.

17 MR. SILVERMAN: Thank you, your Honor.

18

19 CROSS-EXAMINATION

20 BY MR. SILVERMAN:

21 Q Good morning, Ms. Littwin.

22 A Good morning.

23 Q You are a lawyer for the SBA; correct?

24 A Yes.

25 Q And you have been a lawyer there for 16 years I

1 believe you testified?

2 A Almost. Yes.

3 Q Was the CARES Act unique in your experience?

4 A Yes.

5 Q We were facing a quarantine; correct?

6 A Yes.

7 Q And it had crashed consumer spending?

8 A Yes.

9 Q And that is why business were at risk; correct?

10 A Yes.

11 Q And the CARES Act was passed to stabilize the
12 economy; right?

13 A Yes.

14 Q And ultimately that authority was delegated to the
15 SBA in part?

16 A A portion of it, yes.

17 Q And the SBA and the CARES Act succeeded in
18 stabilizing that economy; right?

19 MS. AHN: Objection. Foundation.

20 THE COURT: Sustained.

21 Q BY MR. SILVERMAN: You mentioned that the CARES Act
22 had PPP loans; correct? Or led to PPP loans. Excuse me?

23 A Yes.

24 Q Those PPP loans you discussed that they went to
25 small businesses?

1 A Yes.

2 Q Some of them also went to large businesses;
3 correct?

4 A I don't have any knowledge of that.

5 Q Do you know whether EIDL loans went to large
6 businesses?

7 A I don't have any knowledge of that.

8 Q The SBA was under pressure to move fast around
9 March, 2020; correct?

10 A Yes.

11 Q After the CARES Act was passed, do you know how
12 long did it take for PPP loan applications to become
13 available?

14 A No, I do not.

15 Q Was it less than a month?

16 A I do not know.

17 Q Do you recall whether the SBA issued interpretive
18 rules?

19 A Yes.

20 Q And is it fair to say that loan applications became
21 quickly available?

22 MS. AHN: Objection. Asked and answered.

23 THE COURT: Overruled.

24 Q BY MR. SILVERMAN: Would you like me to repeat the
25 question?

1 A Yes, please.

2 Q Is it fair to say that the loan applications become
3 quickly available?

4 A I don't know.

5 Q Now, how often did the SBA issue interpretive
6 regulations regarding the loan applications specifically?

7 MS. AHN: Objection. Relevance.

8 THE COURT: I don't know at this point. The
9 objection is overruled at this point.

10 THE WITNESS: I don't know.

11 Q BY MR. SILVERMAN: The SBA issued interpretive
12 regulations in part to guide applicants; correct?

13 A Yes.

14 Q And is it fair to say that the SBA issued
15 interpretive rules more than five times in April of 2020?

16 MS. AHN: Objection. Asked and answered.

17 THE COURT: Overruled.

18 THE WITNESS: I do not know.

19 Q BY MR. SILVERMAN: Did you ever know that?

20 A No.

21 Q And the SBA also issued frequently asked questions;
22 correct?

23 A Yes.

24 Q The SBA also issued frequently asked questions for
25 loan applicants; correct.

1 A Yes.

2 Q And those frequently asked questions were updated
3 over time?

4 A Yes.

5 Q The responses changed?

6 A That I do not know.

7 Q So an application that was submitted in April might
8 not be submitted under the same guidance or frequently
9 asked questions as an application that was submitted in
10 June; is that right?

11 A I do not know.

12 Q And it would be up to the applicant to know the
13 differences if they existed?

14 A I do not know.

15 Q Now, we talked about how the SBA was under a lot of
16 time pressure?

17 A Yes.

18 Q And I believe you talked about the SBA was trying
19 to approve applications quickly. Is that roughly
20 accurate?

21 A Yes.

22 Q Loans that the SBA received were often approved in
23 as little as one day; is that right?

24 A Are we talking about economic injury loans?

25 Q PPP loans were often approved in as little as one

1 day; correct?

2 A SBA does not approve PPP loans.

3 Q Excuse me. PPP loans were often funded in as
4 little as one day; is that right?

5 A SBA does not fund PPP loans. They are funded by
6 the participating lender.

7 Q EIDL loans were often approved in as little as one
8 day; is that correct?

9 A Yes.

10 Q And for PPP loans, as you mentioned, they are
11 approved by the participating lender?

12 A Yes.

13 Q And it is up to the participating lender to review
14 the applications?

15 A Yes.

16 Q And so it would be the participating lender that is
17 relying upon information in this application to the
18 extent it is relying upon that information?

19 A Yes.

20 Q And if the PPP lender fails to do due diligence,
21 what happens to the SBA's liability?

22 A At the original stage, the SBA is only receiving
23 the information from the participating lender. At a
24 later date when the participating lender asks for SBA to
25 guarantee or pay out on the guarantee or to do the

1 forgiveness, there is a review of the loan information at
2 that time.

3 Q And if the participating lender had failed to
4 complete the due diligence, would the SBA honor the
5 guarantee?

6 A I don't know.

7 Q Is it possible that the SBA would refuse to pay out
8 money based on the lack of due diligence by a lender?

9 A It is possible.

10 Q Now, I would like to ask a few questions about how
11 money is transferred in relation to EIDL loans. Is that
12 your focus, EIDL loans?

13 A Yes.

14 Q Do I understand correctly from your testimony that
15 EIDL loans are disbursed directly from the SBA to
16 lenders -- or to banks. Excuse me?

17 A It is disbursed directly by SBA through the
18 treasury to the borrower.

19 Q You said to the borrower. The government actually
20 wires the money from a treasury to a bank; correct?

21 A No. To the borrower's bank account.

22 Q So the other end of the wire transaction is a bank
23 in some location; correct?

24 A Yes.

25 Q And once the bank receives the money, it notes a

1 credit on the borrower's account; correct?

2 A Yes.

3 Q Now, once the funds are credited to a borrower's
4 account, does the SBA monitor how the borrower spends
5 them?

6 A No.

7 Q It would be difficult to monitor how a borrower
8 spent the funds; right?

9 A We don't have access to that information.

10 Q And some borrowers already have money in their
11 accounts; correct?

12 MS. AHN: Objection. Calls for speculation and
13 foundation.

14 MR. SILVERMAN: I will rephrase, your Honor.

15 THE COURT: Sustained. You can ask the question a
16 different way.

17 Q BY MR. SILVERMAN: Does the SBA require that
18 borrowers have zero money in their accounts in order to
19 submit an application?

20 A No.

21 Q Now, if a borrower had money in their accounts, the
22 SBA would not be able to monitor whether they are
23 spending that money or the loan money; is that right?

24 MS. AHN: Objection. Relevance and lack of
25 foundation.

1 THE COURT: Well, I mean, the witness can answer
2 the question.

3 THE WITNESS: We can't monitor anything in their
4 bank account.

5 Q BY MR. SILVERMAN: Now, Ms. Littwin, I want to ask
6 to clarify a little bit the difference between EIDL and
7 PPP loans. Is one difference that EIDL loans have to be
8 paid back?

9 A Yes.

10 Q And, in fact, the government takes a security
11 interest in the business' property; is that right?

12 A Yes.

13 Q Can you explain to the jury what a security
14 interest is?

15 A We take collateral so that if the loan is not
16 repaid SBA could take -- in this situation, it is a
17 security interest in business contents. SBA could take
18 action to recover those business contents.

19 Q So, essentially, if the business doesn't repay the
20 loan, SBA can file a civil lawsuit; right?

21 A Yes.

22 Q And they could even foreclose upon business
23 property; right?

24 A We did not take any real property so we could not
25 foreclose.

1 Q It could seize personal property?

2 A Yes.

3 Q Now, as for PPP loans, those loans are forgivable;
4 correct?

5 A If they meet requirements, yes.

6 Q And you discuss how there were multiple rounds of
7 SBA, excuse me, of PPP loans in 2020; is that right?

8 A In 2020, there, I believe, was only one round.

9 Q And that one round, did that end around August 8th,
10 2020?

11 A I would have to check the date.

12 MR. SILVERMAN: I would ask that we display just
13 for the witness -- oh, I need to switch -- defense
14 Exhibit 16, please.

15 Is it showing up for everybody, counsel?

16 MS. AHN: Well, the screens at counsel table can
17 be seen by the jury.

18 MR. SILVERMAN: Is there a way to display just for
19 the witness?

20 THE COURT: What is the issue?

21 THE COURT: Is the issue when the first round of
22 PPP loans expired?

23 MR. SILVERMAN: Correct, your Honor.

24 THE COURT: That is the issue. Is there any
25 dispute about that?

1 MS. AHN: No, your Honor. There is no dispute.

2 THE COURT: Then, what is the date? Tell us.

3 MR. SILVERMAN: August 8, 2020.

4 THE COURT: All right. Then that stands.

5 Next question.

6 MR. SILVERMAN: Yes, your Honor.

7 Q And at the conclusion of that first round, the SBA
8 or the program had given out millions of loans; correct?

9 A I do not know the number.

10 Q And the program still had money left to lend,
11 didn't it?

12 A I do not know.

13 Q Do you know whether the SBA issued weekly or
14 monthly reports on the program?

15 A Yes, we did.

16 Q And did those reports include the amount of money
17 that was left to lend?

18 A I would assume.

19 MR. SILVERMAN: At this point, I would offer into
20 evidence Defense Exhibit 16.

21 MS. AHN: No objection, your Honor.

22 THE COURT: All right. Received.

23 MR. SILVERMAN: If we could post Defendant's
24 Exhibit 16 for the jury, please, or for the entire
25 courtroom, and, actually, if we can stay on this page for

1 one second.

2 Q Does this appear to be one of the weekly or monthly
3 reports?

4 A It appears to be.

5 Q And is it put out by the Small Business
6 Administration?

7 A Yes.

8 Q And it says approvals through August 8th of 2020;
9 correct?

10 A Yes.

11 Q So that is through the end of the 2020 program?

12 A It appears to be.

13 MR. SILVERMAN: And if we could go to page 9,
14 please.

15 Q So fair to say that at the conclusion of the 2020
16 program, there was almost a \$134 billion left over?

17 A That appears to be.

18 Q Thank you, Ms. Littwin.

19 MR. SILVERMAN: No further questions, your Honor?

20 THE COURT: Any further cross-examination.

21 MR. MESEREAU: Yes.

22 THE COURT: Go ahead, Mr. Mesereau.

23 ///

24 ///

25 ///

1 CROSS-EXAMINATION

2 BY MR. MESEREAU:

3 Q Good morning, Ms. Littwin?

4 A Good morning.

5 Q My name is Tom Mesereau, and I speak for Mr. Artur
6 Ayvazian. Just like to ask you a few questions about the
7 purpose of the program.

8 A Okay.

9 Q The prosecutor showed you a document when you began
10 testifying, Exhibit 2E, which dealt with questions about
11 the purpose of the loan requested; correct?

12 A Was that for the Paycheck Protection Program?

13 Q Yes.

14 A Okay.

15 Q And correct me if I am wrong. I think you said the
16 purpose was to meet payroll; is that correct?

17 A One of the purposes, yes.

18 Q There were far more purposes than just meeting
19 payroll; correct?

20 A There were additional, yes.

21 Q And some of those purposes were paying rent;
22 correct?

23 A Yes.

24 Q Paying a mortgage interest?

25 A Yes.

1 Q Paying utilities?

2 A Yes.

3 Q And then there was a section where if you had
4 another purpose, you could say other, you could fill out
5 what the other purpose would be; correct?

