UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA,	) Fort Myers, Florida
Plaintiff	) Case 2:20-CR-114-FtM-66MRM
vs.	) Wednesday, March 24, 2021
CASEY DAVID CROWTHER,	) 9:00 a.m. to 5:09 p.m.
Defendant	) Courtroom 5D

TRANSCRIPT OF JURY TRIAL

DAY 2 OF 4, VOLUME 2 OF 4

HELD BEFORE THE HONORABLE JOHN E. STEELE,

United States District Court Judge

Official Court Reporter:
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THE COURT: I think we're still missing a juror, but I wanted to do something I think I forgot last night, and that is to admit the exhibits that you had talked about as having been stipulated to.

MR. REICHLING: That's correct, Your Honor. And would you like me to state for the record the exhibit numbers that the government would be moving as our exhibits at this time?

THE COURT: Yes.

MR. REICHLING: The government would be moving what's been stipulated as -- I'm sorry, I'm talking fast my co-counsel reminded me, talking too quickly. I apologize, Judge.

At this time, the government would move what's been stipulated for admission as Government's Exhibits 67 through 98, and Government's Exhibits 104 through 109, and Government's Exhibits 121 through 131.

THE COURT: All right. Are those the numbers that correspond to your understanding, Ms. Waid, or Mr. Dickerson?

MS. WAID: Yes, Your Honor.

THE COURT: All right. The Court will admit Government's Exhibits 67 through 98, 104 through 109, and 121 through 131.

(Government's Exhibits 67-98, 104-109, 121-131 admitted.)

THE COURT: And, with that, we'll just be at ease until we get the jury here.

COURTROOM DEPUTY: Your Honor, they're all here.

THE COURT: All right. Have them brought in, please.

(At 9:04 a.m., the jury was escorted into the courtroom.)

THE COURT: Good morning, ladies and gentlemen.

And, Mr. Leman, you may proceed.

MR. LEEMAN: Madam Deputy, may get the overhead on?

KYLE DECICCO,

having been recalled as a witness by the Government, having been previously called as a witness and duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LEEMAN:

Q Good morning, Mr. DeCicco.

A Good morning.

Q I believe we left off, yesterday, with an application for a PPP loan that was submitted by Target Roofing; is that right?

A Yes.

Q And an e-mail in which the bank informed Mr. Crowther that that application had been approved on April 8th, 2020; correct?

A Yes.
Q Now, at some point, did Target Roofing submit an amended application for a PPP loan?
A Yes.
Q In front of you, you should have what's been previously marked as Government's Exhibit 8. I'd ask you to pick it up, take a look at it, and tell me whether you recognize it.
A I do.
Q Okay. What does it appear to be, sir?
A Standard PPP application form.
Q Okay. When you say standard, what do you mean by that?
A Same application that all of our clients submitted for approval.
Q Is that an SBA form?
A Yes.
Q Does it appear to be a true and accurate copy of the amended application submitted by Target Roofing for a PPP loan?
A Yes.
MR. LEEMAN: Your Honor, at this point in time, I'd ask for Government's Exhibit Number 8 to be admitted into evidence.
THE COURT: Any objection?
MR. DICKERSON: No objection, Your Honor.
THE COURT: Number 8 will be admitted and may be published.

(Government's Exhibit 8 admitted.)
BY MR. LEEMAN:
Q Mr. DeCicco, I'm going to ask you to focus your attention on the top of the application again, and could you identify from the application the exact applicant for the loan?
A Target Roofing and Sheet Metal, Inc.
Q All right. And the amount of the loan sought?
A $2,098,759.
Q And there are certain radio buttons to the right of a section that says, "Purpose of the loan." Would you read which radio buttons were selected?
A Payroll, rent/mortgage interest, and utilities.
Q And those radio buttons are selected by who, sir?
A By the borrower.
Q A little further down, there is a section related -- stated, "Applicant Ownership." Could you read who the owner of the company is and his ownership interest?
A Casey Crowther, president, 100 percent.
Q Move on to the second page of the exhibit. And zoom in at the top. There multiple bullet points that, under the section, "Representation and Authorizations," it says, "I represent that," and then I'd ask you to read the third bullet point, please, sir.
A "All SBA loan proceeds will be used only for business related purposes as specified in the loan application."

