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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) CRIMINAL ACTION FILE
v.) NO. 1:22-CR-00171-MLB
) VOLUME 2
CARL DELANO TORJAGBO)
also known as)
KARL LUCIUS DELANO,)
)
Defendant.)
_____)

BEFORE THE HONORABLE MICHAEL L. BROWN
TRANSCRIPT OF PROCEEDINGS
JULY 22, 2025

Proceedings recorded by mechanical stenography
and computer-aided transcript produced by

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

1 APPEARANCES:

2 For the Plaintiff: OFFICE OF THE U.S. ATTORNEY
3 (By: Kelly K. Connors
4 Nicholas L. Evert)

5 For the Defendant: LAW OFFICE OF L. BURTON FINLAYSON
6 (By: L. Burton Finlayson)

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P R O C E E D I N G S

(Atlanta, Fulton County, Georgia, July 22, 2025, in open court.)

THE COURT: Okay. We're still waiting on two or three jurors. I'm getting updates that they're close. That would not have worked with my father on a cold hunting morning, but at any rate.

A couple of things. I got your jury instructions. I'm not going to look at that, because I already made those changes and I took out the aggravated. And then where you explained which count is which, I updated those, I think that was the two significant changes.

MS. CONNORS: Yes, Your Honor.

Of course there could be some additions as the trial goes on.

THE COURT: Yes. But I've got the pen now. So if you want more, then you just send me what you want to add, talk to each other and send it to me, but that way I'm working to put it in the right format and things like that.

Okay?

And by the way, I'm going to -- I typically instruct the jury before your closing arguments. I know that that's not standard here, but I had a couple of judges I was in front

1 of who did that, it makes it a lot -- I think it makes it
2 better for the jury, because they know what they need to
3 listen to. And I thought it was helpful to the parties
4 because they don't have to carry the water of explaining
5 something for the first time, so that's my plan. That's what
6 I've always done.

7 If somebody has some belief that it shouldn't be done
8 that way, let me know, but my plan is to instruct the jury on
9 everything ahead of time except for the instruction where you
10 say the next thing you do is go select a foreperson and then
11 start your deliberations. Okay? That's one thing.

12 The second thing is we will probably talk about jury
13 instructions tomorrow. I see the dispute that you-all are
14 having about whether or not there has to be an intent to cause
15 a loss. Let's talk about that.

16 I did not like that *Takhalov* case when it came out.
17 I think that *Takhalov* case was misargued by the government as
18 to what the actual loss was, given the context of what the
19 fraud was in that case. I don't think the fraud was about
20 selling a quality of alcohol, I think the fraud was different
21 in that case, and so I want to think and talk with you more
22 about that tomorrow.

23 I'm also not sure that it makes much of a difference
24 in this case, because this case is about money, right?

25 In this case the claim is that he -- it did inflict a

1 monetary loss on the government, right?

2 Is there going to be any claim that it was accidental
3 or unintentional?

4 He said -- allegedly said give me money for this. So
5 I'm not sure it really matters, but we'll talk about it at the
6 time. Okay?

7 MR. FINLAYSON: Maybe as to one count.

8 THE COURT: What's that?

9 MR. FINLAYSON: Maybe as to one count, that is --

10 THE COURT: Right. We're talking about the bank
11 fraud and the wire fraud, that's the two that it applies to.

12 MR. FINLAYSON: Right.

13 THE COURT: Okay. Well, we can talk about it at the
14 time.

15 Okay?

16 You're saying not -- that it didn't apply for the
17 tax?

18 MR. FINLAYSON: Correct.

19 THE COURT: Okay. Well, we can talk about that at
20 the time. So be ready to talk about that tomorrow at the end
21 of the day.

22 Is the government planning on putting in the
23 recording today?

24 MS. CONNORS: No, Your Honor. I think that's going
25 to come in through one of the agents tomorrow.

1 THE COURT: Okay. So let's also talk about that at
2 the end of the day today.

3 MS. CONNORS: Okay.

4 THE COURT: I looked at it yesterday. My intention
5 in regards to that is there are some statements in there where
6 it's just the agents talking. And then there's no follow-up
7 question such that what they say to the defendant might be
8 relevant to the defendant's response.

9 So, for example, there's a point where they want the
10 defendant to open up the garage door so that they can I think
11 seize a car or something.

12 MS. CONNORS: Um-hmm.

13 THE COURT: And they're explaining to him that if
14 they don't, they'll go get a warrant or something to that
15 effect.

16 And they say something to the defendant and he
17 answers in a fairly nonresponsive way. And then there's about
18 a page of the agents explaining to him what's going to happen
19 and what they're going to do. And then they say something, so
20 I just want to tell you whether you consent to us opening the
21 door. And he says I do.

22 And so none of that seems relevant, right?

23 None of that stuff about what they say to him -- it's
24 not like they -- their other context where they say to him,
25 look, don't lie to us. We have a lot of information. We know

1 you didn't buy this with your own funds, don't tell us that
2 you did. And then his response is well, no, but I did.

3 That seems to me to be the context of the defendant's
4 statement, they're confronting him with the strength of their
5 case and they are -- and then he is still pushing ahead with
6 his insistence. And that would seem to be contextually
7 relevant to what's being said, such that it is not hearsay.

8 The other ones where it's just sort of like they're
9 saying something really strong to him and then there's no
10 follow-up question whatsoever, that does not seem to me to be
11 admissible for a couple of reasons.

12 First of all, it is not putting that type of hearsay
13 into any context for the jury to evaluate his response.

14 And, secondly, there's a lot of stuff that the agents
15 say in there about their case, which might be prejudicial to
16 the jury or to the defendant in front of the jury, so that's
17 sort of where I have in my mind tried to divide up what can
18 come in and what can't.

19 We will talk about it at the end of the day
20 specifically so that you-all can be thinking about it ahead of
21 time.

22 Okay?

23 You didn't give me any citations to authority or
24 anything like that. If you have authority that you want me to
25 look at, send it to me today and I'll look at it at one of the

1 breaks. But my plan would be at the end of the day to go
2 through -- I've already done it, but we'll just talk about the
3 different provisions.

4 Okay?

5 Does that make sense to everybody?

6 MR. FINLAYSON: Yes, sir.

7 MS. CONNORS: Yes, sir.

8 THE COURT: So if both of you have some type of
9 authority, today would be the day to give it to me before our
10 afternoon break.

11 Okay?

12 All right. Anything else y'all want to talk about?

13 MS. CONNORS: Yes, Your Honor.

14 I did hand up, and I believe you probably have it on
15 the bench, we had talked yesterday about a 404(b) instruction
16 at the point where we would be discussing the acquisition of
17 the two Social Security numbers, so we did modify the standard
18 cautionary instruction from the Eleventh Circuit pattern.

19 Defense counsel has reviewed and agrees that this
20 would be an appropriate instruction to give. I think
21 essentially all that really is different from the pattern is
22 the first sentence, because the typical pattern instruction is
23 talking about other offenses and so this is more specific to
24 say that they're going to hear evidence about acquiring the
25 two Social Security numbers.

1 Also, the pattern was changed, the pattern is usually
2 given after the testimony, so it's phrased that way; however,
3 here, we had asked to be able to get to the point in the
4 agent's testimony, give the instruction at that point before
5 he starts going into that area.

6 THE COURT: Okay.

7 MS. CONNORS: And if the Court needs another copy, I
8 do have it.

9 THE COURT: I don't.

10 MS. CONNORS: Okay.

11 THE COURT: I'm looking for my pattern instruction
12 book, but I never, ever, ever seem to be able to find it.
13 It's like looking for a screwdriver at my house that my kids
14 always put somewhere else. I just don't know who to blame in
15 this instance. I want to just look at the pattern.

16 Do you agree with this instruction?

17 MR. FINLAYSON: Well, it's the lesser of evils,
18 Your Honor.

19 THE COURT: Right.

20 MR. FINLAYSON: Obviously, I'd objected to the
21 evidence, but I think if the evidence is coming, I think I'd
22 be remiss not to ask for the instruction, so if that -- that's
23 a half-hearted yes, I guess.

24 THE COURT: Okay. You just -- you'll tell me when to
25 give it?

1 MS. CONNORS: Yes, Your Honor, I'll stop at that
2 point --

3 THE COURT: And just say, Judge, this is --

4 MR. FINLAYSON: -- during the direct examination and
5 ask the Court to do the instruction.

6 THE COURT: Okay. All right. And what about
7 stipulations, I got some stipulations yesterday.

8 Do you want to read those to the jury or do you want
9 me to read them to the jury?

10 I would prefer you to read them to the jury when the
11 right time approaches.

12 MS. CONNORS: Yes, Your Honor. I think that was
13 going to be our plan. The Court may have noticed essentially
14 the numbered items one and two would deal with kind of more
15 the -- any element of an offense or at least touching on an
16 element of the offense.

17 Paragraph 3 is really just covering all of the
18 business records and certified public records so that we can
19 dispense with any kind of custodian. So as we're doing our
20 presentation, before moving to admit any of those, we'll
21 remind the Court that that's subject to our stipulation.

22 THE COURT: Okay. Well, hold on. You're going to
23 let me know and then you're going to explain it to the jury or
24 are you just talking about -- let me --

25 MS. CONNORS: Just in regards to the business

1 records.

2 THE COURT: Okay. Fair enough.

3 MS. CONNORS: Yes, Your Honor.

4 THE COURT: Got it. Okay.

5 MR. FINLAYSON: And, Your Honor, just to be clear,
6 the stipulation is to the authenticity of the documents, not
7 necessarily to the admissibility.

8 THE COURT: Do you have an objection to the
9 admissibility of the documents? You'll make that if you have
10 it at the time?

11 MR. FINLAYSON: I will, yes.

12 And, Your Honor, as long as we're talking about that
13 sort of thing, and I know we're going to talk about the
14 statement coming in tomorrow, but I have a -- I know most
15 judges don't like a rambling speaking objection about, you
16 know, why something should be suppressed, and I don't intend
17 to make those.

18 THE COURT: It's not just judges, it's just the law.

19 MR. FINLAYSON: That, too. Well, and so along those
20 lines, you know, in my line of work, we're always worried
21 about waiver at the Eleventh Circuit, so I always feel the
22 need to renew and preserve objections from things that happen
23 below.

24 I tend to use a code phrase that I hope is
25 acceptable. I go -- you know, I will say something like,

1 Your Honor, we renew our objections on the motion to suppress
2 from below. Or we renew our objection to the statement as
3 ruled upon -- something -- just when I say below, I'm
4 referring to the magistrate ruling that we've already
5 litigated, so -- and I hope -- that's what I'm talking about
6 when I say that.

7 THE COURT: That's fine.

8 MR. FINLAYSON: Thank you.

9 THE COURT: If it's something different, you've got
10 to let me know, right?

11 MR. FINLAYSON: Yes.

12 THE COURT: And I'm pretty good with the rules of
13 evidence, so if you give me one sentence, that's probably
14 enough. If need be, I'll excuse the jury.

15 I don't like talking up here with the white noise on,
16 I find that uncomfortable and just sort of awkward, so I -- I
17 mean, and they're all able to walk around pretty easily, so
18 I'm just going to send them out even if it's just for 30 or 45
19 seconds.

20 Okay?

21 MR. FINLAYSON: Okay. And the thing I anticipate
22 that on the most is the statement, the custodial interview.

23 THE COURT: Okay.

24 MR. FINLAYSON: So that's where I think that's going
25 to happen.

1 THE COURT: Okay. So, Ms. Connors, for the
2 stipulations, you will read one and two at the appropriate
3 time?

4 MS. CONNORS: Yes, Your Honor.

5 THE COURT: Okay. And then I will just ask you at
6 that point, Mr. Finlayson, to confirm that that is a
7 stipulation.

8 MR. FINLAYSON: Yes, sir.

9 THE COURT: Okay. All right. Everybody get nervous,
10 the U.S. Attorney I think is about to walk in.

11 Ms. Kelley, will you check on them?

12 COURTROOM DEPUTY: On the jury?

13 THE COURT: Yes. All right. I'm going to step off
14 for a second. I'm not going to say anything to the jury this
15 morning, because I don't want to make those two people feel
16 bad.

17 I'm going to say something to them this afternoon, at
18 the end of the day, and ask them if they want to go back to
19 9:00, rather than 8:30, but we can't wait 20 minutes.

20 By now, when I was a kid, you'd be waking up in a
21 tent with no fire going and your father having driven away all
22 alone at the age of eight. At any rate, okay. We'll be back.

23 (Whereupon, a recess was taken.)

24 THE COURT: All right. This has tried my patience
25 and pushed my anxiety. We are missing one juror still. We

1 were missing more, we thought they were -- the other ones were
2 here. Apparently, we do not know where Mr. Mourad --

3 Is that the one, Ms. Kelley?

4 Juror 31, the grocer who's from France, who has a
5 daughter at Georgia Tech. We cannot find him. He's not
6 answering. We had thought for a bit that he was close, but
7 that was a bit of a snafu or misunderstanding from the jury
8 office, so we don't know where he is.

9 Any ideas about what to do? I'll wait longer. I'll
10 continue to push down the anxiety. But we could also move
11 forward without Mr. Mourad and then go with just one
12 alternate.

13 What do y'all want to do?

14 Do y'all want to talk about it and think about it for
15 a minute?

16 MR. FINLAYSON: Yeah. I kind of like him.

17 THE COURT: What's that?

18 MR. FINLAYSON: I said I kind of like him.

19 THE COURT: Well, do you want to give him another 20
20 minutes?

21 MR. FINLAYSON: Let's give him 15 minutes.

22 THE COURT: All right. We'll give him 15 minutes. I
23 intend to write a strongly worded letter or -- I'm not going
24 to say anything if he does show up this morning. I'm going to
25 say something at the end of the day. But I am very

1 frustrated.

2 Okay?

3 (Whereupon, there was an off-the-record discussion.)

4 (Whereupon, a recess was taken.)

5 THE COURT: Y'all talk about it. We'll spend ten
6 minutes waiting longer, maybe we'll hear from him, but I don't
7 know.

8 MS. CONNORS: Thank you.

9 MR. FINLAYSON: Thank you, Your Honor.

10 (Whereupon, a recess was taken.)

11 THE COURT: All right. Sorry. Tomorrow, well-oiled
12 machine. All right? Starting tomorrow.

13 So we have found Mr. Mourad. He went to work today.
14 He is on his way from work in Sandy Springs. My guess is 25
15 more minutes.

16 So what do y'all want to do?

17 MR. FINLAYSON: I feel like we've waited this long, I
18 kind of hate to cave now.

19 MS. CONNORS: The government's preference would be
20 that we strike him and do an alternate at this point.

21 THE COURT: I'm inclined to do that, because I'm not
22 sure how he could have misunderstood the mission. And I worry
23 about him going forward.

24 But I'm not going to do that unless the defendant
25 agrees to that. So we will wait for him to get here.

1 Is that what you want to do?

2 MR. FINLAYSON: We'll wait for him, Judge. Sorry.

3 THE COURT: Okay. Would you tell the jurors that
4 we're waiting on one more and we're going to wait. Don't tell
5 them why we're going to wait, but just tell them that I said
6 we're going to wait.

7 Okay?

8 Is that okay with everybody if he tells them that?

9 MR. FINLAYSON: That's fine.

10 MS. CONNORS: Yes, Your Honor.

11 THE COURT: How late do y'all want to go today?

12 MR. FINLAYSON: Your pleasure, Your Honor.

13 THE COURT: I do think -- remember, we have another
14 juror who starts a new job on Monday.

15 MS. CONNORS: Yes.

16 THE COURT: And if she misses that start time, she
17 misses orientation. And that's not the same as just missing a
18 day. It's missing a day with her peers to know what she's
19 supposed to do and sort of get brought into the fold, so I
20 think we still need to plan on making up the time that we're
21 missing today, which is really half a day by the time, right?

22 MS. CONNORS: So is the plan then that we would stay
23 until 6:30? I feel like maybe --

24 THE COURT: Yes, maybe starting tomorrow. I guess.
25 I don't think I can do that to these other jurors, but I may

1 tell them that we're going to have longer hours starting
2 tomorrow.

3 Okay?

4 I just don't know what else to do about it.

5 MS. CONNORS: Your Honor, we can certainly maybe give
6 an idea when we're getting close to 4:30 and leaving of
7 approximately where we are in terms of how many witnesses we
8 have left.

9 THE COURT: Yes.

10 MS. CONNORS: I mean, I do think that we're not going
11 to get to as many witnesses today as we had originally
12 planned.

13 We do have a couple of witnesses that have conflicts
14 tomorrow, so we will get them on the stand so that they can --
15 but we had, you know, ensured them that they would get on the
16 stand today, so we definitely want that to happen, so we will
17 probably have to change up our order significantly because of
18 the delay, but we're willing to do that. That's fine.

19 THE COURT: Okay. Well, we will -- if he's not here
20 by 10 until 11:00, I'm going to just excuse the juror. I
21 think that's beyond reasonable. I've got to keep this case
22 moving. But now we're sort of in a hard spot, because we
23 might wind up losing a juror at the end. I don't know. But I
24 hate to just have one alternate.

25 Okay. All right. We'll see you in a little bit.

1 MR. FINLAYSON: Thank you, sir.

2 (Whereupon, a recess was taken.)

3 COURTROOM DEPUTY: Please be seated.

4 THE COURT: All right. What do y'all say? Do you
5 still want me to wait?

6 MR. FINLAYSON: I guess if there's any update, if we
7 know anything.

8 THE COURT: We haven't heard from him. We did call
9 his employer. His employer knew that he had jury duty today,
10 but was sort of confused as to why he showed up for work. I
11 can't offer anything more than that.

12 What do you-all want to do?

13 MR. FINLAYSON: But is he here?

14 THE COURT: No.

15 MR. FINLAYSON: Well --

16 MS. CONNORS: The government's position is the same.
17 We -- he should be excused, we should go ahead, and the first
18 alternate should come into that place.

19 MR. FINLAYSON: I think -- I don't have any
20 additional position. I defer.

21 THE COURT: Do you still want to wait?

22 MR. FINLAYSON: I defer to the Court.

23 THE COURT: Okay.

24 MR. FINLAYSON: I think we've waited enough,
25 Your Honor.

1 THE COURT: Okay. I agree with you.

2 I'm going to excuse that juror. I'm going to have
3 that juror, if they show up, sit here for the day. And then
4 I'm going to talk to that person. But we've spent enough time
5 on this person. We need people who are serious and dedicated
6 to this process. And this person either doesn't have the
7 inclination or doesn't have the ability to do it.

8 And this is the epitome, in my mind, of a dollar
9 waiting on a dime. And we have done it for long enough. And
10 so we are going to -- we've got to keep moving or we're going
11 to run into problems with these other jurors.

12 So let's bring the jury in. And we will keep moving,
13 which means that one of -- our first alternate will move up
14 into that position, which I think is Durand maybe, but however
15 it works out.

16 All right. Thank you.

17 COURTROOM SECURITY OFFICER: All rise.

18 (Whereupon, the jurors entered the courtroom.)

19 THE COURT: All right. You can be seated.

20 Let me first start off by apologizing to you-all. We
21 were all ready to go at 8:30. We have been waiting for one of
22 you-all. He is supposed to be here. We have been in contact
23 with him. But we are not going to wait for that person any
24 longer.

25 Okay?

1 We're going to push on without that person. If you
2 see him around, do not speak to him. Treat him as if he is no
3 longer a part of your jury, because he is not a part of your
4 jury any longer.

5 Okay?

6 So if you see him in the courthouse today, and he
7 speaks to you, do not speak with him in any way. All right?

8 Do you understand that?

9 Anybody have any problems or issues yesterday?
10 Everybody abide my instructions about not talking to people?

11 Okay. Very good.

12 All right. Now I'm going to have you placed under
13 oath. And this is a different oath from the last one you
14 took. This is an oath that handles your conduct as the jury
15 who is trying this case rather than as the possible jurors who
16 are answering our questions.

17 So please stand up as Ms. Kelley administers the
18 oath.

19 COURTROOM DEPUTY: Please raise your right hand.

20 (Whereupon, the jury was sworn.)

21 COURTROOM DEPUTY: Thank you. You may be seated.

22 THE COURT: Okay. If you did take the oath and you
23 said I do, then you can be seated. Stand up if you didn't
24 take it. All right. Everybody has been sworn.

25 Now that you have done that, by your verdict, you

1 will decide the disputed issues of fact in this case. I am
2 going to begin by explaining some basic principles about a
3 criminal trial and your duty as jurors.

4 These are just preliminary instructions. I will give
5 you more detailed instructions particularly about the law at
6 issue at the end of the trial. It will be your duty to decide
7 what happened so you can determine whether the defendant is
8 guilty or not guilty of the crime charged in the indictment.

9 At the end of the trial, again, I will explain the
10 law that you must follow in reaching your verdict and you must
11 follow the law as I explain it to you, even if you don't agree
12 with it.

13 You must decide this case only on the evidence
14 presented in the courtroom. That evidence will come in many
15 forms. It will primarily consist of testimony from witnesses,
16 who will be sitting up here, or from exhibits, documents,
17 maybe videos, things that we will display to you and that you
18 will hear referred to as exhibits.

19 I suspect in this case you might hear about the
20 parties having stipulated to certain facts as being true. You
21 must treat those stipulated facts as proved in this case. I
22 will let you know and the parties will let you know when there
23 are those agreed-upon stipulations that you must accept.

24 There are generally two kinds of evidence, there is
25 direct and there is circumstantial evidence. Direct evidence

1 is direct proof of a fact, like testimony from an eyewitness,
2 so if somebody told you that they saw your neighbor out
3 fishing in the creek, that would be direct evidence that your
4 neighbor was out fishing.

5 Okay?

6 That's direct, eyewitness testimony.

7 There's also something called circumstantial
8 evidence. Circumstantial evidence is evidence of facts from
9 which you can infer or conclude other facts.

10 So if instead of somebody seeing your neighbor
11 fishing down at the creek they saw your neighbor walking up
12 from the creek holding a fishing pole and a couple of fish on
13 a stringer, that would be circumstantial evidence from which
14 you could conclude that your neighbor had been fishing.

15 Do y'all understand the difference between direct and
16 circumstantial evidence?

17 Great.

18 Now let me tell you this, that as far as the law is
19 concerned, it makes no difference whether evidence is direct
20 or evidence is circumstantial. You may choose to believe or
21 disbelieve either kind of evidence. Your job is to give each
22 piece of evidence whatever weight you think it deserves.

23 I'll give you more instructions about that at the end
24 of the case, but I want you to know from the outset that you
25 can consider both kinds of evidence.

1 Let's talk about what is not evidence.

2 Okay?

3 You will hear some things in the courtroom that are
4 not evidence and that you cannot consider as evidence. First
5 of all, the lawyers' statements, in their opening statements
6 to you or their closing arguments to you are not evidence.
7 They will have an opportunity to discuss the case with you,
8 and their remarks can help you understand the case, understand
9 their theory, understand how they want you to view the case,
10 but their remarks themselves are not evidence and shouldn't
11 play a role of evidence in your deliberation.

12 Second, the lawyer's questions are not evidence. The
13 question is just what the lawyer wants to ask. The evidence
14 is what the witness says in response to that question. Don't
15 decide something is true just because a lawyer's question
16 suggests that it's true. Wait to hear what the answer is
17 because that's the evidence.

18 Okay?

19 I might point this out to you from time to time and
20 I'll remind you of what I've said, that questions are not
21 evidence.

22 For example, somebody says something like you saw
23 Mr. Smith run the light, didn't you? Is that evidence that
24 Mr. Smith ran the light? No. The witness might say yes, I
25 did or the witness might say no, I didn't, and that would be

1 the evidence in the case, the answer.

2 Okay?

3 You might also hear lawyers object from time to time,
4 they'll say, Judge, I object to that. I want to explain that
5 a little bit to you. There are rules of evidence about what
6 can come in or what can't come in or how it can come in.

7 When a lawyer thinks that a question is
8 inappropriate, the lawyer may object to that. And when the
9 lawyer objects to it.

10 I'm guessing he's here. Well, he's just going to
11 have to sit back there.

12 Okay?

13 You can tell him we've moved on and we'll talk to him
14 in a minute.

15 Okay?

16 I saw one court security officer motion to the other
17 court security officer and I saw a couple of y'all see it, so
18 I just wanted to address it.

19 All right?

20 Let me go back. Lawyers might object to things and I
21 will then have to rule on that objection.

22 Okay?

23 I'll have to decide whether the question is
24 appropriate, whether the testimony can come in, or whether an
25 exhibit can be admitted.

1 Okay?

2 If I overrule the objection, that means the witness
3 can answer or the document can come in and you can consider
4 it.

5 If I sustain the objection, then you will not be able
6 to hear that answer or see that document. I will not be
7 admitting it at least at that time.

8 Okay?

9 When I do that, when I sustain an objection, you must
10 ignore the question and not guess what the answer might have
11 been.

12 Okay?

13 If I sustain something, that means it's not something
14 at that point that you can consider.

15 Okay?

16 Sometimes I will strike evidence. If there is a
17 question that's asked and then the answer comes out before an
18 objection or the answer is something that wasn't anticipated
19 and then there is an objection, I'll tell you to strike it. I
20 will strike it and I'll tell you to disregard it, so you've
21 got to push that over to the side of your brain and not
22 consider it.

23 Okay?

24 I will be real clear about that as we go forward.

25 Okay?

1 I may allow some evidence for only a limited purpose.
2 When I do that, I will give you an instruction as to how you
3 can consider the evidence only for one purpose and you have to
4 abide that instruction.

5 Okay?

6 I'll be -- and again, I'll try to be as clear as I
7 can. And of course you might hear things outside the
8 courtroom, you can't consider that.

9 Okay?

10 That shouldn't happen, but sometimes mistakes are
11 made and you can't consider that in any way.

12 Okay?

13 All right. It will be up to you to decide which
14 witnesses to believe, which witnesses not to believe, and how
15 much of any witness's testimony you should accept or you
16 should reject. To decide whether you believe any witness, I
17 suggest that you ask yourself a couple of questions. These
18 are kind of common sense, but think about what they are.

19 First, did the witness impress you as someone who was
20 telling the truth?

21 Did the witness have any particular reason not to
22 tell the truth?

23 Did the witness have a personal interest in the
24 outcome of the case?

25 Did the witness have a bias or a prejudice?

1 Did the witness seem to have a good memory?

2 Did the witness have the opportunity to see or hear
3 the things about which he or she testifies?

4 Did the witness appear to understand the question
5 clearly and answer it directly?

6 Did the witness's testimony differ from other
7 testimony or other evidence?

8 And of course the witness's demeanor while they were
9 testifying, how did they seem?

10 And you can consider any other facts you might hear
11 about that witness's credibility. At the end of the day, I'll
12 kind of go over these again with you and might add some
13 additional things for your consideration.

14 All right?

15 I've told you that is a criminal case. I've told you
16 a little bit what it's about, none of that counts as evidence.
17 You'll hear more about it in just a minute, but I want to give
18 you some rules that apply in a criminal case.

19 First, as I told you before, really important, the
20 defendant is presumed innocent of the charges in this case
21 until proven guilty.

22 The indictment against the defendant brought by the
23 government is only an accusation, nothing more. It is not
24 proof of guilt or anything else. The defendant starts this
25 case with a clean slate.

1 Second, the burden of proof is on the government
2 until the very end of this case, they have the only burden of
3 proof in this case. The defendant has no burden whatsoever to
4 prove his innocence or to present any evidence or to testify
5 at all.

6 Since the defendant has a right to remain silent, the
7 law prohibits you from arriving at your verdict by considering
8 whether he does or does not testify -- or that he does not
9 testify.

10 Okay?

11 Let me say that again. You cannot put any weight on
12 a defendant's choice not to testify. It's not evidence. He
13 starts with a clean slate.

14 As I said, the government must prove the defendant's
15 guilt beyond a reasonable doubt. I will give you more
16 instruction on that point at the end, but keep in mind that
17 this is a criminal case, it's different from any civil case,
18 including because the burden of proof is higher in a criminal
19 case.

20 The United States, as I've said, has the burden of
21 proving the defendant's guilt beyond a reasonable doubt.
22 Let's talk a little bit about your conduct as a jury, as
23 jurors. I've gone over this a little bit with you yesterday.

24 First of all, don't discuss this case with anyone or
25 let anyone discuss it with you until I tell you to begin

1 deliberating. Until you retire and you have that instruction,
2 you simply cannot talk about this case, even amongst each
3 other. Don't go back in the jury room at a break and talk
4 about what you think you heard or anything like that. You
5 cannot talk about this case until you hear everything.

6 Okay?

7 You have to keep an open mind until you've heard all
8 of the evidence, gotten my instructions on the law, and heard
9 the parties' closings arguments, only then will I tell you
10 very clearly now is the time to talk about this case with each
11 other.

12 Don't read or listen to anything touching on this
13 case. I don't think there will be, but should that happen,
14 don't read it, don't look at it, don't listen to it. If
15 anyone approaches you and wants to ask you anything about this
16 case or talk to you about this case in any way, walk away from
17 them quickly and come tell me.

18 Okay?

19 Don't do any research or make any investigation. I
20 told you that last night. Don't Google stuff or look things
21 up or ask somebody, anything like that. Don't get anything
22 from the news. We will be here to give you the information
23 you need, the parties, the evidence and me the law.

24 Okay?

25 Do y'all have your cellphones with you? Are they in

1 the jury room?

2 Okay. We used to take them from everybody, they had
3 to lock them up downstairs so now you get to keep them while
4 you're in there.

5 Okay?

6 And so you can look at them, but don't look at them
7 to look things up, do any of that kind of stuff.

8 Okay?

9 I don't know how to impress that upon you more, but
10 it will ruin the whole thing if you look at that, if you look
11 at a dictionary or anything like that. Don't search out any
12 information in any way.

13 Do you think you can post anything about this case?
14 Can you go on Instagram? No. Definitely not, right? This is
15 way more serious than that.

16 Okay?

17 So don't do anything like that for a number of
18 reasons. First of all, it's just not appropriate, it's
19 disrespectful. And of course somebody will comment and now
20 you're starting a conversation with somebody, so I don't want
21 to see posts from back in my jury room or anything like that.

22 Okay?

23 All right. Exhibits that are admitted will be
24 available to you. We'll collect them down here somewhere and
25 you'll have them here either in notebooks at the end of the

1 day, you'll get to take them back to the jury room, you'll
2 have them to look through. We will display them to you during
3 the course of the trial. If there's something that you want
4 to read in them, you'll have a chance.

5 If you want a second longer during the trial or a
6 couple of seconds to make sure that you read it, just raise
7 your hand and say, Judge, I'm not ready to move on. But know
8 they'll all go back there with you, so you'll have a chance to
9 see them, they will be up on the screens and things like that
10 now, but you'll have a chance to touch them and everything
11 like that later. If there's recordings or things of that
12 nature, they'll be back there for you to listen to again.

13 Okay?

14 But again, if you have trouble seeing it or you need
15 a couple more minutes or so to look at it, don't hesitate to
16 tell me while we're going through it.

17 Okay?

18 Transcripts, Ms. Colter takes down everything that's
19 said.

20 Okay.

21 None of that will be available to you.

22 Okay?

23 She's doing that for me, she's doing that for
24 purposes of making a record. But those transcripts will not
25 be available to the jury.

1 Okay?

2 You-all have notebooks. Everybody have a notebook?
3 And a pencil? You can take notes if you want to.

4 Okay?

5 You don't have to. Each of you can decide what you
6 want to do. Don't worry about what your neighbor does, make
7 that decision yourself. If you decide to take notes, a lot of
8 people do, but if you decide to, don't become so distracted by
9 your notes that you're not paying attention to what's going
10 on.

11 Right?

12 One of the things I told you about is maybe think
13 about the witness's demeanor, but if you have your head down
14 and you're writing everything, not only might you miss
15 something, but you might miss their demeanor.

16 Okay?

17 So don't get so caught up in it that you forget to
18 pay attention to what's going on.

19 And your notes should only be used as an aid to your
20 memory. I'll talk to you about this again.

21 Okay?

22 But if you get back there in the end and you have
23 something that you recall but you wrote something different,
24 go with your memory.

