

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 EIGHT
VOLUME 1 - A.M./P.M. SESSION
FRIDAY, JUNE 25, 2021

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I N D E X

<u>WITNESS NAME</u>	<u>PAGE</u>
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(None.)

<u>EXHIBIT</u>	<u>I.D.</u>	<u>IN EVID.</u>
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(None.)

1 LOS ANGELES, CALIFORNIA; FRIDAY, JUNE 25, 2021

2 9:26 A.M.

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7 (The following proceedings were held in the
8 presence of the jury:)

9 THE COURT: Good morning. Everyone is present,
10 the parties and counsel. The jury is present. The
11 alternates are here also; correct?

12 THE CLERK: Yes, they are all in the back row.

13 THE COURT: With regard to the alternates, the
14 alternates are where?

15 THE CLERK: In the back row there, your Honor.

16 THE COURT: I see. Thank you for your
17 participation in the trial. You have performed a
18 valuable role, being punctual, attentive, and you
19 performed your civic duties in the proper way. And on
20 behalf of the parties and counsel and the court, I want
21 to thank you all. But under the rules I can't allow you
22 to deliberate unless we have an unforeseen problem with
23 one of the 12 jurors.

24 So I am going to dismiss you with this
25 reservation that you be on call and available in the

1 event, unlikely, in the event that we have to call you
2 back.

3 Is that okay? And thank you once again. If
4 you have any -- you didn't go to the jury room; correct?
5 I see. Nobody did. So you don't have any things in the
6 jury room; correct? You have all your personal
7 belongings?

8 All right. Then, thank you again. Don't talk
9 to anyone else at home or access anything because you may
10 be asked to come back. Unlikely, but you may be asked to
11 come back so keep my admonitions in mind.

12 Would you leave your notebooks if you took any
13 notes at your seat.

14 Yes, sir?

15 THE JUROR: Mine is left in the deliberation room,
16 your Honor.

17 THE CLERK: It can stay there.

18 THE COURT: Before I ask the jury to go back to
19 the jury room, would you go back first, retrieve your
20 book, and, then, after you leave the jury room, then the
21 other jurors can enter. Would that be okay.

22 THE JUROR: Yes, your Honor.

23 THE COURT: You can leave your notebooks in the
24 jury assembly room, and, then, if you are called, we can
25 give you your jury notes. And, if you are not, we will

1 shred those notes. Okay. Thank you very much.

2 (The alternate jurors exited the courtroom.)

3 THE COURT: With the other jurors, I am going to
4 ask the jurors to deliberate.

5 Anyone have any objection?

6 MR. LITTRELL: No, your Honor.

7 MR. MESEREAU: No, your Honor.

8 THE COURT: Members of the jury, we will soon give
9 you a copy of the jury instructions, the indictment and
10 all the exhibits which have been received in evidence.

11 Would you retire to the jury room and begin
12 your deliberations. Thank you.

13 (The following proceedings were held outside the
14 presence of the jury:)

15 THE COURT: Someone had an issue with the verdict
16 form? What was the comment?

17 MS. AHN: Yes, your Honor. It was really just to
18 the two conspiracy counts, counts 1 and 26.

19 THE COURT: Yes.

20 MS. AHN: Each of those have two objects.

21 THE COURT: Yes.

22 MS. AHN: So I would ask that it be broken out so
23 it is clear which object the jury is finding guilty as
24 to.

25 So, for example, for count 1 --

1 THE COURT: Why is that necessary?

2 MS. AHN: Because otherwise it will be unclear
3 whether or not they found, for example, defendant Richard
4 Ayvazyan guilty of count 1 because of conspiracy to
5 commit wire fraud or because of conspiracy to commit bank
6 fraud or both, for example.

7 THE COURT: But the instruction says that the
8 jurors have to agree on the same object.

9 MS. AHN: Yes, your Honor, but it won't be clear
10 which object that is.

11 THE COURT: Why does it have to be clear if the
12 jury is instructed that they all have to agree on the
13 same object.

14 THE COURT: If they return a verdict, I mean the
15 verdict form is not a detailed questionnaire of how they
16 went about deciding each issue. It is essentially -- it
17 says follow the instructions, consider the evidence and
18 then check the box, whatever you conclude. Why is that
19 necessary?

20 MS. AHN: I think that I am not going to say that
21 it is absolutely necessary because I agree with your
22 Honor that the instructions are clear. I think it just
23 makes for a clearer record, your Honor.