Q And, further down the page, I'm going to zoom in on certain certifications that were made. After the sentence: "The business and each 20 percent or greater owner must certify in good faith to all of the following below by initialing next to each with one." Could you read the first initialed certification?
A "Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant."
Q And could you read the second certification after the initials?
A "The funds will be used to retain workers and maintain payroll, and make mortgage payments, lease payments, and utility payments. I understand that if these funds are used for unauthorized purposes, the Federal Government may pursuer federal criminal fraud charges."
Q Just focus on the bottom, the signature section of the page, the printed name of the individual signing reads?
A Casey Crowther.
Q And the date?
A April 13, 2020.
Q Now, these applications, along with those certifications, were required to be submitted to obtain a PPP loan from your bank; is that right?
A Yes.
Q Was this amended application ever approved?

A Yes.
Q And did the loan that was sought ever close?
A Yes. For the amended application.
Q All right. I want you to pick up Government's Exhibit Number 16, please, take a look at it, and tell me if you recognize it.
A Yup.
Q Okay. Just generally speaking, without reading any of the contents of the document, what does it appear to be?
A It appears to be an e-mail from myself to Mr. Crowther.
Q All right. And does it have an attachment?
A Yes, it does.
Q And what type of an attachment does it contain?
A One of the many interim final rules on the PPP program.
Q Does this appear to be a true and accurate copy of an e-mail you sent to Mr. Crowther?
A Yes.

MR. LEEMAN: Your Honor, at this point in time we'd ask for Government's Exhibit Number 16 to be admitted.

MR. DICKERSON: No objection, Your Honor.

THE COURT: Number 16 will be admitted and may be published.

(Government's Exhibit 16 admitted.)

(Evidence was published via the projector.)

BY MR. LEEMAN:
Q Mr. DeCicco, at the top, I'm just going to focus briefly. Could you read the date of the e-mail that this was sent?
A April 13th, 2020.
Q All right. And you said the attachment here is one of many final interim rules. What was the purpose of you sending this to Mr. Crowther?
A I was keeping all of my larger PPP applicants and customers informed, to the best of my ability, with changes to the program, and updates as they became readily available to the bank.
Q And this was actually -- was this sent to Mr. Crowther before his actual loan closed?
A I'm assuming, if the loan was approved on the 13th, it did not close on the 13th. It probably closed a couple days later.
Q And close, does that mean the loan is actually . . . .
A Signed, and then funded.
Q All right, sir. All right. We're going to move through some of the pages here.
I have pulled up, on Page 16 of the exhibit, a paragraph within the interim rule, Paragraph R, and it states, "How can PPP loans be used?" And I ask you to read through the bottom of that page, sir.

A All right. "How can PPP loans be used? The proceeds of a PPP loan are to be used for payroll costs, as defined in the Act," and, in 2F, "Costs related to continuation of group healthcare benefits during period of sick, medical, or family leave, and insurance premiums, mortgage interest payments, but not mortgage prepayment or principal payments; rent payments; utility payments; interest payments on any other debt obligations that were incurred before February 15, 2020, and/or refinancing an SBA EIDL loan made between January 31st, to, and April 3rd, 2020. If you received an SBA EIDL loan from January" --

Q Mr. DeCicco, would you just stop, because you continued on to the next page. I'd just like the jury to follow along.

A Sure.

Q All right. Continuing at the top of Page 17, beginning with "through"?

A "Through April 3rd, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to $10,000 on the EIDL loan will be deducted from loan forgiveness amount of the PPP loan."

Q All right. Let's stop there, please. I'm going to move on to Page 18 of the document. Section S. And I'd ask you to read aloud into the record the text below the heading, "What happens if PPP loan funds are misused"?

A "If you use PPP funds for the unauthorized purposes, SBA will direct you to repay those amounts. If you knowingly use these funds for unauthorized purposes, you will be subject to additional liability, such as charges for fraud. If one of your shareholders, members, or partners used PPP funds for unauthorized purposes, SBA will have recourse against the shareholders, members, or partners for the unauthorized use."

Q I'm going to move on to Paragraph T of the same document, which also begins on Page 18 of the exhibit. The heading for that paragraph says, "What certifications need to be made," and then it reads, on the PPP program application, "An authorized representative of the applicant must certify in good faith to all of the below. I would ask you to read Paragraphs 2 -- Subparagraph ii into the record, please.

A "ii. Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant."

Q All right. And then read Paragraph iii into the record if you would, please, sir.