6 A Yes.

7 Q And what are some of the other purposes that you
8 recall the loans were made for?

9 A I believe you could pay off an Economic Injury
10 Disaster Loan or refinance an Economic Injury Disaster
11 Loan.

12 Q Just to clarify proper uses because the prosecutor
13 asked you questions about proper uses of these funds.
14 Let's say someone is having business problems, owes
15 mortgage interest, haven't paid the utility bills,
16 something like that. The pandemic hits. The program is
17 put into effect, the CARES program.

18 Theoretically, can a small business owner use
19 these loans to pay those utility bills or those mortgage
20 bills or other related expenses?

21 A Business expenses?

22 Q Yes.

23 A Yes.

24 MR. MESEREAU: No further questions, your Honor.

25 Thank you.

1 THE COURT: Anything further?

2 MR. LITTRELL: Nothing from us, your Honor.

3 MR. JOHNSON: Your Honor, Peter Johnson.

4 THE COURT: Go ahead.

5

6 CROSS-EXAMINATION

7 BY MR. JOHNSON:

8 Q Good morning.

9 A Good morning.

10 Q I am here to talk to you about legitimate loans.

11 The SBA was acting through banks; isn't that correct?

12 A For the PPP loans.

13 Q Yes. And the banks, for legitimate businesses,
14 provided funding?

15 A Yes.

16 Q These fundings were for business owners, small
17 business owners to get their business back on track;
18 correct?

19 A For PPP?

20 Q Yes.

21 A It was to keep employees employed.

22 Q To keep employees employed. But the application,
23 you said during direct examination that you are familiar
24 with the application; isn't that correct, the PPP loan
25 application?

1 A Yes.

2 Q And that application, in the application, the
3 guidance is that it was supposed to be able to be filled
4 out in eight minutes?

5 A Okay.

6 Q Are you familiar with that?

7 A Not off the top of my head, no.

8 MR. JOHNSON: Can we pull up Exhibit 2K.

9 Q Have you looked up the loan applications that the
10 government provided?

11 A The one that we looked at earlier?

12 Q Not the one that we looked at earlier but other
13 applications?

14 A No.

15 Q Now, is there a reason why you didn't look at the
16 other applications?

17 A No.

18 MR. JOHNSON: So this case, I would ask the
19 witness to -- does the witness have exhibits in front of
20 her?

21 MS. AHN: There is no physical exhibits.

22 MR. JOHNSON: I think we lost power.

23 Q There is a definition in the exhibit in the PPP
24 application for payroll; isn't that correct?

25 A I do not know without looking at it.

1 MR. JOHNSON: Just a minute.

2 Is the government able to pull up Exhibit 2K.

3 MS. AHN: We are happy to.

4 Do you mind if I approach to switch over the
5 lecturn.

6 MR. JOHNSON: Please.

7 Q BY MR. JOHNSON: This is a PPP loan application;
8 correct?

9 A Yes.

10 Q And this is the PPP loan application in the name of
11 Voyage Limo?

12 A Yes.

13 Q You have no information to believe that Voyage Limo
14 is a fake company; correct?

15 A I have no information on the business.

16 Q And the loan is applied for by a Vahe Dadyan. Do
17 you see that?

18 A Yes.

19 Q Now, this loan application had some instructions;
20 correct?

21 A Yes.

22 Q And part of those instructions were for small
23 business owners; correct?

24 A Yes.

25 Q And sometimes the small business owners needed

1 authorized representatives to fill out the forms; isn't
2 that correct?

3 A Yes.

4 Q Because there were documents that had to be
5 attached; correct?

6 A Attached to the application?

7 Q To the application.

8 A I don't know how they attached the documents.
9 These weren't submitted to the SBA.

10 Q But SBA required certain documents to be attached
11 to the application; isn't that right?

12 A SBA required the PPP lender to obtain them.

13 Q SBA required the PPP lender to obtain documents to
14 support the loan; Isn't that correct?

15 A Yes.

16 Q So sometimes these applications require authorized
17 representatives, people, not the owner of the business to
18 attach documents; isn't that correct?

19 A I don't know. They might have.

20 Q So isn't it correct that the form actually -- that
21 part of the instructions --

22 THE COURT: Let's clarify that. The question was
23 does the form require the actual lender or an authorized
24 representative to sign the application? It can be either
25 one?

1 THE WITNESS: It can be signed by the applicant or
2 an authorized representative.

3 THE COURT: I see. All right.

4 MR. JOHNSON: What I would like to do is zoom in
5 on purpose of this form, that paragraph.

6 Q And just to be clear, this form is for small
7 business owners; correct?

8 Q They are supposed to fill this out.

9 Q And isn't it true that the form says this form is
10 to be completed by the authorized representative?

11 A Yes. A corporation has an authorized
12 representative meaning a president or secretary. An LLC
13 has a manager.

14 Q And is that in the form?

15 A I would have to look at it in more depth.

16 Q So you have been with the SBA how long?

17 A Almost 16 years.

18 Q And you are familiar with this PPP loan program;
19 correct?

20 A The PPP program is new. It is from 2020.

21 Q So, since 2020, you have been familiar with it;
22 correct?

23 A Yes.

24 Q You have been focusing on this in your practice.
25 You are an attorney; correct?

1 A I focus on the economic injury.

2 Q But you are not familiar with this form of the PPP
3 loan?

4 A I am familiar with it, yes.

5 Q But the statements that this authorized -- that you
6 just said about corporate representatives, that is not in
7 the form; isn't that correct?

8 MS. AHN: Your Honor, this question has been asked
9 and answered a number of times.

10 THE COURT: She can answer it one more time.

11 Q BY MR. JOHNSON: The statements that you just
12 provided, this additional information that you just
13 provided, that is not in the form; right?

14 A I would have to look at it. I don't know.

15 Q Why don't you take some time to look at it if we
16 can. So you don't have that -- well, you don't know
17 right now?

18 A It is blown up. If we can remove the blown up
19 portion.

20 Q Why don't we say this, that it is fair to say that
21 at this point in time you don't know whether that is in
22 this form?

23 A Correct.

24 Q What I would like to do is, next, you said that the
25 payroll, isn't payroll consist of a variety of things?

1 Doesn't payroll consist of a variety of things?

2 MS. AHN: Objection. Vague.

3 MR. JOHNSON: Let's go to the document. Let's
4 pull up the definition of payroll. The next paragraph,
5 please.

6 Q This is what they laid out as the definition of
7 payroll on the form; correct?

8 A Yes.

9 Q Down on the bottom, that last line says --

10 MR. JOHNSON: Can you highlight that last line,
11 please.

12 MS. AHN: May I approach?

13 Q BY MR. JOHNSON: Why don't you read that last line.

14 A Independent contractor or sole proprietor wage,
15 commissions, income or net earnings from self employment
16 or similar compensation.

17 Q And small business owners at the time were expected
18 to interpret this to fill out the form; isn't that
19 correct?

20 A Yes.

21 Q And they were also expected to fill out, to make
22 calculations on the form; correct.

23 A Yes.

24 Q Or their authorized representative was going to
25 make those calculations; right?

1 A Yes.

2 MR. JOHNSON: Can we zone in on the next
3 paragraph, please.

4 Q And part of that for the purposes of calculating,
5 they had to try to figure out how to calculate monthly
6 payroll; right?

7 A Yes.

8 Q And that required somewhat of a complex
9 calculation; correct?

10 A I don't know if it would be complex, but it
11 required a calculation, certainly.

12 Q It required a calculation. But you are aware that
13 many small business owners were struggling trying to
14 figure out how to apply for these loans; isn't that
15 correct?

16 MS. AHN: Objection. Speculation. Foundation.

17 THE COURT: Sustained.

18 Q BY MR. JOHNSON: Are you aware of the small --
19 whether small businesses were struggling to try to figure
20 out how to apply for these loans?

21 A No.

22 Q When -- there is also a definition of how long it
23 takes to read this form; correct?

24 A Yes.

25 Q So this 4-page form, it says that the individuals

1 had -- it was expected that they could read this in eight
2 minutes?

3 A Yes.

4 Q And that is for English speakers; correct?

5 A Yes.

6 Q Final question, is it possible for the loan
7 application to be submitted by mobile phone?

8 THE COURT: By what?

9 Q BY MR. JOHNSON: By a mobile phone?

10 A For PPP, I do not know. It would depend on the
11 participating lender.

12 Q Understood.

13 MR. JOHNSON: No further questions, your Honor.

14 THE COURT: Any other counsel have questions?

15 Thank you, ma'am, for being here.

16 Next witness.

17 THE WITNESS: Thank you.

18 MR. FENTON: The government calls Mark Zindroski.

19 MR. JOHNSON: Your Honor, Peter Johnson. I
20 requested a limiting instruction for this witness.

21 THE COURT: Next witness.

22 THE CLERK: The witness will please step forward.

23 (The witness was sworn.)