24 THE COURT: I mean, I don't know why it makes for
25 a clearer record. I have never done that. I mean,

1 because I have never done it doesn't mean it isn't to be
2 considered, but the whole notion of a jury trial is that
3 the jury follows the instructions and reaches a verdict.

4 MS. AHN: Yes, your Honor.

5 THE COURT: I am inclined to leave it as it is.
6 Any statement from the defense?

7 MR. RAM: Yes, your Honor. I would suggest
8 leaving it as it is. If this was a situation where, you
9 know, like post-Skillings honest services is an object
10 and wire fraud is an object, and there is an issue on
11 appeal, with honest services, I can understand that.
12 That is not an issue in this case.

13 THE COURT: No. I think so.

14 MR. RAM: To the extent we are making any
15 modifications to this verdict form, I would ask for a
16 specific unanimity instruction on which conspiracy the
17 jury is finding. Something like that would actually make
18 sense in light of what we have heard in this case.

19 THE COURT: The instructions say that.

20 MR. RAM: No. No. Specific unanimity as to which
21 conspiracy. So the jury has heard -- and which scheme.
22 So they have heard evidence and argument related to there
23 being more than one agreement; right?

24 THE COURT: Oh.

25 MR. RAM: If we were going to do something, I

1 would do that. But thank you, your Honor.

2 THE COURT: Okay.

3 (Recess from 9:35 to 10:44 a.m.)

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

6 THE COURT: We are present with parties and
7 counsel.

8 I have looked at the redacted indictment, and
9 it appears to me to be redacted as I instructed.

10 Does anyone think otherwise?

11 MR. LITTRELL: Yes, your Honor. I see a number of
12 aliases and AKAs still in the indictment.

13 THE COURT: Where?

14 MR. LITTRELL: I will go to the lecturn.

15 THE COURT: Yes. Please.

16 MR. LITTRELL: Here we go.

17 THE COURT: Just give me a page number. I have
18 the redacted indictment in my hand.

19 MR. LITTRELL: So page 2 in three places.

20 THE COURT: Page 2, did you say?

21 MR. LITTRELL: Yes.

22 MS. AHN: I think you may have the old version.

23 MR. LITTRELL: I'm sorry. I do have the old
24 version. I will go to the paragraphs.

25 So the first example is on page 6.

1 THE COURT: One second. Let me get to it. Where
2 on page 6?

3 MR. LITTRELL: Page 6, Paragraph 22. It is on the
4 screen in front of you if that is helpful.

5 THE COURT: Line 22?

6 MR. LITTRELL: Yes. Paragraph 22. It says
7 "defendant R. Ayvazian controlled or was a signatory in
8 his legal name or using one of his aliases on the
9 following bank accounts." So it is stating the fact of
10 an alias as if it was sort of an established fact.

11 THE COURT: It is not. This is the indictment.
12 That is the government's theory, and that is how the
13 indictment came down. My concern was that in the caption
14 as the indictment was presented initially to me, they had
15 under the names AKA as though that was, you know, fact.
16 It is different than the body. If they say he was using
17 an alias.

18 If that is your objection, I am going to
19 reject it.

20 MR. LITTRELL: I suppose I would settle for using
21 an alias.

22 THE COURT: I am not going to change the
23 indictment. That is the indictment, and the indictment
24 is what it is. If the indictment accuses someone of
25 using an alias in connection with a loan, that is the way

1 the indictment reads.

2 My concern was in the caption making it seem
3 like it was a done deal.

4 MR. LITTRELL: Understood, your Honor. Just for
5 the record I would make a motion --

6 THE COURT: All right. You have made your motion.

7 MR. LITTRELL: -- as surplusage under Federal Rule
8 of Procedure 7(d) referencing aliases.

9 THE COURT: You have made your motion.

10 Send this indictment to the jury.

11 MR. JOHNSON: Your Honor, on behalf of Vahe
12 Dadyan, we would join that objection.

13 THE COURT: All right. Everybody joins.

14 (Recess from 10:49 to 3:03 p.m.)

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

17 THE COURT: We are present with the parties and
18 counsel. We have received jury note, I think it is
19 No. 1. I can't read the writing of the juror. It is in
20 red, but, anyway, you have read the note. I will mark it
21 as court's Exhibit 1.

22 I have a thought about how to respond. Would
23 you be interested in my thought first before I hear from
24 you?

25 MR. JOHNSON: Yes, your Honor.

1 THE COURT: My thought was to read the Pinkerton
2 instruction -- I think that is what they are getting
3 at -- with this caveat: After I read Pinkerton, I would
4 say "the defendant is criminally liable for any
5 underlying substantive offenses committed by the
6 co-conspirators during the defendant's membership in the
7 conspiracy. A defendant cannot be held liable for
8 substantive offenses committed before joining the
9 conspiracy."