A "The funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments. I understand if these funds are knowingly use forward unauthorized purposes, the Federal Government may hold me legally liable such for charges of."

Q And then I'm moving on to -- thank you for stopping, sir. I'm moving on to Page 19 so you can finish reading aloud that paragraph.

A "Fraud. As explained above, not more than 25 percent of loan proceeds may be used for non-payroll costs."

Q That document that you just read from was an interim final rule text; is that right?

A Yes.

Q I'd ask you to pick up Government's Exhibit 14 in front of you, sir, take a look at it, and tell me whether you recognize it.

A I do.

Q All right. What is it, sir?

A It's the loan agreement as part of the loan document package that my bank utilized for the PPP loan.

Q All right. Does it appear to be a true and accurate copy of the loan agreement?

A Yes.

Q It might be obvious, but what is a loan package? What do you mean when you say it's a loan package used by your bank?

A A loan package includes several documents, one of which being the loan agreement itself, which spells out the terms to repay the loan.

Q And Exhibit 14 is a copy of the loan agreement; is that

right?
A Yes.
Q It's a true and accurate copy.
A It appears to be, yes.
MR. LEEMAN: Your Honor, at this point in time, the government would ask that Government's Exhibit Number 14 be entered into evidence.
THE COURT: Any objection?
MR. DICKERSON: No objection, Your Honor.
THE COURT: Number 14 will be admitted and may be published.
(Government's Exhibit 14 admitted.)
BY MR. LEEMAN:
Q Mr. DeCicco, we're just going to focus on the top of this document here. The lender is listed as?
A Is Sanibel Captiva Community Bank.
Q The loan amount is listed as what?
A $2,098,700.
Q The date of the loan is listed as what?
A April 14th, 2022 -- or 2020, excuse me.
Q And the borrower is listed as who?
A Target Roofing and Sheet Metal, Inc.
Q The very last page of the document, which is Page 10 of the exhibit, I'm going to zoom in, is this document signed?
A It appears to be digitally signed, yes.

Q Well, did you sign it?
A I signed it through DocuSign; yes.
Q Could you just explain what DocuSign is?
A DocuSign is a third-party authenticated document signing company that specializes in being able to sign documents like these digitally.
Q And you signed on behalf of who, sir?
A On behalf of Sanibel Captiva Community Bank.
Q And who is indicated that has signed on behalf of Target Roofing and Sheet Metal?
A Casey D. Crowther, president.
Q Okay. If you'd pick up Government's Exhibit Number 9, which is in front of you, take a look at it, tell me if you recognize it.
A I do.
Q Okay. What does it appear to be, sir?
A Promissory note associated with that same document loan package from my bank.
Q Does it appear to be a true and accurate copy of the promissory note executed as a part of this loan?
A It does.

MR. LEEMAN: Your Honor, at this point in time we'd ask to be entered into evidence Government's Exhibit Number 9.

MR. DICKERSON: There will be no objection, Your Honor.

THE COURT: Number 9 will be admitted and may be published.

(Government's Exhibit 9 admitted.)

BY MR. LEEMAN:

Q I'm just going to focus on the top of this document, the very first page, Mr. DeCicco. You see there's a section stating, "SBA loan number"? Could you explain to the jury what that is?

A That was the loan number assigned by the SBA after it was granted approval.

Q Okay. Was this loan, in fact, a federally guaranteed loan by the Small Business Administration?

A Yes, it was.

Q The amount of the loan is stated again as $2,098,700 as stated on the loan documents; is that right?

A Yes.

Q And the interest rate is what?

A One percent.

Q I'd ask you to pick up, in front of you, sir, Government's Exhibit Number 13. Take a look at it and tell me if you recognize it.

A I do.

Q What is it, sir?

A Business purpose certificate, another document in the document package for the PPP program provided by my bank.