24 THE CLERK: Please state your name and spell it
25 for the record.

1 THE WITNESS: Mark Anthony Zindroski,
2 Z-I-N-D-R-O-S-K-I.

3

4 DIRECT EXAMINATION

5 BY MR. FENTON:

6 Q Good morning, Mr. Zindroski.

7 A Morning.

8 Q Can you tell where do you currently live?

9 A Pardon?

10 Q Where do you currently live?

11 A I live at 16417 Tulsa Street, Granada Hills, 91344.

12 Q All right. And what, if anything, do you do for
13 employment?

14 A Pardon?

15 Q What, if anything, do you do for employment?

16 A I am a general contractor, semi retired.

17 Q And do you own your own company?

18 A Yes.

19 Q And what is your company name?

20 A Top Quality Contracting Services.

21 Q And when did you start your company?

22 A About 35 years ago.

23 Q Are you the sole owner of that company?

24 A Always have been. Yes.

25 Q And do you have any employees?

1 A No, sir.

2 Q So is it fair to say that you are the only person
3 working for Top Quality contracting?

4 A I didn't understand that.

5 Q So is it fair to say that you are the only person
6 working for Top Quality contracting?

7 A Yes.

8 Q Are you familiar with the Paycheck Protection
9 Program or PPP program?

10 A I have heard about it, yes.

11 Q Have you ever applied for a PPP loan?

12 A Never.

13 Q I am showing you what has been previously admitted
14 as Government Exhibit 2E.

15 A Okay.

16 Q Directing your attention to the top of the page, do
17 you see your name there at the top?

18 A Yes.

19 Q And is that the name of your company to the right?

20 A It is missing the services, but, yes, Top Quality
21 contracting, yes. That is me.

22 Q Did you submit this PPP loan application?

23 A No, sir.

24 Q Did you authorize anyone to submit this PPP loan
25 application --

1 A No, sir.

2 Q -- on behalf of your company?

3 A No.

4 Q To your knowledge, did you ever receive any PPP
5 loan money?

6 A Never.

7 MR. FENTON: If we can just go back to the top of
8 that page again.

9 Q If you look to the right it says business TIN/EIN.
10 Is that your EIN number?

11 A I have never had one.

12 Q Top Quality contracting has never had an EIN
13 number?

14 A I have my license number 696119.

15 Q But not an Employer Identification Number?

16 A Yeah. Never.

17 Q How about that telephone number, the business phone
18 number to the right, is that your telephone number?

19 A Let's see. No.

20 Q And what about that e-mail address?

21 A Pardon?

22 Q And what about the e-mail address?

23 A No. Not at all.

24 MR. FENTON: All right. Let's turn to page 3.
25 Let's go to the bottom of the page.

1 Q So directing your attention, sir, to the bottom of
2 the page there, is this your signature?

3 A No, sir.

4 Q And let's turn to page 47.

5 Sir, is this your driver's license?

6 A No.

7 Q Okay.

8 Q Is that your address?

9 A It is off to the -- turn it around.

10 Q 16417 Tulsa Street?

11 A That is me. Yeah.

12 Q That is you, but that is not you; correct?

13 A Yeah. It is not me, but that address is mine. And
14 my birth date is mine.

15 Q But that is not your driver's license?

16 A That is not my driver's license or my driver's
17 license number I see.

18 Q Does Top Quality contracting have a bank account?

19 A Yes.

20 Q Where do you bank?

21 A Bank of America.

22 Q Do you bank anywhere else?

23 A No, sir.

24 Q All right.

25 MR. FENTON: Your Honor, permission to publish

1 Government Exhibit 1F to the jury.

2 THE COURT: Okay.

3 MR. FENTON: And can we blow up the top of this
4 document.

5 Q All right. Do you see the name of your business
6 there Top Quality contracting?

7 A Yes.

8 Q Did you ever open an account in the name of Top
9 Quality contracting at Wells Fargo?

10 A No.

11 Q Did you authorize anyone to open up a bank
12 account --

13 A Never.

14 Q -- at Wells Fargo using your business' name?

15 A No.

16 Q Do you see the name there, Ulia Zhadko?

17 A Yes.

18 Q Do you know anyone named Ulia Zhadko?

19 A No, sir.

20 Q Has anyone named Ulia Zhadko ever worked for you as
21 an employee at Top Quality contracting?

22 A No. Never.

23 Q Let's go to page 2 at the bottom. All right. Just
24 a couple more questions.

25 Sir, do you see there at the bottom where it

1 says your name?

2 A Yes.

3 Q Next to it is signature?

4 A No.

5 Q Well, to the right. Do you see the signature to
6 the right?

7 A No. And that is my father's address.

8 THE COURT: What was the question? Does he see
9 the signature, or is it his signature? What was the
10 question?

11 MR. FENTON: Yes, your Honor.

12 Q The first question is can you see the signature,
13 Mr. Zindroski?

14 A Yes.

15 Q Is that your signature?

16 A No.

17 Q And how about that address. Is that your address?

18 A That was my father's address. And mine when I was
19 a kid.

20 Q All right, sir. Thank you, sir.

21 MR. FENTON: No further questions?

22 THE COURT: Cross-examination?

23 MR. LITRELL: Your Honor, can we take a 5-minute
24 break before cross-examination. I don't intend to
25 cross-examine the witness, but we need --

1 THE COURT: You need a 5-minute break.

2 MR. LITTRELL: Yes, your Honor.

3 THE COURT: What time is it?

4 THE CLERK: It is 10:30.

5 MR. RAM: We can cross in five minutes and be
6 done.

7 THE COURT: This will be the morning recess.

8 We will take the morning recess as I told you
9 now for 10 minutes to refresh yourselves, and then we
10 will go on until 12:00 o'clock. Thank you.

11 (Recess from 10:31 to 10:48 a.m.)

12 (The following proceedings were held in the
13 presence of the jury:)

14 THE COURT: Cross-examination?

15

16 CROSS-EXAMINATION

17 BY MS. NEWCOMER:

18 Q Good morning, Mr. Zindroski.

19 A Morning.

20 Q You learned that a PPP loan had been applied for in
21 your company's name when the government contacted you; is
22 that correct?

23 A Yes.

24 Q You don't know whether Manuk Grigorian submitted
25 that application; correct?

1 A Pardon.

2 Q You don't know whether a man named Manuk Grigoryan
3 is the one who submitted the application in your
4 company's name; correct?

5 A I don't know who.

6 Q You don't know whether any of the defendants
7 sitting at this table are the ones who submitted the loan
8 application in your company's name?

9 THE COURT: Why isn't the government objecting?

10 MR. FENTON: Objection, your Honor.

11 THE COURT: Sustained.

12 MS. NEWCOMER: Thank you, your Honor.

13 MS. AHN: Your Honor, we request that the question
14 be struck from the record.

15 THE COURT: When I sustain an objection, the
16 question and the answer have no bearing on the case.

17 MS. AHN: Thank you, your Honor.

18 THE COURT: Now, if it is unclear, the answer is
19 struck.

20 Now, call your next witness. Let's go.

21 MR. PAETTY: Your Honor, the United States calls
22 Brianna Fitzgerald.

23 THE COURT: You should get these witnesses lined
24 up so we don't have to wait for them to come in. You
25 know who the order is.

1 MS. AHN: Yes, your Honor.

2 (The witness was sworn.)

3 MR. PAETTY: Your Honor, at this time the
4 government would move to admit Government's 51A under
5 federal rule of evidence 803(8) and 803(10).

6 THE COURT: Proceed.

7 THE CLERK: Please state your full name and spell
8 it for the record.

9 THE WITNESS: My full name is Breanna,
10 B-R-E-A-N-N-A. Last name Fitzgerald,
11 F-I-T-Z-G-E-R-A-L-D.

12

13 DIRECT EXAMINATION

14 BY MR. PAETTY:

15 Q Good morning. Ms. Fitzgerald, where do you work?

16 A I work for the Department of Motor Vehicles.

17 Q And what do you do for the DMV?

18 A At the DMV, I am a senior motor vehicle technician
19 also known as a SMVT.

20 Q How long have you been in that job?

21 A For this position, I have been in this position for
22 two months now.

23 Q And what do do you in that job?

24 A As a SMVT, my duties are to process vehicle
25 registration, driver's license, ID's, occupational

1 license applications with the highest level of expertise
2 to review fraud, possible fraud, to process complex
3 transactions such as lien sales or complex transactions.
4 Also, to provide customer service and to mediate customer
5 complaints as well as assist our training staff and
6 assist my management staff or whatever else is needed.

7 Q Are you familiar with the types of records that are
8 kept by the DMV?

9 A I am.

10 Q Are names kept as part of DMV records?

11 A Yes, they are.

12 Q Are driver's license numbers kept as part of DMV
13 records?

14 A Yes, they are.

15 Q Are dates of birth kept as DMV records?

16 A Yes, they are.

17 Q Are those records kept in a database?

18 A Yes.

19 Q Do you have access to that database as part of your
20 job?

21 A Yes, I do.

22 Q Is that database searchable?

23 A Yes, it is.

24 Q Do you know how to run searches on it?

25 A Yes, I do.

1 Q Is it part of the regular course of your job duties
2 to run searches in the DMV database?

3 A Yes, it is.

4 Q Can you generate reports based on those searches?

5 A Yes, we can.

6 Q I will show you what has been admitted as
7 Government's Exhibit 51A. Are there names, a set of
8 names, driver's license and dates of birth in paragraph 6
9 here?

10 A Yes, they are.

11 Q And did you run a search of names and the driver's
12 license numbers that are listed here and the dates of
13 birth?

14 A Yes, I did.

15 Q Did you run a search for Ulia Zhadko?

16 A Yes, I did.

17 Q One moment, please.

18 So for Ulia Zhadko, driver's license B66244
19 with a date of birth January 15th, 1990?

20 A Yes, I did.

21 Q What process did you use to run that search?

22 A Per training, to locate or look up a customer's
23 vehicle record or ID record if you will, we do use the
24 DOB database.

25 So, first, it is two searches. Since I was

1 given a driver's license number and a name and birth
2 date. So the first search allows you to type in the
3 first and last name and birth date, and then it comes up
4 with a record. And the second search will allow you to
5 put in specifically only the driver's license or ID
6 number to pull up a record.

7 Q What was the result of that search here?

8 A For customer Zhadko, when I typed in the name and
9 birth date, there was no record. When I typed in the
10 driver's license, number there was also no record.

11 Q Is that an invalid license?

12 A Correct.

13 Q Did you also run a search for Ulia Zhadko with
14 driver's license number C8924483 and a date of birth
15 January 15th, 1990?

16 A Yes, I did.

17 Q Was that also a three-point check?

18 A That was also a three-point check.

19 Q Where were the results of that search?

20 A So, again, with the first and last name and birth
21 date, there was no hit, no match or no record, and, also,
22 for the driver's license number, there was no hit, no
23 match, no record.

24 Q So was that an invalid license?

25 A Invalid license. Yes.

1 Q Did you also run a search for Victoria Kauichko,
2 the driver's license number D3257870 and a date of birth
3 January 9th, 1989?

4 A Yes, I did.

5 Q Was that also a three-point search?

6 A That was also a three-point search, yes.

7 Q What were the results of that?

8 A So with the name, Victoria Kauichko, hope I am
9 saying that right, the system is set up to when you put
10 in the name, if there is a record that is similar, it
11 does come up. So with this particular name and birth
12 date, the same spelling for Viktoria came up, but the
13 last name was different and the birthday was different.
14 So with the three-point match, it is not the same record.
15 It is not the person in the other record. And, then, for
16 the driver's license, there was a record, but it was for
17 a three-point match not the same name and birth date so
18 it is not the same record.

19 Q So does this record belong to someone else?

20 A Belongs to someone else. That's correct.

21 Q Did you also run a search for Anton Kudiumov with
22 driver's license A6001420 and a date of birth March 19th,
23 1994?

24 A Yes, I did.

25 Q Was that a three-point check?

1 A That was a three-point check, name and birth date,
2 no record, no match, no hit. For the driver's license
3 number, there was a record, but per the three-point
4 match, it is not -- it doesn't match. It is an invalid
5 record. Not the same person.

6 Q How about for Anton Kudiumov, driver's license
7 number D6343561 and a date of birth March 19th, 1994?

8 A Yes, I ran that as well.

9 Q Was that a three-point check?

10 A Three-point check. The name and birth date, no
11 record, no hit or match. The driver's license, there was
12 a record, but per three-point match after verifying the
13 record does not belong to Anton Kudiumov.

14 Q How about for Anna Dzukaeva, driver's license
15 number A8002470, date of birth, November 29th, 1995?

16 A Yes, I ran that record as well.

17 Q And was that a three-point check?

18 A Yes. Three-point check. On the first name, last
19 name, there was no record. And then the driver's license
20 number that was given, there was also no hit, no match,
21 no record.

22 Q How about for Medel Murat, driver's license number
23 Y3081786 and a date of birth, April 25th, 1994?

24 A Yes, I ran that record as well.

25 Q And what was the result of that?

1 A Again, verifying the three-point match with a first
2 and last name and birth date, there was no record, no hit
3 or match. However, the driver's license number, there
4 was a record but per the three-point match and training,
5 this record does not belong to the person.

6 Q Let's continue to Anna Manukyan, driver's license
7 Y3365633 and date of birth November 2nd, 1984. Did you
8 run a three-point check for that?