25 All right?

1 And don't -- if you don't take notes, don't be
2 influenced unnecessarily by somebody else's notes.

3 Okay?

4 Your memory is just as good as what somebody else
5 wrote down. And notes are not entitled to any greater weight
6 than the recollection or impression that each of you has about
7 the testimony or the evidence.

8 Okay?

9 Any questions about that?

10 Keep an open mind throughout the trial.

11 Okay?

12 You're going to get a little bit from one witness, a
13 little bit from another witness, something might not be clear
14 to you and maybe it will be cleared up later. You might think
15 you have heard everything, but then another witness will come
16 in and tell you something you didn't know. So what you have
17 to do is you have to keep an open mind and not reach any
18 judgment, even in your own head, until you've heard all of the
19 testimony, all of my instructions, and the parties' arguments.

20 Okay?

21 I may from time to time either ask the lawyers to
22 come up here so we can talk about something out of your
23 earshot or I might just ask you to step in the back for a
24 couple of minutes. We do that so that we can make sure that
25 you're hearing what you're supposed to be hearing. And I may

1 need a couple more minutes to talk with them about something.

2 Okay?

3 Don't worry about what we're talking about, don't try
4 to guess what we're talking about. Don't try to read our lips
5 or read my face or anything like that.

6 Okay?

7 It's just not part of evidence.

8 All right. Last thing I want to talk to you about
9 the order of the trial.

10 Here's how it goes. In just a moment, I'm going to
11 allow both parties a chance to give what's called their
12 opening statements to you.

13 Okay?

14 Then the government will get a chance to present its
15 case, what we call their case-in-chief, remember, they have
16 the burden, so they present their case-in-chief. When they
17 finish, they will announce that they are resting their case.
18 At that point, the defendant can, if he wants to, present
19 witnesses or other evidence, not required to, but he can.

20 And then the United States may cross-examine those
21 witnesses. After that, with certain limitations, the
22 government can call additional witnesses in what we call the
23 rebuttal phase of the case.

24 All right?

25 So the government goes first in their case-in-chief.

1 Then the defendant goes, if they want to. And then if the
2 defendant has done that, then the government may have a chance
3 to put on a rebuttal case.

4 All right?

5 They begin the case and they have the rebuttal
6 opportunity, because, as I told you, they have the burden of
7 proof in this case.

8 Again, I'll talk to you more about what beyond a
9 reasonable doubt means, but that's their burden.

10 When all of that is done, I'll give you some more
11 instructions about the law to apply in this case. And then
12 the parties will have a chance to do their closing arguments.

13 Okay?

14 Any questions about that process?

15 All right. We are now going to begin with opening
16 statements by the lawyers for both sides. It is their chance
17 to make statements to explain the issues that they expect this
18 case to present, the facts or the evidence that they expect to
19 provide to you. The statements they make now are not
20 evidence, right, it is not part of the evidence in this case.
21 I've already gone over that with you.

22 But these are important statements because they're
23 intended to help you understand the issues and the evidence
24 that they will present, as well as what their respective
25 positions are. So please pay close attention. These are

1 important parts of the trial, even if they don't have the role
2 of evidence.

3 Okay?

4 And we're going to go -- I don't know how long it is
5 going to take, but we're going to go probably until they're
6 done or 12:30-ish? If we go much after that, then we run into
7 the chance of y'all not getting to eat. And I'm definitely
8 going to eat because I brought my food in, so we're going to
9 go a little bit and try to catch up on the time we missed this
10 morning.

11 Okay?

12 Everybody feeling good?

13 All right. I will now ask the United States if they
14 want to give their opening statement.

15 MR. EVERT: Yes, Your Honor. Thank you.

16 THE COURT: Do you -- are you using the ELMO in any
17 way?

18 MR. EVERT: We have a PowerPoint, so if we could
19 switch to the PowerPoint.

20 THE COURT: Do you want that to stay where it is or
21 do you want that moved?

22 MR. EVERT: I think they can see it on their screens,
23 so...

24 THE COURT: Can everybody see a screen well enough?

25 All right. Thank you, sir.

1 MR. EVERT: Good morning. This is a case about a man
2 who got his hands on millions of dollars that he had no right
3 to. The defendant, Karl Delano, formerly known as Carl
4 Torjagbo got over \$12 million through two fraudulent schemes.

5 The first was a PPP fraud scheme where he got a
6 \$9.5 million loan on behalf of his made-up mining company.

7 The second was a fraudulent tax scheme, where he
8 submitted two bogus tax returns falsely claiming that he was
9 entitled to a refund of over \$3 million on each return.

10 And what did he do once he got his hands on over
11 \$12 million? He spent lavishly, buying a big house, fancy
12 cars and putting the down payment on a yacht.

13 First, I want to tell you about the PPP fraud scheme,
14 which is the basis of the bank fraud charge. During the
15 COVID-19 pandemic, with everything shutting down, there was a
16 serious concern that small businesses would fail and their
17 employees would have to go without their paychecks and be
18 unable to make ends meet.

19 In order to stop this crisis from happening, the
20 government created the Paycheck Protection Program or PPP.
21 Under this program, small businesses could apply to banks for
22 loans. The banks would get the money out as quickly as
23 possible to the small businesses and the government would
24 guarantee the loans, meaning that if the small businesses were
25 unable to pay the banks back, the government would step in and

1 make those payments to the banks.

2 The evidence will show that Karl Delano took
3 advantage of the PPP, not because he had a small business that
4 needed to be kept afloat, but because of greed.

5 You'll hear how the defendant manipulated the
6 requirements of the PPP to get what he wanted, which was over
7 \$9.5 million. You'll hear that the sizeable loan that a small
8 business was entitled to get was based on its monthly payroll.
9 Specifically, a small business could get a loan for 2.5 times
10 its monthly payroll. But you'll hear that there were
11 requirements that a small business had to meet in order to be
12 eligible for a PPP loan. Specifically, the business had to
13 have been in operation as of February 15th of 2020. The
14 business's employees had to reside in the United States. The
15 loan had to be necessary to support the ongoing operations of
16 the business. And the loan had to be used for authorized
17 purchases, such as retaining employees and maintaining
18 payroll.

19 The defendant wasn't eligible for a PPP loan because
20 he did not have a small business that met these requirements.
21 Undeterred, he created a fake mining company called
22 Kremkov Industries and applied for a \$9.5 million loan on its
23 behalf. You're going to see the application he submitted and
24 it is full of false information.

25 He claimed that his business had been in operation --

1 had been in operation since 2014. That was false. The
2 evidence will show that he didn't even register
3 Kremkov Industries until January 2021, just one month before
4 he applied for the PPP loan and almost a year after the
5 February 15th, 2020 eligibility cutoff date.

6 He said that the loan was necessary to support the
7 ongoing operations of Kremkov Industries. That was false.
8 The evidence will show that Kremkov Industries had no
9 operations that would have made it eligible for a PPP loan.

10 He said that Kremkov Industries had an average
11 monthly payroll of over \$3.8 million and that it had paid its
12 employees over \$45 million in 2020. That was false.

13 You're going to see the payroll documents that he
14 submitted to the bank in support of that loan and they were
15 completely fake and full of false information.

16 He also claimed that he withheld specific amounts of
17 federal taxes and Social Security payments on behalf of each
18 of his 493 employees. That was false. You will hear from
19 representatives of both the IRS and the Social Security
20 Administration, which are the agencies to whom those payments
21 would have went. They will -- and you'll hear that
22 Kremkov Industries never paid any money to either of those
23 agencies ever for any employee.

24 The defendant also claimed that Kremkov Industries
25 had 493 employees who resided in the United States. That was

1 false. The evidence will show that Kremkov Industries had no
2 employees in the United States. And you're going to see the
3 list of the employees that the defendant submitted to the bank
4 in support of his application. Some of those 493 employees
5 may sound familiar to you, names like Keanu Reeves, Oliver
6 Twist, Charlie Brown, Bruce Willis, Gene Hackman, John Snow,
7 and Jason Bourne. The defendant claimed that those people
8 worked for his mining company.

9 As a result of this false information, you're going
10 to hear that the defendant received a \$9.5 million loan from
11 the lending bank. And you'll hear from the bank that they
12 never would have given him this money if they had known that
13 the information that he provided in his loan application was
14 false.

15 You're also going to hear that the defendant's
16 fraudulent activity didn't stop there. During the same
17 timeframe, the defendant used two different Social Security
18 numbers to submit two fraudulent 2020 income tax returns. The
19 fraudulent tax returns are the basis for the wire fraud
20 charges.

21 In both returns, he claimed that Kremkov Industries,
22 which he owned, had withheld more than \$3 million in taxes
23 from his pay and that he was entitled to a refund of that
24 money. Of course this was false. You'll hear from a witness
25 with the IRS that Kremkov Industries never paid any taxes to

1 the IRS, so the defendant was not entitled to a refund of
2 money that was never paid to the IRS in the first place.

3 On top of this glaring problem, you will also see
4 that there is no way that these tax returns, which were both
5 submitted by the defendant within hours of each other, could
6 both be true. The defendant submitted both tax returns in his
7 name but he reported different earnings, losses and
8 withholdings from his pay. And each return sought a refund of
9 a different amount. With this different information, there is
10 no way that these two different returns, both supposedly from
11 the same person for the same year could possibly have both
12 been true. It's one guy, two different sets of information.

13 But you'll hear that one of these tax returns was
14 actually paid out and resulted in the defendant receiving a
15 check for more than \$3.3 million from the IRS.

16 Finally, you're going to hear about what the
17 defendant did with the \$12 million that he received from the
18 PPP fraud and the tax return fraud, and that is going to be
19 the basis of the money laundering charges.

20 The evidence will show that on March 29th, 2021, the
21 \$9.5 million from the PPP loan hit the defendant's account.
22 About three weeks later, in April of 2021, he went under
23 contract to buy a \$1.6 million house in Marietta, Georgia, and
24 he did this with no mortgage.

25 Also in April 2021, the \$3.3 million from the tax

1 return fraud hit his account. Once he had that money, you
2 will hear that the defendant took steps to hide the fact that
3 the source of his money was fraud proceeds.

4 In July of 2021, just four months after the PPP money
5 hit his account and three months after he got the IRS money,
6 you'll hear that the defendant filed a petition to legally
7 change his name from Carl Torjagbo to Karl, with a K, Delano.

8 The next month, he created a new company called
9 FlyingJack. The evidence will show that having a new name and
10 a new company name allowed him to hide that the source of his
11 money was the crimes he had committed using his old name,
12 Carl Torjagbo and using his old company name,
13 Kremkov Industries. He also funneled the money from account
14 to account in an effort to cover up the paper trail.

15 You will also hear that over this same time period,
16 the defendant went on a wild spending spree with the stolen
17 money. In August of 2021, he bought a Range Rover for over
18 \$90,000 with no auto loan.

19 In October of 2021, he spent \$98,000 to buy land in
20 Cartersville, Georgia.

21 In January of 2022, he bought a \$120,000 BMW, again
22 with no auto loan.

23 In March of 2022, he spent \$155,000 to buy more land,
24 this time in Acworth, Georgia.

25 Then in April of 2022, he spent \$333,000 to buy a

1 Lamborghini, again, no auto loan.

2 And still in April of 2022, he signed a contract to
3 buy a 72-foot yacht for \$510,000, and he put down a \$51,000
4 deposit.

5 Then during this same time period, he also spent more
6 than \$900,000 to buy a fleet of trucks and trailers.

7 After hearing all of the evidence about how the
8 defendant fraudulently obtained and spent millions of dollars,
9 we're confident that you'll find that the defendant,
10 Karl Delano, formerly known as Carl Torjagbo is guilty of all
11 charges beyond a reasonable doubt.

12 Thank you.

13 MR. FINLAYSON: Good morning. It is morning, isn't
14 it?

15 I'm going to begin on behalf of Mr. Delano and all of
16 the parties by thanking you for your service here in this
17 case. It's a very important matter that you're here to listen
18 to, it's a very important matter that you're here to judge.

19 It's been said that our juries are all that stands
20 between tyranny and the innocent. In short, for Karl, you are
21 the bastion of liberty. It is your job to make sure that the
22 government does its job. It's your job to make sure they
23 prove him guilty beyond a reasonable doubt. And if they can't
24 meet that burden, and when they don't meet that burden, it's
25 your job and your sacred duty to return a verdict which speaks

1 the truth and find him not guilty.

2 Now, you've heard the government's opening, you've
3 heard what they say this case is about. I'm going to tell you
4 what I say this case is about. And this isn't evidence. What
5 he said isn't evidence. The evidence is going to come from
6 here (indicating). They've got to prove -- it's a nice story,
7 it's a nice theory, it sounds impressive, the pictures were
8 nice, but that's not proof, that's not proof. They've got to
9 bring proof.

10 This is a case about Karl Delano, formerly
11 Carl Torjagbo. And let's address that real quick. The
12 government said, ooh, four months after he gets this PPP loan,
13 he changes his name.

14 First of all, if you're going to change your name
15 after getting a bunch of stolen money, the evidence would
16 show, or you would think you wouldn't wait four months. Four
17 months later, he changes his name from Carl Torjagbo, Carl
18 Delano Torjagbo, changes his name to Karl Delano. That is not
19 any kind of massive coverup, that is not a sneaky behind the
20 back let me go hide the money kind of thing.

21 This is a man -- and you'll hear about the name
22 change and why he changed his name. This is a man who never
23 liked the last name, was made fun of by a teacher when he was
24 a child by his last name, and a man who always wanted to
25 change it and he finally did.

1 He's an immigrant in a new country where that name is
2 a hard name. And, yes, he took a more western name, Delano,
3 his middle name. That is not evidence of a coverup. And
4 that's sort of the government's whole theory about the money
5 laundering is that he covered this thing up.

6 There's a term in the law we hear sometimes called --
7 there's a phrase, really, open and notorious. And, in fact,
8 if I was going to tell you there's one thing that you're going
9 to see in this case, open and notorious are the two words I
10 want you to remember. Everything Karl did was open and
11 notorious. He didn't trick anybody. He had no intent, the
12 evidence will show, no intent to commit fraud, no intent to
13 launder money.

14 The government -- he submitted these documents for
15 the PPP loan, the bank had these documents. He submitted his
16 tax returns to the IRS, the IRS had the documents. The bank
17 documents say Charlie Brown, Keanu Reeves, Gene Hackman, rest
18 his soul, all these names. The bank didn't care. The bank
19 issued the PPP loan.

20 Now, you've heard the government say, ooh, he got
21 \$9.5 million and then \$6 million here. Let's be real clear.
22 The PPP loan was \$9.5 million. The bank very quickly pulled
23 back \$6 million of that, within the first month. The bank
24 pulled back \$6 million so that 3 and some change came from the
25 PPP loan, it's not 16 million.

1 The tax returns, you're going to hear about the tax
2 returns, there were two. Karl filed one of those, he did not
3 file both of those, and open and notorious. He will tell you,
4 he's going to testify. You're going to hear him explain what
5 happened. He filed one of those returns.

6 And the IRS looked at that return and they sent him a
7 check for the money that was paid in by Kremkov, paid in for
8 him to get a tax return, open and notorious, everything that
9 he did in this case was open and notorious, and the evidence
10 is going to show you that.

11 Changing his name from Carl Torjagbo to
12 Karl Delano -- Elon Musk and Google will find you real fast,
13 it's just -- it was not some kind of scheme to hide the money.

14 A little bit about Karl. Karl was raised in Ghana.
15 His father was an officer in the Ghana Navy, his mother taught
16 chemistry in secondary school, she was an assistant head
17 mistress.

18 When Karl was 17, he came to this country on an F-1
19 Visa. He went to Florida Institute of Technology and he
20 graduated in December of 2001. He studied aviation management
21 with a flight option. He wanted to be a pilot because his
22 uncle was a pilot. He became a pilot. He passed and obtained
23 his student license, his instrument license, his multi-engine
24 license and beyond. His senior year, he had an instructor's
25 license.

1 Early in his career, he taught flight lessons at the
2 Patrick Air Force Base. He flew Cessnas and small planes. He
3 stuck with it, he worked his way up. His pilot ratings went
4 up, his training hours went up and up. He eventually was
5 certified to fly the 737 Max. He went on to fly for SkyWest,
6 for Mesa Airlines and Flydubai Airlines. And that's Karl in
7 the cockpit.

8 Let's talk about Kremkov and Ghana. Kremkov
9 Industries, Karl founded this company with a partner. The
10 backstory, the history was Karl's great grandfather, Carl
11 Hoyle was a tribal chief. And as you may know, Ghana is a
12 country rich in minerals, rich in gold.

13 In the '70s tribal leaders issued his great
14 grandfather leases to two pieces of property for 75 years,
15 75-year leases with mining rights to two pieces of land in
16 Ghana. One parcel was in the Ashanti region, the other was in
17 the western region.

18 Karl's grandpa died when he was six. Turned out,
19 what Karl learned later, that when his grandpa, great grandpa
20 died, he willed these leases and its -- on this land to Karl.
21 Around 2014, Karl's working as a pilot in Dubai. He meets a
22 Chinese man named Michael Lee, and after several discussions,
23 they decide to start this mining company, and
24 Kremkov Industries was born.

25 Michael Lee agreed to invest, he paid the

1 developmental cost, he paid the labor costs, Karl would
2 provide access to the land through the leases.

3 Michael Lee would be repaid for his investment.
4 Michael Lee invested almost \$12 million into
5 Kremkov Industries. He took multiple -- he was repaid for his
6 investment with gold from that at \$50,000 a year. He got paid
7 back in about 240 kilos of gold and Karl made out pretty well
8 as well.

9 In this type of mining, the type of mining they were
10 doing in Ghana, it's called galamsey, galamsey. It's a Ghana
11 word that I'm probably mispronouncing, but it is an artisanal,
12 small family mining practice that's going on right now in
13 Ghana. And you're going to hear some about this.

14 And that practice is it's all done by hand. It's
15 shovels, wheelbarrows, hands, dig a hole, reinforce it, you go
16 down in the mine and you carry the dirt out, it's all by hand.
17 And it requires many, many workers. And you will learn some
18 of these -- they're small mines, some of them have over a
19 thousand workers down in the hole, carrying out the dirt,
20 carrying out the gold.

21 These mines are -- I call them bootleg mines.
22 They're completely off the books. They're not regulated or
23 they're barely regulated. They are not very safe. They are
24 not environmentally friendly.

25 And they are -- they're not taxed by the Ghana

1 government. They are not preserved or maintained with a great
2 record system. They are holes in the ground with people
3 digging dirt, pulling out the gold when they can get it.

4 And this I'm going to show you, this is demonstrative
5 evidence, this is not Kremkov, but this is what we're talking
6 about, this is what they look like. This is not Kremkov, but
7 this is what they look like.

8 (Whereupon, the recording was played)

9 MR. FINLAYSON: PPP loan. Karl applied for a
10 PPP loan to help keep Kremkov Industries afloat during the
11 COVID pandemic.

12 Did he apply for this loan? Yes, he did. Open and
13 notorious, and you're going to see it. He signed it, he
14 submitted it. List of names, Charlie Brown, Keanu Reeves, all
15 of these people went right to the bank. There was no fraud,
16 there was no secret, there was no -- there was nothing done
17 bait and switch. He laid it all right out there for the bank.

18 They gave him the loan. Did he do everything
19 correctly? Did he do everything perfectly? Probably not.

20 Because the one thing you're going to learn is when
21 the mine shuts down, he takes that money and builds a trucking
22 company in this country. And we'll talk about that in a
23 minute, but that's -- again, that's not a secret. The FBI
24 comes out and interviews him, he tells them, yeah, I put the
25 money from the PPP loan into the trucking company. That's

1 what I did.

2 And the government said, well, you're probably not
3 supposed to do that. Here's the thing about PPP loans, and
4 you're going to learn this, the directions are very clear. If
5 you spend the PPP money on a different business, you've got to
6 pay it back. You don't get forgiven if you spend it on a
7 different business. And that's what Karl did, he spent the
8 PPP money on a different business.

9 And the evidence is clear as can be, he never asked
10 for forgiveness. He didn't say, well, you took back
11 \$6 million already, I still owe you \$3 million, but I want it
12 to be forgiven.

13 No. That \$3 million that remained on that PPP loan
14 became a regular loan that he was obligated and willing and
15 able to repay. And he told them that, open and notoriously.
16 You'll hear it, there is a recording with the bank, bank
17 worker where he's like they pulled back \$6 million. He's
18 talking to them, like, what's going on, why are you doing
19 this?

20 And he goes I have a deferral period, a deferral
21 window before my repayments are due. And if you're going to
22 hold back the \$6 million, I want you to at least put that in
23 writing to me so when my payments become due, I'm paying the
24 right amount. And I'm not going to pay on the part that you
25 pulled back. You'll hear that recording.

1 He never says, oh, let me off the hook. He has
2 never -- he never asked for forgiveness, not once, not once.

3 The February deadline, and the government has said
4 there's a deadline of February 15th, 2020, and that you had to
5 be -- and his words were absolutely right, he said exactly the
6 true thing, the right thing, had to be in operation before
7 February 15th, 2020.

8 Karl and Kremkov were in operation before
9 February 15th, 2020. Did they have a registration with the
10 Secretary of State in Georgia before that date? No.

11 And the government says, well, that's ah-ha, no, no,
12 it wasn't registered and they're going to put that document
13 in, that's going to be Document Number 1. You're going to see
14 that date.

15 The rules did not require registration with the
16 Secretary of State before that date, they required your
17 business is operating before that date. The business went
18 back to 2014. You're going to hear Karl for Kremkov had a EIN
19 number, an employment identification number from 2018, 2018,
20 he's got an EIN number for that company. It's in his name and
21 he's using it for the company.

22 But the point is, and we all know that -- we're all
23 common sense here, you can have a business in this country,
24 you don't necessarily -- you don't necessarily incorporate
25 with the Secretary of State until you have to or you want to

1 or it becomes the right thing or the most tax efficient thing
2 to do. And the rules did not require that you be incorporated
3 as of that date.

4 And this is the language from the CFR, in fact,
5 you're eligible if you're an individual who operates under a
6 sole proprietorship or as an independent contractor if you are
7 in operation on February 15th, 2020. Karl was in operation on
8 that date.

9 I think I've covered the name a little bit already,
10 but this is -- just so you know, when Karl came to this
11 country, he was 17 years old, his full name was Carl Delano
12 Akpene Kqadzo Torjagbo. That's a mouthful, and I'm sorry if I
13 mispronounced it. It then became shortened to Carl Delano
14 Torjagbo. And then he finally changed it to Karl Lucius
15 Delano. That is not somebody that's trying to -- if you are
16 going to change your name, go be John Snow or go be John
17 Smith.

18 If you are trying to hide, if you are trying to be
19 surreptitious, you change your name, you know, to something
20 that's not you. If you look at his Instagram, his Facebook,
21 all of those things, he's been Karl Delano since -- with a
22 K -- Karl Delano since 2018. Again, they're going to find
23 you. That's not -- it's not a big secret, let me go and hide
24 my identity and bury the money, it's just not that kind of
25 thing.

1 I've mentioned you're going to hear the phone call
2 where he tells the bank representative I'm going to make the
3 repayments. If you're going to hold back the 6 million, tell
4 me why and put it in writing so I don't have to make the
5 payments on that.

6 Let's talk about the tax returns, Counts Two and
7 Three. There are two different tax returns you're going to
8 see. Karl filed one of them, his assistant filed the other
9 one. Karl did not file two tax returns with two different
10 birthdays, he did not. And he's going to explain to you how
11 that happened.

12 What's interesting is the IRS sends him a big fat
13 check. And again, he was open and notorious about everything
14 he did there. And you're going to see a document in this
15 case, it is going to be -- likely going to be Government's
16 Exhibit 201A or I will make it Defendant's 1 if it doesn't
17 come in through them.

18 And it's a transcript of his Social Security record.
19 And it's a transcript that's prepared -- I want to say the
20 date is like 2025 is when they actually printed this thing
21 out. And it -- it will show Karl's payments for that 2020
22 return. And it shows the balance that he owes for that 2020
23 return, and the balance it shows owed is zero.

24 They sent him almost a \$3.4 million check and his
25 account balance is zero. If he got a fraudulent tax return of

1 \$3.4 million, his account balance would be negative
2 \$3.4 million.

3 It gets more interesting. And you see the
4 withholdings, they're not W-2 withholdings, they're 1099
5 withholdings, he did not make W-2 withholdings, but you see
6 the withholdings are credited for that year, \$3,459,835. And
7 you see that in the IRS summary document.

8 Well, that's fascinating, and what you're going to
9 see is that's the check that they mailed him. They mailed him
10 the check and on the return that he filed, they sent him
11 \$3,366,240.76. You're going to see the return that generated
12 that check.

13 And what's fascinating is the return amount he
14 requested on that return is like \$3,373,000, and they give him
15 a return of \$3,366,000, they take out \$7,200 of that check and
16 you're going to hear why, because he owed back taxes from the
17 previous years. He owed \$7,000 from some previous years, the
18 IRS processes this thing, they look at their books, they look
19 at what he's paid in, they look at what he's requesting for
20 2020, they said he owes this amount for past years, they
21 deduct it, they deduct \$7,000 from that -- from that tax
22 return check.

23 The IRS calculated this correctly. The government is
24 going to argue to you that he didn't pay any money in, he
25 wasn't entitled to a dime, it was all fraud. But it didn't

1 just come straight through, like maybe, you know, like bam,
2 bam, bam, you know, computers are running the world. If it
3 had been the exact amount that was exactly what was requested
4 on the IRS form, perhaps that would be more consistent, but
5 the evidence in this case is going to show you that's not what
6 happened.

7 He was open and notorious. He requested 3.37, they
8 gave him 3-point -- they give him 3,366,000, they took \$7,000
9 out of the check for previous year's owed taxes. They looked
10 at -- they looked at what he paid in, they looked at what he
11 was requesting and they did the math correctly. That's the
12 IRS. So this is not fraud. This is the IRS doing the math,
13 paying him what he was entitled to.

14 Where did the PPP money go? Well, first of all,
15 \$6.5 million went back to the bank. I don't know if it goes
16 back to the bank or back to the government, but it comes from
17 the government, goes to the bank, went to Karl, went back to
18 the bank, I assume the bank sent it back to the government,
19 but I don't know that.

20 The rest went to start FlyingJack Freight and
21 Logistics, an American-based company. And you're going to
22 hear about all of these trucks, all of the -- there's two land
23 purchases he bought for that company. Trucks, tractors,
24 insurance, registrations, drivers, labor, that's what the PPP
25 money did.

1 And again, they want to say well, the PPP money was
2 for Kremkov Industries. You're not supposed to spend
3 Kremkov's money on a trucking company. And you're not. But
4 if you do, you have to repay it.

5 If you do it fraudulently, then that's a crime. But
6 if you do it open and notoriously -- he told everybody what he
7 was doing. He told everybody, he told the FBI, he told --
8 you're going to hear from a witness, a Mr. Oppong, a childhood
9 friend, allegedly, he told him, he said, look, the mine is
10 shutting down, I'm going to -- I'm putting the money into
11 FlyingJack, the trucking company. He told everybody what he
12 was doing. And the bank records are clear as day, it is clear
13 as day what he was doing. He took the PPP money and he put it
14 into a trucking company.

15 There are trucks, logos, you'll see it, you'll see it
16 all. He bought land, he paid drivers. He never asked for
17 forgiveness, he never intended to defraud anybody.

18 All right. The money laundering counts, and he's
19 charged with two kinds of money laundering, the first kind of
20 money laundering he's charged with, counts are called
21 concealment money laundering counts. And that's where you
22 like doing sneaky stuff to try to conceal that you got illegal
23 money. And you see it in drug cases, you see it in all kinds
24 of cases where you're trying to hide the nature of the illegal
25 activity, you're trying to conceal it.

1 Karl didn't conceal anything in this case. It's
2 clear as day, it's bank -- it is a paper trail a mile long,
3 bank account to bank account. PPP to Chase, to the next bank
4 account to Kremkov or to Chase to the freight company, to the
5 trucks. Did he buy these things they're talking about? He
6 bought every one of them. Absolutely, open and notorious,
7 no -- nothing sneaky or hidy about it.

8 You know, the cars were at his house, like one was at
9 a dealership, he didn't -- Carl Delano, Karl Delano, okay,
10 maybe that's the big sneaky part, but he didn't do -- he did
11 this stuff wide open.

12 And what you'll see when you'll see where this money
13 comes from, it's 3 million from PPP and that went to the
14 trucking company. 3.36 from the tax return and his other
15 money went to buy the house, the cars, the toys, all the stuff
16 that they say is all this ill-gotten wealth. The wealth was
17 not ill-gotten. The wealth came from his tax return. And the
18 wealth came from some money he had before, he didn't have a
19 lot of money before, but he was a pilot, remember that, he was
20 a pilot. He flew 737s, he had some money before.

21 He gets a tax return, buys the toys, he's not
22 spending PPP money on the toys. And that's what that --
23 that's their theory, is he spent PPP money -- PPP money on the
24 toys. The evidence doesn't show that. He bought the toys,
25 absolutely. He bought them in his name. He was not hiding

1 anything, he's not concealing anything.

2 The transactional money laundering, that's saying,
3 well, you're buying stuff that costs over \$10,000 with funds
4 from unlawful activity. And he did not do -- did he buy
5 things over \$10,000? Yes, absolutely, open and notorious in
6 his name.

7 Did he buy the toys? Sure, he did. But he did not
8 buy them with unlawfully gotten funds. And that's what
9 they've got to prove here.

10 The evidence will show Karl did not commit PPP loan
11 fraud nor did he knowingly or intentionally commit wire fraud
12 upon the IRS.

13 He did not launder money to conceal its source.
14 Again, there's a paper trail a mile long, everything is in his
15 name, Karl Delano -- Carl Torjagbo, Karl Delano. He didn't
16 conceal anything. His purchases and transactions did not make
17 use of funds derived from unlawful activity.

18 And you've heard the Judge talk to you a little about
19 the burden, and you're going to hear more about it. You're
20 going to hear more about it during the case and at closing
21 argument.

22 The government has got to prove this stuff to you
23 beyond a reasonable doubt. That is the highest standard we
24 have in our legal system. Karl doesn't have to prove to you
25 that Kremkov existed. Karl doesn't have to prove to you that

1 he had 493 workers.

2 And by the way, let me clarify something about those
3 workers, those workers did not have to live in the
4 United States. Those workers had to have their legal
5 residence in the United States. He believed and he understood
6 that he had workers in that mine that were expats working in
7 Ghana. They did not have to live here. So he didn't have to
8 like try to pull a fraud with that.

9 But he doesn't have to prove any of that to y'all.
10 The government's got to prove to you those 493 workers didn't
11 exist. And truthfully, that's -- they have to prove the
12 company and the payroll didn't exist. 493 is not a magic
13 number, by any means, you'll learn this. It's the amount of
14 payroll that's important. And again, Karl did not
15 fraudulently intend to do anything here. He submitted the
16 documents plain as day.

17 You're going to learn when you hear about proof
18 beyond a reasonable doubt, it's a level of certainty -- proof
19 beyond a reasonable doubt is proof to such a level of
20 certainty that you would be willing to rely upon it in your
21 everyday affairs, in your most important everyday affairs.

22 And when the government can't give you that proof and
23 that certainty in that case, you are going to come out here
24 with doubt. And when we're done with all of this, I'm going
25 to come back to you and I'm going to ask you to return a

1 verdict which speaks the truth. And that verdict that speaks
2 the truth will be not guilty.