10 That is a correct statement of the law, and I
11 looked it up. There are two cases, US versus Lothian,
12 976 F.2d, 1257, Ninth Circuit, and Levine versus United
13 States, Supreme Court case 383 U.S. 265, 1966 which holds
14 that a defendant cannot be liable for substantive
15 offenses committed before joining the conspiracy. But I
16 think that is the best I can do. I can't tell them how
17 much or whatever. I mean, there is no case that says
18 that, and it would be wrong for me to infer anything. So
19 I think --

20 Bring them back.

21 Yes. Mr. Johnson.

22 MR. JOHNSON: Your Honor, I would like an
23 opportunity to speak about whether the court's proposal
24 is an appropriate proposal. I am considering a different
25 proposal.

1 THE COURT: That is why I called you here.

2 MR. JOHNSON: Thank you.

3 THE COURT: I am open to any suggestion. I didn't
4 hear anything. That is why I said get the jury. If you
5 have something to say, you are welcome to say it.

6 MR. JOHNSON: May I just have a moment to confer
7 with other defense counsel?

8 THE COURT: Yes. Do you need some time? Do you
9 want some time? I will leave and come back.

10 MR. LITTRELL: I don't think we need a lot of
11 time.

12 MR. SILVERMAN: He does not think that he needs a
13 lot of time, your Honor.

14 (Defense counsel confer.)

15 MR. JOHNSON: Your Honor, can the court repeat the
16 instruction that it is proposing?

17 THE COURT: Yes. I re-read the Pinkerton
18 instruction to them, and then say "a defendant is
19 criminally liable for any underlying substantive offenses
20 committed by co-conspirators during the defendant's
21 membership in the conspiracy. A defendant cannot be held
22 liable for substantive offenses committed" -- I think I
23 just noticed something. Give me a second.

24 Instead of saying "is," I am going to say "may
25 be" because that seems wrong.

1 "A defendant may be criminally liable for any
2 underlying substantive offenses committed by
3 co-conspirators during the defendant's membership in the
4 conspiracy." This is after I read Pinkerton.

5 And, then, finally, "a defendant cannot be
6 held liable for substantive offenses committed before
7 joining the conspiracy."

8 MR. LITTRELL: One suggestion that we just, as you
9 reed it out, a defendant may be criminally liable for
10 substantive offenses that are foreseeable during that
11 person's membership in the conspiracy.

12 THE COURT: Okay.

13 MR. LITTRELL: During and in furtherance.

14 THE COURT: Okay.

15 MR. JOHNSON: I am having a problem.

16 THE COURT: What was that?

17 MR. JOHNSON: I was actually directing that to my
18 co-counsel. Not to the court.

19 MR. LITTRELL: I think we might see it
20 differently.

21 THE COURT: I mean I can take your thoughts
22 individually and collectively. However, you want to do
23 it.

24 MR. JOHNSON: I think it is probably appropriate
25 that we think through things.

1 THE COURT: All right. If you want to think
2 through things, I will give you some time.

3 (Recess from 3:10 to 3:20 p.m.)

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

6 THE COURT: Okay. I will hear the defendant's
7 suggestion.

8 MR. LITTRELL: Your Honor, what all defendants
9 agree, and I think the government agrees that the jury
10 should be instructed using the correct statement of law
11 that the court recited that is not in the instructions.

12 We all agree on that.

13 THE COURT: What do you mean by that?

14 MR. LITTRELL: So the court cited some cases and
15 gave sort of an extra layer of instruction about not
16 being liable for acts that predated one's membership.

17 THE COURT: Yes.

18 MR. LITTRELL: We all agree that the court should
19 read that to the jury.

20 THE COURT: Yes.

21 MR. LITTRELL: There is some disagreement on the
22 rest. I think the defense position is that the court
23 should not single out any other instruction or read the
24 Pinkerton instruction. Just give that correct statement
25 of the law. And I know Mr. Mesereau would like the court

1 to also read the reasonable doubt instruction as well.

2 THE COURT: I see. What is the government's view?

3 MR. FENTON: So, your Honor, we agree with your
4 initial recommendation which is to read the Pinkerton
5 instruction and then read the correct statement of law.
6 We think that in addition to that, it would be
7 appropriate to remind the jury that all of the
8 instructions should be considered and they should be
9 considered equally.