9 A I did run a three-point check for that.

10 Q And what were the results?

11 A The results were the same. So the record did
12 belong to Anna Manukyan, and the driver's license number
13 was verified it does belong to that person.

14 Q And the last name on the list, Roza Avakyan,
15 driver's license No. D36423006 and a date of birth
16 April 23rd, 1924?

17 A Yes. I ran that record as well.

18 Q And what were the results of that?

19 A The results of that, it did come back as a match.
20 The name, birth date and driver's license belonged to
21 that person.

22 Q Was that expired?

23 A Yes. It was expired.

24 Q Was it renewed?

25 A No, it was not.

1 MR. PAETTY: No further questions, your Honor.

2 THE COURT: Cross-examination.

3

4 CROSS-EXAMINATION

5 BY MR. KEOUGH:

6 Q Good morning, Ms. Fitzgerald.

7 A Good morning.

8 Q You testified that as part of your work at the DMV,
9 the DMV keeps records of driver's licenses?

10 A Correct.

11 Q And that you were asked to run certain searches to
12 determine if the information from the licenses was found
13 in your database?

14 A Right.

15 Q One of those licenses that we heard about just now
16 was Victoria Kauichko, and you recall running that
17 search?

18 A Yes, I do.

19 Q And you didn't find any information that they asked
20 you to search for?

21 A No. I did not find a record for that person.

22 Q And you determined that that was thus an invalid
23 license?

24 A Yes. That is correct.

25 Q And that the record didn't belong to Victoria

1 Kauichko, must have belonged to someone else?

2 A Correct.

3 Q And you can't tell us, though, whether that someone
4 else was, for instance, a man named Manuk Grigoryan?

5 A No, I couldn't tell you that.

6 Q And you couldn't tell us whether or not the person
7 who that record belongs to is a woman named Tamara
8 Dadyan?

9 A No, I cannot.

10 Q You also testified you searched for a license with
11 the name Anton Kudiumov?

12 A Correct.

13 Q And you recall that that search revealed no
14 information?

15 A For the name and birth date, there is no record for
16 that person.

17 Q And, as a result, you determined it was an invalid
18 license?

19 A Correct.

20 Q And you determined that the record belonged to
21 someone else?

22 A Correct.

23 Q But you can't tell us whether or not that record
24 belonged to a man named Manuk Grigoryan?

25 A No, I can not.

1 Q And you can't tell us whether or not that record
2 belonged to a woman named Victoria Kauichko?

3 A Well, okay.

4 Q Excuse me. A woman named Tamara Dadyan?

5 A Okay. I apologize. On the record, it has a
6 specific name and birth date. So I can say that I don't
7 recall the name, but it would tell you whose name it is
8 as far as if a record does come up, it does show a first
9 name, last name and a birth date. So I would be able to,
10 if I see the record if it is that person, but I don't
11 recall those names.

12 Q Fair enough. Now, you also testified about running
13 a search for a driver's license in the name of Anna
14 Manukyan. Do you recall that?

15 A Yes.

16 Q And do you recall as part of that search, were you
17 asked to cross-reference information for Anna Manukyan to
18 see if there was any relationship with a man named Manuk
19 Grigoryan?

20 A No. I was not asked to that.

21 Q You also testified that you ran a search for a
22 license in the name of Ulia Zhadko?

23 A Correct.

24 Q And when you ran that search, no information came
25 back?

1 A Correct.

2 Q So you determined that was an invalid license?

3 A That is correct.

4 Q As part of that search were you asked to
5 cross-reference any information against information
6 belonging to a man named Manuk Grigoryan?

7 A No, I was not.

8 Q And were you asked to cross-reference any
9 information belonging to a woman named Tamara Dadyan?

10 A No, I was not.

11 Q And you can't tell us whether or not the someone
12 else that record belonged to was a man named Manuk
13 Grigoryan; correct?

14 A Correct.

15 Q And you can't tell us whether the record, the
16 someone else that record belonged to was a woman named
17 Tamara Dadyan; correct?

18 A Correct.

19 Q In fact, you can't tell us for the invalid licenses
20 who any of those records belonged to?

21 A No because it is a security breach, but, if I have
22 the record pulled up, I could tell you the name. But,
23 no, I wouldn't be able to tell you right now to confirm
24 that that is the name that is on the record. What I can
25 tell you is the driver's license number based on the

1 information that was given to me did not match the name
2 and birthday that was given to me. Those did not match.

3 Q Thank you, Ms. Fitzgerald.

4 THE COURT: Anyone else?

5 MR. LITTRELL: No, your Honor.

6 THE COURT: Thank you, ma'am. Thank you for being
7 here.

8 THE WITNESS: Thank you.

9 THE COURT: You are excused.

10 Call the next witness.

11 MR. FENTON: The government calls Jack Runyan.

12 THE CLERK: The witness will please step forward.

13 (The witness was sworn.)

14 THE COURT: Mr. Fenton, when you speak, is it
15 possible to drop your mask, or do you feel more
16 comfortable with the mask over your mouth?

17 MR. FENTON: I can drop my mask.

18 THE COURT: Okay. It would be helpful.

19 MR. FENTON: Yes, your Honor.

20 THE CLERK: The witness will please state his name
21 and spell it for the record.

22 THE WITNESS: Full name, Jack Lloyd Runyan,
23 J-A-C-K, L-L-O-Y-D, R-U-N-Y-A-N.

24 THE CLERK: Thank you.

25 ///

DIRECT EXAMINATION

BY MR. FENTON:

Q Good morning, Mr. Runyan.

A Good morning.

Q What town and state do you currently live in?

A Clovis, California.

Q And what, if anything, do you do for employment?

A I have a tax practice. I do prepare income tax
returns.

Q And do you own your own company?

A Yes, I do.

Q What is your company named?

A It is Runyan Tax Service, Inc.

Q And when did you start your company?

A I incorporated in 2003.

Q And are you the sole owner of the company?

A Yes, I am now.

Q Who previously -- who, if anyone, previously owned
the company with you?

A My late wife owned half of it.

Q But you are currently the sole owner?

A Yes.

Q Do you have any employees who work for you?

A No, I do not.

Q Has Runyan Tax Service, Inc. ever had any employees

1 other than yourself?

2 A My wife while she was living.

3 Q Anyone else?

4 A No.

5 Q What does a tax preparer do?

6 A Well, I meet with clients, gather information,
7 gather income, report the income and expenses related to
8 the individual or corporation or partnership and then
9 prepare the tax return to be filed with the IRS and the
10 state that they live in.

11 Q And approximately how many clients did you have in
12 2019?

13 A 2019? 230.

14 Q And approximately how many clients did you have in
15 2020?

16 A 235.

17 Q Do you have a -- what types of clients do you have?
18 Do you have individuals?

19 A I have individuals, some corporations, some
20 partnerships and some trusts.

21 Q And do you have a system for keeping track of your
22 clients?

23 A Prior information, prior years tax returns, and I
24 keep a ledger.

25 Q A ledger with the names of your clients?

1 A Yes.

2 Q So would you say that you know the name of each of
3 your clients?

4 A Oh, definitely.

5 Q And how do you know?

6 A Well, my clientele is mainly clients that I have
7 had for I would say 20 to 30 years of service except for
8 occasionally I will pick up a new client.

9 Q Sir, are you familiar with the Paycheck Protection
10 Program or the PPP program?

11 A Not totally. I am familiar with it, but I don't
12 know the details of it.

13 Q All right. Have any of your clients asked you to
14 assist them to apply for a PPP loan?

15 A No.

16 Q All right.

17 MR. FENTON: Your Honor, permission to publish for
18 the jury Government Exhibit 2P.

19 THE COURT: Go ahead.

20 Q BY MR. FENTON: Mr. Runyan, showing you what has
21 previously been admitted as Government's Exhibit 2P, and
22 I am going to direct your attention to a specific
23 document within this form -- within this file.

24 Sir, are you familiar with this type of form?

25 A Yes. It is a 940, a payroll tax report.

1 Q And what is a Form 940?

2 A 940 is an annual report for federal unemployment
3 tax.

4 Q Okay. And is there a quarterly version of these
5 types of filings as well?

6 A Yes. That is a 941.

7 Q All right. Do you -- in the course of your
8 business, do you help clients prepare Form 940's?

9 A Currently, no. I used to, but, currently, no.

10 Q And when you say used to, how long ago did you use
11 to prepare those forms?

12 A Probably was five, ten years ago, just one or two
13 corporations or businesses.

14 Q And would the same be true with respect to Form
15 941's?

16 A Yes.

17 Q Turning back this document at the top of page 1,
18 there is a name on this form. We are going to magnify
19 the top here, Mr. Runyan.

20 So at the top of the form it says Ulia Zhadko.
21 Is Ulia Zhadko a client of yours?

22 A No, he is not.

23 Q Do you know anybody named Ulia Zhadko?

24 A No, I do not.

25 Q What about this company name that is listed here,

1 Turing Info Solutions, Inc.

2 Is that a client of yours?

3 A No, they are not.

4 Q Have you ever heard of that company before?

5 A No, I have not.

6 MR. FENTON: Let's scroll down to the next page.

7 Go to part 6.

8 Q Sir, can you see here at the bottom it says "paid
9 preparer use only"?

10 A Yes.

11 Q And do you see your name listed?

12 A Yes, I do.

13 Q Were you ever the designee for an individual named
14 Ulia Zhadko?

15 A No, I was not.

16 Q Or for a company called Turing Solutions?

17 A No, I was not.

18 Q And did you prepare this form?

19 A No, I did not.

20 Q Has Runyan Tax Service, Inc. ever submitted an
21 application for a PPP loan?

22 A Not that I am aware of.

23 Q To your knowledge, have you ever received any PPP
24 loan money?

25 A No, I have not.

1 MR. FENTON: Your Honor, permission to publish
2 Government Exhibit 2N.

3 THE COURT: Go ahead.

4 Q BY MR. FENTON: Mr. Runyan, showing you a document
5 previously admitted, Government Exhibit 2N, have you ever
6 seen this document before?

7 A No, I have not.

8 Q All right. Directing your attention to the top of
9 the page, what is the name of the business listed here?

10 A Runyan Tax Service, Inc.

11 Q And is that your business, sir?

12 A Yes, it is.

13 Q Turning the page -- let's turn to page 2 and about
14 to the bottom of the page. Do you see at the bottom of
15 the page there, sir, it lists the CEO of Runyan Tax
16 Service, Inc.?

17 A I see the name.

18 Q And what name do you see?

19 A Viktoria -- I can't pronounce that. Kauichko.

20 Q Do you know this individual, sir?

21 A No, I do not.

22 Q Does this individual work for Runyan Tax Service?

23 A They do not.

24 Q Is this individual a client of Runyan Tax Service,
25 Inc.?

1 A No, they are not.

2 Q Did you ever authorize anyone to submit this
3 application on your behalf?

4 A No, I did not.

5 Q All right. Turning your attention to page 23 of
6 the exhibit. All right.

7 Sir, do you recognize this form?

8 A Yes. It is a 940.

9 Q Okay. Was the name -- and you see the name
10 Victoria Kauichko and the company Runyan Tax Service
11 listed there at the top?

12 A Yes.

13 Q Let's scroll down to the next page, and it says
14 here at the bottom for preparer use only. The preparer's
15 name is Jack Runyan. Is that true, sir?