3 Thank you.

4 THE COURT: Okay. Call your first witness, please.

5 MS. CONNORS: Your Honor, the United States calls
6 Special Agent Tyson Fowler.

7 - - -

8 TYSON FOWLER,

9 A witness herein, having been first duly sworn, was examined
10 and testified as follows:

11 - - -

12 COURTROOM DEPUTY: Thank you. For the record, will
13 you please state and spell your first and last name.

14 THE WITNESS: Sure. My name is Tyson Fowler, and
15 it's T-Y-S-O-N, F-O-W-L-E-R.

16 COURTROOM DEPUTY: Thank you.

17 DIRECT EXAMINATION

18 BY MS. CONNORS:

19 Q. Agent Fowler, can you please tell the jury where you
20 currently work?

21 A. I currently work for the Social Security Administration,
22 Office of the Inspector General.

23 Q. And do you have other law enforcement experience?

24 A. I do. This is my 21st year in law enforcement. Prior to
25 the SSA OIG, I worked for the FBI for 12 years as a special

1 agent.

2 Q. And what's your educational background?

3 A. I have two bachelor's degrees from the University of
4 Central Florida. And then I also have multiple cyber
5 certifications and an anti-money laundering certification.

6 Q. And as part of your employment with Social Security OIG
7 and FBI, did you have to go through any kind of specialized
8 training?

9 A. Yes.

10 Q. And what was that?

11 A. With the FBI, I was a cyber agent. And basically my role
12 was anything that was criminally motivated cyber intrusions,
13 which dealt with fraud via computers, so account takeovers,
14 ransomware, things like that, I had specialized training, like
15 I said, I hold six different cyber certifications, including
16 forensics and a number of others, and then I have an
17 anti-money laundering certification and also now 21 years of
18 experience.

19 Q. And what are some of your duties as a special agent with
20 the Social Security Administration?

21 A. So the Office of Inspector General is tasked with waste,
22 fraud and abuse with the Social Security Administration. That
23 can include any material misrepresentations to the
24 Social Security Administration or anything that would involve
25 reputational harm or false reporting to the Social Security

1 Administration.

2 Q. Agent Fowler, are you one of the case agents related to
3 this investigation?

4 A. I am not.

5 Q. What role did you have in this investigation?

6 A. I received an allegation of potential material
7 misrepresentation to the Social Security Administration and I
8 conducted my own logical investigation based on the data I
9 received.

10 Q. Okay. And did you -- as an agent with the Social Security
11 Administration, do you have access to Social Security systems
12 that may maintain data related to Social Security numbers?

13 A. I do. I have access to the entire history of
14 Social Security Administration's data from the creation of it
15 to current.

16 Q. And in terms of the information that the Social Security
17 Administration keeps or keeps a record of, would that include
18 things like wages and earnings that are reported for
19 individuals?

20 A. Yes, it does.

21 Q. Does it include as well things like Social Security taxes,
22 Medicare taxes that may be paid?

23 A. That's correct.

24 Q. And why is it that the Social Security Administration
25 keeps track of Social Security tax, Medicare tax and wages and

1 earnings of individuals?

2 A. So that they can properly calculate your retirement
3 benefit when you reach that age. So every American citizen is
4 probably familiar with it, but when you work in a W-2 or an
5 environment where you have a job and you get a paycheck, taxes
6 are automatically taken out and those calculations go into
7 your retirement -- retirement benefit later in life, or if you
8 needed disability benefits, should you need to.

9 Q. And in terms of those taxes, essentially is that then sort
10 of like the money you get back in terms of those benefits
11 later on?

12 A. Yes. It calculates your qualification for how much you
13 would get back in retirement per your Social Security benefit.

14 Q. And how does the Social Security Administration typically
15 receive that type of information, information about wages and
16 earnings of individuals and any kind of tax withholdings?

17 A. So for the majority of citizens, your employer takes care
18 of that. Your employer, when they issue your W-2, that gets
19 reported to the Social Security Administration, and then it
20 goes to the IRS.

21 In cases where you are a business owner, you have a
22 responsibility to either do it through your tax preparer or
23 through what's called Business Services Online, which is an
24 account you would create with the Social Security
25 Administration. And you would file employee data through that

1 database before you file or as you file your W-3 or W-2
2 tax-related data for your employees.

3 Q. So essentially does it end up that there are times where
4 potentially IRS and Social Security are both accessing the
5 same data through W-2s, W-3s, W-4s?

6 A. That's correct.

7 Q. As part of your involvement in this case specifically, did
8 you search for Social Security records related to
9 Kremkov Industries?

10 A. Yes, I did.

11 Q. Was Kremkov Industries registered in the State of Georgia?

12 A. Not with the Social Security Administration.

13 Q. So in terms of your experience as a special agent, are you
14 aware that some companies can register with the Secretary of
15 State?

16 A. Yes.

17 Q. And if you would look in that binder, there should be an
18 Exhibit 1 in there. If you will take a look at that document.

19 A. Yes.

20 Q. And what is that document?

21 A. That is a State of Georgia from the Secretary of State
22 Corporation Division and it's the registration of
23 Kremkov Industries.

24 MS. CONNORS: And, Your Honor, we do have a
25 stipulation as to authenticity of that record. And I move to

1 admit.

2 MR. FINLAYSON: No objection.

3 THE COURT: Okay. Then Government's Exhibit 1 is
4 admitted into evidence and you may publish it to the jury.

5 MS. CONNORS: Thank you, Your Honor.

6 And if we could please pull up Exhibit 1.

7 BY MS. CONNORS:

8 Q. So before the jury could see this, you indicated some
9 information, but I want to make sure that they know what we're
10 looking at.

11 So for Exhibit 1, is this related to
12 Kremkov Industries?

13 A. Yes, it is.

14 MS. CONNORS: And if we can go down to Page 2 of this
15 exhibit.

16 BY MS. CONNORS:

17 Q. And is this the actual certificate that gets issued by the
18 Secretary of State?

19 A. Yes, it is.

20 Q. And what is the date identified as when Kremkov Industries
21 was organized in the State of Georgia?

22 A. It was January 11th of 2021 is when there was an official
23 seal and it was signed. And then -- but it has been duly
24 organized as of January 4th of 2021.

25 Q. And is that something that you've seen before, that the

1 certificate is issued at a later date from when there's -- the
2 information is submitted to the Secretary of State?

3 A. Yes.

4 Q. Okay.

5 MS. CONNORS: And if we can go down to Page 3 of that
6 exhibit.

7 BY MS. CONNORS:

8 Q. And at the top here, is this still related to
9 Kremkov Industries?

10 A. Yes, it is.

11 Q. And in -- there's a principal office address, what city is
12 that address in?

13 A. Douglasville, Georgia.

14 Q. And is it 3081 Leatherleaf Trail?

15 A. Yes, ma'am.

16 Q. And then there is a section for organizers. And for the
17 organizer, who is that?

18 A. It says Carl Delano Torjagbo.

19 Q. Okay. And, Agent Fowler, if you will look at Exhibit 13,
20 it's probably in that same binder. And what is -- what is
21 that exhibit?

22 A. It's a petition to change the name of an adult.

23 Q. Is it a petition to change Carl Torjagbo's name?

24 A. Yes, it is.

25 MS. CONNORS: Your Honor, this is also a document

1 that was subject to our stipulation for authenticity. And I
2 would move to admit.

3 MR. FINLAYSON: No objection.

4 THE COURT: Okay. It is admitted. What's the
5 exhibit number?

6 MS. CONNORS: Exhibit 13.

7 THE COURT: Exhibit 13 is admitted.

8 MS. CONNORS: Thank you, Your Honor.

9 And may I publish?

10 THE COURT: You may. If I admit it, you-all both can
11 publish it.

12 MS. CONNORS: Thank you, Your Honor.

13 THE COURT: Y'all have the controller on that, right?

14 MS. CONNORS: Yes, Your Honor.

15 THE COURT: Okay. Thank you.

16 BY MS. CONNORS:

17 Q. Okay. And so, Agent Fowler, what is the -- what's
18 identified under that Number 1 as essentially the petitioner's
19 current name?

20 A. It says the petitioner's name is Carl Delano Torjagbo.

21 Q. And does it have a date of birth identified?

22 A. Yes, it says 9/10 of 1979.

23 Q. And is there also a city and country of birth?

24 A. There is. And it's -- forgive me if I'm pronouncing it
25 wrong, but Accra, Ghana.

1 Q. And then below that, does it indicate what name
2 Mr. Torjagbo wants to change his name to?

3 A. Yes, to Karl with a K, Lucius Delano.

4 Q. Okay. And at the top, was this filed in the Superior
5 Court of Cobb County?

6 A. Yes.

7 Q. And I know it might be kind of hard to see, but in the top
8 right corner, is there a date identified as filed in office?

9 A. July 29th of 2021.

10 Q. Thank you.

11 MS. CONNORS: And if we could move to Page 12 of that
12 exhibit.

13 BY MS. CONNORS:

14 Q. And was the name change granted?

15 A. Yes, it was.

16 Q. And it's a bit hard to see the handwritten date that's in
17 the middle for after so ordered, but there's also the date
18 filed in court in the bottom left. And what is that date?

19 A. Forgive me, I can't read the so ordered date, but it says
20 September of 2021. And then down at the bottom, it says filed
21 in court, and it says September 17th of 2021.

22 Q. Okay. And so would that be the time that then the name
23 change was granted?

24 A. That's correct.

25 Q. And so going forward during your testimony, if I refer to

1 Karl Delano or Mr. Delano, would you understand that any
2 documents that are also referencing Karl Delano Torjagbo would
3 be talking about the same person?

4 A. Yes.

5 Q. Agent Fowler, are you -- do you have some awareness of the
6 Paycheck Protection Program?

7 A. I do.

8 Q. And I know it may not be quite the expertise of
9 Social Security, but just what's your general understanding of
10 what that program is for?

11 A. My general understanding is during COVID times, it was a
12 program created to help businesses pay their employees when
13 the business was tough due to the lockdowns.

14 Q. And are you aware that -- of Kremkov Industries, a company
15 in that name, that you were also looking at Social Security
16 data for filing for a Paycheck Protection Program loan?

17 A. Yes.

18 Q. And if you will look at Exhibit 101.

19 A. Which? Just regular 101?

20 Q. Yes, yes.

21 A. Yes, ma'am.

22 Q. Is that a copy of the Paycheck Protection Program loan?

23 A. Yes, ma'am.

24 Q. Okay.

25 MS. CONNORS: Your Honor, this record is part of

1 Chase records that were stipulated to and I would move to
2 admit.

3 THE COURT: Any objection?

4 MR. FINLAYSON: No objection.

5 THE COURT: All right. 101 is admitted.

6 MS. CONNORS: Okay. And if we can go ahead and pull
7 up that exhibit. Thank you.

8 BY MS. CONNORS:

9 Q. Now, Agent Fowler, in terms of the -- this loan document,
10 is it multiple pages?

11 A. Yes, it is.

12 Q. Okay. Is there essentially this application to begin with
13 and then some supporting documentation as well?

14 A. Yes.

15 Q. Okay. So to go over this particular part of the
16 application, is Kremkov Industries, LLC, identified as the
17 business legal name of the company that's requesting this
18 PPP loan?

19 A. Yes, it is.

20 Q. And what is the year of establishment for the company
21 that's near the top right?

22 A. In the top right, it says 12/31 of 2014.

23 Q. And then do you see where there is a business address?

24 A. I do.

25 Q. Is that the same Douglasville address that was on the

1 Georgia Secretary of State documents?

2 A. It is, the Leatherleaf Trail.

3 Q. And do you see where there is a primary contact name?

4 A. Yes.

5 Q. And whose name appears there?

6 A. Carl Torjagbo.

7 Q. And then at sort of the bottom, if you -- is your screen
8 on?

9 A. It flickers.

10 Q. Okay.

11 A. So I was reading off the paper.

12 Q. So it might be easier. So do you see the section where it
13 says applicant ownership?

14 A. Oh, yes, ma'am.

15 Q. Okay. And what name is listed as the owner name?

16 A. Carl Torjagbo.

17 Q. And what's the title?

18 A. Owner and 100 percent ownership.

19 Q. Is there any indication in that box that there is a
20 partner?

21 A. No.

22 Q. Any indication that anyone else owns any percentage of
23 Kremkov Industries?

24 A. No.

25 Q. And then if you can look back towards the -- that top half

1 of the page, where it lists a business TIN, EIN or SSN.

2 A. Yes.

3 MS. CONNORS: It's the section above. If you will
4 zoom out of that. There you go.

5 Sorry. I wanted to make sure that they can see it on
6 their screen.

7 BY MS. CONNORS:

8 Q. So there is a business essentially identification. Is
9 that what that is?

10 A. Yes, ma'am.

11 Q. So are you familiar with the term EIN?

12 A. Yes, I am.

13 Q. What is that?

14 A. It's an employee identification number. It's used to
15 identify businesses with the IRS and Social Security
16 Administration.

17 Q. Okay. And in terms of this particular business
18 identification number, does it end in 7540?

19 A. Yes, it does.

20 Q. Okay. And I think you probably just answered this, but
21 just to confirm, just is this one way that Social Security is
22 tracking any of those wages, records, any kind of
23 Social Security tax that would be paid, or Medicare tax?

24 A. Yes, it is.

25 Q. And then if you look across, there is an amount for

1 average monthly payroll. And what is that number?

2 A. It's \$3,821,770.

3 Q. And then kind of going across that line to the end, is
4 there a number of employees listed?

5 A. Yes. It says 493.

6 Q. And so what was the total amount of the loan request
7 that's sort of in the middle of that line?

8 A. \$9,554,425.

9 Q. All right.

10 MS. CONNORS: And we're going to move ahead in that
11 exhibit to Page 10.

12 BY MS. CONNORS:

13 Q. And, Agent Fowler, before testifying today, have you had
14 an opportunity to look at the information related to this PPP
15 application?

16 A. Yes, I have.

17 Q. And in regards to this particular document, does it
18 have -- does it indicate that it is a payroll journal detail
19 report at the top?

20 A. Yes, it does.

21 Q. And what's the name of the company that this is -- this
22 payroll relates to?

23 A. Kremkov Industries.

24 Q. And what is the date range for this particular payroll?

25 A. For this page, it's February -- or 2/1 of 2020 to the end

1 of February, so it's the month of February for 2020.

2 Q. Okay. And is this a document that was -- your
3 understanding it was provided as a supporting document as a
4 part of that PPP loan application?

5 A. Yes, it was.

6 Q. And if you look in the top right corner, does it indicate
7 this is just Page 1 of this payroll journal detail report?

8 A. Yes, Page 1 of 71.

9 Q. Now, looking at the payroll, are there columns underneath
10 each person's name that has a different what appear to be
11 abbreviations?

12 A. Yes.

13 Q. Okay. So do you see an abbreviation for, for example, fed
14 tax, SS tax, med tax?

15 A. Yes.

16 Q. And is there also an abbreviation, the third from the last
17 column, of FICA?

18 A. Yes, FICA or FICA.

19 Q. And in terms of these sort of abbreviations, do you see
20 that there is a key to explain what those mean?

21 A. Oh, yes.

22 Q. And so according to these abbreviations, what does SS tax
23 stand for?

24 A. SS tax stands for Social Security tax.

25 Q. Would that typically mean tax paid for Social Security

1 Administration?

2 A. Yes, it would.

3 Q. Okay. And in terms of med tax, what does that stand for?

4 A. Medicare tax.

5 Q. And what's the interplay with Medicare and
6 Social Security?

7 A. Depending on your -- your income levels depend on what you
8 end up paying for your Medicare premiums when you retire. So
9 a lot of times it -- they mutually impact each other. Based
10 on your Social Security premium and your Medicare premium and
11 also it will fluctuate based on your income, so it has to be
12 calculated altogether.

13 Q. Okay. And so is that why Medicare tax would also be
14 something that Social Security is keeping a record of?

15 A. That's correct, yes.

16 Q. And in terms of Social Security tax and Medicare tax,
17 would this be something that U.S. individuals are paying into
18 the Social Security system to be able to ultimately get
19 Social Security retirement and Medicare coverage?

20 A. Yes.

21 Q. And I think you've already mentioned this to some degree,
22 but can you explain how it would be that employers may
23 withhold those taxes or deduct the tax amounts from payroll?

24 A. It's by law. But unless you work for an employer that
25 doesn't collect Social Security tax, and there's very few of

1 those, by law, employers have to take out Social Security tax
2 so that your proper calculations for your retirement are able
3 to be completed.

4 Q. Okay. And in terms of like the W-2s and W-3s and W-4s, is
5 that how employers would be able to get information about how
6 much of that tax they're supposed to withhold from the
7 employee's paycheck?

8 A. Yes.

9 Q. And again, those are forms that get submitted to
10 Social Security and also may get submitted to IRS?

11 A. Yes.

12 Q. And who typically gets them first?

13 A. Social Security.

14 Q. Okay. All right. And so Agent Fowler, looking at this
15 particular payroll, in terms of each column, is there a gross
16 amount and then a net pay amount that you can see?

17 A. Yes.

18 Q. And is that typically the difference between gross
19 earnings someone may have and what they would actually get
20 paid after any kind of tax deductions?

21 A. Yes.

22 Q. Or maybe potentially some other type of deduction,
23 insurance, something like that?

24 A. Yes, there's a number of things that could be taken out
25 that would -- your net pay would be what you take home and

1 your gross is your -- the whole amount before things are taken
2 out.

3 Q. Okay. And so for this payroll, do you see that there is
4 kind of like a minus sign or negative sign in front of the
5 Social Security tax number, the med tax number and some of
6 these other figures?

7 A. Yes.

8 Q. Is that indicating that those amounts are being deducted
9 from the gross pay?

10 A. Yes.

11 Q. And I think the one acronym we mentioned earlier that we
12 haven't gone over yet is that FICA.

13 What exactly -- well, first of all, in terms of the
14 key at the top of that, is there a description of what the
15 FICA is?

16 A. Yes, there is.

17 Q. And what is that?

18 A. It says employee's portion or employer's portion of
19 Social Security and Medicare tax combined, it's a plus.

20 Q. Okay. And so how does that work in terms of FICA?

21 A. So it's what the employer is responsible for, because your
22 employer contributes to the tax as well, so employees are
23 responsible and employers are responsible to pay tax for
24 your -- ultimately your calculation for Social Security
25 benefits.

1 Q. Okay. And in terms of FICA, since that's something that
2 your employer is supposed to be paying for, that would not be
3 deducted from the employee's pay?

4 A. Right.

5 Q. Okay. But is that number still something that
6 Social Security would be keeping track of?

7 A. Yes.

8 Q. Okay. So if Kremkov Industries was deducting
9 Social Security tax from its employee's payroll, would the
10 Social Security Administration be aware of those taxes being
11 paid?

12 A. Yes.

13 Q. Would Social Security have a record of those taxes being
14 paid?

15 A. Yes.

16 Q. Would that record exist under the EIN for
17 Kremkov Industries, that employer identification number?

18 A. Yes.

19 Q. And would that be the same for the Medicare tax?

20 If Medicare taxes were being withheld from
21 Kremkov Industries employees, would the Social Security
22 Administration have a record of that?

23 A. Yes.

24 Q. And if Kremkov Industries was paying the FICA portion for
25 any employees, would Social Security have a record of that?

1 A. Yes.

2 Q. Okay. And, Agent Fowler, we looked at that first page of
3 the PPP application a few minutes ago.

4 Was that an EIN -- was there an EIN on that for 7540?

5 A. Yes.

6 Q. And in terms of that particular EIN, were you able to
7 search for any kind of records related to Kremkov Industries
8 and that EIN through Social Security's system?

9 A. Yes, I was.

10 Q. And if you will please look at Exhibit 3. Do you
11 recognize that exhibit?

12 A. I do.

13 Q. And does it relate to the EIN ending in 7540?

14 A. It does. It's a screenshot that I took.

15 Q. Okay. And is it something from Social Security's system?

16 A. It is.

17 MS. CONNORS: And, Your Honor, the Social Security
18 records are part of our stipulation related to authenticity.
19 And I would move to admit Exhibit 3.

20 MR. FINLAYSON: No objection.

21 THE COURT: Okay. Exhibit 3 is admitted.

22 MS. CONNORS: Thank you, Your Honor. And if we can
23 go ahead and publish. Thank you.

24 BY MS. CONNORS:

25 Q. Okay. And so, Agent Fowler, can you explain -- you said

1 it's a screenshot. Exactly what is this screenshot?

2 A. So it looks a little archaic, but this is the system we
3 use to query EINs. We have the same similar system query SSNs
4 as well.

5 And if you look at the top, it says employer
6 identification number, and then it says EIN, and that's the
7 EIN ending in 7540.

8 And then the report period, I can either specify
9 individual years, in this case I did a range, and I did it
10 from '14, which is 2014 to 2025, and I submitted that query
11 for any results that would come up.

12 Q. And in regards to that date range starting in 2014, was
13 that because the PPP application indicated that that was when
14 Kremkov Industries was established?

15 A. Yes.

16 Q. And in regards to your search of the EIN ending in 7540,
17 were there any records?

18 A. There were not. You can see at the bottom in red where it
19 says no records found for specified EIN years.

20 Q. And so what does that mean?

21 A. It means there was nothing reported to the Social Security
22 Administration.

23 Q. Does that mean that there are no Social Security -- there
24 was never any Social Security tax information submitted for
25 employees of this company?

1 A. That's correct.

2 Q. Does it mean that there was never any information about
3 Medicare taxes for any employees of this company?

4 A. Yes.

5 Q. Does it mean that there were no --

6 MR. FINLAYSON: Objection, Your Honor. Objection,
7 we're leading here. Sorry. Does it mean.

8 MS. CONNORS: I don't think does it mean is a leading
9 question.

10 THE COURT: I will overrule the objection. I don't
11 need y'all going back and forth. I'm just trying to think,
12 not waiting for more.

13 I'm going to overrule the objection. Go ahead.

14 MS. CONNORS: Thank you, Your Honor.

15 BY MS. CONNORS:

16 Q. So if there were any FICA withholdings submitted on behalf
17 of Kremkov Industries for any employees under this EIN, would
18 it have returned a record?

19 A. It would have, yes.

20 Q. And, Agent Fowler, were you also -- did you also query two
21 other EINs that were related to either Kremkov Industries or
22 potentially another company name?

23 A. Yes.

24 Q. Okay. And if you could look at Exhibits 4 and 5, and let
25 me know if you recognize those.

1 A. Yes.

2 Q. And what are those?

3 A. Those are screenshots that I took of my query for two
4 other EINs that I was given as per the allegation.

5 Q. Okay.

6 MS. CONNORS: And, Your Honor, again, the
7 Social Security records were part of our stipulation related
8 to authenticity. And I would move to admit Government's
9 Exhibits 4 and 5.

10 MR. FINLAYSON: No objection.

11 THE COURT: Okay. 4 and 5 are admitted.

12 MS. CONNORS: Okay. And if we could pull up 4.

13 BY MS. CONNORS:

14 Q. And in regards to this query, what's the last four of the
15 EIN number that was searched?

16 A. 8332.

17 Q. And did you search for the same timeframe for this one?

18 A. I did. In the middle you can see where it says '14 to
19 '25.

20 Q. And for this EIN, were any records found in the
21 Social Security system?

22 A. No.

23 Q. And so in terms of any kind of tax -- Social Security
24 taxes, Medicare taxes or FICA?

25 A. There was no records found for any of them -- of those.

1 Q. And then if you can --

2 MS. CONNORS: If we can pull up Exhibit 5.

3 BY MS. CONNORS:

4 Q. And was this a third EIN that was being searched?

5 A. Yes, ma'am.

6 Q. Okay. And for this EIN, what's the last four numbers?

7 A. 1377.

8 Q. And did you search the same timeframe for this one as
9 well?

10 A. I did.

11 Q. And for this EIN, were any records found in
12 Social Security's systems?

13 A. No.

14 Q. And again, what would that mean related to this EIN?

15 A. No Social Security tax, no W-2 or W-3 was reported at all,
16 which would include all of those -- those different deductions
17 and different taxes.

18 Q. Okay. And, Agent Fowler, we're going to go back to that
19 payroll that was on the PPP application in Exhibit 101. And
20 we're going to -- I'm going to go to -- back to Page 10 that
21 we were looking at before.

22 And so I want to go through a few examples from this
23 payroll. The first individual it looks like the name is Scott
24 Ackers, I think it's pronounced.

25 Now, does -- in regards to Scott Ackers, does this

1 payroll indicate that Social Security taxes, Medicare taxes
2 and FICA were paid?

3 A. Yes.

4 Q. And in regards to the three EINs that you had searched,
5 did any of those return anything consistent with Social
6 Security taxes, Medicare taxes and FICA being paid to this
7 employee of Kremkov Industries?

8 A. No.

9 Q. And in regards to every employee on this particular page,
10 does it have a column for every employee listing that
11 Social Security taxes, Medicare taxes were being withheld and
12 that FICA was being paid?

13 A. Yes, it does.

14 Q. And did you see any evidence of tax -- those tax
15 categories being paid in Social Security's system for any of
16 the three EINs that you checked?

17 A. No.

18 MS. CONNORS: And if we can move down to Page 11, the
19 next page.

20 BY MS. CONNORS:

21 Q. Is this page similar?

22 A. Yes.

23 Q. All right. So do you essentially see the same thing in
24 terms of the different columns of tax withholdings for
25 Social Security tax, Medicare tax and FICA?

1 A. Yes.

2 Q. And is this information, in terms of those tax
3 withholdings, consistent with what you searched for for those
4 three EINs?

5 A. No, nothing on this sheet showed up in my records, in my
6 search.

7 Q. Okay. And I'm going to skip ahead a few pages to page 16
8 of this payroll. And do you see the same thing here?

9 A. Yes.

10 Q. And in regards to this payroll, the PPP application had
11 identified that there were 493 employees or said there were
12 493 employees for Kremkov Industries. Were 493 names
13 submitted for this payroll?

14 A. Yes.

15 Q. And for the 493 names, is each one indicating that there
16 is Social Security tax, Medicare tax and FICA paid?

17 A. That's correct.

18 MS. CONNORS: And if we can go to Page 80 and show
19 the bottom of this list for payroll.

20 BY MS. CONNORS:

21 Q. Does it have grand totals listed at the bottom?

22 A. I'm sorry.

23 Q. No, not a problem.

24 A. Yes, ma'am.

25 Q. And it might be a little hard to see with it zoomed out,

1 but is this indicating that there is a grand total for
2 Social Security taxes?

3 A. Yes.

4 Q. And I don't know if you can kind of tell on your paper a
5 little bit better, but in terms of that amount, what was
6 the -- what was the grand total for the Social Security taxes
7 paid?

8 A. \$241,902.91.

9 Q. And did you -- when you queried those three EINs, did you
10 see any -- any record that that amount of money had been paid
11 to Social Security for Kremkov employees?

12 A. No.

13 Q. And in terms of these grand totals, is there a total for
14 Medicare taxes?

15 A. Yes.

16 Q. And what's that total?

17 A. \$56,573.27.

18 Q. And in regards to the queries that you conducted through
19 the Social Security system for all three of these EINs, did
20 you see anything consistent with that amount being paid?

21 A. No.

22 Q. And then finally, for FICA, is there also a grand total
23 for that?

24 A. Yes.

25 Q. And in regards to that grand total, what is the amount?

1 A. \$298,476.18.

2 Q. And in regards to the queries that you did for the three
3 different EINs, did you see any evidence of that amount being
4 paid?

5 A. No.

6 Q. And in regards to these particular totals here, would this
7 only relate to the February of 2020 timeframe that was on that
8 first page of this payroll?

9 A. Yes.

10 MS. CONNORS: Your Honor, I don't know if we were
11 doing a lunch.

12 THE COURT: How about lunch? Okay. We're going to
13 take our lunch break for one hour, a hard one hour.

14 All right. Don't talk about this case. You don't
15 know anything other than what you've heard so far. Remember,
16 I'm going to keep telling you that, don't talk about anything
17 to do with this case. Talk about other stuff. All right?

18 Okay. Thank you-all very much. We'll see you in an
19 hour.

20 COURTROOM SECURITY OFFICER: All rise.

21 (Whereupon, the jurors exited the courtroom.)

22 THE COURT: Y'all can be seated.

23 Okay. Anything to talk about?

24 MR. FINLAYSON: No, sir.

25 THE COURT: All right. We'll see you in an hour.

1 Thank you.

2 COURTROOM SECURITY OFFICER: All rise.

3 (Whereupon, a lunch recess was taken.)

4 THE COURT: Sir, what happened today?

5 Y'all can be seated.

6 JUROR: I didn't know actually I was supposed to be
7 here this morning. It said to call.

8 THE COURT: But remember when I told you at the end
9 of the day yesterday, see you at 8:30? Didn't I tell you
10 that?

11 JUROR: Can I sit down?

12 THE COURT: Yes.

13 JUROR: It's possible you told me but I don't
14 remember. I'm sorry.

15 THE COURT: Okay. All right. Well, I don't know
16 what I can say about it, but you were supposed to be here at
17 8:30 today. You've put us in a bad spot. We've had to move
18 on without you. There's a little bit of room for that, but if
19 you're called again, and you get selected for jury service,
20 you have to serve.

21 Do you understand?

22 JUROR: Yes, I do understand.

23 THE COURT: If you don't, some judges would send the
24 marshals to come get you and bring you here in a very unhappy
25 way.

1 Do you understand?

2 JUROR: Even when they say it's on call?

3 THE COURT: You're not on call. I told you yesterday
4 you had been selected.

5 JUROR: Oh.

6 THE COURT: I told you that you had been selected.
7 Remember you sat up in the jury box?

8 JUROR: Yes, I did.

9 THE COURT: And I told you that you're now the jury
10 that's going to serve and that you need to be back here today
11 at 8:30. Remember, I said it's got to be at 8:30. We're
12 going to start right at 8:30.

13 JUROR: Yes, you said that. Yes, I do remember.

14 THE COURT: All right. Next time that happens, if it
15 happens to me, I'm going to send the marshals to come get you
16 and pull you out of your employment or wherever you are.

17 Do you understand that?

18 JUROR: I apologize.

19 THE COURT: Okay. Thank you.

20 JUROR: Thank you, sir.

21 THE COURT: All right. Now, you can't -- we have
22 moved on without you. You've got to go. You're done.

23 JUROR: Okay. Thank you.

24 THE COURT: Oh, I'm sorry. I thought you were
25 bringing them in. I saw you go back there. I'm sorry. I was

1 paying attention to something else. It was getting awfully
2 quiet in here.

3 COURTROOM SECURITY OFFICER: All rise.

4 (Whereupon, the jurors entered the courtroom.)

5 THE COURT: All right. Y'all can be seated.
6 Everybody okay?

7 All right. Go ahead, please.

8 MS. CONNORS: Thank you, Your Honor.

9 BY MS. CONNORS:

10 Q. Agent Fowler, if you will pull Exhibit 101 back up,
11 Page 80.

12 MR. EVERT: We need to switch from the ELMO.

13 MS. CONNORS: Oh, I've gotcha.

14 BY MS. CONNORS:

15 Q. So, Agent Fowler, before the lunch break, we were ending
16 on going over some of these grand totals on Page 80 of
17 Exhibit 101.

18 And I wanted to make sure that we could confirm, in
19 terms of this document, is this part of the PPP loan
20 application for Kremkov Industries?

21 A. Yes, it is.

22 Q. And were there other payroll documents that were also
23 submitted by Kremkov Industries to support its PPP
24 application?

25 A. Yes, I believe I had the whole year.

1 MS. CONNORS: And so, Ms. Wilson, if you could go
2 down to Page 118, please.

3 BY MS. CONNORS:

4 Q. Agent Fowler, is this one of the documents -- what you
5 were just referring to?

6 A. Yes, ma'am.

7 Q. Okay. So this is different than the payroll document that
8 we just looked at?

9 A. Yes. The beginning and end date, you can see the
10 difference between the document we just looked at and this
11 document.

12 Q. Okay. And I think you already said it, but I just want to
13 make sure.

14 A. I'm sorry.

15 Q. -- that the -- that it's clear for the jury. What is the
16 beginning date and what's the end date for this payroll
17 document.