10 MR. LITTRELL: I think the only disagreement,
11 then, is whether the Pinkerton instruction should be read
12 on its own.

13 MR. JOHNSON: And I can articulate, your Honor,
14 that highlighting the Pinkerton instruction is really
15 anticipating or trying to predict what the jury may be
16 thinking, and I don't want to highlight one instruction
17 over another.

18 I think that having the correct statement of
19 the law is appropriate and also advising them to
20 generally review these instructions again.

21 This is Peter Johnson on behalf of Mr. Vahe
22 Dadyan.

23 THE COURT: All right.

24 MR. RAM: Your Honor?

25 THE COURT: Yes.

1 MR. RAM: One other approach is --

2 THE COURT: I know your suggestion --

3 (Laughter.)

4 THE COURT: -- is that you want a unanimity
5 instruction on multiple conspiracies. You believe that
6 the Freudian interpretation of what they wrote is that
7 they are now thinking about multiple conspiracies.

8 Is that it?

9 MR. RAM: No. So my proposal would be advise them
10 that you shouldn't focus on -- consider all the
11 instructions equally, the last piece that the government
12 proposed. Start with that. Then read the conspiracy
13 instructions implicated by their question. Then give
14 them the correct statement of the law as you read it and
15 then read the reasonable doubt instruction.

16 THE COURT: Well, I am not going to read
17 reasonable doubt because that is not what they asked
18 about.

19 The first part of the note says "if someone is
20 guilty of a conspiracy, how much of an active participant
21 must they be in the specific acts of wire fraud."

22 Look, the best way I think I can answer this
23 is to -- is to read the Pinkerton and then add just the
24 last sentence of what I said, "a defendant cannot be held
25 liable for substantive offenses before joining the

1 conspiracy."

2 That is the best I can do. And then I will
3 tell them to consider all the instructions in deciding
4 the case.

5 All right. Bring me the jury.

6 MR. LITTRELL: I just want to make sure it
7 predates that defendant's joining of the conspiracy. The
8 court just read --

9 THE COURT: Okay. That is a good suggestion.
10 Cannot be held liable for acts committed before that
11 defendant's -- before that defendant -- before a
12 defendant joined the conspiracy.

13 I can't say that. Doesn't make sense. Say
14 committed before a defendant which focuses then on each
15 defendant.

16 MR. LITTRELL: But --

17 THE COURT: Before a particular defendant joined
18 the conspiracy.

19 MR. LITTRELL: I worry that --

20 MS. AHN: I'm sorry, your Honor. Do you mind
21 re-reading the sentencing again?

22 THE COURT: Gosh. The way I have it now, "a
23 defendant cannot be held liable for substantive offenses
24 committed before joining the conspiracy."

25 What is unclear about that?

1 MR. LITTRELL: Actually, that is not bad. That is
2 fine.

3 THE COURT: It is clear.

4 Bring the jury in. No more. No more. That
5 is it.

6 (The following proceedings were held in the
7 presence of the jury:)

8 THE COURT: Members of the jury, I received a note
9 from your foreperson. I have read the note, and I can't
10 engage in a colloquy with you. That is just not allowed.

11 So the best way I think I can answer your
12 question is the way I am going to answer it. But you
13 should, of course, as I have said many times, not read
14 into anything I say in this response as any indication of
15 what you should do. That is a matter entirely up to you.

16 But, in answering your question as best I can,
17 I will do it as follows: I am going to refer again to
18 Instruction 23.

19 Each member of a conspiracy is responsible for
20 the actions of the other conspirators performed during
21 the course of and in furtherance of the conspiracy. If
22 one member of a conspiracy commits a crime in furtherance
23 of a conspiracy, the other members have also, under the
24 law, committed the crime. Therefore, you may find a
25 defendant guilty of the crime charged in the indictment

1 if the government has proved each of the following
2 elements beyond a reasonable doubt:

3 First, someone committed the crime; second,
4 that person was a member of a conspiracy charged in the
5 indictment; third, that person performed the crime in
6 furtherance of that conspiracy; fourth, that person and
7 the defendant were members of that same conspiracy at the
8 time that the crime was committed; and, fifth, the crime
9 fell within the scope of that conspiracy and could
10 reasonably have been foreseen by the defendant to be a
11 necessary or natural consequence of the conspiracy. A
12 defendant cannot be held liable for substantive offenses
13 committed before joining the conspiracy.