16 A Yes.

17 Q Were you the preparer of this form?

18 A No, I was not.

19 Q Did you ever submit a Form 940 on behalf of your
20 company?

21 A No, I did not.

22 Q And did you authorize anyone to use your name to
23 prepare a 940 on behalf of your company?

24 A No, I did not.

25 Q All right, sir. I would like to show you just one

1 more exhibit.

2 MR. FENTON: Your Honor, permission to publish for
3 the jury Government Exhibit 1P.

4 THE COURT: Go ahead.

5 Q BY MR. FENTON: Mr. Runyan, does Runyan Tax Service,
6 Inc. have a bank account?

7 A Yes.

8 Q And where does it bank?

9 A Bank of America.

10 Q All right. I am showing you Government Exhibit 1P,
11 do you recognize this document?

12 A No, I do not.

13 Q And this says the account title is Runyan Tax
14 Service, Inc., and that is your company, sir; correct?

15 A Yes.

16 Q And the account owner is Victoria Kauichko. Do you
17 see that?

18 A Yes, I do.

19 Q Did you ever authorize anyone named Victoria
20 Kauichko to open a Bank of America account in the name of
21 your company?

22 A No, I did not.

23 Q Thank you, sir.

24 MR. FENTON: No further questions.

25 THE COURT: Cross-examination.

1 MS. NEWCOMER: Yes, your Honor.

2

3 CROSS-EXAMINATION

4 BY MS. NEWCOMER:

5 Q Good morning, Mr. Runyan?

6 A Morning.

7 Q You learned that your, the name of your tax
8 business was used on PPP loan applications when the
9 government reached out to you to discuss that; is that
10 correct?

11 A No.

12 Q How did you find out, then?

13 A I'm sorry. I don't understand the question.

14 Q Sure. I will ask it better. Did you learn from
15 the government that your company's name, Runyan Tax
16 Service, had been used on PPP loan applications?

17 A You mean the IRS?

18 Q Yes.

19 A They contacted me, yes.

20 Q And before the IRS contacted you, did you know that
21 your company's name had been used?

22 A No.

23 Q And you don't know who created the Form 940 forms
24 using Runyan Tax Service's name; is that right?

25 A Correct.

1 Q Thank you.

2 MS. NEWCOMER: No further questions.

3 THE COURT: Okay. Anything else?

4 MR. LITTRELL: No, your Honor.

5 THE COURT: All right. Thank you, sir. Thank
6 you.

7 Mr. Runyan, thank you for being here. You are
8 excused. Thank you.

9 Call the next witness.

10 MR. PAETTY: Your Honor, the United States calls
11 Victoria Hernandez.

12 THE CLERK: The witness will please step forward.

13 (The witness was sworn.)

14 THE CLERK: Please have a seat and state your full
15 name and spell it for the record.

16 THE WITNESS: Victoria Hernandez,
17 H-E-R-N-A-N-D-E-Z.

18

19 DIRECT EXAMINATION

20 BY MR. PAETTY:

21 Q Good morning, Ms. Hernandez.

22 A Good morning.

23 Q Where do you work?

24 A I work for the Internal Revenue Service.

25 Q What do you do for the IRS?

1 A I am a court witness coordinator.

2 Q What does a court witness coordinator do?

3 A I represent the commissioner in his role as a
4 custodian of records. I review tax returns and
5 transcripts and certify that they are true, valid copies
6 of what is on the tax payer's account.

7 THE COURT: Could you keep your voice up a little
8 bit.

9 THE WITNESS: Sure can. Thank you. Sorry.

10 Q BY MR. PAETTY: There is a microphone in front of
11 you, Ms. Hernandez. You can speak into that too.

12 A Okay.

13 Q How long have you been doing that job?

14 A I have been in this position for one year.

15 Q And how long have you been with the IRS?

16 A For 13 years.

17 Q What job did you have before being a court witness
18 coordinator?

19 A I was a customer service representative.

20 Q Does the IRS have a record-keeping system?

21 A Yes, we do.

22 Q Are you familiar with it?

23 A Yes, I am.

24 Q Do you work with that system in the regular course
25 of your job?

1 A Yes, I do.

2 Q What is that system?

3 A It is called the IRS master file. We access -- it
4 is an interface that we use to access our integrated data
5 retrieval system that we can get information off of.

6 Q Is that used in the regular course of business at
7 the IRS?

8 A Yes, it is.

9 Q What kinds of records are kept there?

10 A Tax return information, tax filings, taxpayer
11 account information.

12 Q Can searches be run on it?

13 A Yes, they can.

14 Q Do you know how to conduct searches on that system?

15 A Yes, I do.

16 Q Do you do that as a regular part of your job?

17 A Yes, I do.

18 Q Were you asked by the United States Attorney's
19 office to conduct searches of IRS records related to this
20 case?

21 A Yes, I was.

22 Q I will show you Government's Exhibit 47.

23 MR. PAETTY: Mr. Cruz, is there a way to display
24 it to the witness for identification?

25 Q Do you recognize this document?

1 A There is nothing on here as of yet.

2 Q Do you see the document now, Ms. Hernandez?

3 A Yes, I do.

4 Q And do you recognize this?

5 A Yes, I do.

6 Q How do you recognize it?

7 A It is a certification of lack of records.

8 Q And are these certifications kept in the regular
9 course of the IRS business?

10 A Yes, it is.

11 Q Are they kept in the database?

12 A Yes, it is.

13 MR. PAETTY: Your Honor, the government moves to
14 admit under Federal Rule of Evidence 803(8) and 803(10)
15 Government's Exhibit 47.

16 THE COURT: Proceed.

17 Q BY MR. PAETTY: So, as you stated, Ms. Hernandez,
18 there are more than one of these. How many certificates
19 are in Exhibit 47?

20 A Approximately 87.

21 Q And did you run searches for the tax records for
22 each of the companies and the EIN's that are listed in
23 Exhibit 47?

24 A Yes, I did.

25 Q We won't look at all of them, but let's look at one

1 or two. So directing your attention to the description
2 of records sought section. I will highlight that.

3 So what is the company name -- what are the
4 records sought here in this certificate?

5 A It is for a company Turing Info Solutions with an
6 Employee Identification Number of 85-2214789.

7 Q And what documents were sought?

8 A Form 1120 US Corporate Income Tax Return.

9 Q What is a Form 1120?

10 A It is a US income tax return for corporations.

11 Q And did you run a search for tax records for Turing
12 Info Solutions for the --

13 THE COURT: You know something, your voice is
14 trailing off. You don't speak into the microphone. Say
15 that again.

16 MR. PAETTY: Yes, your Honor.

17 Q So did you run a search for Turing Info Solutions
18 with Taxpayer Identification Number 85-2214789?

19 A Yes, I did.

20 Q And what were the results of that?

21 A For the years that were listed on this certificate
22 of lack of record, there was no records found.

23 Q What were those tax years?

24 A Tax year 2018 and tax year 2019.

25 Q Direct your attention now to page 75. So that is

1 the same company name, Turing Info Solutions, the same
2 Taxpayer Identification Number 85-2214789. The
3 information sought is a Form 940. What is a Form 940?

4 A Employer's Annual Federal Unemployment Tax Return.

5 Q Did you run a search for records for Form 940 for
6 Turing Info Solutions?

7 A Yes, I did.

8 Q Is that for tax periods 2018 and 2019?

9 A Yes.

10 Q What were the results of that?

11 A There was no returns found for those years.

12 Q Page 76 of Exhibit 47. Can you describe what the
13 description of records sought and the results are for
14 this document?

15 A For Turing Info Solutions, Employer Identification
16 Number 85-2214789, we -- I researched for Form 941
17 employer's quarterly federal tax return. And for the
18 years 2018, 2019 and the ending first quarter of 2020,
19 and there was no record of returns filed.

20 Q So the searches that you ran for all of the
21 companies and taxpayer identification numbers in Exhibit
22 47, for all of those, what was the results?

23 A There was no record of returns filed for those lack
24 of records.

25 THE COURT: I didn't understand the question and

1 answer. Can you repeat that?

2 MR. PAETTY: Yes, your Honor.

3 Q So you stated that you conducted searches for all
4 of the companies and Employer Identification Numbers in
5 Exhibit 47; is that right?

6 A Yes, I did.

7 Q And what were those results for the tax years
8 listed in Exhibit 47?

9 A There were no returns listed for those years.

10 Q For those companies and those identification
11 numbers?

12 A Yes.

13 MR. PAETTY: Mr. Cruz, can I show the witness
14 Government Exhibit 48 for identification.

15 Q Ms. Hernandez, do you recognize these documents?

16 A Yes, I do.

17 Q How do you recognize them?

18 A I was requested to research over these letters.

19 Q What are they?

20 A Fact-of-filing letters.

21 Q What is a fact-of-filing letter. It is a letter
22 stating of all filings for the years requested for that
23 company.

24 Q And are these fact-of-filing letters kept in the
25 regular course of business of the IRS?

1 A Yes, they are.

2 Q And is this information located in the IRS
3 database?

4 A Yes, it is.

5 MR. PAETTY: Your Honor, the government moves
6 Exhibit 48 into evidence?

7 THE COURT: Received.

8 Q BY MR. PAETTY: I will just ask you some questions
9 about some specific companies and EIN's that are in
10 Exhibit 48.

11 Did you run a search for tax records for G&A
12 Diamonds with an EIN 60-3252838?

13 A Yes, I did.

14 Q What were the results of that search?

15 A There was no record of that Employer Identification
16 Number. It is an invalid EIN.

17 Q How about for Hart Construction, did you also run a
18 search for tax records for Hart Construction with EIN
19 54-8649260.

20 A Yes, I did.

21 Q What was the result of that search?

22 A There was no record of an account. That EIN is
23 invalid.

24 Q Top Quality contracting. Did you also run a search
25 for that company with EIN 82-5088385?

1 A Yes, I did.

2 Q What was the result of that search?

3 A The business that is tied to that Employer
4 Identification Number was different than the business
5 listed.

6 Q Did the EIN that you searched reference Top Quality
7 contracting?

8 A No, it did not.

9 MR. PAETTY: No further questions, your Honor.

10 THE COURT: Cross-examination.

11

12 CROSS-EXAMINATION

13 BY MR. KEOUGH:

14 Q Good morning.

15 A Good morning.

16 Q TIN is a Taxpayer Identification Number; correct?

17 A Correct.

18 Q And an employer can register for a TIN, and they
19 can use it when they file tax returns?

20 A Correct.

21 Q And similar idea with an Employer Identification
22 Number. A business can register for an EIN but use it
23 when they file forms with the IRS?

24 A Correct.

25 Q Does a business need a TIN or an EIN in order to

1 operate?

2 A Yes.

3 Q So if a business doesn't have a TIN or an EIN, your
4 testimony is there is no way that could be a real
5 business?

6 A Can you ask it -- I'm sorry.

7 Q Would you agree that, for example, if there was a
8 sole proprietorship and somebody filed through their
9 personal income taxes, they might be operating a business
10 in the state where they live but they wouldn't
11 necessarily need a TIN or an EIN in order to file a tax
12 return because they would use their own Social Security
13 number?