18 A. It's 1/1 of 2020, the begin date, and the end date is
19 12 -- or December 31st of 2020.

20 Q. And I think it has just a slightly different title of
21 payroll journal summary report?

22 A. Yes, ma'am. It says payroll journal summary report at the
23 top.

24 Q. Okay.

25 Q. The company that's identified?

1 A. Kremkov Industries.

2 Q. Okay.

3 MS. CONNORS: And if we can zoom out of that.

4 BY MS. CONNORS:

5 Q. And this document, is it also a number of pages?

6 A. Yes, ma'am.

7 Q. Okay. And looking at that top right corner, how many
8 pages total is this payroll journal summary report?

9 A. 42.

10 Q. Okay. Is this the first page of that?

11 A. Yes.

12 Q. Now, at the top, do you -- do you see a key similar to
13 what we looked at before?

14 A. Yes, I do.

15 Q. Okay. In terms of that key, are the column abbreviations,
16 do they appear the same at least in regards to Social Security
17 tax, Medicare tax and FICA?

18 A. Yes.

19 Q. Okay. Okay. And so SS tax, is that still Social Security
20 tax?

21 A. Yes.

22 Q. Med tax, is that still Medicare tax?

23 A. Yes.

24 Q. And then FICA, is that still used?

25 A. Yes.

1 Q. Okay. Now, looking at the first individual, we looked at
2 Scott Ackers, the -- in regards to that February of 2020
3 payroll.

4 Here, does -- is this supposed to be listing the
5 entire year payroll information for Scott Ackers?

6 A. That's how I read it, yes.

7 Q. Okay. Does it indicate like an hours/maybe quantity, I
8 guess is what that's supposed to mean, gross, fed tax, SS tax,
9 et cetera?

10 A. Yes.

11 Q. Okay. Now, in return -- in regards to Scott Ackers, does
12 indicate a gross pay of \$92,213?

13 A. Yes, it does.

14 Q. Okay. And then are there amounts identified for
15 Social Security tax and Medicare tax withholdings?

16 A. Yes.

17 Q. The Social Security tax, what is that amount?

18 A. \$5,717.23.

19 Q. Okay. And for the Medicare tax, what is that amount?

20 A. \$1,337.10.

21 Q. And finally, for the FICA, what was that amount?

22 A. \$7,054.33.

23 Q. Okay. Now, when you searched by the three EINs, the three
24 employer identification numbers for companies associated with
25 the defendant, did you see a record of any of these taxes

1 being paid?

2 A. No, I didn't.

3 Q. Did you see a record of any taxes being paid even for the
4 entire timeframe that you searched?

5 A. No.

6 Q. And just to remind the jury, what was that entire
7 timeframe that you searched?

8 A. 2014 through 2025.

9 Q. So now looking at this page, if you're going down the
10 column for the individual -- the individual employees that are
11 listed on this is -- do you basically have Social Security tax
12 \$5,700 or more for everyone?

13 A. Yes.

14 Q. And for Medicare tax, do you have essentially \$1,300 for
15 everyone?

16 A. Yes. Approximately, yes.

17 Q. And then for FICA, I think the low -- at least \$7,000 for
18 everyone?

19 A. Yes.

20 Q. And for each one of those amounts, if those amounts had
21 been paid, would Social Security have a record of it?

22 A. Yes.

23 Q. And under all three EINs for companies associated with the
24 defendant, including Kremkov Industries, did you see any
25 record of that money being paid?

1 A. No.

2 Q. And I asked you earlier in terms of the names that were on
3 that February 2020 payroll. And how many names were on that
4 list, what was the number?

5 A. 493.

6 Q. And have you also looked at the yearly payroll for
7 Kremkov Industries related to the number of employees that are
8 listed?

9 A. Yes. I believe it was on the last page, I had a summary.

10 Q. Okay. And what is the number for this -- for the yearly
11 payroll in terms of number of employees?

12 A. For employees, ma'am? I'm sorry.

13 Q. For the number of employees --

14 Q. Oh, 493.

15 Q. -- the total number of employees.

16 I apologize. I was talking over you.

17 A. That's okay.

18 Q. What was the total number of employees?

19 A. 493.

20 Q. Okay. Okay. Agent Fowler, I'm going to go through just
21 some of the specific names on this list. We've already talked
22 about Scott Ackers.

23 MS. CONNORS: Ms. Wilson, if you will move to Page 86
24 of this exhibit.

25

1 BY MS. CONNORS:

2 Q. And, Agent Fowler, we're going to zoom in on the name
3 Jason Bourne that's listed.

4 Is the name of an alleged employee that's receiving
5 payroll from Kremkov Industries in 2020?

6 A. Yes.

7 Q. And consistent with some -- with the other page that we
8 looked at, is there 50 -- approximately \$5,700 in
9 Social Security tax listed?

10 A. Yes.

11 Q. Is there approximately \$1,300 in Medicare tax listed?

12 A. Yes.

13 Q. Is there approximately 7,000 or more than 7,000 in FICA
14 tax withholdings for Jason Bourne listed?

15 A. Yes.

16 Q. Does Social Security have a record of any of that money?

17 A. No.

18 Q. Does Social Security have a record of any wages being paid
19 to Jason Bourne through Kremkov Industries?

20 A. No.

21 MS. CONNORS: And if we can scroll down to the next
22 page, Page 87.

23 BY MS. CONNORS:

24 Q. And do you see the name Charlie Brown listed?

25 A. I do.

1 Q. And in regards to this payroll for Charlie Brown, is it
2 also consistent with some of the numbers that we saw on --
3 that we've already seen related to these yearly payroll?

4 A. Yes, it is.

5 Q. Okay. So for Charlie Brown, is the amount of
6 Social Security withholdings approximately \$5,700 or more?

7 A. Yes.

8 Q. Is the amount for Medicare tax approximately \$1,300 or
9 more?

10 A. Yes.

11 Q. And is the amount for FICA approximately \$7,000 or more?

12 A. Yes.

13 Q. And for this individual and when you've searched
14 Social Security records, did you see any information reporting
15 wages or taxes for Charlie Brown related to
16 Kremkov Industries?

17 A. No.

18 Q. And there's a first number, that first column is for
19 hours, quantity. The second column there is for gross.

20 What is the amount of gross wages for Charlie Brown?

21 A. \$92,610.

22 Q. And does Social Security have any information concerning
23 either gross or net wages for Charlie Brown related to
24 Kremkov Industries?

25 A. No.

1 Q. Okay.

2 MS. CONNORS: And if we can move to Page 92 of that
3 exhibit.

4 BY MS. CONNORS:

5 Q. And do you see the name Karl Delano?

6 A. I do.

7 Q. Is that the name of the defendant?

8 A. Yes.

9 Q. And if we can look at that, does this indicate that the
10 defendant had Social Security withholdings of approximately
11 \$5,700?

12 A. Yes.

13 Q. Medicare taxes of approximately \$1,300?

14 A. Yes.

15 Q. And FICA of approximately \$7,000?

16 A. Yes.

17 Q. Are those numbers roughly consistent with the other
18 employees that we've just discussed related to this yearly
19 payroll?

20 A. Yes, they are.

21 Q. And in terms of Karl Delano, what does it indicate was the
22 gross pay for him?

23 A. \$92,633.50.

24 Q. And in regards to Mr. Delano, does Social Security have
25 any record of wages being paid to him under

1 Kremkov Industries?

2 A. No.

3 Q. Does Social Security have any record of Social Security
4 tax, Medicare tax or FICA being paid for him under
5 Kremkov Industries?

6 A. No.

7 Q. And can you remind the jury who is the 100 percent owner
8 of Kremkov Industries?

9 A. Karl Delano.

10 MS. CONNORS: And if we can move to Page 97.

11 BY MS. CONNORS:

12 Q. And you may be able to see it on the screen now.

13 A. Yes.

14 Q. And the last employee on that list, is it identified as
15 Gene Hackman?

16 A. It is.

17 Q. And in regards to Gene Hackman, do you see similar numbers
18 in terms of the Social Security tax, the Medicare tax and FICA
19 withholdings?

20 A. I do, yes.

21 Q. And in regards to Gene Hackman, what was the gross wages
22 for him?

23 A. \$92,931.36.

24 Q. Does Social Security have any record of wages,
25 Social Security tax, Medicare tax or FICA being paid ever for

1 Gene Hackman for Kremkov Industries?

2 A. No.

3 MS. CONNORS: And if we can move to Page 114 of that
4 exhibit.

5 BY MS. CONNORS:

6 Q. And the second name from the top, do you see the name
7 Keanu Reeves?

8 A. I do.

9 Q. Now, this document, again, was this submitted as part of
10 Kremkov Industries' PPP loan application?

11 A. Yes, it was.

12 Q. Is this indicating that Keanu Reeves received payroll in
13 2020 from Kremkov Industries?

14 A. Yes.

15 Q. Does Social Security have any record of Keanu Reeves
16 receiving income, wages from Kremkov Industries?

17 A. No.

18 Q. And if you look at the Social Security tax and the
19 Medicare tax and FICA that is reported here for Keanu Reeves,
20 is that consistent, approximate amounts to some of the other
21 employees that we've looked at?

22 A. Yes, it is.

23 Q. And in regards to Keanu Reeves, what is the -- what is the
24 alleged gross wages that he earned through Kremkov Industries?

25 A. \$93,253.76.

1 Q. That gross wage amount, does Social Security have any
2 record of that amount being paid to Keanu Reeves through
3 Kremkov Industries?

4 A. No.

5 Q. And would that apply to all of the employer identification
6 numbers that you have searched through Social Security's
7 system related to Kremkov Industries or companies controlled
8 by the defendant?

9 A. That's correct, yes.

10 MS. CONNORS: And if we can go to Page 118. You can
11 scroll down to Page 118. There you go. Okay.

12 BY MS. CONNORS:

13 Q. On Page 118, do you see kind of in the middle of the page
14 the name Monica Sweeten?

15 A. Yes.

16 Q. So does this indicate that this individual is an alleged
17 employee of Kremkov Industries?

18 A. Yes, it does.

19 Q. And is this reflecting payroll paid to Monica Sweeten in
20 2020?

21 A. Yes.

22 Q. Does it reflect Social Security taxes, Medicare taxes and
23 FICA being withheld for Monica Sweeten for her employment at
24 Kremkov Industries?

25 A. Yes, it indicates that.

1 Q. And did you -- when you searched Social Security's
2 records, did you see any indication of wages or taxes being
3 paid on behalf of Monica Sweeten through Kremkov Industries?

4 A. No.

5 Q. And would that apply to all three employer identification
6 accounts that you looked at?

7 A. Yes.

8 MS. CONNORS: And if we can go to the next page, 119.

9 BY MS. CONNORS:

10 Q. And on this page, do you see the name Oliver Twist?

11 A. Yes.

12 Q. Is this indicating that Oliver Twist was an employee for
13 Kremkov Industries in 2020?

14 A. Yes.

15 Q. And does this have Social Security tax, Medicare tax and
16 FICA withholdings listed?

17 A. Yes, it does.

18 Q. When you searched for any of the employer identification
19 numbers for Kremkov Industries or associated with the
20 defendant, did you see any record of those withholdings being
21 paid on behalf of Oliver Twist?

22 A. No, no record.

23 Q. And again, is this an individual who was identified in
24 payroll that was submitted as part of the PPP loan
25 application?

1 A. Yes.

2 MS. CONNORS: Okay. And finally, if we could go to
3 Page 121.

4 BY MS. CONNORS:

5 Q. Do you see the name Bruce Willis?

6 A. Yes, I do.

7 Q. Is this indicating that Bruce Willis is an employee of
8 Kremkov Industries in 2020?

9 A. Yes.

10 Q. And for Bruce Willis, is there Social Security tax,
11 Medicare tax and FICA listed?

12 A. Yes.

13 Q. And in terms of your research in Social Security's
14 systems, did you see any record that the Social Security tax,
15 Medicare tax or FICA were paid by Kremkov Industries for
16 Bruce Willis?

17 A. No.

18 Q. Did you see any record of any of these employees on this
19 payroll having wages from Kremkov Industries?

20 A. No.

21 Q. And is that the case for all three employer identification
22 accounts that you looked at?

23 A. Yes.

24 MS. CONNORS: And if we could go to Page 122 of that
25 exhibit.

1 BY MS. CONNORS:

2 Q. Do we have grand totals listed here?

3 A. Yes.

4 Q. And in terms of the grand totals listed, is there a column
5 for gross wages?

6 A. Yes.

7 Q. I know it's kind of a long number, but if you can, what is
8 the amount for gross wages?

9 A. It's \$45,861,255.93.

10 Q. Is that total indicating that Kremkov Industries paid
11 approximately \$45.8 million gross wages to 493 employees in
12 2020?

13 A. Yes.

14 Q. And do you also see a net pay column?

15 A. Yes.

16 Q. Does that net pay column list a number, \$32 million?

17 A. Yes, it does.

18 Q. And is that indicating that that is the gross pay for the
19 493 employees with Kremkov Industries in 2020?

20 A. It would be the net pay.

21 Q. I'm sorry, the net pay.

22 A. Yes, ma'am.

23 Q. Does it have a figure for Social Security -- total
24 Social Security tax paid?

25 A. Yes.

1 Q. Does it also have a figure for total Medicare tax paid?

2 A. Yes.

3 Q. And finally, does it have a figure for total FICA paid?

4 A. Yes.

5 Q. Were any of those payments received and recorded by
6 Social Security?

7 A. No.

8 Q. And would that be when you searched all three employee
9 identification number accounts either under the name of
10 Kremkov Industries or any other company controlled by the
11 defendant?

12 A. Correct, yes.

13 Q. I guess maybe I should clarify. Controlled by the
14 defendant, related to him at the time of 2020?

15 A. Yes, ma'am.

16 Q. Now, in addition to these payroll documents, were tax
17 documents also provided as part of the PPP loan application?

18 A. Yes.

19 Q. And if you'll look at Page 141 of this exhibit.

20 A. I'll read it off the screen.

21 MS. CONNORS: And, Ms. Wilson, yes, if you will zoom
22 in on that top section.

23 BY MS. CONNORS:

24 Q. Agent Fowler, do you have some experience with this form?

25 A. Yes.

1 Q. Okay. And can you generally explain what this form is?

2 A. In general terms, it's an employer's quarterly federal tax
3 return. Many businesses file quarterly for their taxes and
4 then they fill out this form and submit that to the
5 government.

6 Q. Okay. And in terms of the employer identification number,
7 is it the 7540 number that we saw on the PPP loan application?

8 A. Yes.

9 Q. The address listed, is that the same Douglasville address
10 that we've previously discussed during your testimony?

11 A. Yes, it is.

12 Q. Now, you mentioned that this is for a quarter.

13 Does it indicate which quarter or at least which
14 months are covered in the quarter that's reported?

15 A. In the box to the right, it put an X in January, February
16 and March.

17 Q. Okay. Yes.

18 A. For the first quarter.

19 Q. And in regards to this form, is it in the name
20 Kremkov Industries?

21 A. Yes.

22 MS. CONNORS: Now if we can zoom out of that.

23 BY MS. CONNORS:

24 Q. Does this form report any Social Security wages and
25 Social Security taxes that would be due?

1 A. Yes, it does.

2 Q. Okay. And is that the section there, it's kind of all of
3 the numbers that have A 5 outside of it, it's like 5A, 5B, 5C?

4 A. Yes.

5 Q. Okay. Now in terms of this information, is this claiming
6 that these are taxable Social Security wages that are -- that
7 were paid during that quarter to employees of
8 Kremkov Industries?

9 A. Yes, that's what it appeared to indicate.

10 Q. Okay. And then as Column 2, it looks like there's
11 essentially a math equation that happens, like a
12 multiplication and then an equals?

13 A. You say Column 2?

14 Q. Yes, if you see it.

15 A. Oh, yes. The two columns, yes.

16 Q. Okay. I'm not going to ask you to do math, but
17 ultimately, Line 5E, does that indicate a total of the
18 information reported from 5A to 5D?

19 A. Yes.

20 Q. Okay. And what is that amount?

21 A. On 5E, it's 1.8 million, so \$1,807,988.67.

22 Q. And so would this relate to total amount going for
23 Social Security and Medicare tax for that quarter?

24 A. Yes.

25 Q. And in terms of specifically looking at the employer

1 identification number ending in 7540, did you find any record
2 of that amount being paid?

3 A. No.

4 MS. CONNORS: And if we can go down one page to 142.

5 BY MS. CONNORS:

6 Q. Is there an electronic signature on this document?

7 A. Yes.

8 Q. And who -- what's the name in that signature?

9 A. Carl Torjagbo.

10 Q. Is that the former name of the defendant?

11 A. Yes, it is.

12 Q. Now, if this Form 941 had been filed, would
13 Social Security have been able to capture this information
14 related to Social Security tax, any kind of Social Security
15 wages, Medicare tax and Medicare wages?

16 A. So this form is for the IRS.

17 Q. Um-hmm.

18 A. But the information with the Social Security taxes would
19 have had to have been reported to the Social Security
20 Administration.

21 Q. Okay. So essentially that information ends up getting
22 shared by the two agencies?

23 A. Yes.

24 Q. Now I'm going to move to Page 143 and I'm going to avoid
25 going through all of the numbers on these.

1 Is this a different 941 covering a different quarter?

2 A. Yes, Quarter 2, April, May, June.

3 Q. And for this quarter, is this also being filed related to
4 employer identification number ending in 7540?

5 A. Yes.

6 MS. CONNORS: And if we can zoom out of that.

7 BY MS. CONNORS:

8 Q. And is there a number in the Line 1 column for the number
9 of employees during that quarter?

10 A. Yes. It says 493.

11 Q. Okay. And I'm not going to pull it back up, but if you
12 would not mind flipping back to the first page of the 941 that
13 we just looked at, I believe it should be Page 141.

14 Do you want us to move it on the screen?

15 A. I can -- I'm sorry, the numbers are -- yes, ma'am.

16 Q. Okay. Now, on that 941 that we looked for the first
17 quarter, did it also have 493 employees?

18 A. Yes, it did.

19 Q. Now, in terms of this 941, is it similar in that it
20 reports taxable Social Security wages, taxable Medicare wages
21 and then also has these calculations for Social Security and
22 Medicare taxes?

23 A. Yes, it does.

24 Q. Does Social Security have any record of those numbers?

25 A. No.

1 MS. CONNORS: And if we can move to Page 144, the
2 next page of this exhibit. I'm sorry, let me go one more
3 page, 145.

4 BY MS. CONNORS:

5 Q. Is there an electronic signature on this 941 as well?

6 A. Yes.

7 Q. And whose signature is on this one?

8 A. Carl Torjagbo.

9 Q. Is that the defendant?

10 A. Yes.

11 Q. Okay.

12 MS. CONNORS: And I'm going to move to Page 146.

13 BY MS. CONNORS:

14 Q. And is this another 941 for a different quarter?

15 A. Yes, ma'am, it's for quarter three, July, August,
16 September.

17 Q. Okay.

18 MS. CONNORS: If we can zoom out of that.

19 BY MS. CONNORS:

20 Q. And what is the number of employees for this 941?

21 A. 493.

22 Q. Does this one also indicate Social Security wages,
23 Medicare wages and Social Security and Medicare tax amounts?

24 A. Yes, it does.

25 Q. Does Social Security have any record of those amounts

1 being paid?

2 A. No.

3 Q. Would that be the case under the employee identification
4 number ending in 7540?

5 A. Yes.

6 Q. Did you find any record under the other two employer
7 identifications that you looked at related to
8 Kremkov Industries or a company associated with the defendant?

9 A. No other records.

10 Q. Okay.

11 MS. CONNORS: And if we can go to Page 148.

12 BY MS. CONNORS:

13 Q. Is there also a signature, an electronic signature on this
14 941?

15 A. Yes, ma'am.

16 Q. And is it the same name we've seen?

17 A. It is. Carl Torjagbo, the defendant.

18 Q. Okay.

19 MS. CONNORS: And then finally if we can go to
20 Page 149.

21 BY MS. CONNORS:

22 Q. Is this a 941 for the final quarter in 2020?

23 A. Yes.

24 Q. And is the employer identification number still listed as
25 7540?

1 A. Yes, it is.

2 Q. For Kremkov Industries?

3 A. Yes.

4 MS. CONNORS: If we can zoom out of that.

5 BY MS. CONNORS:

6 Q. And how many employees are identified?

7 A. 493.

8 Q. Now, does this 941 also report taxable Social Security
9 wages, taxable Medicare wages and Social Security and Medicare
10 taxes due?

11 A. Yes, it does.

12 Q. And does Social Security have any record of those amounts
13 being paid by Kremkov Industries?

14 A. No.

15 Q. Does that include specifically for the EIN ending in 7540
16 as well as the other two EINs that you researched?

17 A. Yes, it applies to all, there were no records.

18 Q. All right. Agent Fowler, you talked before about there's
19 some kind of reasons why Social Security and Medicare taxes
20 are being withheld.

21 Would you expect a goldmine that operates solely in
22 Ghana to deduct Social Security and Medicare taxes from
23 employees' wages?

24 A. Not unless they had U.S. employees.

25 Q. So if it was U.S. employees, would you expect that you are

1 receiving the documentation to support that Social Security
2 taxes, Medicare taxes and wages were being paid to those
3 employees?

4 A. Correct. It would have to be reported to the government.

5 Q. And in regards to Kremkov Industries, you were able to
6 find that there was an employer identification number for that
7 company ending in 7540?

8 A. There was an EIN for that, but there was no record in the
9 Social Security Administration for anything filed for that
10 EIN.

11 Q. So there's no record of any U.S. employees being paid
12 Social Security wages -- taxable Social Security wages,
13 taxable Medicare wages or Kremkov Industries paying FICA on
14 behalf of any U.S. employees?

15 A. Correct.

16 Q. Okay. And, Agent Fowler, I'm going to have you look at
17 Exhibit 201 in the binder first.

18 A. Is that a different binder? Yes.

19 THE COURT: 201, you said?

20 MS. CONNORS: Yes, Your Honor. 201. 201.

21 BY MS. CONNORS:

22 Q. And, Agent Fowler, can you tell me what that document is?

23 A. It's a 1040 tax form for the year 2020.

24 Q. And whose name is on that tax return?

25 A. It's Carl Torjagbo.

1 MS. CONNORS: And, Your Honor, the information from
2 the Internal Revenue Service is part of our stipulation as
3 authentic records. And I would move to admit Exhibit 201.

4 MR. FINLAYSON: No objection.

5 THE COURT: Okay. 201 is admitted.

6 MS. CONNORS: And, Ms. Wilson, if you could please
7 pull that up.

8 BY MS. CONNORS:

9 Q. And so, Agent Fowler, you indicated that this -- Carl
10 Torjagbo's name is on this one. Do you also see --

11 MS. CONNORS: And if we can zoom into that. There we
12 go.

13 BY MS. CONNORS:

14 Q. Is a Douglasville address, the same one that we've seen
15 before, is that also listed on this return?

16 A. Yes, it is.

17 Q. Okay. Now, on Line 1, do you see a figure of 9,199,411?

18 A. Yes.

19 Q. Now, in terms of what that amount is, do you see kind of
20 more on the left side what that amount is supposed to
21 represent?

22 A. It's wage, salaries, tips, et cetera, Form W-2.

23 Q. Okay.

24 MS. CONNORS: And if we can go to Page 2 of the
25 exhibit. And if we'll -- there you go.

1 BY MS. CONNORS:

2 Q. Okay. And I'm going to ask you to look at Line 34 in the
3 refund section. And we'll try to zoom in for you. There you
4 go.

5 A. Yes.

6 Q. And can you read what it says is supposed to be reported
7 in Line 34?

8 A. If Line 33 is more than Line 24, subtract Line 24 from
9 Line 33, this is the amount you overpaid.

10 Q. And what is the answer to Line 34?

11 A. 3,373,441.

12 Q. And can you also read what's supposed to be reported in
13 Line 35A?

14 Q. Amount of Line 34 you want refunded to you. If Form 8888
15 is attached, check here.

16 Q. And what is the amount reported in 35A?

17 A. 3,373,441.

18 MS. CONNORS: Now I'm going to pull up Page 13 of
19 that exhibit. If we can zoom in on the text. Thank you.

20 BY MS. CONNORS:

21 Q. Okay. Agent Fowler, do you see an employer identification
22 number listed?

23 A. Yes, I do.

24 Q. And what are the last four digits of that employer
25 identification number?

1 A. 1377.

2 Q. Okay. Is that one of the employer identification numbers
3 that you researched through Social Security's system?

4 A. It is.

5 Q. Now, in the Block C, what is the employer -- the
6 employer's name?

7 A. Kremkov Industries.

8 Q. And does it list a Douglasville address?

9 A. It does.

10 Q. Now, in regards to that employer identification number
11 ending in 1377, is that a different number than what was on
12 the PPP application that we just looked at?

13 A. Yes, it is.

14 Q. And do you recall which one was used on the PPP
15 application?

16 A. It was the one ending in 7540, I believe.

17 Q. Yes. Let's see. Now, in terms of the EIN 1377, when you
18 researched Social Security's system, did you find any record
19 of wages, Social Security taxes or Social Security -- or
20 Medicare taxes under that EIN?

21 A. No.

22 Q. If an employee had those wages for a company using that
23 EIN, would Social Security have a record of it?

24 A. Yes.

25 Q. Now, this W-2, if you can look down at E, whose W-2 is

1 this?

2 A. That's Carl Torjagbo, the defendant.

3 Q. Okay. Now, this identifies the employer name as
4 Kremkov Industries.

5 In regards to Kremkov Industries, is Carl Torjagbo
6 the person who was the organizer and 100 percent owner of that
7 company?

8 A. Yes, he was.

9 Q. Now, for wages, tips and other compensation, what does it
10 list?

11 A. 9,199,411.

12 Q. Now, Agent Fowler, do you recall that we looked at the
13 2020 payroll for Kremkov Industries that was submitted with
14 the PPP loan?

15 A. Yes.

16 Q. Was a much smaller amount for wages listed for Karl
17 Delano?

18 A. For Karl Delano, yes.

19 Q. Was it approximately 92 or \$93,000?

20 A. Yes, it was 92 or 93.

21 Q. Okay. And in terms of this W-2, is this supposed to be
22 reporting any wages and taxes in 2020 for this individual?

23 A. Yes.

24 Q. So this -- is the amount here for wages and tips and other
25 compensation inconsistent with what you saw identified on the

1 payroll?

2 A. Yes.

3 Q. And here, is there an amount listed for Social Security
4 wages and Social Security tax withholdings?

5 A. Yes.

6 Q. Is there also an amount listed for Medicare wages and
7 Medicare tax withheld?

8 A. Yes.

9 Q. Did you find any record of Carl Torjagbo or Karl Delano
10 having any wages, Social Security taxes, Medicare taxes
11 associated with Kremkov Industries?

12 A. No.

13 Q. And for any employee of Kremkov Industries, did you find
14 any record of any Social Security taxes, Medicare taxes or
15 wages?

16 A. No.

17 Q. Now, again, this EIN relates to 13 -- it's 1377, and I'll
18 briefly pull up Exhibit 5 that has already been admitted.

19 So to confirm something, is this the EIN that's
20 listed on that W-2?

21 A. Yes.

22 Q. And for that EIN, did you find any records?

23 A. No.

24 Q. Okay. And if you can look at Exhibit 202. I'm sorry.
25 202.

1 A. Yes, ma'am.

2 Q. And what is that document?

3 A. It is a 1040 tax form for the year of 2020.

4 Q. In regards to Exhibit 201 that we just looked at, was that
5 also a Form 1040 for tax year 2020?

6 A. Yes.

7 Q. And whose name is on Exhibit 202?

8 A. Carl Torjagbo, the defendant.

9 Q. Okay.

10 MS. CONNORS: And, Your Honor --

11 THE COURT: Hold on. Did you-all see that?

12 JURORS: No.

13 THE COURT: I did not see it.

14 MS. CONNORS: Oh, I had not moved to admit it yet.

15 THE COURT: Oh, I'm sorry. I'm getting ahead of you.

16 MS. CONNORS: That was the very next thing.

17 Your Honor, I would move to admit Government's

18 Exhibit 202. And this is a document from the

19 Internal Revenue Service that we had the stipulation related
20 to authenticity.

21 MR. FINLAYSON: No objection.

22 THE COURT: Okay. Then it is now admitted and can be
23 published.

24 MS. CONNORS: Thank you, Your Honor.

25 Okay. And if we can now zoom in on the top for this

1 one.

2 BY MS. CONNORS:

3 Q. To confirm, whose name is on this return?

4 A. Carl Torjagbo.

5 Q. Okay.

6 MS. CONNORS: And if we can zoom in, please.

7 BY MS. CONNORS:

8 Q. At the bottom, is there a Houston address that's listed?

9 A. Oh, it was just there. Yes, there is.

10 Q. Okay. Okay.

11 MS. CONNORS: And if we can go to Page 17 of this
12 exhibit.

13 BY MS. CONNORS:

14 Q. Does this W-2 use the same employee identification number
15 ending in 1377 that we just saw on a different W-2?

16 A. Yes, it does.

17 Q. Is Kremkov Industries listed as the employer on this W-2?

18 A. Yes.

19 Q. Does this W-2 have an employee address of 2220 Westcreek
20 Lane, Apartment E71 in Houston, Texas?

21 A. Yes.

22 Q. Now, looking on the right side for the wages, tips and
23 other compensation, is it possible to compare?

24 MS. CONNORS: And do you know, is it possible to flip
25 those so we see the first one that we were looking at on the

1 left side and the other one on the right? Okay. Yes. If you
2 can zoom in. And if you would like just do the right side of
3 both of those that has the two columns going down, to make it
4 a little easier to read. Yes. Okay. And if you can zoom in
5 on the other one the same way.

6 BY MS. CONNORS:

7 Q. Okay. Now, Agent Fowler, these W-2s, both supposed to be
8 for Carl Torjagbo?

9 A. Yes.

10 Q. For the defendant?

11 A. Yes.

12 Q. Now, the one on the left screen is from Exhibit 201, and
13 the one on the right side of the screen is from Exhibit 202.
14 Are different amounts listed for wages?

15 A. Yes.

16 Q. Are different amounts listed for federal income tax
17 withheld?

18 A. Yes.

19 Q. Are different amounts listed for Social Security wages?

20 A. Yes.

21 Q. Is the amount for Social Security tax withheld the same?

22 A. Yes.

23 Q. Are Medicare wages and tips the same?

24 A. Yes.

25 Q. And then for Medicare tax withheld, are those different?

1 A. Yes.

2 Q. Now, in regards to attached -- either -- the data in
3 either one of these W-2s, did Social Security have a record of
4 any of these wages, Social Security taxes or Medicare taxes
5 being paid by Kremkov Industries for any employee?

6 A. No.

7 Q. And did that include the defendant?

8 A. Yes.

9 Q. Okay.

10 MS. CONNORS: And, your Honor, this would be the time
11 for the limiting instruction.

12 THE COURT: Okay.

13 MS. CONNORS: You can take those down.

14 THE COURT: I told you I might from time to time give
15 you specific instructions about how you can use evidence and
16 this is one of those times.

17 You are about to hear evidence concerning two
18 Social Security numbers allegedly acquired by the defendant
19 prior to the offenses charged in this indictment.

20 You must not consider this evidence to decide if the
21 defendant engaged in the activity alleged in the indictment,
22 but you may consider this evidence to decide whether the
23 defendant had the state of mind or intent necessary to commit
24 the crime charged in the indictment, if the defendant had a
25 motive or the opportunity to commit the acts charged in the

1 indictment, if the defendant acted according to a plan or in
2 preparation to commit a crime, or if the defendant committed
3 the acts charged in the indictment by accident or mistake.

4 Okay. Do you understand that?

5 That's a limited purpose. You will have this
6 instruction at the end, by the way. I'm going to give you-all
7 copies of all of my instructions. And you will have this
8 instruction within it.

9 Okay?

10 But just keep in mind that this next what you're
11 going to hear about, the defendant having allegedly acquired
12 two Social Security numbers is being admitted for that limited
13 purpose.