Q Just to make sure I understand, the loan package that you're referring to, this document is part of that loan package?
A Yes.
Q And these documents are signed before the money is actually turned over; is that right?
A Yes.
Q All right. Is that a true and accurate copy of the certification you just stated on the record?
A Yes.
MR. LEEMAN: Your Honor, at this point in time we'd ask that Government's Exhibit Number 13 be entered into evidence.
MR. DICKERSON: No objection, Your Honor.
THE COURT: Number 13 will be admitted and may be published.
(Government's Exhibit 13 admitted.)
(Evidence was published via the projector.)
BY MR. LEEMAN:
Q Mr. DeCicco, I'd ask you -- let me zoom out a little bit further. I'm sorry. The document is titled a, "Business Purpose Certificate". If you would, please read into the record the contents of the document, and stop when you get to the date.
A "The undersigned, Casey D. Crowther, as the president of

Target Roofing and Sheet Metal, Inc., a Florida corporation, hereby affirms:

"1: That, with respect to the applicant for the loan to Target Roofing and Sheet Metal, Inc., a Florida corporation, in the amount of $2,098,700 from Sanibel Captiva Community Bank, the purpose of said loan is for legitimate business purpose; and, if said loan is granted, all the proceeds therefor will be utilized for a sound business purpose under 13 CFR 120.120 that benefits Target Roofing and Sheet Metal, Inc., a Florida corporation. This certificate is given with the understanding and intention that Sanibel Captiva Community Bank will rely upon the same in consideration of loan application.

Q Okay. The document is signed, again, digitally?

A Yes.

Q And who does it indicate signed the document?

A Casey D. Crowther, president.

Q Okay. Government's Exhibit Number 10 is also front of you. Take a look at that, tell me if you recognize it.

A I do.

Q Okay. What is it, generally speaking?

A Disclosure. CARES Act disclosure. Associated with the loan dock package again.

Q Submitted to the bank before the loan was funded?

A Yes.

Q And does at it appear to be a true and accurate copy of

that CARES Act disclosure?
A Yes.
MR. LEEMAN: Your Honor, at this point in time we'd ask that Government's Exhibit Number 10 be entered into evidence.
MR. DICKERSON: No objection, Your Honor.
THE COURT: Number 10 will be admitted and may be published.
(Government's Exhibit 10 admitted.)
(Evidence was published via the projector.)
BY MR. LEEMAN:
Q Mr. DeCicco, the document is entitled, "CARES Act disclosures," and it states, "The undersigned, Target Roofing and Sheet Metal, Inc., a Florida corporation, borrower, in connection with Sanibel Captiva Community Bank Loan Number 33300251, originated under the Coronavirus Aid, Relief, and Economic Security Act's Paycheck Protection Program, PPP, hereby represents, attests, and certifies to Sanibel Captiva Community Bank as follows."
My question to you, to make sure I understand this correctly, these are representations made to your bank by Mr. Crowther; is that right?
A Yes.
Q And these are representations made by Mr. Crowther in an effort to obtain the loan he was seeking for his company,

Target Roofing.
A Yes.
Q Now, the second certification, if you would read that into the record, please, sir.
A "Current economic uncertainty makes this loan request necessary to support the ongoing operations of the borrower."
Q Okay. I'm going to move down to nine and ten of the same exhibit. First I'd ask you to read Paragraph Number 9 into the record.
A "The information contained on SBA Form 2483, Paycheck Protection Program Application, is true and correct in all respects."
Q Now, are you familiar precisely with what the Form 2483 refers to?
A Yes; the loan application that we previewed earlier.
Q Paragraph 10 is partially up on the screen. I'd ask you to read what's up on the screen, and then allow me to move on, and we'll continue to read Paragraph 10.
A "Borrower will use the proceeds of this PPP loan solely for payroll costs, costs related to the continuation of group healthcare benefits during the period of paid sick, medical, or family leave, and insurance premiums."
Q Hold on one second, sir, let me move on to Page 2 of the document. And then continue to read, beginning at Subparagraph C?

A "Business related mortgage interest payments, but not mortgage prepayments or principal payments; rent payments, utility payments; interest payments on any other debt obligations that were incurred before February 15th, 2020, and/or refinancing an SBA EIDL loan made between January 31st, 2020, and April 3rd, 2020."
Q And I'll move on to Paragraph 12, ask you to read that into the record, sir.
A "If PPP funds are used for unauthorized purposes, the SBA will direct borrower to repay those amounts. If the borrower knowingly uses the funds for unauthorized purposes, borrower will be subject to additional liability such as charges for fraud. It is understood that if one of the borrowers, shareholders, members, or partners uses PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partners for the unauthorized use."
Q This document is dated what, sir?
A April 14th, 2020.
Q And was this document submitted and received by the bank before the loan was actually funded?
A Yes.
Q And the signature is digitally signed again?
A Yes.
Q And it is signed by who?
A Casey D. Crowther, president.