14 MR. PAETTY: Objection. Lacks foundation.

15 THE COURT: Sustained.

16 Q BY MR. KEOUGH: You testified about searches that
17 you ran through the IRS master file; correct?

18 A Yes.

19 Q And you testified about a search you ran for Turing
20 Info Solutions; correct?

21 A Correct.

22 Q And that search using a taxpayer identification
23 number returned no records?

24 A For the years listed of this certificate.

25 Q For the years you were asked to search, there were

1 no records?

2 A Correct.

3 Q And who asked you to run the searches for the
4 Turing Info Solutions information?

5 A The Assistant U.S. Attorney.

6 Q And who provided you the name Turing Info
7 Solutions?

8 A The lack of record had it listed on there.

9 Q So the Assistant U.S. Attorney provided you with
10 the taxpayer identification number and then you ran the
11 lack of record but found that it was associated with that
12 business name?

13 A Excuse me?

14 MR. PAETTY: Objection. Misstates the evidence.

15 THE COURT: Sustained.

16 Q BY MR. KEOUGH: You testified that you were provided
17 the Taxpayer Identification Number by the Assistant US
18 Attorney; correct?

19 A Correct.

20 Q And when you ran that search, you found that the
21 Taxpayer Identification Number was associated with a name
22 called Turing Info Solutions; correct?

23 MR. PAETTY: Objection. Misstates the evidence.

24 THE COURT: Sustained.

25 MR. KEOUGH: As part of that search for Turing

1 Info Solutionss, were you asked to cross-reference any
2 information and determine whether that Taxpayer
3 Information Number was used by a man named Manuk
4 Grigoryan.

5 MR. PAETTY: Objection. Lacks foundation.

6 THE COURT: Sustained. I mean, the question is
7 was she asked to do it, and she can answer "yes" or "no".

8 MR. KEOUGH: Thank you, your Honor.

9 You can answer.

10 THE WITNESS: Can you repeat the question.

11 Q BY MR. KEOUGH: The question was as part of the
12 search that you testified to about the Turing Info
13 Solutions TIN, were you asked to cross-reference
14 information to determine whether this TIN was used by a
15 man named Manuk Grigoryan?

16 A No.

17 Q And were you asked to cross-reference information
18 to determine whether that TIN was used by a woman named
19 Tamara Dadyan?

20 MR. PAETTY: Objection. Vague as to
21 cross-reference.

22 THE COURT: Can you ask the question more
23 specifically.

24 MR. KEOUGH: Of course, your Honor.

25 Q As part of the searches that you ran with Turing

1 Info Solutions, were you provided with any information
2 related to a woman named Tamara Dadyan and asked to
3 determine if that information was associated with Turing
4 Info Solutionss in the IRS master file?

5 A No.

6 MR. KEOUGH: Thank you. No further questions.

7 MR. LITTRELL: No questions, your Honor.

8

9 CROSS-EXAMINATION

10 BY MR. JOHNSON:

11 Q Good morning.

12 A Good morning.

13 Q Were you asked to search for a company named Voyage
14 Limo?

15 A I do remember the name in part of the searches that
16 I did, yes.

17 Q Did you have a record that is related to Voyage
18 Limo being a legitimate company?

19 MR. PAETTY: Objection. Foundation.

20 THE COURT: I couldn't hear the question.

21 Q BY MR. JOHNSON: Do you have a record -- You talked
22 about Exhibit 47; isn't that correct?

23 A Yes.

24 Q And did you review Exhibit 47 before testifying
25 today?

1 A Yes.

2 Q And inside of Exhibit 47, is there any reference to
3 a company called Voyage Limo?

4 A Yes.

5 Q And where is that?

6 A The lack of records?

7 Q Is there a lack -- yes. Where is that inside
8 Exhibit 47?

9 A I don't have it up here so there is a lot of lack
10 of records.

11 Q So can the government show the witness Exhibit 47,
12 please. While I am going through that, in terms of
13 Exhibit 48, is there a reference to Voyage Limo in
14 Exhibit 48?

15 A I can't see Exhibit 48 up here. Sorry.

16 Q Did you review Exhibit 48 in advance of testifying
17 today?

18 A Yes, I did.

19 Q And do you recall whether there is a reference to
20 Voyage Limo in the Exhibit 48?

21 A I can't recall. I'm sorry. I can only see the
22 lack of record up here.

23 Q So, in reviewing, do you need the time to review
24 through the 87 pages of the exhibit to determine whether
25 Exhibit 48 has a reference to Voyage Limo?

1 THE COURT: I mean, can counsel help?

2 MR. PAETTY: Yes, your Honor, I can.

3 THE COURT: What is the answer?

4 MR. PAETTY: The answer is that there is a record.

5 It is at Bates Range 147569, your Honor.

6 May I approach the witness?

7 THE COURT: Yes.

8 THE WITNESS: Yes, I see it now.

9 Q BY MR. JOHNSON: Do you have that record in front of
10 you? What is the information related to Voyage Limo?

11 A For the years listed and the forms listed as well,
12 there was no record of any forms being filed.

13 Q And when a company is applying for a business --
14 they can apply for as a business under a sole
15 proprietorship; isn't that correct?

16 A Correct.

17 Q And a sole proprietorship would be listed under the
18 personal tax returns of the individual; isn't that
19 correct?

20 A Correct.

21 Q And that is in the form of the Schedule C; isn't
22 that correct?

23 A Yes.

24 Q And where there is a Schedule C, the person can
25 list inside the Schedule C business expenses; is that

1 correct?

2 A Correct.

3 Q And that Schedule C would also show whether they
4 had expenses for independent contractors; is that
5 correct?

6 A Correct.

7 Q Were you asked to look at the documents for the
8 personal records, the personal tax returns of Vahe
9 Dadyan?

10 A No.

11 Q Thank you.

12 MR. LITTRELL: No further questions?

13 THE COURT: Thank you, ma'am. Ms. Hernandez, you
14 are excused.

15 THE WITNESS: Thank you.

16 THE COURT: Call the next witness.

17 MR. PAETTY: Your Honor, may I approach to get the
18 folder back?

19 THE COURT: Yes.

20 MR. FENTON: The government calls Alexander Fard.

21 THE CLERK: The witness will please step forward.

22 (The witness was sworn.)

23 THE CLERK: Please be seated.

24 Please state your full name and spell it for
25 the record.

1 THE WITNESS: Alexander Benjamin Fard,
2 A-L-E-X-A-N-D-E-R, B-E-N-J-A-M-I-N, F-A-R-D.

3

4 DIRECT EXAMINATION

5 BY MR. FENTON:

6 Q Good morning, Mr. Fard.

7 A Good morning.

8 Q Can you tell us what city and state do you live in?

9 A Sherman Oaks, California.

10 Q And what, if anything, do you do for employment?

11 A I am a CPA. I run my own business.

12 Q And what is the name of your business?

13 A Fard Tax and Accounting.

14 Q And do you have any employees?

15 A One employee.

16 Q And what does that employee do for you?

17 A Some tax preparation and bookkeeping.

18 Q Do they have their own clients?

19 A No.

20 Q All the clients are yours?

21 A Yes.

22 Q What does a tax preparer do?

23 A Typically prepares income tax returns and other
24 types of tax return forms that are necessary in order to
25 be compliant.

1 Q And do you provide those tax services for your
2 clients?

3 A Yes.

4 Q Do you provide any other types of services as well?

5 A I provide accounting services in addition to that
6 so monthly account maintenance like bookkeeping.

7 THE COURT: Is it possible for you to take the
8 mask down when you speak? Thank you.

9 Q BY MR. FENTON: How many clients did you have in
10 2019?

11 A About 120.

12 Q And how about 2020?

13 A About 160.

14 Q What types of clients do you have generally?

15 A Individuals and small businesses.

16 Q Do you have a system for keeping track of your
17 clients?

18 A Multiple.

19 Q And can you describe that system for the jury?

20 A My first system is my tax preparation software in
21 which I can see my entire client list. In addition to
22 that, I have a work flow management system called Jetpack
23 which allows me to keep track of multiple jobs for
24 clients.

25 Q So would you say that you know the name of each of

1 your clients?

2 A Yes.

3 Q And are you familiar with the Paycheck Protection
4 Program or the PPP program?

5 A Yes.

6 Q And how are you familiar with that?

7 A It was necessary information for me to know for my
8 clients in order to give them as good advice and guidance
9 as possible as their accountant.

10 Q All right. So have any of your clients asked you
11 to assist them to apply for a PPP loan?

12 A Yes.

13 Q What, if anything, did they specifically ask you to
14 do?

15 A I have had two clients I have had to hold their
16 hands through the process of the PPP loan application.
17 Other than that, other clients have just requested the
18 documentation necessary to apply for a PPP loan.

19 Q I am going to show you what was previously admitted
20 as Government Exhibit 2M. All right. Directing your
21 attention to page 8.

22 Do you recognize this type of document?

23 A Yes.

24 Q What is it?

25 A This is an unemployment tax return that needs to be

1 filed annually.

2 Q So what is an unemployment tax return?

3 A So if you are an employer who has payroll, for the
4 first \$7,000 of wages, you are required to pay \$42 in
5 unemployment taxes. This is the form that you use in
6 order to calculate that exact amount.

7 Q And is there a quarterly version of those same
8 filings?

9 A There is a quarterly payroll tax return, a Form 941
10 which is for Social Security and Medicare wages whereas
11 this is for unemployment wages or unemployment.

12 Q And if a company were to have employees, you would
13 expect that they would submit both of those types of
14 forms?

15 A Yes.

16 Q Do you help your clients prepare these types of
17 forms, the Form 940's?

18 A Occasionally. I usually outsource it to a payroll
19 service in which I help my client set up the service and
20 the service will maintain the form filings for them.

21 Q When you say payroll service, what type of service
22 are you referring to?

23 A ADP, Gusto, Intuit full service payroll, and some
24 of my clients will use Heartland payroll as well.

25 Q And would the same be true for the Form 940's as

1 well?

2 A Yes.

3 Q Turning back to this document at the top of page 1,
4 the name of the form, is Anton Kudiumov.

5 Do you see that, sir?

6 A Yes.

7 Q So the top there it says Anton Kudiumov. Is Anton
8 Kudiumov a client of yours?

9 A No.

10 Q Do you know anyone named Anton Kudiumov?

11 A No.

12 Q How about the company that is named there. Do you
13 see that company?

14 A Yes, I do see it.

15 Q Redline Auto Mechanics, is that a client of yours?

16 A No, they are not.

17 Q Do you know the company Redline Auto Mechanics?

18 A No.

19 Q Let's scroll down one page. Let's look to part 6
20 here next to designee's name and phone number. Can you
21 please tell what name you see listed there.?

22 A That is my name, Alexander Fard.

23 Q And are you the designee for Anton Kudiumov?

24 A No.

25 Q Are you the designee for Redline Auto Mechanics?

1 A No.

2 Q What about that telephone number there, is that
3 your telephone number?

4 A No. That is not my telephone number.

5 Q All right. Let's look down to the bottom of the
6 page where it says paid preparer use only. Next to
7 preparer's name, it says Alexander Fard via Gusto
8 Payroll.

9 Do you work for Gusto Payroll?

10 A No.

11 Q And how about the rest of this information here, is
12 this information accurate information, the PTIN, for
13 example? Let's talk about the PTIN.