14 Okay?

15 Questions? Concerns?

16 All right. Thank you.

17 MR. FINLAYSON: Your Honor, just for the record, I
18 would renew my objection to this.

19 THE COURT: Yes. Yes. Not to the instruction but to
20 the evidence?

21 MR. FINLAYSON: Correct.

22 THE COURT: Okay. Thank you.

23 Go ahead, please.

24 MS. CONNORS: Thank you.

25

1 BY MS. CONNORS:

2 Q. Okay. So, Agent Fowler, we just looked at Exhibits 201
3 and 202, but I'm going to get some more specific information.

4 So if you would look back at 201 and Page 1 of that
5 exhibit. And we're also going to compare that to Exhibit 202
6 and the first page of that one.

7 A. Um-hmm.

8 MS. CONNORS: And if it is possible, can we kind of
9 zoom in on that top section?

10 BY MS. CONNORS:

11 Q. Okay. So for these two tax returns for the year 2020,
12 you've already gone through some of the information on both
13 returns. But just to confirm, both are in the name
14 Carl Torjagbo; is that correct?

15 A. Yes, ma'am.

16 Q. So in the tax return that is Exhibit 201, what are the
17 last four numbers in the Social Security number?

18 A. 0540.

19 Q. And then for Exhibit 202, what are the last four digits of
20 the Social Security?

21 A. 6010.

22 Q. And did you have an opportunity to research both of these
23 Social Security numbers?

24 A. I did.

25 Q. And what were you -- were you able to obtain copies of

1 applications for Social Security numbers in the name of
2 Carl Torjagbo?

3 A. I was.

4 Q. And in terms of these two Social Security numbers, were
5 you able to determine anything related to if one was obtained
6 first and then another one was obtained later?

7 A. Yes. One was obtained, I believe it was 6010 was obtained
8 first. And then 0540 was obtained after.

9 Q. And do you remember approximately how much time lapsed
10 between both of those?

11 A. I believe it was about seven years.

12 Q. Okay.

13 A. Maybe six.

14 Q. And, Agent Fowler, if you'll look at Exhibit 7.

15 Okay. And we're going to discuss these two Social
16 Security numbers in chronological order to hopefully prevent
17 confusion.

18 So in terms of Exhibit 7, do you know which -- I'm
19 sorry, what is this exhibit?

20 A. It's a Social Security Administration record of an
21 application for a Social Security card.

22 Q. Okay. Does this concern a Social Security application for
23 the defendant?

24 A. Yes, it's in the name of Carl Delano Torjagbo.

25 MS. CONNORS: And, Your Honor, I would move to admit

1 Government's Exhibit 7. It is also subject to the
2 stipulation.

3 MR. FINLAYSON: And, Your Honor, I would object to it
4 for the reasons put forth earlier, 401, 403, as well as
5 relevance.

6 THE COURT: Okay. Overruled. It's admitted.

7 MS. CONNORS: Thank you, Your Honor.

8 And if we could pull up Exhibit 7. And if --

9 THE COURT: Just to be clear, Mr. Finlayson, your
10 objection was not to the stipulation?

11 MR. FINLAYSON: Correct. Not to -- but for those
12 reasons discussed earlier in my motion.

13 THE COURT: Okay. Fair. Thank you.

14 MS. CONNORS: And we can, yes, zoom in on that top
15 part. Thank you. Okay.

16 BY MS. CONNORS:

17 Q. And I believe you already pointed out, but since the jury
18 can now see this exhibit, what is the name on this
19 application?

20 A. It's Carl Delano Torjagbo.

21 Q. And looking at some of the information on here, is there a
22 date of birth that is listed?

23 A. Yes.

24 Q. And what's the date of birth?

25 A. 09/08 of 1975.

1 Q. And was there a place of birth listed?

2 A. Yes.

3 Q. And what's the place of birth?

4 A. It is Accra, Ghana.

5 MS. CONNORS: And if you can zoom out of that section
6 and then go to the 14 and 16.

7 BY MS. CONNORS:

8 Q. Now, it has -- is there a line for today's date?

9 A. Yes.

10 Q. And it's a little hard to see, but what is the -- what is
11 the date?

12 A. 11/21 of '97.

13 Q. Okay. And if we can -- and is there a signature line?

14 A. There is.

15 Q. Okay. And is there an indication of who is essentially
16 requesting the Social Security number?

17 A. The box marked self was X'd or checked.

18 Q. Okay. Does that mean that Mr. Delano was requesting the
19 Social Security number?

20 A. It would indicate the name on the application was who was
21 filing it.

22 Q. Okay.

23 MS. CONNORS: And if we can zoom in at the bottom
24 section, in that box at the bottom.

25

1 BY MS. CONNORS:

2 Q. To issue a Social Security number to someone, does Social
3 Security require any information?

4 A. Yes.

5 Q. What do they require?

6 A. It depends on how you're applying. Oftentimes, it's
7 immigration forms and passports from your country, if you're
8 coming from out of the country.

9 In cases where you're merely born in the U.S., it's a
10 birth certificate.

11 But in this case, you can see a Ghanaian passport
12 number, and I believe an immigration document mentioned.

13 Q. Okay. So does that mean -- so what does that mean in
14 terms of being in that section for evidence submitted?

15 A. That that's what was submitted in order to obtain the
16 Social Security number.

17 Q. Okay. And as a result of this application, was a
18 Social Security number issued?

19 A. Yes.

20 Q. And which Social Security number was issued?

21 A. The one ending in 6010.

22 Q. And, Agent Fowler, if you will look at Exhibit 8 in the
23 binder. And is that document familiar to you?

24 A. Yes.

25 Q. And what is it?

1 A. It's an application for replacement Social Security card.

2 Q. Okay. Is it a replacement Social Security card related to
3 the Social Security number ending in 6010?

4 A. I missed it on the page, but yes.

5 Q. Okay.

6 MS. CONNORS: Your Honor, I would move to admit
7 Government's Exhibit 8.

8 MR. FINLAYSON: Same objections, Your Honor. Renewal
9 and 401, 403, and 404(a).

10 THE COURT: Okay. It's overruled. Go ahead.

11 MS. CONNORS: Thank you.

12 THE COURT: The document is admitted.

13 MS. CONNORS: Okay. And if we can pull up Exhibit 8.
14 And if you'll try to scroll in on the text. There we go.

15 BY MS. CONNORS:

16 Q. Okay. So in terms of this document, does it still
17 indicate a birthdate of 9/8/1975?

18 A. Yes, it does.

19 Q. And does it continue to have an applicant name of Carl
20 Delano Torjagbo?

21 A. Yes, Carl Delano Torjagbo.

22 Q. And I think you can maybe tell, it says last SSN. And
23 then does it include the SSN ending in 6010?

24 A. It does.

25 Q. So if this is an application for a replacement card, is

1 that the Social that's being asked to have the replacement
2 card issued?

3 A. Yes, it is.

4 Q. Okay. Now if we can go to the date on that form.

5 A. Yes, I can see it.

6 Q. Okay. And what was the date for this form?

7 A. 11/27 of '02.

8 Q. Okay.

9 MS. CONNORS: And if you can back out of the zoom for
10 that one. And if you can zoom in at the bottom where it
11 starts, "acceptable evidence."

12 BY MS. CONNORS:

13 Q. Does Social Security also require some kind of information
14 to be able to issue a replacement Social Security card?

15 A. Yes, it does.

16 Q. And here, are there some types of evidence that were
17 listed as submitted?

18 A. Yes.

19 Q. Okay. Now, I want you to focus, do you see an FL and then
20 a space and then ID?

21 A. Yes.

22 Q. Now, and is there a number after it? Well, it starts with
23 a T and then there's a number?

24 A. Yes.

25 Q. Okay. So if you can look at Government's Exhibit 11.

1 And is this -- is this a record from an agency?

2 A. Yes. It's from the Florida Highway Safety and Motor
3 Vehicles.

4 Q. Okay. Does it relate to a driver's license for the
5 defendant?

6 A. Yes. I'm sorry. It does.

7 Q. Okay.

8 MS. CONNORS: Your Honor, I move to admit
9 Government's Exhibit 11 and these -- the authenticity of these
10 records were included in the stipulation.

11 MR. FINLAYSON: Same objection.

12 THE COURT: Overruled. It's admitted.

13 MS. CONNORS: And if we can pull up Exhibit 11 and
14 look at page 1. And if you will -- about three-quarters.

15 BY MS. CONNORS:

16 Q. Okay. Do you see where it says application for driver's
17 license or ID card?

18 A. Yes, ma'am.

19 Q. And what's the date for the application?

20 A. 6/19 of 2000.

21 Q. Okay. And is there a photograph?

22 A. Yes.

23 Q. Now, there is a date of birth listed?

24 A. Yes.

25 Q. What is that date of birth?

1 A. 9/8 of '75.

2 Q. Is that the same date of birth that was associated with
3 the Social Security application as well as the replacement
4 Social Security card application?

5 A. For the one ending in 6010, yes, ma'am.

6 Q. Okay. And looking just under that blue kind of box that
7 says verification, do you see a Social Security number listed?

8 A. Yes.

9 Q. And what Social Security number is that?

10 A. It's the one ending in 6010.

11 MS. CONNORS: Now, Ms. Wilson, if you can, can you
12 bring up that driver's license ID number that's on the
13 document.

14 And then can you also bring up Exhibit 8, that bottom
15 section for the "evidence submitted" portion, just the
16 acceptable -- yes.

17 BY MS. CONNORS:

18 Q. Okay. So, Agent Fowler, can you see the Florida ID number
19 that's listed for the Social Security application for the
20 replacement Social Security card?

21 A. Yes.

22 Q. Is the number listed the same as what is on the Florida
23 driver's license record?

24 A. Yes.

25 Q. And in regards to the particular driver's license record,

1 is it for Carl Torjagbo?

2 A. Yes.

3 Q. And does it list an address in Florida?

4 A. Yes, it does.

5 Q. Okay. And if you will, can you look at Government's
6 Exhibit 12.

7 Is that a record -- a driver's license record from a
8 different state?

9 A. Yes, it is.

10 Q. And which state is it?

11 A. From the Texas Department of Public Safety, so from Texas.

12 Q. And is this a driver's license for the defendant?

13 A. Yes.

14 MS. CONNORS: Your Honor, I'd move to admit
15 Government's Exhibit 12. And this is a record that's also in
16 our stipulation related to authenticity.

17 MR. FINLAYSON: Same objection as to Exhibits 7
18 through 11 and made before renewing.

19 THE COURT: Okay. Overruled.

20 And, Ms. Connors, will you let me know when we get to
21 the end of this evidence, to which the limiting instruction
22 applies. Are we past that now?

23 MS. CONNORS: This would be all after the limiting
24 instruction.

25 THE COURT: Okay. Just the application of the Social

1 Securities?

2 MS. CONNORS: The rest of his testimony I think would
3 be covered under the limiting instruction.

4 THE COURT: Oh, okay. Thank you. So it still
5 applies? My limiting instruction still applies --

6 MS. CONNORS: Yes.

7 THE COURT: -- at this point?

8 MS. CONNORS: Yes, Your Honor.

9 THE COURT: Okay.

10 MS. CONNORS: Okay. And if we can pull up
11 Exhibit 12.

12 BY MS. CONNORS:

13 Q. And so which state is this a record from?

14 A. Texas.

15 Q. Is -- does this relate to a driver's license as well?

16 A. Yes, it does.

17 Q. Okay. And if you can look, is this also in the name of
18 Carl Torjagbo?

19 A. Yes.

20 Q. Do you see a date of birth?

21 A. Yes. 9/8 of '75.

22 Q. Is that the same date of birth that is associated with the
23 6010 Social Security number?

24 A. Yes, it is.

25 Q. And there's a date for image date. What is that?

1 A. 7/23 of 2004.

2 Q. And then do you also see an address listed?

3 A. Yes.

4 Q. And is that address in Houston, Texas?

5 A. Yes, it is.

6 Q. And in case you need to look back, could you look at
7 Exhibit 2 -- 202, just the tax return filed under 6010, and
8 tell me if it has the same Houston address on it.

9 A. Yes, it does.

10 Q. Okay. Agent Fowler, if you could look at Exhibit 9.

11 A. Yes, ma'am.

12 Q. And what is this exhibit?

13 A. It's another application for a Social Security card that
14 was a record I pulled from the Social Security Administration.

15 MS. CONNORS: Your Honor, I would move to admit
16 Government's Exhibit 9.

17 MR. FINLAYSON: Same objection, Your Honor.

18 THE COURT: Overruled.

19 MS. CONNORS: And if we can pull up Exhibit 9.

20 BY MS. CONNORS:

21 Q. Okay. Now, for this Social Security application for a
22 Social Security card, whose name is this one in?

23 A. It's also in the name of Carl Torjagbo.

24 Q. Okay. Now, for this Social Security -- this application
25 for a Social Security card, what does it identify as the date

1 of birth?

2 A. 9/10 of '79.

3 Q. And what does it identify as the place of birth?

4 A. A city called -- I believe it's pronounced Takoradi,
5 Ghana.

6 Q. Is that a different city in Ghana than what was listed on
7 the prior application?

8 A. Yes, it is.

9 Q. Is it a different date of birth than what was listed on
10 the prior application?

11 A. Yes.

12 Q. Okay.

13 MS. CONNORS: And if we can zoom out of that and go
14 to the date that was submitted, Line 14.

15 BY MS. CONNORS:

16 Q. And what was the date for this application?

17 A. It was 2/2 of 2005.

18 Q. Now, the prior application for the 6010 Social Security
19 number, was that one in 1997?

20 A. Yes, it was.

21 Q. Now, if we can look at this one at the bottom, where it
22 says "evidence submitted."

23 Is this similar with your prior testimony that some
24 type of identity information is necessary?

25 A. Yes.

1 Q. All right. So does this indicate that some kinds of
2 documents were provided to support the application for this
3 Social Security card?

4 A. Yes.

5 Q. Okay.

6 MS. CONNORS: And if you can zoom out of that and go
7 to Section 10, zoom in on Section 10.

8 BY MS. CONNORS:

9 Q. And can you read the question in Section 10?

10 A. It says: Has the applicant or anyone acting on his or her
11 behalf ever filed for or received a Social Security number
12 card before.

13 Q. What was the response?

14 A. The box of no was X'd or it had been checked.

15 Q. Okay. Now, looking at the options there, if the first box
16 for yes had been checked, were there additional questions that
17 needed to be answered?

18 A. Yes.

19 MS. CONNORS: And if we can look at -- zoom into the
20 Questions 11,12 and 13.

21 BY MS. CONNORS:

22 Q. Would it have -- would the person have had to enter the
23 Social Security number that they were previously assigned?

24 A. Yes.

25 Q. Would a name be required?

1 A. Yes.

2 Q. And if there was a different date of birth used on an
3 earlier application, did it have to be identified?

4 A. Yes.

5 Q. Now, in regards to all three of these sections, was there
6 no response?

7 A. There was nothing in the form.

8 Q. And then if we can look at Section 16, was this
9 application signed? Is there a signature that appears?

10 A. There is.

11 Q. And can you read what 16 says?

12 A. I declare under penalty of perjury that I have examined
13 all of the information on this form and on any accompanying
14 statements or forms and it is true and correct to the best of
15 my knowledge. And it says your signature.

16 Q. Now, as a result of this application, was a second Social
17 Security number assigned to the defendant?

18 A. To the name Carl Torjagbo, yes.

19 Q. Okay.

20 A. Sorry.

21 Q. And do you recall which -- the last four of that Social?

22 A. I believe it was 0540.

23 Q. Or if you want to look at --

24 A. Did I say it --

25 Q. -- exhibit -- let's see -- if you could pull up

1 Exhibit 201.

2 A. Yes, ma'am.

3 Q. Okay. And the Social Security number for that tax return,
4 what were the last four digits?

5 A. 0540.

6 Q. So is that the -- is that the second Social Security
7 number that was issued?

8 A. Yes, it is.

9 Q. Okay. Now, generally speaking, with the Social Security
10 Administration, are individuals assigned one Social Security
11 number or multiple?

12 A. Generally speaking, one. You have one Social Security
13 number for your whole life and to get a second one is a very
14 difficult process.

15 Q. Okay. Is it rare?

16 A. Yes.

17 Q. Now, for this particular application, since the answer was
18 no to having a prior Social Security number, is that a reason
19 why a second one was actually issued?

20 A. Yes.

21 Q. Now, if this application had identified the same date of
22 birth as the first, the first application that we saw, the
23 same place of birth and provided the same identity evidence as
24 was used for the first application, would Social Security have
25 possibly been able to determine that it was the same person

1 applying for both Social Security numbers?

2 A. Yes.

3 Q. Because that information was different, did that mean that
4 Social Security did not recognize that this was the same
5 person applying for both Social Security numbers?

6 A. Yes, the second application had different information.

7 MS. CONNORS: And if we can look at -- pull up
8 Exhibit 11 again and go to Page 10.

9 BY MS. CONNORS:

10 Q. Now, we looked at a Social -- or, I'm sorry, a Florida
11 driver's license information previously.

12 Is this application at the top, does it have a -- is
13 this a later date?

14 A. Yes.

15 Q. Okay. And what was the date for this application?

16 A. February 20th of 2007.

17 Q. Was that a date after the second Social Security number
18 was issued?

19 A. Yes.

20 Q. And what was the date of birth for this driver's license?

21 A. 9/10 of '79.

22 Q. Is that the same date of birth that was on the second
23 application for a Social Security number?

24 A. Yes, it was.

25 Q. And, Agent Fowler, if you could look at Government's

1 Exhibit 10 in the binder.

2 And does this relate to another driver's license?

3 A. Yes, it does.

4 MS. CONNORS: Your Honor, I would move to admit
5 Government's Exhibit 10.

6 MR. FINLAYSON: Same objections as before.

7 THE COURT: Okay. It's overruled. It's admitted.

8 MS. CONNORS: And if we can pull up Exhibit 10.

9 BY MS. CONNORS:

10 Q. Now, which state was this driver's license record?

11 A. Georgia.

12 Q. Okay. Now, for this driver's license, does it include the
13 Karl Lucius Delano name?

14 A. Yes, it does.

15 Q. The date of birth, is that the same date of birth that's
16 associated with the 0540 Social Security number?

17 A. Yes, it is.

18 Q. Now the issue date for this driver's license, was it in
19 2022?

20 A. Yes, 2/11 of 2022.

21 Q. And so at this time, the date of birth being used is
22 consistent with that -- the date of birth that was on the
23 second Social Security application?

24 A. Yes.

25 MS. CONNORS: You can take that down.

1 BY MS. CONNORS:

2 Q. Now, Agent Fowler, were you able to search both of these
3 Social Security numbers through Social Security's system?

4 A. Yes, I was.

5 Q. Under either one of the Social Security numbers, did you
6 see over \$9 million in wages and earnings under the
7 defendant's two different Social Security numbers that was
8 associated with earnings from Kremkov Industries?

9 A. No.

10 Q. Did you see any earning posted for employment at
11 Kremkov Industries under either Social Security number?

12 A. No.

13 Q. Did you see evidence of any Social Security or Medicare
14 taxes related to withholdings from Kremkov Industries for
15 either one of the defendant's Social Security numbers?

16 A. No.

17 MS. CONNORS: Just a moment, Your Honor.

18 That's all I have. Thank you.

19 THE COURT: All right. Do you want our mid-afternoon
20 break? Yes? You want to push on? I see a couple yeses. All
21 right. We're going to take a ten-minute break, and then we're
22 going to go until 4:30. Okay? All right. Just ten minutes.

23 COURTROOM SECURITY OFFICER: All rise.

24 (Whereupon, the jurors exited the courtroom.)

25 THE COURT: All right. I have a question from the

1 jury. Y'all can be seated. It says --

2 MS. CONNORS: Your Honor, is it something that the
3 witness cannot be in here for?

4 THE COURT: He's fine. No, he can be in here.

5 It says: Please reiterate the limiting instruction
6 how we can use info regarding different Social Security
7 numbers. The info in this case very confusing. Thank you.
8 Juror 24.

9 So they want me to explain it to them better.

10 Thoughts?

11 MR. FINLAYSON: Your Honor, I think that the proper
12 time would be at the close of the case. I don't think we need
13 to read it to them again at this point.

14 MS. CONNORS: I agree, Your Honor. I don't know that
15 there is anything else that we could really do to try to
16 clarify it further. I think it's something we'll be able to
17 reiterate at the end of the case.

18 THE COURT: So just tell them no?

19 MS. CONNORS: Your Honor, I think at the most, I
20 would read the exact same instruction again. I don't think
21 that we should modify the instruction further. We did try to
22 make sure that we were using primarily the pattern instruction
23 and only changing as necessary to fit the facts of this case.

24 And we did also want to be able to give it at that
25 specific point in the testimony rather than waiting until

1 after the testimony was already given.

2 But I think any additional changes at this point we
3 shouldn't do.

4 THE COURT: I'm going to read them this instruction
5 again, and I'm going to tell them that he's not charged with
6 any crime involving obtaining the two Social Security numbers.

7 It's just a -- it's a poorly done instruction. I
8 know it's got the stamp of being a pattern charge, but tell me
9 what it means that you cannot consider this to decide if the
10 defendant engaged in the activity alleged in the indictment.
11 Of course you can.

12 Because you can decide that he had the right state of
13 mind or the wrong state of mind or did not commit an accident
14 or that he had the opportunity. All of those things are -- he
15 had the opportunity to engage in it. You can use it to
16 determine that he had the opportunity. I think that's the
17 same thing as part of your decision as to whether he engaged
18 in that activity. It's just a poor instruction, I suppose.

19 But I'm going to -- is there any objection to me
20 giving it to them again?

21 MR. FINLAYSON: Yes, sir.

22 THE COURT: You do object to that?

23 MR. FINLAYSON: I do, yes, sir.

24 THE COURT: Okay. I won't do it then. We've got a
25 jury that's asking a question. And we're going to tell them

1 they can't have the answer.

2 Is that what you want me to do as well?

3 MS. CONNORS: No, Your Honor. We're comfortable with
4 the Court reading the instruction again.

5 THE COURT: All right. I'm going to do it. Bring
6 them in.

7 COURTROOM SECURITY OFFICER: All rise.

8 (Whereupon, the jurors entered the courtroom.)

9 THE COURT: By the way, you-all don't have to sit in
10 the same spot every time. You can move around if you want,
11 meet new people, sit next to new people. Or if you like the
12 spot, you can keep your spot.

13 Okay?

14 Y'all can sit down. Thank you.

15 I got your question or your note. Let me try again
16 now that you've heard some of them.

17 Okay?

18 You've heard evidence about the defendant allegedly
19 acquiring two Social Security numbers. I want to make sure
20 that it's clear. The defendant is not charged in this case
21 with a crime of obtaining those two Social Security numbers.
22 Okay?

23 You heard what the charges are in this case during
24 the opening statements. What I want to make sure you
25 understand about the limited purpose of this evidence about

1 the Social Security numbers is that you cannot consider that
2 evidence to decide if the defendant, in fact, engaged in the
3 alleged activity, the alleged illegal activity claimed in the
4 indictment in this case. You cannot use that evidence to
5 decide if he engaged in that criminal activity.

6 You can use it for a very limited purpose. You can
7 consider it to decide if he had the state of mind or intent
8 necessary to commit the crime charged. I will tell you what
9 that intent and state of mind is later.

10 Okay?

11 You will be able to consider this evidence to
12 determine if he had the intent or state of mind. You will
13 also be able to use it to decide whether he had the motive or
14 the opportunity to commit the crimes charged in the
15 indictment. You will be able to use it to decide whether he
16 acted according to a plan or in preparation to commit the
17 crimes charged. And you will be able to use it to determine
18 whether he committed the acts charged in the indictment
19 because of a mistake or an accident.

20 Okay?

21 So that's the limited nature. When I -- at the end
22 of the case, I will give you an instruction on the elements of
23 the offense, those are the things that the government has to
24 show in order to prove its case. Okay?

25 And some of those things will talk about intent or

1 things of that nature and you will be able to consider this
2 evidence about the Social Security number for those limited
3 purposes I've gone over. Okay?

4 I think you'll find at the end, when you see the
5 elements of the offense that this instruction will make more
6 sense then. Okay?

7 The purpose now is really to know that it's for that
8 limited purpose and not for the broader idea of deciding if
9 he, in fact, engaged in the activity.

10 That sounds very lawyerly. And there's probably like
11 a month of law school in that. But if you trust me, it will
12 make more sense at the end when you have everything. The
13 important part is just to know that this limited instruction
14 applies to the stuff you're hearing about the Social Security
15 numbers. Okay?

16 All right. Anything else?

17 MR. FINLAYSON: I'd just renew my objection,
18 Your Honor.

19 THE COURT: Sure. Okay. Anything from the
20 government?

21 MS. CONNORS: No, Your Honor.

22 THE COURT: Okay. I appreciate both of y'all. Thank
23 you.

24 All right. Now it is time that the defendant has an
25 opportunity to cross-examine ability witness. Thank you.

1 MR. FINLAYSON: Thank you.

2 CROSS-EXAMINATION

3 BY MR. FINLAYSON:

4 Q. Agent Fowler, how are you, sir?

5 A. Good. How are you, sir?

6 Q. I've got a few questions for you.

7 We've just been talking about these Social Security
8 cards, right?

9 A. Yes, sir.

10 Q. Okay. In the first one, if I understand your testimony,
11 Mr. -- in the name Torjagbo, he got the first one in 1997; is
12 that right?

13 A. Yes, sir.

14 Q. So that's over 28 years ago, right?

15 A. That sounds right, yes, sir.

16 Q. Do you trust me on that?

17 A. Yes, sir.

18 Q. Okay. '97. 28 years ago.

19 And then the second one, he gets a new one, was that
20 2004?

21 A. I think it was 04, or '05. I'd have to look at the
22 application again. I apologize. It was either '04 or '05.

23 Q. Okay. So that's over 20 years ago as well, right?

24 A. Either right at 20 or over 20, yes, sir.

25 Q. Okay. So '97, he's like what, 17 years old or 21 years

1 old, depending on which birthday you go with, right?

2 A. I trust your math. It would be dependent on the birthday.

3 Q. He was a young man probably?

4 A. Yes, sir.

5 Q. He had just come to this country?

6 A. I only knew when he applied. I don't know when he came to
7 the country.

8 Q. Okay. You testified that generally people -- most people
9 only get one Social Security card, right?

10 A. Yes, sir.

11 Q. But you can get a replacement. People do change the
12 number, don't they?

13 A. No, not very often.

14 Q. Not very often, but it does happen?

15 A. Right. Only under specific circumstances.

16 Q. Such as fraud, right? If somebody is a victim of fraud,
17 right?

18 A. Not generally. Even under those circumstances, there has
19 to be additional reasons why you need -- need a replacement.

20 Q. If they're a victim of domestic abuse, that happens,
21 right?

22 A. That could be one, yes, sir.

23 Q. Okay. Do you know that Mr. Torjagbo was -- did report
24 being a victim of domestic abuse?

25 A. I don't know his -- his past reporting, sir.

1 Q. Okay. You can also get a different card if you have
2 religious objection to the numbers that are listed there?

3 A. If documentation is filed and you have a religious
4 objection, you can get a different one, yes, sir.

5 Q. Okay. So it does happen, right?

6 A. Rarely, yes, sir, but...

7 Q. I mean, have you done a survey? Have you counted? I
8 mean, across the country, are we talking ten people or 10,000
9 people?

10 A. I don't know the number as I sit here, sir.

11 Q. Okay. Did you ever know the number?

12 A. No.

13 Q. Okay. So when you say rarely, you don't really -- you
14 can't quantify that, can you, sir?

15 A. I can't quantify it. I can just say what in my dealings
16 and work with the Social Security Administration, they do
17 everything they can not to issue additional Social Security
18 numbers, because it can confuse credit reports and a number of
19 other things, so they make every effort not to issue an
20 additional one.

21 Q. Okay. You mentioned -- you looked at the different
22 applications for these Social Security numbers. And you
23 looked at the evidence that was submitted to support like the
24 dates of birth and that type of thing, the things at the
25 bottom of the page?

1 A. Yes, sir.

2 Q. So on one of those we had a birth certificate from Ghana,
3 right?

4 A. I don't recall that. I remember it mentioning a passport.

5 Q. Right. That was the first one. The first one, the 1975
6 birthday, the first one there, it was supported by a passport
7 from Ghana, right?

8 A. I believe that's correct, yes, sir.

9 Q. Okay. And a passport from Ghana, we're relying on the
10 government of Ghana to get it right, aren't we?

11 A. I don't know passports in Ghana or how they're issued.

12 Q. Okay. Well, you do know -- obviously when looking at that
13 form, some officer, some United States government officer
14 looked at what he presented, the Ghanaian passport, and
15 decided to accept their word for it, right?

16 A. Oh, the evidence listed is what was accepted to issue the
17 Social Security number, the thing at the bottom of the page.

18 Q. Yes.

19 A. That's what was accepted to issue the Social Security
20 number, yes, sir.

21 Q. Right. So if the Ghanaian passport was wrong, the
22 Social Security number application is going to be wrong, isn't
23 it? If it's incorrect?

24 A. If it's wrong, then the application would be wrong.

25 Q. Correct?

1 A. Yes, sir.

2 Q. So I'm guessing you, in your research, didn't go back and
3 look at the Ghanaian passport document yourself, did you?

4 A. We don't have that in the Social Security Administration.
5 I was not able to pull it.

6 Q. Okay. That would be probably maintained -- the original
7 records I guess would come out of Ghana, right?

8 A. I believe so, yes, sir.

9 Q. Okay. And I'm guessing you didn't go to Ghana to look at
10 those records?

11 A. No, sir.

12 Q. Okay. So when a Ghana -- when Ghana issued a passport and
13 they had a -- and they put a typo in that passport --
14 Mr. Torjagbo then, Delano now -- he's stuck with that passport
15 he comes to this country with, wasn't he?

16 Do you follow my question?

17 A. I think so, sir. I'm trying.

18 Q. Okay. If you --

19 A. I want to make sure that I answer your question.

20 Q. Okay. Let me say it again more clear. He gets a passport
21 from Ghana, it has a -- I want to make sure you understand my
22 hypothetical here.

23 He gets a passport from Ghana, it has a typographical
24 error for his date of birth. He comes to this country with
25 it. He presents it to the immigration officer there.

1 He's locked into that passport, isn't he? He
2 can't -- he can't prove a different number at that point, can
3 he, or a different date of birth?

4 A. If you're asking me to speculate, I can. You can -- in my
5 experience with passports, you can request a correction from
6 the country you come from to provide a corrected passport.
7 But in your hypothetical, I'm not sure how I can answer it.

8 Q. You kind of did. So you could get a corrected passport at
9 some point, right?

10 A. Again, I don't know Ghana.

11 Q. Okay.

12 A. But if there were some mistake on a passport, I would
13 imagine you can, but I don't know that process.

14 Q. Okay. Well, in 2004, he presented the birth certificate
15 from Ghana with the 1979 birthdate, and he corrected the
16 information with -- with immigration, right, or Social
17 Security, I guess?

18 A. In that block, I don't know if it was a birth certificate.
19 There were several things listed, but I -- I'm not sure
20 exactly what those were.

21 Q. Okay. But they issued him, based on what he presented in
22 2004 or '5, the second number, he presented the evidence and
23 they issued him the Social Security number with the date of
24 birth 1979?

25 A. Yes, sir.

1 Q. Okay. And you don't know really when he was born, do you?

2 A. I don't know which date of birth is correct.

3 Q. Or any -- you weren't there, right?

4 A. I was -- no, sir.

5 Q. Yeah. And you didn't go back and talk to his mom or
6 anything like that?

7 A. No, sir.

8 Q. Okay.

9 A. Sorry.

10 Q. And by the way, I'm kind of working backwards through what
11 you've testified to, so that's -- just so you know where I'm
12 going.