Q In front of you, sir, you should also have a Government's Exhibit Number 49. Do you have that? Excuse me. 149. 149.
A Yes.
Q All right. I'd ask you to take a look at it, tell me if you recognize that.
A The loan forgiveness affidavit.
Q Okay. Could you tell the jury what that document is generally?
A Again, it's part of the loan document package that was provided from my bank to the PPP applicants.
Q Prior to funding of the loan; is that right?
A Yes.
Q Is it a true and accurate copy of that document?
A It appears to be; yes.
MR. LEEMAN: Your Honor, at this point in time, I'd ask that Government's Exhibit Number 149 be entered into evidence.
MR. DICKERSON: Again, no objection, Your Honor.
THE COURT: Number 149 will be admitted and may be published.
(Government's Exhibit 149 admitted.)
BY MR. LEEMAN:
Q At the top, sir, this reads, "Loan Forgiveness Affidavit," and then we see some . . . statements about the

State of Florida, County of Lee. If you'd read the first sentence there aloud into the record.

A "Casey D. Crowther, the deponent, who after being duly sworn on oath, deposes and says."

Q So this statement is made under not only to the bank, it's made under oath; is that right?

A That's what it says.

Q Move down to Paragraph 4. If you could read that into the record, please. Actually, if you'd read it into the record, you can stop reading after .ii?

A "The undersigned hereby certifies that: I, no part of the proceeds of the loan will be and/or were used for unauthorized purposes; ii, the documentation supporting the borrower's and/or operating company's request for loan forgiveness is true and correct.

Q Okay. Paragraph 5, would you read that into the record, please?

A "The undersigned is aware that the lender will rely upon the truth of the statements made by me in this affidavit."

Q Okay. And who is the lender, sir?

A Who is the lender?

Q Yes.

A Sanibel Captiva Community Bank.

Q This document is signed again?

A Yes, it is.

Q Electronically, it appears to be?
A Yes.
Q And the signature of the applicant reads?
A Casey D. Crowther, president.
Q In front of you, you have a Government's Exhibit Number 12, I believe, sir. Could you take a look at that? And tell me if you recognize it.
A I do.
Q What is it, sir?
A This is the SBA Form 1050 settlement statement sheet. Again, as part of the loan document closing package provided by my bank.
Q Okay. Is this a document that is signed before or after the loan is funded?
A Before.
Q And, if you might, just explain what you know about what a settlement sheet is.
A It lists the proceeds of the loan, it lists any costs that need to be paid in addition to the loan proceeds by either the borrower or by third-party companies.
Q Does this appear to be a true and accurate company of the settlement sheet generated in connection with this loan?
A Yes, it does.
MR. LEEMAN: Your Honor, at this point in time I'd ask that Government's Exhibit Number 12 be entered into

evidence.

MR. DICKERSON: No objection, Your Honor.

THE COURT: Exhibit Number 12 will be admitted and may be published.

(Government's Exhibit 12 admitted.)

BY MR. LEEMAN:

Q The first page of the exhibit, Mr. DeCicco, is instructions; is that fair?

A Yes, it is.

Q All right. We'll move on to the second page. Is this a form that is standard and provided by some entity?

A That is a standard SBA loan settlement sheet form.

Q Okay. How is it typically used by your bank?

A In this case, it was only used for this program itself.

Q The PPP program.

A Yes.

Q Does the settlement sheet refer to who the borrower is?

A It does.

Q Okay. And who does it say?

A Target Roofing and Sheet Metal, Inc.

Q And is there a section of the document which talks about the authorized use of proceeds for the loan? Well, let me just direct you to it, sir. Authorized use of proceeds, there is a . . . chart, if you will, sort of . . . maybe a third of the way down the page, at the top, in front of you. On the screen

I also show you where it is.
A Thank you.
Q Do you see that, sir?
A Yes, it does.
Q Okay. Are any radio boxes filled for land acquisition?
A No.
Q Any for construction?
A No.
Q Let me zoom out a little bit. Any amount indicated that will be used for leasehold improvements?
A No.
Q Machinery and equipment?
A No.
Q Furniture and fixtures?
A No.
Q Inventory?
A No.
Q Working capital?
A No.
Q Acquire business.
A No.
Q SBA guaranty fee?
A No.
Q Settlement charge out-of-pocket costs?
A No.