14 A The PTIN is not correct.

15 Q What is a PTIN?

16 A PTIN is a Preparer Tax Identification Number. In
17 order to prepare tax returns for individuals, you must
18 register with the IRS, and they give you that number.

19 Q Is this your PTIN?

20 A No.

21 Q Here it also lists an address. Is this your
22 address?

23 A That was an address that I had used previously. It
24 was an address that I was meeting clients at. Typically
25 speaking, I set my home base of operations as my house in

1 Sherman Oaks, and so I never actually used that address
2 in order to prepare or file any returns. It was an
3 address that was used for me to meet clients.

4 Q All right, sir. We are going to take a look at
5 another exhibit.

6 MR. FENTON: Your Honor, request permission to
7 publish to the jury Government Exhibit 2Q.

8 THE COURT: Yes.

9 MR. FENTON: We are going to scroll down to page
10 21.

11 Q All right. Sir, do you recognize this form of
12 document?

13 A Yes.

14 Q And what do you recognize this to be?

15 A This is the quarterly payroll tax return for first
16 quarter of 2020.

17 Q This was the form that we spoke about earlier; is
18 that right?

19 A Yes. So where the Social Security wages and
20 Medicare wages are reported.

21 Q The top of the page there, it says the name Anna
22 Dzukaeva. Is Anna Dzukaeva client of yours?

23 A No.

24 Q What about that company name that is stated there,
25 Six Star Farms. Is that company a client of yours?

1 A No.

2 Q Do you know the name Six Star Farms?

3 A No.

4 Q Let's scroll to the next page at the bottom of the
5 page here. It says paid preparer use only, and next to
6 preparer's name it says Alexander Fard via Gusto Payroll.

7 Did you prepare this form, sir?

8 A No.

9 Q Did you authorize anyone else to prepare this form
10 on your behalf?

11 A No.

12 MR. FENTON: No further questions. Thank you.

13 THE COURT: Cross-examination.

14

15 CROSS-EXAMINATION

16 BY MR. KEOUGH:

17 Q Thank you, Mr. Fard, for coming in this morning.
18 You were just asked some questions about government
19 Exhibit 2M which was a PPP application filed by Anton
20 Kudiumov.

21 Do you recall that?

22 A Yes.

23 Q And is it fair to say that you learned that your
24 company's name had been used on these forms when the IRS
25 reached out to you?

1 A Could you repeat that question one more time.

2 Q Sure. Let me ask it a different way. Is it fair
3 to say that before the IRS reached out to you to tell you
4 that your company name had been used on these forms, you
5 didn't know that someone had submitted this PPP loan
6 application?

7 A Correct.

8 Q And is it fair to say that you have no idea who
9 prepared these forms?

10 A Correct.

11 Q You were also asked questions about government
12 Exhibit 2Q which was a PPP application submitted by
13 someone named Anna Dzukaeva for a company named Six Star
14 Farms. Do you recall that?

15 A Yes.

16 Q It is also true that you didn't know this
17 application had been submitted before the IRS reached out
18 to you?

19 A Correct.

20 Q And is it fair to say you don't know who submitted
21 the application or who created those forms?

22 A Correct.

23 Q Thank you, Mr. Fard.

24 THE COURT: Any other cross-examination?

25 MR. LITTRELL: No.

1 THE COURT: Thank you, sir. You are excused.

2 Next witness.

3 MR. PAETTY: Your Honor, the United States calls
4 Pinal Modi.

5 THE CLERK: The witness will please step forward.

6 (The witness was sworn.)

7 THE CLERK: Please be seated.

8 State your full name and spell it for the
9 record. Speak directly into the mic, please.

10 THE WITNESS: Sure. My name name is Pinal Modi,
11 P-I-N-A-L, and last name is M-O-D-I.

12 THE CLERK: Thank you.

13

14 DIRECT EXAMINATION

15 BY MR. PAETTY:

16 Q Good morning, Ms. Modi.

17 A Good morning.

18 Q Where do you work?

19 A I work for EDD, Employment Development Department,
20 State of California.

21 Q What is your job there?

22 A My job is a staff tax auditor and as a hearing rep.
23 I represent the department in the hearing.

24 THE COURT: Ms. Modi, please speak more loudly in
25 the microphone.

1 THE WITNESS: Sure.

2 Q BY MR. PAETTY: What is your job with EDD, Ms. Modi?

3 A My job is as a staff tax auditor.

4 Q I think you mentioned something else, a hearing
5 representative. What is that?

6 A Yes. So as a staff tax auditor, I conduct the
7 audit of the payroll taxes, and I also represent, mainly
8 last five years, I am working as a hearing rep
9 representing the department in the court hearing.

10 Q And are you a custodian of records for the EDD?

11 A Yes, I do.

12 THE COURT: What is EDD? What is EDD?

13 THE WITNESS: EDD is Employment Development
14 Department, State of California.

15 Q BY MR. PAETTY: And what does the Employment
16 Development Department do?

17 A The Employment Development Department administers
18 the unemployment and the disability programs. It also
19 administers the payroll taxes. So state payroll taxes
20 filed with the EDD.

21 Q And does it have a record -- does EDD have a
22 record-keeping system?

23 A Yes, it does.

24 Q Are you familiar with it?

25 A Yes, I am.

1 Q Do you work with it as a regular part of your job?

2 A Yes, I am.

3 Q What is the system?

4 A The system is the name is ACES, Accounting
5 Compliance Enterprise System.

6 Q Can you describe it?

7 A So the system that we use, it stores the business
8 payroll information, the business locations, the address,
9 the federal ID and every quarterly federal return and the
10 federal filings with the EDD.

11 Q Can searches be run on that system?

12 A Yes, it can be done in that system.

13 Q Do you know how to conduct those searches?

14 A Yes, I do.

15 Q Do you run searches in that system as part of your
16 job?

17 A Yes.

18 Q So were you asked by the United States attorney's
19 office to conduct searches of the EDD database related to
20 this case?

21 A Yes, we were asked for that.

22 MR. PAETTY: So, Mr. Cruz, I am going to show the
23 witness Exhibit 45 marked for identification,
24 Government's Exhibit 45.

25 Q Do you recognize this document?

1 A Yes, I do.

2 Q How do you recognize it?

3 A It is the EDD logo on the top, and I recognize it
4 as EDD document, and it is a certified document by the
5 EDD.

6 Q And did you run -- did you run searches in the
7 database for the list of companies and EIN's that appear
8 on this document?

9 A Yes, I did.

10 Q Is this document a true and accurate copy of the
11 results of your searches?

12 A Yes, it does.

13 MR. PAETTY: Your Honor, move to admit Exhibit 45
14 under Federal Rule of Evidence 803(8) and 803(10.)?

15 THE COURT: Proceed.

16 MR. PAETTY: Permission to publish?

17 THE COURT: Yes.

18 Q BY MR. PAETTY: So, Ms. Modi, the first column, the
19 taxpayer column, what is that.

20 A The taxpayer column is the business name.

21 Q How about the SSN, FEIN employer payroll tax
22 account number. What is in that column?

23 A For that column, the listed numbers are the federal
24 ID number that is associated with these businesses.

25 Q So we will move over two columns to the records

1 column. What is in this column?

2 A I'm sorry. Which column?

3 Q The records column, two columns over?

4 A Yes. So the records column is the form, the DE9
5 which is a payroll tax return, and the DE9C which is the
6 wage report that every quarter the business with the
7 employees, they have to file. Required to file. So
8 these are the forms that required to file every quarter.

9 Q So if an employer paid payroll taxes and had
10 payroll expenses, would you expect that to be reflected
11 in the Form 9 or the Form 9C?

12 A Yes. It should be reflected in there.

13 Q Going back to the top, the top of the form, it says
14 that there were no records found. What does that mean?

15 A So meaning that under these businesses in the
16 federal ID, there were no DE9 or DE9C filed with the
17 department. So we didn't find any records for these
18 businesses.

19 Q And that is for the tax periods listed on the far
20 right column?

21 A Yes.

22 Q And what tax periods were those?

23 A So the tax period is January 1, 2019, to March 31,
24 2021. It listed as 19-1 which is the form that we use
25 because we use the quarterly system for filing. So it is

1 a 19-1 represent the first quarter of 2019 to the first
2 quarter of 2021.

3 Q So the companies listed in the EIN's in Exhibit 45,
4 does that mean that they did not pay payroll taxes or
5 report payroll expenses for the quarters that you just
6 mentioned?

7 A That would be correct.

8 Q In addition to the results of the searches that we
9 just discussed, did you also run a search for Sabala
10 Construction with EIN 84-2698846 for DE9 and DE9C filings
11 for the tax period of 2019 to the first quarter of 2021?

12 A Yes, I did.

13 Q What were the results of that?

14 A We didn't find any results. We didn't find any
15 records for that business.

16 Q So no payroll taxes, no payroll expenses for that
17 business?

18 A That would be correct.

19 Q Did you run a search for Timeline Transport with
20 EIN 85-0925228 for DE9 and DE9C filings for the tax years
21 that we discussed with the other companies?

22 A Yes, I did.

23 Q What was the result of that search?

24 A It was the same. We didn't find any tax records.
25 DE9D, DE9C.

1 Q So no payroll expenses, no payroll taxes for
2 Timeline Transport for that period.

3 A That would be correct.

4 Q Top Quality contracting. Did you also run a search
5 for that company with EIN 82-5088385 for DE9 and DE9C
6 filings for the tax periods in the years we discussed
7 with the other companies?

8 A Yes. I did search for that company, and we found
9 no results, no payroll forms or returns were filed.

10 Q So no payroll taxes, no payroll expenses?

11 A That would be correct.

12 Q Did you also run a search for Redline Auto
13 Mechanics, with an EIN of 81-5450370 for DE9 and DE9C
14 filings for the tax years discussed with the other
15 companies?

16 A Yes, I did.

17 Q What was the result of that?

18 A That result was also the same. There was no record
19 for that business as well. No DE9, DE9C.

20 Q No payroll taxes, no payroll expenses for that
21 company?

22 A That would be correct. Yes.

23 MR. PAETTY: No further questions, your Honor?

24 THE COURT: Cross-examination.

25 ///

1 CROSS-EXAMINATION

2 BY MR. KEOUGH:

3 Q Thank you for coming in this morning. You
4 testified about searches you ran in a database called
5 ACES; correct?

6 A Yes.

7 Q And ACES is pretty much the place where EDD keeps
8 the records it has related to businesses in California?

9 A Yes, that would be correct.

10 Q Do those EDD records show the relationships that
11 might exist between individuals and the companies that
12 you have recordings for?

13 MR. PAETTY: Objection. Foundation. Vague.

14 THE COURT: Well, I mean, do you know of your own
15 knowledge the matters asked in the question. First,
16 answer that question.

17 THE WITNESS: Can you repeat the question?

18 MR. KEOUGH: Sure.

19 Q Do the EDD records show relationships between
20 certain individuals and the companies that you have
21 records for in the ACES database?

22 A Are you asking in terms of the employees?

23 Q So for anyone. Whether it is the proprietor -- if
24 I wanted to find out the relationship between individuals
25 and those companies, is there a search I could perform to

1 do it?