13 You talked about the different EIN numbers, right?

14 A. Yes, sir.

15 Q. And there are three that were associated with Kremkov and
16 Mr. Delano, three EIN numbers?

17 A. Yes, sir.

18 Q. And one of those numbers ended in 1377, correct?

19 A. Was it 1337 or 1377?

20 Q. I've got 1377.

21 A. I believe you. I could look at it, but I believe you,
22 yes, sir.

23 Q. Well, let's go ahead and look.

24 A. I'm sorry, sir. All right. Do we know the number?

25 Q. I might --

1 MS. CONNORS: It should be Exhibit 5.

2 BY MR. FINLAYSON:

3 Q. Exhibit 5 might help you.

4 A. Sure. 1377.

5 Q. Right?

6 A. You were correct, yes, sir.

7 Q. And that number was assigned in 2018, wasn't it, sir?

8 A. I don't know when it was assigned.

9 Q. Okay. Can you -- do you have any reason to believe it
10 wasn't assigned in 2018?

11 A. I have no reason to believe that.

12 Q. Okay.

13 A. Either way.

14 Q. Either way.

15 You testified about I guess Government's Exhibit 1,
16 the Secretary of State record, right?

17 A. Yes, sir.

18 Q. And the Secretary of State record shows when
19 Kremkov Industries was incorporated with the Georgia Secretary
20 of State, right?

21 A. Yes, sir.

22 Q. Companies do exist in other forms prior to being
23 incorporated, don't they?

24 A. I'm not a business owner, but I -- I believe they can be.

25 Q. Yeah. I mean, not all -- let me put it an even better

1 way.

2 Not all businesses are incorporated, are they?

3 A. I don't know that answer.

4 Q. Okay. You never run into -- you've run into businesses,
5 mom-and-pop businesses that are not incorporated?

6 A. If they have to file taxes, they have to be incorporated.
7 So if they're filing taxes, then I would think that they would
8 be incorporated, but I don't -- there's different versions of
9 corporations.

10 Q. Or what if you're a sole proprietorship?

11 A. That's a version, sole proprietorship, LLP, limited
12 liability, partnership, or LLC. It all depends on what
13 corporation you are.

14 Q. But again if you're not incorporated, then you don't have
15 to be incorporated, do you? You could still be a business?

16 A. I don't know. I believe so. I don't know, sir.

17 Q. And you -- you talked about the -- and I guess the point
18 of this is the PPP loan application, and this is kind of where
19 you started, in fact, it doesn't require you to be
20 incorporated to get a PPP loan, it just requires you to be in
21 operation in the February deadline, right?

22 A. I don't know.

23 Q. You don't know?

24 A. I don't know the rules for filing a PPP loan.

25 Q. Okay. Didn't you testify about the PPP loan application?

1 A. That one was filed, yes, sir.

2 Q. Okay. Okay. You went through the list of those -- the
3 77-page document with the employees, right?

4 A. Yes, sir.

5 Q. Now, that -- that's part of the loan application, right?

6 A. Yes, sir.

7 Q. And it isn't filed with your agency, you don't issue the
8 loan. It's the bank that actually receives and processes that
9 loan, right?

10 A. The Social Security Administration does not issue the
11 loans.

12 Q. Okay. And the IRS doesn't issue the loan?

13 A. I don't -- I don't think so.

14 Q. Okay. The loan application and that list, that document
15 that you went through, it is submitted to the bank, right?

16 A. I don't know who -- I don't know the process, sir. I
17 don't know who it's submitted to.

18 Q. You don't know where it goes? You don't know that that's
19 submitted to a bank?

20 A. I never filed a PPP loan.

21 Q. Okay. So that list of employees, you don't really know
22 where -- where it got submitted or who would review that?

23 A. I know the government received it.

24 Q. Eventually, obviously. Here we are.

25 A. Yes, sir.

1 Q. But you don't know -- you don't know who -- I gather you
2 don't even know who filed it, who physically filed it?

3 A. I know the name on the application and I know what --
4 what's on the document.

5 Q. Okay. So you don't know that Mr. Delano actually filed
6 that himself, do you?

7 A. I only know the name on the application.

8 Q. Okay. And you don't know, I gather, who actually prepared
9 that list of employees, do you?

10 A. No.

11 Q. Okay. And I guess you don't know who at the bank actually
12 reviewed that list of employees, right?

13 A. I don't know.

14 Q. You went through a list of several names. Jason Bourne,
15 is that one of the names on the list?

16 A. Yes, sir.

17 Q. Charlie Brown, a name on the list?

18 A. Yes, sir.

19 Q. Karl Delano, that the name was on the list?

20 A. Yes, sir.

21 Q. You don't know that that's the same Karl Delano as my Karl
22 Delano, do you?

23 A. I only know that it's spelled with a K and that it's Karl
24 Delano under the Kremkov Industries.

25 Q. And none of those names on that employee list actually

1 have Social Security numbers attached, do they?

2 A. No.

3 Q. And no dates of birth?

4 A. No.

5 Q. Just names?

6 A. Yes, sir.

7 Q. And is Charlie Brown a real person or a fake person?

8 A. I know one that is fake, but I don't know if there's
9 somebody actually named that in the country.

10 Q. So you know the character, the Charles Schulz lovely
11 character, Charlie Brown.

12 But there might be actually somebody else named
13 Charlie Brown?

14 A. There could be.

15 Q. And we know there was a Gene Hackman, but he's dead,
16 right?

17 A. Yes.

18 Q. Okay. But you didn't actually dig into those names to
19 make sure that they -- you didn't have anything to work with.

20 You didn't have their Social Security numbers at all,
21 right?

22 A. I did not have the Social Security numbers, no. No, sir.

23 Q. And the same for -- we've got Monica Sweeten, right?

24 A. Yes, sir.

25 Q. And did you have her Social?

1 A. Not on the application.

2 Q. Okay. Bruce Willis, same?

3 A. Not on the application.

4 Q. Okay. And again, you don't know who prepared that list?

5 A. No, sir.

6 Q. Okay. You did talk about the tax return, 05, it's in the
7 0540, right? Mr. Delano filed it, right? At least that's the
8 name -- Torjagbo's name is on the thing, on the return, right?

9 A. Yes, sir.

10 Q. And you testified the amount -- and we can look, if you
11 need to, because it's kind of a long number.

12 The amount here requested in his return is
13 \$3,373,441.

14 A. Do you know what exhibit number that was?

15 Q. I want to say it's 201. Is that right?

16 MS. CONNORS: I'm sorry, which one was that?

17 MR. FINLAYSON: I want to say it's 201 or 202. Let's
18 have a look.

19 BY MR. FINLAYSON:

20 Q. It is 201. Huh.

21 A. Yes, I'm looking at it.

22 Q. And so the amount he requested in that return, it's
23 \$3,373,441, correct?

24 A. Yes.

25 Q. And can you tell me why they paid him \$7,000 less than

1 that amount requested?

2 A. I don't work for the IRS. I don't know.

3 Q. Okay. You testified about a company based in a foreign --
4 in a foreign country, right?

5 She asked you some questions about let's say a
6 goldmine in a foreign country. And the employees there,
7 whether or not they would file tax -- have to file tax
8 documents, such as tax returns, or whatever in this country if
9 they're U.S. citizens working there.

10 Do you remember that general topic?

11 A. I remember the general topic, yes, sir.

12 Q. Now, there is a whole -- and maybe you can answer it,
13 maybe you can't -- there is a whole notion of foreign-earned
14 income, right?

15 A. Yes. There's a rule with expats and -- or not just
16 expats, I'm sorry, people working internationally, there's a
17 certain income threshold, but I don't remember what it is.

18 Q. Okay. But if they are under that threshold, they don't
19 have to file those taxes in the U.S., correct?

20 A. I don't remember the exact rules. I only knew that in my
21 personal capacity, not that I've ever done it, but I don't
22 know it -- like I don't work for the IRS, so I don't know
23 exactly what that is.

24 Q. Okay. But it's a thing, right?

25 A. Yes, sir.

1 Q. Okay.

2 MR. FINLAYSON: If I may have one moment, Your Honor.

3 THE COURT: Yes.

4 MR. FINLAYSON: Nothing further, Judge.

5 THE COURT: Okay. Any redirect for this witness?

6 MS. CONNORS: Very brief, Your Honor.

7 THE COURT: Sure.

8 REDIRECT EXAMINATION

9 BY MS. CONNORS:

10 Q. Agent Fowler, if someone was applying to get a new
11 Social Security number based on being a victim of domestic
12 abuse, would the application for that new Social Security
13 number still need to be accurate?

14 A. Yes.

15 Q. Would that application still have to be signed under
16 penalty of perjury that it was accurate?

17 A. Yes.

18 Q. And if you qualified to get a new Social Security number
19 due to domestic abuse, would there be a reason not to answer
20 the application questions truthfully?

21 MR. FINLAYSON: Objection.

22 MS. CONNORS: I can rephrase, Your Honor.

23 THE COURT: Hold on. Hold on.

24 I'm going to sustain the objection and ask you to
25 disregard that last question.

1 Remember, I told you sometimes I'm going to do that.
2 I'm going to ask you to disregard that last question.

3 You can go at it a different way, if you want.

4 MS. CONNORS: Thank you, Your Honor.

5 BY MS. CONNORS:

6 Q. The application for the second Social Security number
7 here, is there anywhere on that that indicates it is being
8 reissued -- that a new Social Security number is being issued
9 because an individual was a victim of domestic abuse?

10 A. No.

11 Q. And, Agent Fowler, you talked a little bit earlier today
12 about forms that are prepared by employers related to the tax
13 withholdings, W-2s -- I'm sorry, W-2s, W-3s and W-4s; is that
14 right?

15 A. Yes.

16 Q. Now, in terms of those forms, are they -- is an employer
17 submitting that related to their specific employees?

18 A. Yes.

19 Q. And do those forms usually have the Social Security number
20 of the employee on it?

21 A. Yes.

22 Q. And why is that?

23 A. To identify the employee. And so that it can track their
24 wages throughout their lifetime so that they can be -- the
25 calculation for their Social Security retirement income is

1 calculated properly.

2 Q. So is it the case that just because -- if 493 people all
3 work for the same company, can they potentially have different
4 Social Security taxes, different Medicare taxes, different
5 wages?

6 A. Yes.

7 Q. So is it something that is important to make sure that
8 those -- that that information is reflected under the specific
9 employee as well.

10 A. That's correct, yes.

11 Q. But to make sure it's clear, those forms are prepared by
12 the employer?

13 A. Typically in W-2s, especially in W-2s, the forms are
14 filled -- are created by the employer, just like you get your
15 W-2 at the end of the year.

16 And they would have already been -- or they are in
17 the process of being submitted either through the tax preparer
18 or through the business services online agreement, if the
19 employer has one direct with the SSA. Those are really the
20 two ways that they get submitted.

21 Q. Okay. So to submit any kind of Social Security tax,
22 Medicare tax on behalf of a specific employee, would that
23 specific employee, their Social Security number need to be
24 available to the employer?

25 A. Yes.

1 Q. Now, when we looked at the payroll, their -- you testified
2 there's no Social Security numbers on there. And there's not
3 a date of birth?

4 A. Correct.

5 Q. But in order to report the information on that payroll
6 related to Social Security tax and Medicare tax for the 493
7 employees that were listed, it would have been
8 Kremkov Industries that had to have those Social Security
9 numbers?

10 A. Yes.

11 MS. CONNORS: Thank you.

12 MR. FINLAYSON: Just a quick follow-up.

13 THE COURT: Sure.

14 RECROSS-EXAMINATION

15 BY MR. FINLAYSON:

16 Q. So correct me if I'm wrong, but we're talking -- the main
17 thing we're talking about here is the -- or a main thing we're
18 talking about is the PPP loan application, right?

19 A. That's one of the things, yes, sir.

20 Q. Right, right.

21 A. Yes, sir.

22 Q. I mean, he -- my client is not charged with, you know,
23 these things about the FICA withholdings or that sort of
24 thing, that's -- that's not what he's on trial for, it's the
25 PPP loan application, right?

1 A. I don't know the indictment.

2 Q. Okay. On the PPP loan application, there's a payroll with
3 493 names that's submitted, and none of those names have
4 Social Security numbers attached to them, right?

5 A. Correct.

6 Q. And none of those names have dates of birth attached to
7 them, correct?

8 A. Correct.

9 Q. We don't know who those people are, do we?

10 A. No.

11 Q. And the bank was totally fine with that, weren't they?

12 A. I can't speak for the bank, sir.

13 MR. FINLAYSON: No further questions.

14 THE COURT: Okay. Is this witness excused?

15 MR. FINLAYSON: Yes, sir.

16 MS. CONNORS: Yes, Your Honor.

17 THE COURT: Agent Fowler, you're good to go. Thank
18 you very much.

19 THE WITNESS: Thank you, sir.

20 THE COURT: All right. Next witness.

21 MS. CONNORS: Your Honor, the government calls
22 Kobina Oppong.

23 - - -

24 KOBINA OPPONG,

25 A witness herein, having been first duly sworn, was examined

1 and testified as follows:

2 - - -

3 COURTROOM DEPUTY: Thank you.

4 For the record, will you please state and spell your
5 first and last name?

6 THE WITNESS: K-O-B-I-N-A is my first name.
7 O-P-P-O-N-G is my last name.

8 COURTROOM DEPUTY: Thank you.

9 COURTROOM SECURITY OFFICER: You can be seated.

10 DIRECT EXAMINATION

11 BY MS. CONNORS:

12 Q. Good afternoon, sir. Can you tell us, do you currently
13 live in the Atlanta area?

14 A. Yes.

15 Q. Okay.

16 THE COURT: Scoot up so you can talk into that
17 microphone. Thank you.

18 THE WITNESS: Okay. Yeah.

19 MS. CONNORS: And may I approach, Judge? I'll move
20 it down a little bit.

21 BY MS. CONNORS:

22 Q. There we go.

23 A. Oh okay.

24 Q. And, Mr. Oppong, how long have you lived in the Atlanta
25 area?

1 A. Almost 30 years.

2 Q. And what do you do for a living currently?

3 A. I'm a Realtor and I own an ATM company as well.

4 Q. Okay. And where did you grow up before coming to the
5 Atlanta area?

6 A. In Ghana.

7 Q. And when did you move to the United States? Was that 30
8 years ago or even longer?

9 A. No, late '90s.

10 Q. Okay. And since then, have you been here?

11 A. Yes.

12 Q. In the U.S.?

13 A. Yes.

14 Q. Okay. Now, Mr. Oppong, do you know Carl Delano Torjagbo?

15 A. Yes.

16 Q. And do you see him in the courtroom?

17 A. Yes, he's right there (indicating).

18 Q. Okay. And just so we're clear, who are you pointing to?

19 A. Oh, Carl Torjagbo.

20 Q. Okay.

21 A. Sorry.

22 Q. That's okay. Now, do you call him Carl?

23 A. No. No. You know, in Ghana we have nicknames, so I call
24 him Majingo.

25 Q. Okay. Did you know him primarily as Carl Torjagbo, that

1 last name?

2 A. Yes.

3 Q. Okay.

4 A. At school, yes.

5 Q. And are you aware that he changed his name at some point?

6 A. Yes. Yes, ma'am.

7 Q. Okay. Are you aware that it's now Karl Lucius Delano?

8 A. Yes, ma'am.

9 Q. So if I refer to a Mr. Delano during your testimony, will
10 you know who I'm talking about?

11 A. Yes, ma'am.

12 Q. Okay. Thank you. Now, I think you just mentioned that
13 you -- you know Mr. Delano. How do you know him?

14 A. Well, we were in boarding school together since the age of
15 12.

16 Q. Okay. And where was that boarding school?

17 A. Mfantsipim School in Cape Coast in Ghana.

18 Q. Okay. And now can you explain, is that where you first
19 met him was when you were in the boarding school?

20 A. Yes, ma'am.

21 Q. Okay.

22 THE COURT: Hold on. Let her finish her question
23 before you answer. Okay? I don't want y'all talking over
24 each other. It's hard for our court reporter. Okay?

25 THE WITNESS: Okay.

1 THE COURT: Thank you.

2 BY MS. CONNORS:

3 Q. So age 12, was it age 12 when you first met?

4 A. Yes, ma'am.

5 Q. Okay. And so how long have you known him, how many years
6 approximately?

7 A. 38 years. I'm 50 now.

8 Q. You're 50 now?

9 A. Yes.

10 Q. And do you know how old the defendant is?

11 A. He's around my age.

12 Q. Okay. Now, when you were in school in Ghana, were y'all
13 in the same grade or you were in -- or were you in different
14 grades?

15 A. Same.

16 Q. Okay.

17 A. Same grade.

18 Q. And can you explain -- and in terms of school in Ghana, is
19 it -- I believe -- do you have kids who are in school here?

20 A. Yes, ma'am.

21 Q. Okay. So do your kids here, do they essentially have the
22 same age peers going into the same grade level as them?

23 A. So in Ghana it's different. I would say it's slightly
24 different.

25 Q. Okay. Can you explain how it's different?

1 A. So you cannot be more than a couple of years older or
2 younger, so for example I'll be 12 years -- I was 12 years old
3 when we met, so that means that Carl -- you know,
4 Carl Torjagbo cannot be like 8 or 9 or even 10. He -- he will
5 be 11, 12 or 12, for the most part, yes.

6 Q. Okay. So you're essentially around the same age. You
7 might be -- you know, the person could be a little older or a
8 little younger, but not substantially older or younger?

9 A. Yes, ma'am.

10 Q. Okay. And I think you probably just answered one of my
11 questions.

12 Could Mr. Torjagbo have been four years younger than
13 you and in the same grade level?

14 A. No, ma'am.

15 Q. Now, can you describe what the boarding school was like in
16 Ghana? Is this where you would stay at school like in a dorm
17 or do you go home every day?

18 A. No, you stay in a dorm. And on vacation, you go home.

19 Q. Okay. And so in terms of the particular boarding school
20 that you were in when you met him, did you both go like
21 through graduation or was there a different timeframe?

22 A. Yes, we -- yes. About 1992, we went through graduation in
23 1992.

24 Q. Okay. And so did you essentially graduate together?

25 A. Yes, ma'am.

1 Q. Now, after boarding school, did you -- it appears that you
2 continued to stay in touch; would that be right?

3 A. Yes, ma'am.

4 Q. Now, you talked about moving here to the United States.

5 Were you still in touch with Mr. Delano up until the
6 time that you moved to the United States?

7 A. Yes, ma'am.

8 Q. Okay. And did you stay in touch after you moved to the
9 United States?

10 A. Yes, ma'am.

11 Q. Okay. Now, was there a time -- do you -- that Mr. -- that
12 you were aware that Mr. Delano also moved to the United
13 States?

14 A. If I can recollect, he moved here before I did, actually.

15 Q. Okay. Now, did you have any idea of why he was moving to
16 the United States? Did he ever talk to you about it?

17 A. No, ma'am.

18 Q. Okay. So then when you came to the United States, did
19 y'all stay in touch at that point?

20 A. Yes, ma'am, I went to visit him.

21 Q. Okay. Where did you visit him?

22 A. Florida.

23 Q. Okay. Now, at that time, were you also living in Florida
24 or were you living somewhere else?

25 A. No, I've lived -- I've lived in Georgia for the most part.

1 Q. Ever since you came here, you've been in Georgia?

2 A. I lived in New York for probably like six months. And
3 then move to Georgia afterwards.

4 Q. Okay. Now, at some point, did you end up -- since you
5 were here in Georgia, then was there a time where Mr. Delano
6 also was living in Georgia?

7 A. Yes, ma'am.

8 Q. Okay. Now, after he moved, was he also kind of in the
9 Atlanta area?

10 A. Yes, ma'am.

11 Q. Okay. Now, after he moved to the Atlanta area as well,
12 were you still keeping in touch and visiting sometimes?

13 A. Yes, ma'am, from time to time.

14 Q. Okay. And, Mr. Oppong, do you know if Mr. Delano is a
15 pilot?

16 A. Yes, ma'am.

17 Q. Okay. And have you spoken to him before about his work as
18 a pilot?

19 A. Well, numerous times.

20 Q. Okay. And now was there a timeframe where you believed he
21 might have been working overseas as a pilot?

22 A. Yes, ma'am.

23 Q. Okay. And do you know roughly when that time period was?

24 A. So I would say it was prepandemic, so I'm thinking around
25 2017 to 2019.

1 Q. And did you know where overseas he might have been
2 working?

3 A. Dubai.

4 Q. Did you ever go visit him when he was in Dubai?

5 A. No, ma'am.

6 Q. Now, at some point, did you -- did Mr. Delano move back to
7 the United States?

8 A. Yes, ma'am.

9 Q. Was he in the United States -- in the Atlanta area at that
10 time?

11 A. Yes, ma'am. I think Douglasville.

12 Q. Okay. And what approximate timeframe would that have
13 been?

14 A. So I think it was after the pandemic, after the lockdown.

15 Q. Okay. Do you remember when the pandemic kind of hit, what
16 year?

17 A. Yeah. So I'm thinking, hmm, early 2021.

18 Q. Okay.

19 A. That's -- I'm sorry. That's the best I can do.

20 Q. That's okay. No problem.

21 Now, when he moved back to the United States, were
22 you talking to him and visiting him some?

23 A. Well, it was just one time that he wanted me to show him
24 houses.

25 Q. Okay. Can you tell us about that?

1 A. So when he came back, he called me and he came by my house
2 and, you know, he was like, hey, I want you to show me some
3 houses around \$500,000.

4 And I was like, okay, but my wife is out of town so
5 I'll have to get my kids. And, you know, I said I can -- you
6 know, we -- as long as we can be done by 2:00.

7 So we just started from Cumming all the way to
8 Douglasville that day. And it was just one day that we did,
9 yeah.

10 Q. Okay. So you were showing him houses?

11 A. Yes, ma'am.

12 Q. Did y'all look at multiple houses?

13 A. Yes, ma'am, like around \$500,000 range, yes.

14 Q. And did y'all discuss at all how he was going to purchase
15 the houses that -- the house if he liked one of the ones that
16 you showed him?

17 A. Not necessarily. I assumed that because --

18 MR. FINLAYSON: Objection.

19 THE WITNESS: Yeah, so...

20 THE COURT: I'm going to sustain the objection. You
21 can ask -- you can talk about what you did or what you saw or
22 what you said, but don't assume.

23 THE WITNESS: Okay.

24 THE COURT: But you can testify close to that if you
25 explain what you did. Okay?

1 THE WITNESS: Okay.

2 BY MS. CONNORS:

3 Q. So did y'all have any kind of specific conversations about
4 how he was going to purchase a house?

5 A. He was going to pay cash.

6 Q. Okay. And prior to that time, is that when you knew that
7 he was working as a pilot?

8 A. Yes, ma'am.

9 Q. Okay. Now, did he end up buying one of the houses that
10 you showed him?

11 A. No, ma'am.

12 Q. Did you later find out that he bought a house, something
13 that you didn't show him?

14 A. Yes, ma'am.

15 Q. Okay. And can you tell us about that, how you found out
16 that he bought another house?

17 A. So I think I showed him the houses around March. And by
18 probably around May, he calls me out of the blue and said,
19 hey, guess what, I just bought a house. And he had previously
20 told me that he was going to get a house in Florida. He
21 changed his mind, and so he didn't -- he basically said that
22 he wasn't going to use me as a realtor any longer. And I
23 found that he bought the one house in Marietta.

24 Q. Did you look up any information related to that house?

25 Q. Yes, I did. Because I basically wanted to know how much

1 it cost, how much I was going to make from my commission if he
2 had used me. And I got angry at him.

3 Q. Why did you get angry?

4 A. Because I'm like I wasted my time, you know, showing you
5 houses, and you just did not use me any longer.

6 Q. Okay. And when you looked up information, do you recall
7 if there was an approximate price for the house that he
8 purchased?

9 A. Like around \$1.8 million.

10 Q. Okay. And was that a good bit more than the price point
11 that you were looking at with him?

12 A. Oh, yeah, that was way more. It was like \$500,000 with
13 me.

14 Q. Okay. And have you ever been to that house, the house
15 that he purchased?

16 A. Multiple times.

17 Q. And what's that house like?

18 A. If I can recall, it's like an eight-bedroom house and it's
19 probably like 10,000 square feet.

20 Q. Okay. Now, in terms of your conversations, you've had a
21 long history with Mr. Delano.

22 Did he talk to you about any other employment besides
23 being a pilot?

24 A. No, ma'am.

25 Q. And in terms of Kremkov Industries, is that a company that

1 you're familiar with or have you heard that name before?

2 A. Yes, ma'am.

3 Q. Okay. And how are you familiar with Kremkov Industries?

4 A. Because Karl told me about his company called
5 Kremkov Industries.

6 Q. Okay. And when did that happen?

7 A. That was around the time that he bought the house.

8 Q. Okay. Now, before then, had you ever heard of
9 Kremkov Industries?

10 A. No, ma'am.

11 Q. And in addition to talking to the defendant about
12 Kremkov Industries, after he bought that house, was there
13 anything else that you ever saw related to Kremkov Industries?

14 A. Can you say --

15 Q. Okay. Yes. So -- well, let me ask this.

16 Did you ever do any research on Kremkov Industries?

17 A. Yes, ma'am.

18 Q. Okay. And why was that?

19 A. It was because I had knew someone who wanted to build a
20 website for anyone I knew. And I had my website already, so I
21 decided that why not just -- so I just Googled
22 Kremkov Industries.

23 Q. Okay. And when you Googled Kremkov Industries, was there
24 anything particular that stood out to you?

25 A. It had only one information on there.

1 Q. Okay. And what was that related to?

2 A. PPP loan.

3 Q. And did you look at any of the kind of details that were
4 available related to that PPP loan?

5 A. Yes, ma'am.

6 Q. And did anything about that stand out to you?

7 A. I think it -- it said that he had received about 9.4,
8 \$9.5 million of PPP loan.

9 Q. Okay. And was that surprising to you?

10 A. Oh, very much. I mean, I think -- I mean, he's been my
11 friend since we're 12 years old, so -- and I've been at the
12 house so many times, so in my head I'm like, okay, it was a
13 lot.

14 Q. Okay.

15 A. I couldn't sleep that night.

16 Q. Okay. Did you learn any information about number of
17 employees or approximately how much an average salary was
18 supposed to be with Kremkov Industries?

19 A. So it was 493 employees, it was -- it's a \$95,000 payroll
20 per person, if I can remember correctly. It was -- yes.

21 Q. Okay. Now, after you saw this information related to this
22 PPP loan, did you talk to Mr. Delano about the PPP loan?

23 A. Yes, ma'am, the next day.

24 Q. Okay. Was that a conversation that was in person or it
25 was by phone?

1 A. In person.

2 Q. Okay. And did you ask him about the loan?

3 A. Yes, ma'am.

4 Q. Okay. And what was -- what did y'all discuss?

5 A. Oh, it was a lot. So I asked him specifically why -- the
6 reason why -- I told him I was -- excuse me -- the reason why
7 I was researching the company. And I said this -- for a
8 website. And I asked him why he didn't have a website.

9 And he -- he said he was dealing with goldmining and
10 you don't need a website, it's secretive. And he also said
11 that, you know, he would be -- like Kremkov was the big
12 company, like the -- what word should I use? He was going to
13 have other companies under Kremkov, which Dragonfly or
14 something like that would be underneath of that.

15 And so we had a long conversation about it. And
16 we -- we argued a lot throughout the whole conversation,
17 because he didn't -- he didn't want to hear me and I didn't
18 want to hear him.

19 Q. Okay. And, I mean, why was that? Why were -- why were
20 you upset or why was --

21 MR. FINLAYSON: Your Honor, I've got an objection.
22 Maybe we need to take this matter up outside the presence.

23 THE COURT: Okay. Why don't you-all step out for a
24 second. Okay?

25 COURTROOM SECURITY OFFICER: All rise.

1 (Whereupon, the jurors exited the courtroom.)

2 MS. CONNORS: Should the witness step out?

3 MR. FINLAYSON: Probably so, yes.

4 THE COURT: Hold on one second. Let's let them get
5 out first.

6 Okay. You can then head outside the courtroom and
7 just wait outside on the outside there. Okay?

8 THE WITNESS: Yes.

9 THE COURT: Thank you, sir.

10 Okay. What's the issue?

11 MR. FINLAYSON: Thank you, Judge.

12 Your Honor, my concern is this witness is sort of --
13 he's providing this -- first of all, there's a recording of
14 this conversation, but that's maybe not the point.

15 He is providing a narrative of his concerns, his
16 thoughts, he's summarizing his statements.

17 You know, arguably what Mr. Delano would say would be
18 a party admission in these environments, but it's almost kind
19 of like the issue with the interrogation as well. I don't
20 think he should be allowed to speculate or we don't need to
21 hear what he was thinking and what his -- his internal
22 monologue about, well, I thought that was -- and I went -- he
23 basically did his own investigation.

24 And I don't think that there's -- and there's a
25 hearsay aspect to this, if he's going and doing research and

1 he's looking on the computer and he's seeing things and then
2 sort of telling the jury of these things he saw.

3 You know, some of these we don't dispute, but it
4 feels that it is -- I think the guts of it is it's a hearsay
5 problem in that he is being allowed -- it's also a
6 foundational problem where he is being allowed to testify
7 about his thought process when his thought process is not
8 relevant, it's not -- it's not good evidence, it's not --
9 it's -- it's one thing for him to be able to say pretty much
10 what Mr. Delano said. And that's what's bothering me about
11 this. And I apologize I didn't articulate that better.

12 THE COURT: That's okay. I think I get the idea.
13 Are we going to hear a recording of this conversation?

14 MS. CONNORS: No, Your Honor. We're trying to avoid
15 having to play a very lengthy conversation, recording of the
16 conversation, so I do think it's appropriate. I mean, the --

17 THE COURT: What was the question you were going to
18 ask him?

19 MS. CONNORS: The question that raised the objection
20 was why are you upset, which I think is something that's
21 relevant and that he would be able to say.

22 THE COURT: He's going to say something like I was
23 upset because I thought he was lying to me or something like
24 that.

25 MS. CONNORS: I'm -- I'm not sure exactly what he's

1 going to say. I mean, I think he's going to say that he had
2 concerns and was worried about his friend.

3 THE COURT: Hold on. But let's be honest. You want
4 to put in the fact that he was worried about -- so far what
5 he's explained is that he confronted the defendant about this
6 loan. And the defendant said something about having a
7 goldmine that he wanted to keep secret. And he was going to
8 make other companies underneath that goldmine.

9 And you want to ask him why he got upset.

10 And he's going to say -- you expect him to say
11 something about suspicion about the defendant's explanation.

12 MS. CONNORS: What -- I think he's going to express
13 some kind of concern about that the defendant may have gotten
14 this loan, yes, for -- based on incorrect information.

15 THE COURT: Okay. You should ask him what he said to
16 the defendant. Okay?

17 What did you say to the defendant.

18 Because I think Mr. Finlayson has a good point. His
19 suspicions aren't really relevant. What matters is what he
20 said to the defendant.

21 Okay?

22 MS. CONNORS: Okay.

23 THE COURT: I mean, his -- the jury -- maybe he's
24 just a suspicious guy. What matters is if he challenged him.

25 MS. CONNORS: Okay. And just to make sure that I can

1 clarify, because it seemed like Mr. Finlayson's objection was
2 to that testimony. He wants it to only be that the witness
3 would be able to say what the defendant said. But I do think
4 that that would be difficult to play out without also being
5 able to ask him what he said to the defendant.

6 THE COURT: No, you can ask him what he said to the
7 defendant is what I'm saying.

8 MS. CONNORS: Okay.

9 THE COURT: What you asked was why were you upset or
10 why was he upset, the answer to which has to be something like
11 I didn't believe him. And that's fine. But the jury doesn't
12 need to know that, right?

13 The jury needs to know what did you do next. Well, I
14 argued with him. What did you argue about? I argued about
15 whether or not he was telling the truth. I thought there was
16 some fraud. What did you do? I said this. What did he do?
17 I said that. What did you do next? I did that.

18 And let me be clear. I think you can typically ask a
19 witness some information about why they did what they did. I
20 had my suspicions because I've known him forever and he had
21 never owned a goldmine. I never heard him say anything about
22 being in the goldmining business, let alone having \$9 million.
23 And if you want to ask him those questions, you can ask him
24 those specific questions, and you can even lead him in some
25 way.