14 And, again, as I told you, you should consider
15 all the instructions in reaching your verdict.

16 So that is the best I can do. I hope it
17 helps. You are now to continue your deliberations.
18 Thank you.

19 (The following proceedings were held outside the
20 presence of the jury:)

21 THE COURT: Did the lawyers see the other note,
22 Paul? Maybe we should give them a chance to see the
23 other note and the government, and then I will get back
24 to them.

25 (Recess from 3:35 to 3:50 p.m.)

1 THE COURT: Okay. We received jury Note 2. Here
2 is how I propose to respond to it, and then I will get
3 your input:

4 At this point, you should continue your
5 deliberations. The court can accept a partial verdict
6 but only if further deliberations would not enable you to
7 reach a verdict on the remaining counts as to defendants.
8 So at this time, I encourage you to further deliberate.

9 Any thoughts?

10 MR. FENTON: Your Honor, the government
11 believes -- we would agree that you should direct the
12 jury to continue to deliberate, but we would not include
13 those additional -- anything beyond just directing them
14 to continue to deliberate at this early stage.

15 THE COURT: I shouldn't say anything about I can
16 accept a partial verdict?

17 MR. FENTON: No. Not at this time.

18 THE COURT: Yes. What is your view? I mean that
19 is the question. I am not answering their question by
20 telling them to further deliberate.

21 MR. JOHNSON: Your Honor, this is Peter Johnson.
22 I only speak for Vahe Dadyan.

23 I agree with the court's proposed instruction.
24 I would ask, also ask that the court send back a written
25 instruction as to the last sentence that the court added

1 to the Pinkerton instruction because --

2 THE COURT: Say that again. I am not
3 understanding you.

4 MR. JOHNSON: The court added a sentence to the
5 Pinkerton instruction.

6 THE COURT: Yes.

7 MR. JOHNSON: But the court only advised the jury
8 that it was re-reading the Pinkerton instruction at 23.
9 What some jurors might go back and look at is that that
10 language is actually not in there.

11 THE COURT: Is not in where?

12 MR. JOHNSON: Not back there with them.

13 THE COURT: But I told them. That wasn't
14 complicated. I think it is adequate. Okay. All right.
15 I am going to -- do any of defendants have any objection
16 to the way I am going to read the note?

17 MR. MESEREAU: Tom Mesereau on behalf of Artur
18 Ayvazian. We like the court's suggested language.

19 MR. LITTRELL: Same for Mary Terabelian.

20 THE COURT: Okay. I am going to do it. I am
21 going to actually write this out. I am trying to use my
22 best penmanship.

23 MR. FRASER: Your Honor, Ryan Fraser on behalf of
24 Marietta Terabelian. In following up to the request that
25 was made on behalf of Vahe Dadyan, as an alternative to

1 sending back in writing the final sentence of the court's
2 response to the first jury question, if the court would
3 perhaps specifically identify the last sentence as being
4 in addition to the Pinkerton charge, I think that will
5 assist the jury.

6 THE COURT: All right. Let me get this out, and I
7 will --

8 MR. FRASER: Thank you.

9 THE COURT: I am not going to say anything further
10 about the first note. No one made that suggestion at the
11 time, and I think my answer was clear and I am not going
12 to muddle it further.

13 Send this back to the jury, Paul, and have the
14 lawyers stand by.

15 (Court and clerk confer.)

16 MR. LITTRELL: Your Honor, can we take a look at
17 the note before it goes back?

18 THE COURT: Okay. Take a look at it.

19 (Recess from 3:57 to 4:41 p.m.)

20 (The following proceedings were held outside the
21 presence of the jury:)

22 THE COURT: I did tell the jury -- they asked if
23 they could continue to 6:00. I said okay. You may all
24 be seated. Thank you.

25 The reason I asked you to come here is in the

1 event there is a guilty verdict, frankly, I have never
2 had the experience of, to my memory, of a criminal
3 forfeiture following a verdict.

4 And let me ask the government, first, what is
5 involved with that? I mean, how do you make the
6 presentation?

7 MR. BOYLE: Assuming the jury returns a verdict
8 and convicts at least one count that touches on property
9 subject to forfeiture --

10 THE COURT: Which count is that again?

11 MR. BOYLE: All of the counts in the indictment
12 with the exception of the last money laundering counts of
13 the indictment.

14 THE COURT: All right. On the possibility of
15 that, what happens on -- how do you present that part of
16 it.

17 MR. BOYLE: Yes, your Honor. The first thing we
18 would ask is that the court give an immediate jury
19 instruction to the jury telling them that there is
20 another phase to trial so that they don't just disappear.