2 A So if it is the business corporations, then the
3 ownership, the officers, they are also listed in the
4 system. So we can search with the officer's names and
5 the Social Security number that is provided. When it
6 comes through the employee, then the DE9C is the form
7 that the business owners or whoever is handling the
8 payroll is required to report each employee's name, their
9 Social Security numbers, their wages that were paid, the
10 personal income tax, state income tax which is withheld.
11 So those are also the information stored in the system.

12 Q Thank you. Now, let's say it is not a officer and
13 it is not an employee. Say it is more informal
14 relationship. Would that type of relationship be
15 captured in the records that you were able to search in
16 the ACES database?

17 MR. PAETTY: Objection. Foundation. Vague.

18 THE COURT: Sustained.

19 Q BY MR. KEOUGH: Who provided the information that
20 you used to conduct the searches that you testified
21 about?

22 A We were requested from the courthouse.

23 Q And do you know who specifically provided that
24 information?

25 A I believe the attorney requested it.

1 Q And was that the United States Attorney's office?

2 A Yes.

3 Q And as part of those searches that you were asked
4 to conduct, were you provided with any information
5 related to a man named Manuk Grigoryan?

6 A If I have the exhibit, then I would look at it.
7 The searches that I did, it was in the exhibit.

8 Q And were there any names of individuals in that
9 list?

10 A I have to look at it, the exhibit. If it is not
11 listed there, then maybe not.

12 Q So fair to say an individual is not in there, you
13 weren't asked to search for it?

14 A That would be correct, yes.

15 Q And were you asked to search for -- were you
16 provided with any information related to a woman named
17 Tamara Dadyan as part of your searches?

18 A Again, if it is listed in the exhibit, then I have
19 conducted the search. If it is not in there, then I did
20 not.

21 MR. KEOUGH: Let's pull up a copy of the Exhibit.

22 THE COURT: Are you going to ask her whether the
23 name is there in there?

24 MR. KEOUGH: Yes, your Honor.

25 THE COURT: Let's not do that.

1 MR. KEOUGH: Fair enough, your Honor.

2 Q As part of the searches that you ran, were you
3 asked to look for relationships between a man named Manuk
4 Grigoryan and the companies that were on the list
5 provided to you by the US Attorney's office?

6 MR. PAETTY: Objection. Foundation. Vague.

7 THE COURT: Well, the question is just was she
8 asked to do that, "yes" or "no".

9 THE WITNESS: As I said, if the name is listed in
10 the exhibits, then I would have run the search.

11 THE COURT: I mean, she has said, and I am not the
12 trier of fact here, but my impression of what she said is
13 she was asked to only look at the names that are on the
14 list; is that right?

15 THE WITNESS: Yes. That would be right.

16 THE COURT: What exhibit is that?

17 THE WITNESS: I'm sorry.

18 THE COURT: What exhibit number is that.

19 THE WITNESS: It was 45. It was just specific to
20 us.

21 THE COURT: And so if a name is not on that list,
22 you weren't asked about it; correct?

23 THE WITNESS: That would be correct, yes.

24 MR. KEOUGH: Thank you, your Honor.

25 Q And just one last question. Is it fair to say that

1 if a name was not on your list, you were not asked to
2 look for relationships between people who weren't on your
3 list and the companies that were on your list.

4 MR. PAETTY: Objection. Asked and answered.

5 THE COURT: I mean, if the name is not on the
6 list, how is she able to do what you just asked?

7 MR. KEOUGH: That is the question, your Honor.

8 THE COURT: All right. So it is self evident.
9 She wasn't able to do that. Okay.

10 MR. KEOUGH: Thank you.

11 THE COURT: Thank you.

12 Thank you, ma'am, for being here, and you
13 are excused. Thank you.

14 THE WITNESS: Thank you.

15 THE COURT: I am looking at the clock, and it is
16 now 5 or 6 after 12:00. So let's come back at 10 after
17 1:00 and we will go to 5:00 o'clock.

18 (Luncheon recess from 12:05 to 1:10 p.m.)

19 (Proceedings concluded.)
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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 page
format is in conformance with the regulations of the
Judicial Conference of the United States.

Date: June 16, 2021

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

MR. FENTON: [24] 6/10 12/3 12/6 13/12 60/17 63/6 63/23 64/24 65/2 66/10 66/20 68/9 80/10 80/16 80/18 83/16 85/5 85/25 88/1 88/23 105/19 112/5 112/8 113/11 MR. JOHNSON: [27] 5/16 6/8 8/7 8/9 8/11 8/13 9/16 12/10 13/20 16/2 26/3 26/9 26/13 37/20 37/24 52/2 53/7 53/17 53/21 53/25 54/5 56/3 58/2 58/9 59/1 60/12 60/18 MR. KEOUGH: [11] 100/24 101/7 101/23 102/5 122/17 124/20 124/23 124/25 125/23 126/6 126/9 MR. LITTELL: [13] 14/22 15/1 15/8 15/11 15/13 52/1 66/22 67/1 80/4 90/3 102/6 105/11 114/24 MR. MESEREAU: [2] 49/20 51/23 MR. PAETTY: [29] 68/20 69/2 75/25 90/9 92/22 93/12 94/15 96/1 96/12 97/4 98/8 99/13 100/13 100/22 101/4 101/19 102/18 104/1 104/3 105/16 115/2 117/21 118/12 118/15 121/22 122/12 123/16 125/5 126/3 MR. RAM: [1] 67/4 MR. SILVERMAN: [15] 23/22 23/25 24/11 38/11 38/16 45/13 47/11 47/17 47/22 48/2 48/5 48/18 48/22 49/12 49/18 MS. AHN: [48] 8/22 8/24 9/1 9/13 14/15 14/20 15/15 16/3 16/5 16/9 16/20 19/20 20/14 21/10 21/14 23/2 26/2 26/17 30/12 30/15 31/16 32/20 34/4 34/13 35/7 35/20 36/15 37/2 38/1 38/8 39/18 40/21 41/6 41/15 45/11 45/23 47/15 47/25 48/20 53/20 54/2 57/7 58/1 58/11 59/15 68/12 68/16 68/25 MS. NEWCOMER: [3] 68/11 88/25 90/1 MS. WIRSCHING: [3] 5/18 6/25 7/3 THE CLERK: [15] 6/6 60/21 60/23 67/3 69/6 80/11 80/19 80/23 90/11 90/13 105/20 105/22 115/4 115/6 115/11 THE COURT: [128] THE WITNESS: [25] 41/9 41/17 46/2 55/25 60/16 60/25 69/8 80/7 80/21 90/15 91/8 101/9 104/7 105/14 105/25 115/9 115/25 116/12 122/16 125/8 125/14 125/16 125/18 125/22 126/13	0 0925228 [1] 6/20/20 #10167 1 10 [7] 33/22 35/9 67/9 69/5 93/14 118/14 126/16 100 percent [1] 18/2 10036 [1] 2/18 10100 [1] 3/15 102 [1] 4/14 106 [1] 4/16 10:30 [1] 67/4 10:31 [1] 67/11 10:48 [1] 67/11 1114 [1] 2/17 1120 [2] 94/8 94/9 113 [1] 4/16 115 [1] 4/18 12 [2] 12/18 31/23 120 [1] 107/11 122 [1] 4/18 12:00 [1] 126/16 12:00 o'clock [1] 67/10 12:05 [1] 126/18 13 [1] 91/16 1330 [1] 2/23 14 [1] 31/21 1400 [1] 2/10 147569 [1] 104/5 15th [3] 25/2 71/19 72/15 16 [22] 1/17 4/4 4/21 4/21 4/21 4/21 4/22 4/22 4/22 4/22 4/23 4/23 4/23 5/1 12/18 17/4 38/25 47/14 48/20 48/24 56/17 127/10 160 [1] 107/13 16417 [2] 61/11 64/10 19 [2] 27/9 27/17 19-1 [2] 119/24 120/1 1900 [1] 2/15 1924 [1] 75/16 1935 [1] 3/12 1984 [1] 75/7 1989 [1] 73/3 1990 [2] 71/19 72/15 1994 [3] 73/23 74/7 74/23 1995 [1] 74/15 19th [2] 73/22 74/7 1:00 [1] 126/17 1:10 [1] 126/18 1A [2] 4/21 15/17 1F [1] 65/1 1P [2] 88/3 88/10 1S [2] 4/21 15/17 1st [1] 1/22 2 2.5 [1] 20/18 20 [1] 83/7 20-579 [1] 1/8 20-plus [1] 10/21 2003 [1] 81/15 20036 [1] 2/23 2012 [1] 7/12 2018 [3] 94/24 95/8 95/18 2019 [9] 82/12 82/13 94/24 95/8 95/18 107/10 119/23 120/1 120/11 2020 [23] 8/17 10/10 17/18 25/2 25/7 25/9 31/24 36/3 40/9 41/15 47/7 47/8 47/10 48/3 49/8 49/11 49/15 56/20 56/21 82/15 95/18 107/12 112/16 2021 [6] 1/17 5/1 119/24 120/2 120/11 127/10 20530 [1] 2/10 21 [1] 112/10	216 [1] 3/13 224789 [0] 51/6 90/18 95/2 95/16 23 [1] 87/5 230 [1] 82/13 235 [1] 82/16 23rd [1] 75/16 24 [1] 35/9 25th [1] 74/23 2698846 [1] 120/10 28 [1] 127/4 29th [1] 74/15 2A [3] 4/21 15/19 15/19 2E [3] 19/22 50/10 62/14 2K [2] 53/8 54/2 2L [1] 30/14 2M [2] 108/20 113/19 2N [2] 86/2 86/5 2nd [1] 75/7 2P [2] 83/18 83/21 2Q [4] 4/21 15/19 112/7 114/12 3 30 [3] 4/22 16/1 83/7 300 [1] 3/16 31 [4] 16/1 31/24 36/2 119/23 312 [1] 2/6 32 [1] 16/1 3252838 [1] 97/12 33 [1] 16/1 34 [3] 16/1 16/4 31/15 35 [3] 16/1 16/4 61/22 350 [2] 1/22 3/5 36 [3] 4/22 16/2 16/4 38 [2] 4/5 16/2 38-42 [1] 4/23 39 [1] 16/2 3900 [1] 2/20 3A [2] 4/21 15/20 3S [2] 4/21 15/20 4 4-page [1] 59/25 40 [1] 16/2 409 [1] 3/20 41 [1] 16/2 42 [2] 4/23 16/2 4311 [1] 1/22 45 [5] 117/23 117/24 118/13 120/3 125/19 47 [15] 4/23 64/4 92/22 93/15 93/19 93/23 95/12 95/22 96/5 96/8 102/22 102/24 103/2 103/8 103/11 48 [11] 4/23 4/24 96/14 97/6 97/10 103/13 103/14 103/15 103/16 103/20 103/25 4A [3] 4/21 15/21 15/22 4Y [2] 4/21 15/21 5 5-minute [2] 66/23 67/1 50 [1] 4/5 5088385 [2] 97/25 121/5 51A [2] 69/4 71/7 52 [1] 4/6 54-8649260 [1] 97/19 5450370 [1] 121/13 579 [1] 1/8 5:00 o'clock [1] 126/17 5A [2] 4/21 15/23 5th [2] 2/14 3/8 5Z [2] 4/21 15/23 6 60-3252838 [1] 97/12
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