Q Okay. There is a section for other. Is there an amount specified for those uses?
A Yes, there is.
Q Okay. And what does it say -- does the document indicate where those uses might be found?
A "See attached CARES Act uses."
Q Okay. Is there, in fact, an attachment to that settlement sheet, sir?
A Yes, there is.
Q Is that Page 3 of the document?
A Yes, it is.
Q Okay. I'd ask you to read into the record the authorized uses as set forth on the settlement sheet into the record, please.
A Payroll costs, costs related to the continuation of group healthcare benefits during sick period -- during periods of paid sick, medical, family leave, or insurance premiums, business related mortgage interests payments, but not mortgage prepayments or principal payments, rent payments, utility payments, or interest payments on any other debt obligation that were incurred before February 15th, 2020, or refinancing an SBA EIDL loan made between January 31st, 2020, and April 3rd, 2020.
Q This document is actually signed, sir, is it not?
A It is.

Q Who is it signed by?
A Myself, on behalf of the bank, and by Casey Crowther.
Q On behalf of?
A The borrower.
Q Mr. DeCicco, was there some point after this loan extended that you learned Mr. Crowther had bought a boat?
A Yes.
Q Okay. How did you learn that?
A In the hallways of my bank.
Q Okay. Did you learn that he bought a boat with proceeds of a PPP loan?
A After I heard the rumor, I . . . went on our system and I looked at where the proceeds came out of.
Q Is that something you and Mr. Crowther had ever discussed before he applied for the loan?
A No.
Q Had he ever told you he intended to use PPP proceeds to buy a boat?
A No.
Q If Mr. Crowther had told you, before this loan was submitted and funded, that he intended to use a portion of the proceeds directly to buy a boat in his personal name, would the bank have extended the loan?
A I don't give advice to my clients about that, but I would have advised not do that.

Q The question was a little different, sir. Would the bank have extended the loan had it known Mr. Crowther intended to use PPP proceeds directly, directly, to purchase a boat in his own name?
A No.
Q What did you do when you learned Mr. Crowther had bought a boat directly with PPP proceeds?
A During that time, I believe there are e-mail conversations or texts going back and forth between the two of us, and it came up in conversation.
Q In front of you, you should have Government's Exhibit Number 18. I'd ask you to pick it up, take a look at it.
Do you recognize it, sir?
A Yes.
Q What does it appear to be?
A E-mail correspondence between Mr. Crowther and myself.
Q Might you just explain to the jury the general nature of the conversation without reading its contents?
A On May -- starting on May 13th, I e-mailed Mr. Crowther the same e-mail chain that I e-mailed all of my customers that had loans in excess of $2 million a change in the interim final rule.
Q Did the e-mail chain, sir -- sorry to interrupt you, but just to move things along, did the e-mail chain eventually turn into a discussion about the purchase of a boat?

A Yes, it did.
Q Is this e-mail chain a true and accurate copy of a conversation you had over e-mail with Mr. Crowther?
A It appears to be; yes.
MR. LEEMAN: Your Honor, at this point in time I'd ask that Government's Exhibit Number 18 be entered into evidence.
THE COURT: Any objection.
MR. DICKERSON: No objection at all, Your Honor.
THE COURT: Number 18 will be admitted.
(Government's Exhibit 18 admitted.)
MR. LEEMAN: Permission to publish, Your Honor?
THE COURT: You may.
BY MR. LEEMAN:
Q Now, as an e-mail chain, Mr. DeCicco, are the most recent e-mails at the end?
A Yes.
Q Let's move to Page 4 of the exhibit. At the top of the page, it indicates that an e-mail was sent on May 13th, 2020, at 2:00 p.m.; is that right, sir?
A Yes.
Q And it was from you?
A Yes.
Q And it was to Mr. Crowther; is that right?
A Yes.

Q All right. I'm going to focus in on . . . this is an e-mail providing borrowers at your bank guidance about the PPP program; is that right?
A Yes.
Q All right. I just want to focus on the first two paragraphs of the guidance. I've got them up on the screen. If you might just state, in your own terms, what the guidance was.
A Without reading everything word for word, it said that loans over $2 million would most likely be audited.
Q By?
A By the SBA.
Q Okay. That might be of -- is that particularly relevant to the loan at issue in this case?
A Since it's over $2 million, yes.
Q All right. Does Mr. Crowther respond to that e-mail?
A He did.
Q And what does he say?
A His response: "Yes, we got it all and are more than prepared. Thank you."
Q All right. Did you respond?
A I did.
Q And you said?
A I said: "I figured you would be on it. I hope all is well, sir. Let's do some fishing or something fun soon. I

need to get out of the office."