1 MS. CONNORS: Okay.

2 THE COURT: But you're asking a guy really open-ended
3 questions, which might very well have him just start spouting
4 off all of his individual suspicions. Okay?

5 MS. CONNORS: Okay. Yes, Your Honor.

6 THE COURT: Am I helping you with that at all?

7 MS. CONNORS: I think so.

8 THE COURT: I don't want to make it more confusing,
9 but I would like you to be like why were you confronting him
10 about that.

11 MS. CONNORS: Okay.

12 THE COURT: What was it that you didn't understand?
13 What was it that he said that you didn't believe? Why didn't
14 you believe that? I think all of that is fair.

15 But just an open broad thing that he just may go off
16 into some long-winded explanation is not appropriate. Okay?

17 MS. CONNORS: Okay.

18 THE COURT: And if you think he's saying something
19 that's inappropriate, we'll stop it again. Okay?

20 But I do think that you're allowed to say you knew
21 this guy, you've known him all your life.

22 And one night you heard about Kremkov Industries and
23 \$9 million and you couldn't sleep. And so the next day you
24 went over there and you started asking questions.

25 I think he's allowed to say if he wasn't getting

1 answers that he thought were correct, given what he knows
2 about him. All right?

3 MS. CONNORS: Okay. Okay.

4 THE COURT: And I'm assuming the jury is going to
5 hear that this was recorded, so...

6 MR. FINLAYSON: And I'm struggling greatly with that,
7 because I've -- I don't really want to sit here to hear it,
8 but there is a part of me that it's tempting to -- at some
9 point, it's going to be better to play the recording than to
10 not. But I haven't quite crossed that line yet.

11 THE COURT: Well, we're not in the process so far in
12 this case of moving quickly.

13 MR. FINLAYSON: Thanks.

14 THE COURT: Not for anybody's fault, but...

15 MR. FINLAYSON: Yeah.

16 THE COURT: But certainly speed has not been an
17 objective of today, right?

18 MS. CONNORS: And, Your Honor, I -- just to point out
19 on that topic, this witness has an unmoveable conflict
20 tomorrow. He's got two children who are racing in the junior
21 olympics, so our goal has been to try to make sure that he can
22 get off the stand today because he does have that issue.

23 THE COURT: Okay. All right. Do you want to bring
24 them back in?

25 Have I helped you clarify where the lines are?

1 MS. CONNORS: I think so, Your Honor.

2 MR. FINLAYSON: Thank you.

3 THE COURT: Come on back up. Yes, sir. Come on in.
4 I hear you've got kids running in a race tomorrow?

5 THE WITNESS: Yes, sir. Yes, sir.

6 COURTROOM SECURITY OFFICER: All rise.

7 (Whereupon, the jurors entered the courtroom.)

8 COURTROOM SECURITY OFFICER: Be seated.

9 BY MS. CONNORS:

10 Q. You can go ahead and sit back down. Thank you.

11 Okay. So, Mr. Oppong, to make sure that we're clear,
12 did you specifically talk to the defendant about the PPP loan?

13 A. Yes.

14 Q. Okay. And why did you talk to him about the PPP loan?

15 A. Because I was trying to make sure that what I read was
16 true or not.

17 Q. And in regards to the business, what is it that he told
18 you was the business of Kremkov Industries?

19 A. A mining company.

20 Q. And prior to that, had he ever mentioned a mining company
21 before?

22 A. No, ma'am.

23 Q. Had Mr. Delano ever talked to you about having hundreds of
24 employees?

25 A. No, ma'am.

1 Q. Do you recall if you specifically asked him about the
2 employees of Kremkov Industries?

3 A. I don't know, are you talking about the same day that we
4 had a conversation or previously?

5 Q. Yes. Yes.

6 A. No, we didn't talk about that.

7 Q. Okay. Do you recall if you asked him about the average
8 salary of the employees for Kremkov Industries?

9 A. No, ma'am.

10 Q. Okay. Now, in terms of any other types of businesses, had
11 the defendant talked to you about any other businesses that he
12 owned or wanted to operate?

13 A. Logistics company.

14 Q. Okay. And now in terms of the logistics company, at the
15 time that you were talking to him about the PPP loan, was that
16 company -- what was the status of that company?

17 A. He said he was about to start it.

18 Q. Okay. So just about to start it, I'm sorry, is that what
19 you said?

20 A. Yes, ma'am.

21 Q. Okay. Now, at any time during your history of knowing the
22 defendant, did he talk to you about paying millions of dollars
23 to employees every year?

24 A. No, ma'am.

25 Q. And in terms of after this conversation happened about the

1 PPP loan, did you know if Mr. Delano was buying anything like
2 vehicles or trucks?

3 A. No, ma'am. Before the PPP loan?

4 Q. No, after.

5 A. Oh, yes, ma'am.

6 Q. Okay. And what are some examples?

7 A. Tractor-trailer trucks.

8 Q. Okay.

9 A. Personal vehicles.

10 Q. Okay.

11 A. And so --

12 Q. Did you ever ride in any of those personal vehicles?

13 A. No, ma'am.

14 Q. Okay.

15 A. I mean, I sat in it when one of them -- when the first one
16 came in, but I never rode in it.

17 Q. Okay.

18 A. I take it back. The day of the -- when we had the
19 conversation, we drove to his office, so yeah.

20 Q. Now, that office, was that somewhere that you had been
21 before that day?

22 A. Not that day. I had been previously, previous days, but
23 not -- that specific day was in the morning, so I went to his
24 house and then we went to the office.

25 Q. And do you recall, were you ever at that office before the

1 PPP loan?

2 A. No, ma'am. That was my first time in the office, around
3 that period of time.

4 Q. Okay. So do you know if he had that office before the
5 PPP loan?

6 A. No, ma'am.

7 THE COURT: No, you don't know? Or, no, he didn't?

8 THE WITNESS: No, he didn't.

9 THE COURT: Okay.

10 MS. CONNORS: Thank you.

11 BY MS. CONNORS:

12 Q. Okay. And did you ever -- you've mentioned one of the
13 vehicles that you saw. Were there any other vehicles?

14 A. Yes, ma'am.

15 Q. Do you remember any of them?

16 A. He had a white BMW and then he had a Range Rover.

17 Q. Okay. In terms of those vehicles, were these his
18 vehicles, you saw them with him?

19 A. Yes, ma'am.

20 Q. Were those different vehicles than he had before the
21 PPP loan?

22 A. The BMW was before.

23 Q. And let's see. And just to clarify one thing, you said
24 that you were 12 years old when you met the defendant and
25 you're around 50 now? What year were you born in?

1 A. 1975.

2 MS. CONNORS: I think that's it.

3 Thank you, Your Honor.

4 THE COURT: Any cross-examination.

5 MR. FINLAYSON: Yes, sir, briefly.

6 CROSS-EXAMINATION

7 BY MR. FINLAYSON:

8 Q. Mr. Oppong, how are you, sir?

9 A. Good. How are you?

10 Q. Now we've spoken before, right?

11 A. Yes, sir.

12 Q. We talked on the phone for quite awhile?

13 A. Yes, sir.

14 Q. And you're testifying that you met Karl in Ghana when you
15 were kids?

16 A. Yes, sir.

17 Q. And you're saying you guys are the same age approximately?

18 A. Yes, sir.

19 Q. Really?

20 A. I mean, I look good, I mean.

21 Q. Okay. And you're 50, right?

22 A. Yes, sir.

23 Q. All right. You weren't born in Ghana, were you?

24 A. Yes, sir.

25 Q. You were born in Ghana?

1 A. Yes, sir.

2 Q. Not in Jamaica?

3 A. No, sir.

4 Q. What's your date of birth?

5 A. April 15, 1975.

6 Q. Tax day?

7 A. Sorry. What did you say?

8 Q. Tax day?

9 A. Oh, yes. Tax day, yes, that's it.

10 Q. So when you came to this country, did you come in with a
11 Ghanaian passport?

12 A. Yes, sir.

13 Q. Okay. And are you -- did you -- did they get all of your
14 documents right when you came into this country?

15 A. Yes, sir.

16 Q. Okay. You and I talked about this a little before.

17 Is it common that Ghanaian documents aren't always
18 right when you come out?

19 A. Yes, sir.

20 Q. Okay. And --

21 A. Sometimes.

22 Q. Sometimes. And people coming out of Ghana, sometimes
23 their paperwork gets messed up and they end up with the wrong
24 birthdate?

25 A. Yes, sir.

1 Q. You've seen that happen?

2 A. Yes, sir.

3 Q. Now, you were with -- you said you met Karl in the
4 secondary school, right?

5 A. Yes, sir.

6 Q. Okay. So not elementary school?

7 A. No, sir.

8 Q. Not second grade?

9 A. No, sir.

10 Q. Okay. He -- you knew he was a pilot, right?

11 A. Yes, sir.

12 Q. You knew he worked in Dubai for several years, right?

13 A. A few years.

14 Q. And you lost touch with him when he was in Dubai, right?

15 A. Yes, sir.

16 Q. You never went and visited him there?

17 A. No, sir.

18 Q. You don't know what he was doing over there, do you?

19 A. He told me he was flying planes.

20 Q. All right. But you didn't go and see what he was doing,
21 right?

22 A. No, sir.

23 Q. Okay. You don't know what business ventures he got into
24 while he was in Dubai, do you?

25 A. No, sir.

1 Q. You showed him some -- are you all right?

2 A. I'm just trying to get some water. Thank you. Go ahead.

3 Q. You showed him some houses on one day?

4 A. Yes, sir.

5 Q. And he, to put it probably in a real way, he went around
6 your back, right?

7 A. Yes, sir.

8 Q. And you were mad about that, right?

9 A. Yes, sir.

10 Q. Because he didn't use you for his agent to purchase a
11 house, right?

12 A. Yes, sir.

13 Q. And you went to confront him about these things, right?

14 A. Yes, sir.

15 Q. And your main focus was you were trying to get him to make
16 a website, right?

17 A. Yeah. Yes, sir.

18 Q. You had a friend who was in the website business and you
19 were trying to get Karl to make a website for Kremkov with
20 your friend, right?

21 A. Yes, sir.

22 Q. Were you going to get a piece of that money?

23 A. No. I think you're conflicting two things.

24 Q. Okay. Tell me.

25 A. So you're talking about when I confronted Karl, I

1 confronted Karl about when he bought the house. I thought
2 that's what you were talking about. But, yeah, so I didn't
3 know you were talking about a website.

4 Q. Let's go to the website day.

5 A. Okay.

6 Q. Do you remember that day where you tried to get him to buy
7 a website or you tried to get him to make a website?

8 A. Yes. Yes.

9 Q. You recorded that conversation, right?

10 A. Yes.

11 Q. Like an hour long?

12 A. 45 minutes.

13 A. Yes.

14 Q. Where you're trying to get Karl to buy a website for
15 Kremkov Industries, right?

16 A. No.

17 Q. You weren't encouraging him to buy a website?

18 A. I was telling -- I was -- I didn't -- okay. So I was
19 telling him he needs a website. But I wasn't trying to
20 like -- and I kept telling him in a very -- if you can -- if
21 you listen to it, I said I'm not trying to tell you what to
22 do, but when I Googled, it was only PPP loan document but at
23 least you need a website.

24 Q. Okay. And Karl was flatout no, I didn't need a website,
25 right?

1 A. Exactly.

2 Q. He said you don't put your address to where your hidden
3 goldmine is in Ghana. You ain't going to put that on a
4 website, right?

5 A. He didn't say anything about an address. He said it's a
6 secret company, you don't put it on --

7 Q. So it's a secret location, right?

8 A. He said goldmining is normally a secret, so you don't put
9 it online.

10 Q. Did you go look at other gold company websites?

11 A. No, I didn't care about that.

12 Q. You didn't care. You didn't go that deep?

13 A. No.

14 Q. Okay. So you put this idea out there and he flatout
15 refused. He said I will not need a website for the goldmine,
16 right?

17 A. Yes, sir.

18 Q. You thought it would look better if he had a website,
19 right, you thought that would be better?

20 A. I mean, it's -- we live in a digital word, like, and I
21 told him on the -- you know, throughout the conversation like
22 everybody has a website.

23 Q. Okay. And he said I maybe -- I'll make a website for the
24 trucking company when that's off the ground?

25 A. Yes, he said that.

1 Q. That's what he told you?

2 A. Yes, sir.

3 Q. Okay. He never said to you or told you, hey, man, I don't
4 have a goldmine, it's all fake, right? He never said nothing
5 like that, did he?

6 A. No.

7 Q. Okay. He told you he had a goldmine?

8 A. Yes, sir.

9 MR. FINLAYSON: That's all my questions, Judge.

10 THE COURT: Is the witness excused or any redirect?

11 MS. CONNORS: Very briefly.

12 REDIRECT EXAMINATION

13 BY MS. CONNORS:

14 Q. Now, Mr. Oppong, what was the context of why you were
15 recommending the website?

16 A. Basically, because everybody has a website. And I
17 specifically said that in the conversation that if anybody,
18 including his neighbors, ask him what he did for a living and
19 they Google it, everybody in the world will see that it's --
20 it's PPP, it's right there, it's -- my 13-year-old daughter
21 can even see that.

22 Q. Okay. And at that point -- up until you had this
23 conversation, you weren't aware of anything else related to
24 Kremkov Industries beside the PPP loan?

25 A. No, not at all. I had no idea -- I had no idea about a

1 PPP loan.

2 Q. And you also -- you did not ever have a conversation with
3 him prior to that where he said he had a, you know, lucrative
4 goldmine in Ghana?

5 A. No, ma'am.

6 MS. CONNORS: Thank you.

7 MR. FINLAYSON: Very quickly.

8 RECROSS-EXAMINATION

9 BY MR. FINLAYSON:

10 Q. You just said you didn't know about his PPP loan. But you
11 had a PPP loan before this, right?

12 A. Yes, sir.

13 Q. You got like a \$20,000 PPP loan, right?

14 A. Yes, sir.

15 Q. And your loan was forgiven by the government, right?

16 A. There's two loans that I had. One of them was forgiven,
17 one of them was not. I'm still paying \$96 a month for it.

18 Q. Okay. Which one was forgiven then?

19 A. There's -- there's -- I don't remember the name of the --
20 SBA has different -- as you know, has different programs. One
21 of them, the pandemic loans you can request to -- for it to be
22 dissolved, and I did that through my CPA, so that one was
23 dissolved, but the PPP loan, the \$20,000, I'm paying it, 96
24 bucks a month.

25 Q. So which one -- how much was the one that was forgiven?

1 A. That one was also 20 grand, like 19 and some change.

2 Q. So you had \$20,000 you asked the -- I guess it's the bank,
3 really, you asked the government, but then the loan came from
4 the bank, right?

5 A. Of course, yeah.

6 Q. Yes. So you asked for that one to be forgiven. You did
7 not have to pay the bank back that \$20,000, right?

8 A. That one that is forgivable --

9 Q. Right.

10 A. -- in terms of -- again, it was all related to COVID, and
11 there was so many programs at the time, so I was able to use
12 two different -- two different times, by the way. Because, I
13 mean, as you are aware, the CARES act and also the -- I can't
14 remember the name of it, but like, you know, there were two
15 different government programs. And one was the one president,
16 the other one was a different president, so...

17 Q. So to get forgiven, you had to -- you had to actually ask
18 for that, right, you had to request that they forgive the
19 loan?

20 A. Of course.

21 Q. And if you didn't request they forgive the loan, then you
22 would have to pay it back?

23 A. Yes, sir.

24 MR. FINLAYSON: Nothing further, Judge.

25 MS. CONNORS: Your Honor, very briefly.

1 FURTHER DIRECT EXAMINATION

2 BY MS. CONNORS:

3 Q. Mr. Oppong, your 19, \$20,000 PPP loan, how many employees
4 did you have?

5 A. Just me.

6 MS. CONNORS: Thank you.

7 THE COURT: Okay. The witness may be excused?

8 All right, sir. Thank you very much. I hope you
9 have a nice day.

10 THE WITNESS: Thank you.

11 THE COURT: All right. Do you have another witness
12 you want to get into today?

13 MS. CONNORS: We do have one short witness, if it is
14 possible.

15 THE COURT: What do you think?

16 JURORS: Yeah.

17 THE COURT: Yeah. All right. Okay. Let's go. I
18 like that decisiveness.

19 MS. CONNORS: They're walking around. I apologize,
20 Your Honor.

21 COURTROOM DEPUTY: Please raise your right hand.

22 - - -

23 MONICA SWEETEN,

24 A witness herein, having been first duly sworn, was examined
25 and testified as follows:

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COURTROOM DEPUTY: Thank you.

For the record please state and spell your first and last name.

THE WITNESS: Monica Sweeten, M-O-N-I-C-A, s-W-E-E-T-E-N.

COURTROOM DEPUTY: Thank you. You may be seated.

DIRECT EXAMINATION

BY MR. EVERT:

Q. Good afternoon, Ms. Sweeten, where do you live?

A. In Houston.

Q. And how long -- is that Houston, Texas?

A. Houston, Texas, yes.

Q. And how long have you lived in Texas?

A. All my life. I mean, half of my life, since I moved to the states, so about 19 years or so.

Q. And what is your job?

A. I'm an airline pilot.

THE COURT: I'm sorry, an airline pilot?

THE WITNESS: Yes, sir.

THE COURT: Who do you fly for?

THE WITNESS: For American Airlines.

THE COURT: Okay. Thank you.

THE WITNESS: Um-hmm.

1 BY MR. EVERT:

2 Q. Okay. And how long have you been a pilot?

3 A. Since I was 17, but for -- for America, two and a half
4 years. And I -- before that, I worked for another airline
5 called Mesa Airlines.

6 Q. And do you have a rank as a pilot?

7 A. Yes. Well, you kind of like -- I'm a first officer right
8 now, but when I was with Mesa, I was a captain.

9 Q. And did you know an individual by the name of Karl Delano
10 or former Carl Torjagbo?

11 A. Yes.

12 Q. Which name do you know him by?

13 A. Both.

14 Q. Okay. And if I refer to him as Mr. Delano, we'll know
15 that we're talking about the same person?

16 A. Yes, sir.

17 Q. All right. So do you see Mr. Delano in the courtroom
18 today?

19 A. He's there (indicating).

20 Q. What -- could you identify him by something he's wearing?

21 A. He's wearing a black suit with a white shirt.

22 MR. EVERT: Could the record please reflect that she
23 identified the defendant?

24 THE COURT: Any objection?

25 MR. FINLAYSON: No.

1 THE COURT: Okay. She has. Thank you.

2 BY MR. EVERT:

3 Q. So how did you meet Mr. Delano?

4 A. We met at Mesa Airlines. We basically was in training.

5 We went to training together at Mesa Airlines.

6 Q. And about how long ago was that?

7 A. That was in 2017.

8 Q. And you had mentioned that you don't work at Mesa Airlines
9 anymore?

10 A. No. I left when I went to American Airlines two and a
11 half years ago. So when I -- yeah, basically I went from Mesa
12 to American.

13 Q. And do you know if Mr. Delano still works for Mesa
14 Airlines?

15 A. I don't think so.

16 Q. Did you remain friendly with him after you -- you both --
17 you stopped working together?

18 A. Yeah. We used to talk once a year or so, just to keep in
19 touch, but not like talk every month or anything like that,
20 but just -- just keep in touch.

21 Q. Now, would you mind looking in your binder at Government's
22 Exhibit 101.

23 MR. EVERT: And if we could pull that up on the
24 screen, that might be easier.

25 THE COURT: You can look at this screen.

1 BY MR. EVERT:

2 Q. You can just look at the monitor, too, it will probably be
3 easier.

4 A. Okay.

5 MR. EVERT: And if we could turn to Page 81 please.

6 BY MR. EVERT:

7 Q. Can you read the name -- what the title of this document
8 is just at the top there?

9 A. At the top. Oh, the top, the date?

10 Q. Just the title of the document.

11 A. Payroll journal summary report.

12 Q. And is this for --

13 A. Kremkov Industries.

14 Q. Great. And what's the date range on this?

15 A. 01/01/2020 and 12/31/2020.

16 Q. Got it. And have you ever worked for a company called
17 Kremkov Industries?

18 A. No.

19 Q. Have you ever worked for Karl Delano in any capacity?

20 A. No.

21 Q. Have you ever worked for a mining company?

22 A. No.

23 Q. Have you ever been to Ghana?

24 A. No.

25 MR. EVERT: Turning to Page 118, in the middle of the

1 page, if we could blow up Monica Sweeten's name.

2 BY MR. EVERT:

3 Q. Is that your name there?

4 A. Yes.

5 Q. And in the first column next to your name, it says
6 hours/quantity, I believe it says 1,852.47.

7 Did you work 1,852 hours for a company called
8 Kremkov Industries in 2020?

9 A. No.

10 Q. And where were you working in 2020?

11 A. In 2020, I was still working at Mesa Airlines.

12 Q. And was that a full-time job?

13 A. Yes.

14 Q. And under gross, it says \$92,623.50.

15 Were you paid \$92,000 -- or about \$92,000 by
16 Kremkov Industries in 2020?

17 A. No.

18 Q. And under SIT, it says negative \$4,817.79.

19 What state did you live in in 2020?

20 A. In Texas.

21 Q. Does Texas have state income tax?

22 A. No.

23 Q. Did you ever give Mr. Delano permission to claim that he
24 was -- that you were his employee?

25 A. No.

1 Q. Did you ever give anyone else permission to say that you
2 worked for Kremkov Industries?

3 A. No.

4 Q. Have you ever had any financial dealings with Mr. Delano?

5 A. No, except for in -- when I was purchasing a house back --
6 like two and a half years ago, I mention to him -- we just
7 have one of those days, one conversation, and I mentioned to
8 him that I -- I saw a house that I really like and it's -- it
9 was pretty, it was like what I was looking for.

10 Then I -- but I was going to close, but I have
11 basically a savings of the amount I need, but we have in cash,
12 so he's like -- they wanted like a record of four -- which I
13 can prove everything, but basically I have the -- we have to
14 have it in the bank like four months or so, so by the time
15 that we will have it in the bank, the house would be gone.

16 So I was talking to him about that. And he say I can
17 help with you that. So basically, if you give me the cash, I
18 send it back to a market company and then --

19 Q. Okay. So just we can unpack that. You were going to
20 close on a house. Was the house in Houston?

21 A. Yes, sir.

22 Q. And in order -- as part of the closing, you needed to send
23 how much money for the closing?

24 A. \$40,000.

25 Q. And of that 40 -- and you and your mother had that money

1 in cash, but was it the bank or the Realtor wasn't willing to
2 accept that?

3 A. The Realtor, me -- they want to do the loan.

4 Q. Got it. And so Mr. Torjagbo -- or, sorry, Mr. Delano, he
5 had said that he could help you with that.

6 And did -- so did he, in fact, end up helping you
7 with that?

8 A. He did.

9 Q. So how did that -- how did that transaction work?

10 A. So right after -- before the closing, me and my mom, we
11 came to Georgia and we gave the \$40,000 in cash to him. So we
12 went to a bank and he deposited it in his account. And then
13 he -- we basically went to another bank and he wired the money
14 to the lender.

15 Q. Okay.

16 A. Exactly the \$40,000 I gave him in cash.

17 Q. Got it. So it was you giving him \$40,000 cash, him wiring
18 that money to the lender?

19 A. Yes.

20 Q. So that wiring -- just to be perfectly clear, that wiring
21 of \$40,000, that had nothing to do with you being an employee
22 of Kremkov Industries?

23 A. No, no. That was my money, just my money, I give it to
24 him and he just --

25 Q. Okay. And for the record, that also had nothing to do

1 with you being an employee of him in any way?

2 A. No.

3 MR. EVERT: No further questions. Thank you.

4 THE COURT: Cross-examination?

5 MR. FINLAYSON: Yes, sir. I'm going to ask for 101
6 back up and Page 118.

7 CROSS-EXAMINATION

8 BY MR. FINLAYSON:

9 Q. Mr. Sweeten, I have a few questions for you.

10 A. Yes, sir.

11 Q. First of all, you mentioned you've known Mr. Delano by
12 Mr. Delano and Mr. Torjagbo, right?

13 A. Yes, sir.

14 Q. Delano used to be his middle name or do you even know?

15 A. I don't know.

16 Q. It's not unusual to you that he's Mr. Delano?

17 A. Um-hmm.

18 Q. Were you ever like Instagram friends with him or something
19 like that?

20 A. I think at some point, maybe just Facebook, but...

21 Q. Facebook?

22 A. Yeah.

23 Q. He was Delano on Facebook, right?

24 A. I don't remember.

25 Q. Okay. So if I understand right -- let's go backwards.

1 You -- you were buying a house in Houston?

2 A. Um-hmm.

3 Q. And you needed to make a down payment of \$40,000, right?

4 A. Correct.

5 Q. And you and your mom had \$40,000 in cash?

6 A. Yes.

7 Q. In Houston, right?

8 A. Um-hmm.

9 Q. I guess money maybe you and your mom had saved up over the
10 years?

11 A. Yes, sir.

12 Q. And you -- you couldn't -- they wouldn't take cash for the
13 down payment on the house?

14 A. That's correct. That's because --

15 Q. So you told Mr. Delano and he offered to help you, right?

16 A. Um-hmm, yes, sir.

17 Q. You flew all the way to Georgia with a bag of cash, right?

18 A. Yes, sir.

19 Q. Took it to the bank; is that right?

20 A. That's correct.

21 Q. And then he wired the money back to the lender so you
22 could buy your house?

23 A. Correct.

24 Q. Let's make it very clear, did he rip you off in any way?

25 A. No.

1 Q. Did he hurt you or was it like -- was he helping or
2 hurting you in that situation?

3 A. He helped me in that situation, yes.

4 Q. Okay. And you got your house?

5 A. Yes, sir.

6 Q. Do you have still have it?

7 A. Yes, sir, I'm paying.

8 Q. Got it. Good. Good.

9 A. Still paying.

10 MR. FINLAYSON: Okay. If we could see 101, Page 118,
11 the one we just saw. Okay. And then can we like zoom in on
12 her name, the whole line? And I say her name.

13 BY MR. EVERT:

14 Q. So we have on this line -- you can see that?

15 A. Yes, sir.

16 Q. It says Monica Sweeten, right? Does that line have your
17 date of birth in there in any way?

18 A. No.

19 Q. Does it have your Social Security number in any place?

20 A. No.

21 Q. It's just a name, Monica Sweeten, right?

22 A. Yes.

23 Q. Is that correct? You've got to say it out loud.

24 A. That's all I can see, yes.

25 Q. It's just the same -- it happens to be the same name as

1 yours, right? You've got to say it.

2 A. Yes, sir.

3 MR. FINLAYSON: Okay. You can take it down.

4 BY MR. FINLAYSON:

5 Q. Are you the only Monica Sweeten in the universe?

6 A. I don't know.

7 Q. Have you ever Googled yourself?

8 A. No.

9 Q. Okay. But you didn't work for Kremkov, right?

10 A. No.

11 Q. And you didn't pay taxes or have taxes paid for any of
12 that kind of work?

13 That document doesn't have your Social Security
14 number at all, does it?

15 A. No.

16 Q. Have you had any -- besides having to come all the way
17 across the country and do this, has the fact that the name
18 that's the same as your name, not necessarily you, but the
19 fact that that name is on there, has this caused you any
20 problems in the world, has your credit been messed up?

21 A. No.

22 Q. Has it hurt you in any way because -- because the same
23 name was on that piece of paper, besides having to come here?

24 A. Well, it -- I don't think so, no.

25 Q. Okay.

1 MR. FINLAYSON: Nothing further, Judge.

2 THE COURT: Anything else?

3 MR. EVERT: Just two questions.

4 THE COURT: Sure.

5 REDIRECT EXAMINATION

6 BY MR. EVERT:

7 Q. Ms. Sweeten, you testified that you and Mr. Delano are
8 acquaintances.

9 A. Um-hmm, yes.

10 Q. Are you aware of if he's acquainted with anybody with --
11 sorry. Are you aware of him being acquainted with anybody
12 else by the name of Monica Sweeten?

13 MR. FINLAYSON: Objection.

14 THE WITNESS: No.

15 THE COURT: Overruled.

16 BY MR. EVERT:

17 Q. You can answer the question.

18 A. No.

19 Q. Thank you.

20 MR. EVERT: No further questions.

21 THE COURT: Okay. Can the witness be excused?

22 MR. FINLAYSON: Yes.

23 THE COURT: All right. Thank you very much. Do you
24 have another short witness?

25 MS. CONNORS: No, Your Honor.

1 THE COURT: All right. We're going to break today,
2 because we're going to go over the other thing we talked about
3 this morning.

4 Okay. Everybody feeling okay?

5 All right. We are going to break until -- now 8:30
6 still work for everybody tomorrow or do y'all want to go to
7 9:00? 8:30? All right, 8:30 having had.

8 MR. FINLAYSON: 9:00.

9 THE COURT: I know you-all got that today. That
10 other gentleman did not. But we're going to start at 8:30
11 tomorrow morning, ready to go.

12 Did they have coffee in there by the time you got
13 here today?

14 JURORS: They did.

15 THE COURT: And something to eat, too?

16 JURORS: They did.

17 THE COURT: So, Ms. Kelley, you were stern enough
18 with them, and I appreciate that.

19 Don't talk about it today. You know a little bit
20 more about this case, you've heard from a couple of witnesses.
21 But you don't know everything. Remember what I've said,
22 you've got to keep your mind open until the very end. So
23 don't tell anybody about it, don't talk with anybody about it,
24 don't let anybody talk with you about it. Just go home and
25 watch the Braves or do whatever you want to do.

1 Okay?

2 All right. Thank you-all very much.

3 COURTROOM SECURITY OFFICER: All rise.

4 (Whereupon, the jurors exited the courtroom.)

5 THE COURT: Okay. Y'all ready to talk about this
6 statement?

7 MR. FINLAYSON: I'm looking for it.

8 THE COURT: I'm assuming this will be coming in
9 tomorrow; is that right?

10 MS. CONNORS: Well, since we're off, I'm not quite
11 sure. It might end up being Thursday.

12 THE COURT: All right. Well, we'll just deal with it
13 today while it's in front of us.

14 MR. FINLAYSON: So my paralegal has made two filings,
15 and that paralegal, of course, is me.

16 THE COURT: Do you-all have another copy for him?

17 MR. FINLAYSON: I have one, just the one that I
18 wanted was the one -- I had a better marked up one. This is
19 fine.

20 THE COURT: Let's turn to Page 9. That's the first
21 bit.

22 The government has agreed to take out a portion, but
23 the agent's admonition that he can't lie, what's wrong with
24 that? He says I know I can't.

25 MR. FINLAYSON: Well, the answer does sort of balance

1 out the question, so I'm not going to die on that hill.

2 THE COURT: All right. So if we go to the next page,
3 the portion starting at Line 4 is crossed off.

4 I'm going to -- I haven't gotten any authority from
5 you-all, by the way, but I'm going to overrule the defense
6 objection to this. I think that the witness's -- it's a back
7 and forth with the witness and the agent where the agent is
8 trying to explain to the -- I'm sorry, the defendant and the
9 agent, where the agent is trying to explain to the defendant
10 the strength of their case and what their case is. And I
11 believe that puts it in context, so I'm going to overrule the
12 objection by the defendant of Line 4 to 24 on Page 10.

13 The next portion is Page 16 starting at Line 11 and
14 moving on to Page 17, Line 3. Again, I think this puts it
15 into the proper context, the back and forth between the agent
16 and the defendant, leading up to the defendant's answer on
17 Page 17 that begins at Line 4.

18 And, Ms. Connors, can I ask you to file a copy of
19 this version as an exhibit for today's hearing, or for this
20 hearing, so that we have it in case there's an appeal.

21 MS. CONNORS: Yes, Your Honor. Do you want the
22 highlighted version?

23 THE COURT: Yes, the highlighted. Because I'm
24 referring to the highlighted portion of the page. And
25 whatever you-all have later might be different.