21 THE COURT: I mean that is a given. So go from
22 there.

23 MR. BOYLE: And we submitted a proposed jury
24 instruction a couple of weeks back.

25 THE COURT: But is it just a jury instruction? Is

1 that all there is to do?

2 MR. BOYLE: No, your Honor. The government is
3 then -- well, the government and the defense are then
4 entitled to put on additional evidence that didn't come
5 in during the guilt phase.

6 In this case, I don't believe that would be
7 more than maybe 30 minutes. The government expects to
8 put Ms. Robinson, the summary witness, back on to explain
9 some additional summary charts. Maybe 20 to 30 minutes
10 of direct. I can't predict cross. The defendant would
11 then have their opportunity to put on evidence they want
12 to.

13 THE COURT: What evidence -- what type of evidence
14 is usually presented by defendants in these cases?

15 MR. BOYLE: They are entitled to put on evidence.

16 THE COURT: Somebody is getting up so you have an
17 idea --

18 MR. RAM: Right. So the big picture, evidence the
19 defense would put on challenges the nexus between the
20 property alleged in the bill of particulars versus the
21 counts of conviction and things that would chip away from
22 the nexus.

23 So, for example, one of the pieces of property
24 that the court is aware of is \$450,000 in cash. So the
25 question is what nexus can the government show that would

1 connect this 450,000 in cash specifically to the count of
2 conviction.

3 THE COURT: Is that the money that was tossed
4 during the search?

5 MR. RAM: Correct. So the proceedings generally
6 go as if the evidence presented in the underlying trial
7 is essentially incorporated into the forfeiture
8 proceeding, and the defense and government would provide
9 additional evidence through witnesses or charts.

10 THE COURT: Well, the government says it will
11 produce additional evidence through this accountant
12 Robinson, and they anticipate it being a half-hour or so.

13 Do you anticipate cross-examining her?

14 MR. RAM: We do. And we would probably put on
15 affirmative evidence as well with specific items of
16 property, and, then, there would be both -- and there
17 would be a closing argument.

18 THE COURT: I see. And just roughly how long do
19 you think it would -- your presentation would take?

20 MR. RAM: To be honest, I really don't know. I am
21 not in a position to inform the court. I think,
22 realistically, we would start the proceedings next week,
23 and it just depends on what the counts of conviction are
24 and the property linked to those counts. It could be
25 very short. It could be a longer process. Because we

1 have to defend the nexus on each specific piece of
2 property that is subject to forfeiture.

3 THE COURT: Isn't it more argument, or is it more
4 evidence?

5 MR. RAM: It is both, your Honor. So, for
6 example, let's say this -- the gold coin you saw. If a
7 store owner comes in and says I sold them that gold coin
8 in 2019, it cannot -- if there is a reasonable debate of
9 was that coin from 2019 or -- that is the nexus.

10 THE COURT: Is that just a hypothetical?

11 MR. RAM: That was a hypothetical. But that is
12 essentially what is involved in a forfeiture mini trial.

13 THE COURT: I see. And, then, there is a jury
14 instruction, I guess; right? Have the parties agreed on
15 a jury instruction?

16 MR. RAM: We have not agreed yet. I have not even
17 looked at the forfeiture instructions. I was planning on
18 winning, but, in case, that doesn't happen I will take a
19 look at the forfeiture instructions with counsel.

20 MR. BOYLE: And I will represent to the court that
21 the forfeiture jury instructions that we submitted, they
22 were mostly based on a -- we obviously can't predict what
23 counts will result in convictions if any. So we would
24 certainly need to amend those forfeiture jury
25 instructions to match the actual counts.

1 THE COURT: Would the substance of the instruction
2 be the same.

3 MR. BOYLE: I don't expect there would be
4 significant changes other than certain jury instructions
5 pertain to certain counts of conviction so, for example,
6 if the defendants were not convicted of money laundering,
7 we would remove that jury instruction. But the
8 instructions themselves would not be substantially
9 changed.

10 THE COURT: Now, I was focused on the instructions
11 for the trial. I can't remember reviewing that
12 instruction. Did you include that in the packet, or is
13 that something new?

14 MS. AHN: Yes, your Honor. It was included in the
15 government's first set of proposed jury instructions.

16 THE COURT: I see. If you proposed it, then we
17 have it. Okay.

18 I just signed the jury note with one word.
19 Yes.

20 (Recess at 4:50 p.m.)
21
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23
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25

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 27, 2021

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

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