1 MS. CONNORS: Yes, Your Honor, we're happy to do
2 that.

3 THE COURT: Okay. Page 25 is the next portion. I'm
4 going to -- I'm going to sustain the objection to all of the
5 highlighted there. It sort of looks like he's leading up to a
6 question, but this is where I was talking about today where
7 really it's the agent giving the defendant his opinion about a
8 number of things about the strength of their case.

9 It looks like they're going into a statement by
10 Mr. Torjagbo, but then it ends with, look, we just want you to
11 give us access, are you going to let us have access. There's
12 not an understanding there that needs to be -- an
13 understanding of something that the agent actually says.

14 The same thing on Page 25.

15 MR. EVERT: I'm sorry, I think we were just talking
16 about 25.

17 THE COURT: I'm sorry. Oh, I'm sorry, yes, 27,
18 sorry.

19 MR. FINLAYSON: So we're going to strike from Line 9
20 all the way down, is that --

21 THE COURT: Line 9 on Page 25 through Line 21 on
22 Page 26.

23 Does it matter that they gave him -- he let them into
24 the house?

25 MR. FINLAYSON: I'm okay with that fact.

1 THE COURT: Well, I mean, they were willing to take
2 out the long portion on Page 25 from Line 15 to 24.

3 But my understanding is you still wanted the part on
4 Page 25 that's highlighted in yellow and the rest of Page 26
5 that's highlighted in yellow, you wanted all of that out.

6 MR. FINLAYSON: That's correct.

7 THE COURT: I'm going to do that because it's not
8 really part of a conversation that leads to the defendant's
9 admission. If there's some reason that it has to be said that
10 he let them in to get access to the vehicle, is that part of
11 anything?

12 Which vehicle is this?

13 MR. FINLAYSON: BMW.

14 THE COURT: And there's going to be testimony that
15 they got it out of his garage and took it?

16 MR. FINLAYSON: Right.

17 THE COURT: Okay.

18 MS. CONNORS: I mean, perhaps not that specific.

19 THE COURT: Okay. Something like that?

20 Okay. If there's any doubt about that -- and, by the
21 way, let me be clear about something, this is something that
22 the defendant has to be careful not to open door for, right?

23 I'm giving these rulings with the expectation that
24 the defendant won't try to use it sort of as a sword to try to
25 make the agent misinterpret or misexplain the way that the

1 interview went.

2 And if that happens, then the government can come
3 back and say, Judge, we think the way that they've
4 cross-examined this, this now should come in.

5 Does everybody understand that?

6 MR. FINLAYSON: Understood.

7 MS. CONNORS: Yes, Your Honor.

8 And to clarify, though, would we be able to ask the
9 agent if he pushed back. Because, you know, one concern I
10 have is Page 25, Lines 9 through 14, that is the agent
11 responding to the defendant's statements to say he -- to push
12 back. So without that information in there, where this lands
13 is only the defendant's answer coming in, not also the agent
14 then pushing back on him and telling him that he -- that
15 that's inconsistent.

16 THE COURT: Yes, that's right. And I think that's
17 fine when it's done that. But like all you're doing is
18 arguing with him and you don't get him to then commit to the
19 lie again. In this instance, he doesn't do that, because he's
20 just sort of making his case to him.

21 And then what's the answer? All right. I consent to
22 us to open -- do you consent to us opening your garage?
23 That's coming in.

24 But it's not like he's saying, no, no, this is all
25 fake, it's all false and he's saying, no, it's not.

1 MS. CONNORS: Well --

2 THE COURT: He tries to say something. And I'm doing
3 the same, you know, to the best of my ability without, you
4 know, making it look like --

5 You're not doing so good.

6 Uh-huh.

7 Then he says, They're bullshit, they're da-da-da,
8 we've got bigger problems to deal with. We've done our
9 homework, we've done our investigation. This is the end.
10 That's why I've told you it's game over.

11 Now, are you going to give us consent to open the
12 garage and get that vehicle? We have a search warrant --
13 otherwise, we're going to have to go get a search warrant.

14 There's no like -- he's not coming up and -- this is
15 all the agent talking to him. And it doesn't end with
16 Mr. Torjagbo saying despite all these things you're telling
17 me, I insist that I'm being honest. It ends with him saying
18 yeah, you can go in my garage.

19 The agent can say I didn't believe -- you know, I
20 thought this was inconsistent, things like that.

21 But what's the relevance of that? What do you say to
22 the jury because of this?

23 MS. CONNORS: Yes, Your Honor.

24 The conversation that's right before that is the
25 agent pushing him on the 940s, the 941s, telling him that's --

1 that's fake information.

2 THE COURT: Yes.

3 MS. CONNORS: And he's -- he's, you know, saying,
4 uh-huh. And then the agent's saying why that is not a
5 believable response from him.

6 And then at the very last line on Page 25 is the
7 agent coming and saying I'm trying --

8 THE COURT: Yes. But what does it matter that the
9 agent here says it's not accurate?

10 MS. CONNORS: The concern is that then, again, where
11 this is going to land is only the defendant's response, so it
12 gives that implication.

13 THE COURT: But isn't that up to you to prove that it
14 wasn't true?

15 MS. CONNORS: Yes, Your Honor.

16 But I like then, you know, we are also dealing with a
17 circumstance where Mr. Torjagbo's response was not, No, no,
18 no, you have it all wrong. So that's why we have had some
19 concerns, significant concerns about doing this type of
20 editing, because we are -- we're left with this kind of
21 unchallenged aspect then of the transcript. And that's not
22 accurate in terms of what happened in the conversation.

23 THE COURT: Let me draw a comparison. Okay?

24 It's one thing to have a conversation that's relevant
25 to an issue. And that is because the agent -- the witness

1 says something, the agent confronts, and the witness -- and
2 the defendant doubles down. Look at Page 16 to 17. Okay?

3 How clear can I make it, the agent says.

4 This is a paper case and it's a follow-the-money
5 case. And the evidence shows what you're telling me --

6 Uh-huh.

7 -- is BS. You're not going to help yourself by
8 giving us a bunch of BS. Okay?

9 How -- how honest can I be with you?

10 And then he says, Like I said, to the best of my
11 ability, I'm being plain, I'm being plain and honest.

12 That is exactly what you're talking about. The
13 defendant says something, the agent confronts him with the
14 fact that it's not right, and the defendant doubles down on
15 it. That's what's missing from Page 25 to 26.

16 Because the agent talks over him and then says, We're
17 done with that. We want to get access to the garage or we're
18 going to go get a warrant.

19 Had the agent -- had the defendant doubled down, it
20 would be like the other one. You're pushing him, it's the
21 context of what he says.

22 We've already heard about the 940 and the 941s,
23 right?

24 MR. FINLAYSON: Yeah.

25 MS. CONNORS: Yes, Your Honor.

1 THE COURT: I mean, there's not going to be any
2 argument there -- yes. I mean, so do you understand the line
3 I'm drawing?

4 It doesn't -- it's not helpful to the jury to know
5 that the agent, what he believes. What matters is what the
6 jury believes. It matters how the defendant responds to it.

7 And the potential prejudice here is that you just
8 have the government agent saying everything that he wants to
9 say. When this is about his statement, his interview.

10 MS. CONNORS: Yes, Your Honor.

11 And so I understand the Court's position. I will
12 note based on the opening statement, it sounds as if the
13 defense here is going to be that Mr. Torjagbo was not the
14 person who was creating any of these documents and submitting
15 them.

16 So again, a concern is that by taking out when he's
17 confronted on his 940s and 941s, his response is not, Oh, but
18 my assistant is the one who prepared those documents, so in
19 some ways --

20 THE COURT: But hold on. Wait, wait, wait, wait.
21 Where do you give him a chance to say that? In this instance,
22 on 25, I agree with you. That's relevant. You have it
23 elsewhere.

24 But where does he get a chance to say that from
25 Page 25 to 26 that he doesn't say it?

1 MS. CONNORS: Your Honor --

2 THE COURT: The agent buffaloes right through it. He
3 starts to -- and I'm doing the same, you know, to the best of
4 my ability without, you know, making it look like you ain't
5 doing so good, so but anyways.

6 Uh-huh.

7 Your 940s and your 941s are BS. The W-2s that you
8 filed, that you didn't file yourself are BS.

9 Right?

10 That's just him, the agent arguing about the strength
11 of his case. It's not the -- it's not what he says.

12 What does the jury take from this?

13 The jury takes from it that an agent in interviewing
14 him was talking about the strength of their case. So? Let's
15 go to the next page.

16 MS. CONNORS: Yes, Your Honor.

17 THE COURT: The next page, You can sit here and you
18 tell me you used your bank account, your own money, which is
19 BS. Right now, I mean, the evidence -- I'm taking out the
20 green that you've agreed not to include.

21 And he says, You started -- you'd originated with
22 Kremkov and then you transferred to PNC. And you started
23 FlyingJack. Why did you change your name?

24 Why is the lead-up to a completely separate question
25 relevant?

1 MS. CONNORS: Your Honor, I mean, he's talking about
2 moving the money to the different accounts.

3 THE COURT: I understand that.

4 MS. CONNORS: And then FlyingJack. And as the Court
5 is aware, part of our theory of the concealment is movement of
6 the funds to these different accounts and also changing his
7 name and also creating FlyingJack to then have a bank account
8 where money is flowing to FlyingJack instead of keeping any
9 money in Kremkov or keeping any money in the -- it's sending
10 out some of the money from the personal account.

11 THE COURT: Right.

12 MS. CONNORS: So I do -- that is the context of that.

13 THE COURT: The context of what?

14 MS. CONNORS: The concealment, so that's why there is
15 the --

16 THE COURT: Yes. But what is the relevance of this
17 to what he says?

18 So, in other words, if this is right, then in an
19 interview, an agent could stand up and say everything they
20 want about their theory of the case.

21 Right?

22 And then say, Can I come in your home? And
23 everything that agent said would then be part of the case.
24 There's no evidentiary value of it.

25 If he said -- if he said, Look, we know where the

1 money came from, it didn't come from your own bank account,
2 yeah, but guess what, it originated with Kremkov and then you
3 did it to PNC and then to Bank of America and then to
4 FlyingJack.

5 What do you have to say about that?

6 And he says, it's all legitimate, it's all
7 aboveboard. That would be one thing.

8 But you don't even ask him what he has to say about
9 that. It's a completely different topic. Why did you change
10 your name?

11 I did it when I was in the military.

12 So what's the lead-up for? There's no -- there's no
13 lead up to that. Let me -- let me -- I'm not -- I'm afraid
14 that I'm not explaining myself well.

15 Go to Page 45. I'm not going to say that because,
16 like I said, you know, the loan was not approved based on
17 that, it was approved based on how much money you made because
18 it was cancelled so it was approved because they changed the
19 rules of the PPP and the loan was approved based on how much
20 money you made instead of how much -- how many employees you
21 had.

22 The agent says, We can try to use that as an
23 argument, but it's not going to fly, so, I mean, think about
24 it.

25 What does the jury do with that? The jury knows that

1 the government doesn't -- that that agent did not agree with
2 his explanation.

3 Right?

4 But is that evidence in this case?

5 Because the next question that's asked, Do you have
6 any questions? He asks the other guy.

7 And then the next question that's asked, When was
8 Kremkov begun? It's not, Hey, I think this is -- that's never
9 going to float, do you want to change your answer. It's
10 nothing. It's just the agent saying -- confronting him with
11 something and he doesn't back down.

12 Let's go to page -- so I think that comes out as
13 well. You have part of that highlighted in green that you --
14 I think you agree to take the green out; is that right?

15 MS. CONNORS: On 45, Your Honor, yes.

16 THE COURT: Yes. Go to Page 52. Like I'm saying,
17 that is tax credit based on dredging.

18 The agent says, That's not a tax credit. I mean, you
19 can try to make that argument, too. It's not going to win.
20 And what you're going to do is end up shooting yourself in the
21 foot, because the benefit -- the cooperation you're doing is
22 going to be negated by all the BS you're telling us, which you
23 don't want to do. All right?

24 All right.

25 And he says, like I said, I'm not telling you BS, I'm

1 just trying to answer your questions.

2 I think all of that comes in, the green and the
3 yellow. Because that's an agent confronting a witness with
4 something that the agent believes to be unreliable and
5 unbelievable and explaining to him why and the witness then
6 still saying I'm sticking with my story.

7 So the agent's pontificating puts into context the
8 defendant's statement. But an agent pontificating in the
9 abstract that he does not ask the defendant to respond to is
10 not relevant, in my opinion.

11 MS. CONNORS: Your Honor, if you are going to
12 Page 54, we just realized that one was mishighlighted.

13 THE COURT: That should be green?

14 MS. CONNORS: Yes, we --

15 THE COURT: I thought so.

16 MS. CONNORS: Okay. Yes. We had indicated we would
17 take out essentially through the end, there was a brief stop
18 in the audio, and then Mr. Torjagbo was talking again. But
19 all of that part, we've already agreed, we weren't planning on
20 playing.

21 THE COURT: So Page 54, Page 55, 57 -- or 56, 57, 58
22 comes out?

23 MS. CONNORS: Yes, Your Honor.

24 THE COURT: And you've agreed that the portions on --
25 you got them somehow where he decides not to answer questions?

1 MS. CONNORS: Well, Your Honor, I mean, I will say
2 that was because we were trying to see if there was an avenue
3 to, you know, kind of meet the defendant halfway, based on
4 sort of some of our conversations with defense counsel.

5 But, I mean, it certainly would be that if his answer
6 of strictly I refrain from answering that question was
7 something that had to be taken out, it would essentially be
8 that then it's still just -- the audio would be he's not
9 responding to that question.

10 But Mr. Finlayson had raised a concern about him
11 specifically stating that he was refraining -- he didn't want
12 to answer the question. Again, it was kind of trying to meet
13 halfway, but certainly, the question is absolutely relevant of
14 the agent asking him how did you get those names. And then
15 his response of not wanting to answer that question. I do
16 think that is relevant or either if --

17 THE COURT: Why is that not admissible?

18 MR. FINLAYSON: I think they told him he had a right
19 to remain silent and he --

20 THE COURT: But he didn't. He didn't invoke his
21 right to remain silent, did he?

22 MR. FINLAYSON: I think he did on that question, that
23 would be the argument that if he --

24 THE COURT: I don't want to answer that question.

25 MR. FINLAYSON: That's invoking.

1 THE COURT: Do you have a case that says that, that
2 says when you're interviewing and you say I don't want to
3 answer a question, that that's invoking your right to remain
4 silent.

5 Is that what it is?

6 MR. FINLAYSON: I would think --

7 MS. CONNORS: No, Your Honor. The Supreme Court said
8 the opposite, that any kind --

9 THE COURT: In which case?

10 MS. CONNORS: I apologize, I'm not going to be able
11 to pull the name of the case immediately. But certainly
12 there's been consistent authority from the Supreme Court that
13 anytime someone is going to now invoke any kind of right,
14 right to remain silent, right to counsel, it has to be clear
15 and unequivocal, and then there's no more answers. So all he
16 was saying is I don't want to answer that question.

17 And I'll point out as well that that was something
18 that was raised during the original suppression hearing, in
19 the sense of saying that he -- that this should be suppressed.
20 And so the Court has really already determined that nothing
21 about that question or the fact that he then refused to answer
22 it led to any kind of suppression here.

23 MR. FINLAYSON: And with all due respect, I would say
24 that's a very different issue in terms of whether -- I think
25 prior counsel was litigating the admissibility of the entire

1 statement. And he was suggesting and arguing that the -- that
2 those statements were -- were an absolute invocation. And I
3 guess I don't waive those or withdraw those arguments. I
4 would just build on them.

5 And I would submit that in this context, I think the
6 fact that he invoked on those specific questions -- and I
7 thought we were past this, so I don't have a case, either.
8 I'd be glad to look at it overnight.

9 And just so the Court had asked about other cases on
10 this, and I did not send them over, but I have a couple of
11 cases, out of all places, South Carolina, about the officer's
12 testimony in this kind of context, it's not the question we're
13 talking about right now, but it's about the bigger -- the
14 officers pontificating in the middle of an interview and I can
15 send those over.

16 THE COURT: Well, I've already drawn the line on
17 that.

18 MR. FINLAYSON: That's fine. And I appreciate that.
19 But, no, in terms of -- I -- I think when he says I don't want
20 to answer that, I think that's exercising a Fifth Amendment
21 right.

22 I don't think that it makes the rest of the
23 interview -- well, I don't want to go further. It is what it
24 is. But I think he does -- I don't think the jury should hear
25 that, but that's all I would say.

1 THE COURT: Well, I'm going to let you-all send me
2 this evening any authority you have on when a person is
3 answering a -- is asked -- is not invoked. Did he waive in
4 writing?

5 MS. CONNORS: Yes, Your Honor.

6 THE COURT: Waived his right to remain silent and
7 then refrains from answering a specific question, whether that
8 refusal to answer can be told to the jury.

9 Okay?

10 Otherwise, you're just taking out the question that
11 he refuses to answer.

12 All right. So I'm going to let you send me that.
13 That's the only one I'm going to leave out, so you might
14 leave -- you might have two versions of it ready, but --

15 MS. CONNORS: Okay. And, Your Honor on Page 43 as
16 well, right?

17 THE COURT: Yes. I think we're talking about Page 43
18 and Page 44, right?

19 MS. CONNORS: Yes, Your Honor.

20 THE COURT: Because y'all are taking out Page 45.
21 And I agree with that, I mean there's no question there.

22 I think you can even leave in the yellow part of 45.
23 Or you could try to use that as an argument, but it's not
24 going to fly. So, I mean, think about that. And he doesn't
25 say anything. I mean, he just says, Uh-huh. So he's

1 acknowledged that. He doesn't say anything. It doesn't
2 change his story in any way, right?

3 MR. FINLAYSON: Well, I'm bothered about talking to
4 the attorney part.

5 THE COURT: No, that's coming out.

6 MR. FINLAYSON: Okay.

7 THE COURT: I think you can leave his uh-huh in as an
8 answer to that question. He's telling them to think about it.
9 He says uh-huh. And then he doesn't say anything else.

10 MS. CONNORS: So the yellow part would stay in? I
11 mean, once you talk to an attorney would come out?

12 THE COURT: Comes out. And then uh-huh stays in.

13 MS. CONNORS: And then, I mean, they can counsel you
14 on that would come out and the second uh-huh would stay in or
15 how would we do that?

16 THE COURT: Yes, both uh-huhs stay in.

17 MR. FINLAYSON: I mean, I feel like the uh-huh is a
18 response to you're -- once you talk to your attorney.

19 THE COURT: Well, do you want to put the whole thing
20 in then?

21 MR. FINLAYSON: I do not.

22 THE COURT: Okay. All right. But do you
23 understand -- does the government understand the point that
24 I'm trying to make?

25 I think it is one thing for an agent just to

1 pontificate. I don't mean that derogatively, just to opine as
2 to what they're hearing. And if the person sticks with it
3 after that, I think it's relevant.

4 And I don't know, I haven't seen it, does -- is the
5 thing -- do you flip back on these issues later? I've only
6 read what you've given me.

7 Do you flip back on these questions later? Like, for
8 example -- maybe I should have read -- you ask him -- the
9 easiest example I can give you is -- where is the reference to
10 the forms?

11 Your 940s and your 941s with your payroll, your
12 average monthly payroll --

13 Uh-huh.

14 -- is BS. And you know that's fake, too, right.
15 That's why I'm telling you you need to cooperate. That's
16 Page 25. Do you flip back to that issue later?

17 MR. FINLAYSON: I don't think so.

18 MS. CONNORS: Do you mean in regards to the remainder
19 of the transcript?

20 THE COURT: Yes. Here's the point I'm trying to
21 make.

22 MS. CONNORS: I don't recall.

23 MR. FINLAYSON: Yeah.

24 THE COURT: Here's the point I'm trying to make.

25 MR. FINLAYSON: I don't think so.

1 THE COURT: If you are confronting him with something
2 that he says that you don't believe and he sticks with it,
3 whether immediately or later, then that statement can come in.

4 But if you're just arguing with him and then you
5 don't give him an opportunity to double down on what he was
6 saying before, then it doesn't come in.

7 Because what makes all of this relevant -- that's a
8 hearsay statement, that's an out-of-court statement by the
9 agent. We can argue about whether it's being offered for the
10 truth or not, but it is the truth that you're arguing in this
11 case, that these records are not real, that all of this is
12 made up.

13 So the way to have the agent's statement admitted,
14 despite being hearsay, is because of the impact on the
15 listener. The defendant's statements all come in, because
16 he's an opponent.

17 And so the relevance of the agent's statement to him
18 is the impact on him, or the context of the things that he
19 says.

20 But when an agent argues with him and says what
21 you've told me is BS, but we're moving to something else, can
22 I get into the garage. Or but we're moving to something else,
23 why did you change your name.

24 Then it offers nothing for a jury. But if later on
25 you circle back to it, then we can talk about it.

1 Do you understand?

2 MS. CONNORS: Yes, Your Honor.

3 THE COURT: So I just don't know. Are there times
4 that you circle back? I looked at what you-all asked me to
5 look at.

6 MR. FINLAYSON: I don't -- I'm not aware of any.

7 THE COURT: Off the top of your head, like I'm not.
8 What I'm asking is if somebody has looked at it.

9 MS. CONNORS: Your Honor, I haven't looked at it with
10 the specific -- trying to specifically look to see if they
11 address those two forms again. I don't know that they do.
12 But if they do, we'll -- we'll make sure to pull that out.

13 THE COURT: Well, let's look at this. Let's look at
14 Page 25. You-all are upset that I'm not letting that in.

15 MR. FINLAYSON: No, I'm not.

16 THE COURT: I'm talking to them. You say you're
17 talking about your payroll, your average monthly payroll.
18 That's what the 940s is, right?

19 MS. CONNORS: The quarterly.

20 THE COURT: It's the quarterly payroll?

21 MS. CONNORS: Um-hmm.

22 THE COURT: And you're saying, We know it's fake.
23 The papers won't prove it, the papers are floating money.
24 I've been doing this for a long time.

25 Do you ever circle back and talk to him about that

1 payroll issue again?

2 You do, you go on 43, and there you call it fake
3 payroll.

4 MS. CONNORS: Yes, on 43.

5 MR. FINLAYSON: But that's not the 940s.

6 THE COURT: No, but it touches on the same thing, the
7 payroll. The 940s is just the quarterly report of the
8 payroll.

9 All I can do is I can point you to Page 52 where I'm
10 letting all of that in because that's a great contrast where
11 you're telling him that it's BS and that it's going to hurt
12 him. And you're thinking about it. And he says -- he sticks
13 with his story.

14 So if you can fit these other portions into that,
15 let's talk about it.

16 Okay?

17 MS. CONNORS: Okay. Thank you.

18 THE COURT: But otherwise, I just don't think an
19 agent's opining about their opinion is relevant on this. I
20 don't think you could -- you might ask him did you believe
21 that upon what you say and was that statement consistent with
22 what you saw in the type of testimony you could get.

23 But when we're talking about his statement coming in,
24 I don't think it's relevant there.

25 All right?

1 MS. CONNORS: Okay.

2 THE COURT: And I think it's great potential for
3 prejudice, because it really is -- what did Mr. Finlayson say?
4 Mr. Finlayson described it as just a couple of closing
5 arguments in the middle of an interview. And it only has
6 relevance if he says, No, I'm sticking with my statement.

7 All right?

8 But I really do want to see this -- this issue. You
9 say you think there's a Supreme Court -- I'm not talking about
10 a case that says -- I understand that if you're being
11 interviewed -- well, let's see how close you can get it to
12 something like this.

13 But what I think he's saying is I'm willing to
14 continue talking with you, but that one question I don't want
15 to answer.

16 MS. CONNORS: Umm-hmm.

17 THE COURT: And whether that can be used against
18 somebody. Okay?

19 MR. FINLAYSON: And what I think I should go look at,
20 besides the cases, obviously, are the way the Miranda was
21 phrased, because I've had cases where the officer when
22 they're -- when they're advising the client, they're like
23 telling them, hey, look, if you don't want to answer
24 something, you know, that's fine, you don't have to. So I
25 need to go back and look at that, too because --

1 THE COURT: Well, we have it. You have a right to
2 have a lawyer with you during questions. If you can't afford
3 a lawyer, we'll appoint one to work with you. You have a
4 right to remain silent. Anything you say will be used against
5 you.

6 You have the right to talk to a lawyer before we ask
7 any questions. If you decide to answer questions now without
8 a lawyer present, you have the right to stop answering at any
9 time.

10 MR. FINLAYSON: Umm-hmm.

11 THE COURT: Can we speak with you?

12 Yeah, I'll speak with you briefly.

13 So you waive all those rights.

14 MR. FINLAYSON: I guess the question is --

15 THE COURT: The question is when you've waived your
16 right and you're having an interview and then there's a
17 specific question that you refuse to -- that you say you don't
18 want to answer --

19 MR. FINLAYSON: Right.

20 THE COURT: -- you don't -- you don't say because of
21 a lawyer or because of Miranda, I don't want to answer that
22 question, and then you continue answering, is that -- does
23 that create a donut that can't be used. I don't know the
24 answer to that.

25 MR. FINLAYSON: Okay.

1 THE COURT: Okay? It doesn't seem like an invocation
2 of rights. It seems like a decision not to answer one
3 question, for whatever reason.

4 But, you know, the United States can tell me what
5 they have on that and whether they want to introduce it.

6 Do you want to introduce it?

7 MS. CONNORS: That he -- again, we were willing to
8 take out him saying the specific words of I don't want to
9 answer that question.

10 But essentially then where it would land in terms of
11 audio would be there's just silence there. And we were
12 willing to do that because of defense counsel saying that he
13 thought maybe it hit on a Fifth Amendment right.

14 But I think it -- the question is posed. I think the
15 question is relevant. I mean, the agent is asking him
16 specific information about the loan. So the question I think
17 is not something that would have to be removed. And then
18 essentially the jury would just hear that he does not respond
19 to the question.

20 THE COURT: That might be more misleading than --
21 that would suggest to the jury that he just stopped talking.
22 Right, he just ignored it.

23 Whereas the purpose, if he has a right not to answer
24 it, then he has a right to do that without it being used
25 against him. And what you essentially would be doing in that

1 case is you would be allowing it to be used against him when,
2 if he has a right, it's the opposite.

3 Do you see what I mean?

4 That doesn't really help. You could put in the first
5 question and then the second one. It's a lot of names. I
6 mean, did you use them for anything else or was it just for
7 the payroll, did you pay somebody to get those names. You
8 could do it that way. Because he answers that question and he
9 says no.

10 But I'm kind of uncomfortable with having the
11 question asked and then make it look to the jury like he
12 didn't answer it. Because then you can stand up in closing
13 and you can say we asked him that and he didn't answer it.
14 Whereas if, in fact, he invoked his right to remain silent,
15 then he invoked his right to remain silent and for that not to
16 be used against him, right?

17 MR. FINLAYSON: And I think if we left the question
18 but -- silence the question, in a way, it is -- it's almost
19 testimony from the agent at that point, too, it's sort of --
20 you know, there's no answer.

21 THE COURT: You're right. You've got to take out the
22 question. I mean, did you use them for anything else or was
23 it just on the payroll file.

24 You could leave -- you could have it -- and this is
25 important, because, I mean, it's a lot of names. Did you

1 pay -- did you pay someone to get those names. You can do
2 that. That's a fair question. What if I asked it this way.
3 Did you pay someone to get those names? That can come in.

4 Is there any argument that doesn't come in? He
5 answered it.

6 So I think you can skip over the green. No, I think
7 you've got to go one sentence before the green.

8 So I'm going to give the government an option. I'm
9 not going to let you just have the question and then a vacant
10 no answer unless you can establish that this is not an
11 invocation of the right to remain silent.

12 Okay?

13 MS. CONNORS: Yes, Your Honor.

14 And, I'm sorry, I was just trying to read through. I
15 mean, I do think on Page 44, just for the sense of trying to
16 make sure we were able to get this ready in case the agent
17 takes the stand tomorrow, 44 I think is potentially a
18 redundant question, so --

19 THE COURT: Yes.

20 MS. CONNORS: -- if we want to take that out and that
21 response. And I was just trying to read on 43 to see what
22 position we're in.

23 THE COURT: Here's my concern 43.

24 Did you use them for anything else or was it just on
25 the payroll file?

1 That and the part that's green may be improper
2 because he's invoking his right to remain silent. That seems
3 right. That seems like that's a selective decision to invoke
4 his Fifth Amendment, right?

5 But I want to -- if you have case law that says you
6 can't do that, then I'd like to see it. Okay?

7 MS. CONNORS: Yes, Your Honor.

8 And if the Court is saying on 43 what would be
9 removed is from, "and this is important," is that the --

10 THE COURT: No, it's the sentence after that.

11 MS. CONNORS: That part of the question.

12 THE COURT: I mean, did you use them for anything
13 else or was it just on the payroll.

14 MS. CONNORS: Okay. And there was no request for
15 the, "Did you pay somebody to get those names." And then
16 that's the question. Then there's the response to no.

17 THE COURT: Yes.

18 MS. CONNORS: So again, to help try to make sure that
19 we can get this taken care of, because it is going to be a
20 good bit of slicing and dicing audio as well, we would be
21 willing -- we'll -- we'll agree to take out the green. We're
22 certain -- we'll still have --

23 THE COURT: And the sentence that says, I mean, did
24 you get them from any -- did you use them for anything else or
25 was it just the payroll file.

1 MS. CONNORS: Yes, Your Honor.

2 THE COURT: And so you'll have Line 15, one word on
3 line 16, and then the last word on Line 22 and then
4 continuing.

5 MS. CONNORS: Yes, Your Honor.

6 THE COURT: I think that's right. I think that's
7 what we ought to do. Unless you change your mind and you send
8 me a case that says somebody can invoke selectively during an
9 interview. And I just don't -- I don't know why I don't know
10 the answer to that. But I don't know the answer to that.
11 I've never seen it come up.

12 MS. CONNORS: I think it more often comes up in that
13 sense of are they invoking to where then after -- it's usually
14 in the context of suppression. And if they say those words,
15 what does it mean, in terms of everything that flows from the
16 interview afterwards and certainly that's what I was referring
17 to in terms of a Supreme Court case.

18 THE COURT: Right.

19 MS. CONNORS: This is a more specific issue. But
20 again, I think we're comfortable taking that out.

21 THE COURT: Okay.

22 MS. CONNORS: That section out so that we can go
23 ahead and be able to be prepared for the agent.

24 THE COURT: Okay. All right. Anything else?

25 MR. FINLAYSON: No, sir.

1 THE COURT: I think that's probably the right thing.
2 I'm going to look at that issue myself, because I kind of want
3 to know it.

4 It seems Fifth Amendmenty to me. But it also seems
5 like maybe not because they're continuing to talk. And I
6 think probably this hasn't come up a lot because I don't know
7 how new recording all these statements is, but it didn't
8 happen a lot when I came up, so we may not have that type of
9 specific drilling down.

10 Okay. All right. Anything else?

11 MS. CONNORS: I think we're good. Thank you,
12 Your Honor.

13 THE COURT: Okay. We will see you-all tomorrow at
14 8:30, ready to go.

15 Mr. Finlayson, I know you don't like that time.

16 MR. FINLAYSON: Oh, I'm getting --

17 THE COURT: So if you're not here, we're going to be
18 really questioning that.

19 MR. FINLAYSON: I will be here. I have had my had --
20 I've been had, whatever.

21

22 (Whereupon, the proceedings were adjourned at 5::28
23 p.m.)

24

25

REPORTERS CERTIFICATE

I, Jana B. Colter, Official Court Reporter for the United States District Court for the Northern District of Georgia, with offices at Atlanta, do hereby certify:

That I reported on the Stenograph machine the proceedings held in open court on July 22, 2025, in the matter of *United States of America v. Carl Delano Torjagbo also known as Karl Lucius Delano*, case Number 1:22-CR-00171-MLB; that said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript is a true and accurate record of the proceedings.

This the 10th day of November, 2025.

/s/ Jana B. Colter, FAPR, RDR, CRR, CRC
Official Court Reporter

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