Q All right. Now, earlier in your testimony, I believe you said your relationship with Mr. Crowther was strictly professional.

A (Witness nods head up and down.)

Q Help put this fishing e-mail in context. What do you mean by that? Is it a professional overture, is it something you two would do as friends? Explain.

A Casey and I have not been fishing on a boat, but, obviously, I know he fishes. I know he has had several boats. He knows that I fish. It's a common interest of us both. So I was just being friendly, as I am with a lot of my customers.

Q Sanibel Captiva Community Bank is the name of the organization; is that right?

A Yes.

Q Is there anything about a community bank that you might tell the jury that you believe is sort of a benefit over larger type banks?

A My customers have access to me all the time. E-mails, cell phone numbers. Most of my clients know where I live, for that part of it. They know I'm active in the community. It's not Bank of America. You can call me on my cell phone. I answer the phone.

Q Is it fair to say that writings like this from you would be commonplace?

A Yes; with Mr. Crowther and other customers that I have.
Q Did you know, at this time, whether he'd bought a new boat or not?
A Yes.
Q Okay. Did this e-mail that you sent him have some type of a purpose to figure out more about that boat or not?
A Essentially.
Q Well, try to explain that. Try to put some words around it so that you --
A I already knew that there was a boat purchased, so I wanted him to tell me.
Q Does Mr. Crowther respond to your e-mail?
A He did.
Q What did he say?
A He says: "Yes, I'll call you the next trip I take my boat out. Been looking for a chance. Weather still all over the place."
Q Did you respond, sir?
A I did.
Q You said?
A I said: "Did you get a new one? Mine is on order, probably won't have it until summer."
Q And did Mr. Crowther respond?
A He responds: "I did. I got a demo Invincible cheap from the factory. They panicked, like I did, and came off the

price 40 percent."
Q Did you respond to that, sir?
A I did.
Q What did you say?
A "No way. That's awesome. Which model?"
Q And how did -- did Mr. Crowther respond?
A "Forty-foot Invincible catamaran. I had it negotiated before the PPP money came out, thank gosh. The guy called me back and said he sold every boat on the lot once the PPP came out. The boats have been sitting there for three months."
THE COURT: Do you want to have him read that last sentence again?
THE WITNESS: I'm sorry. Thank you. "The boats had been sitting there for months."
MR. LEEMAN: Thank you, sir.
BY MR. LEEMAN:
Q All right. So, at some point here, you've now learned he's bought a new boat. You've also heard it within your offices; is that right?
A Yes.
Q Do you confront Mr. Crowther in any way?
A I did.
Q Okay. Tell us about how that happened.
A I don't recall exactly if it was a text message or a phone call.

Q Well, let me stop you there. I'll ask the question again, but before I do, let me -- let me ask you to pick up Government's Exhibit Number 22, if you would, please.
A Twenty-two?
Q Yes, sir. Twenty-two.
A I don't have 22. I have 23 and 7.
MR. LEEMAN: May I approach the witness, Your Honor?
THE COURT: You may.
(Counsel provides evidence to the witness.)
BY MR. LEEMAN:
Q Mr. DeCicco, I've just handed you what's previously been marked as Government's Exhibit Number 22. Take a look at it and tell me if you recognize it.
A I do.
Q Okay. Generally, what is it?
A Text message chain between Mr. Crowther and myself.
Q Okay. Does that text message chain relate in some way to your effort to meet with Mr. Crowther to discuss the purchase of a boat?
A Multiple things; yes.
Q Amongst them the purchase of a boat?
A Yes.
Q Does it appear to be a true and accurate copy of that text message chain?
A Yes.

MR. LEEMAN: Your Honor, at this point in time the government would ask that Government's Exhibit be entered into evidence.

MR. DICKERSON: No objection.

THE COURT: Exhibit Number 22 will be admitted and may be published.

(Government's Exhibit 22 admitted.)

BY MR. LEEMAN:

Q Okay. Mr. DeCicco I'm going to zoom in on sort of the top half of this exhibit. Just, if you would, identify for the record the date this conversation was had, and who the speakers are by the color of their text bubble.

A Myself is in gray. This took a place on May 18th. Mr. Crowther is in blue.

Q Okay. If you start at the top, and just go ahead and read down the conversation?

A "Hey man, do you have time to meet today or tomorrow?"

His response: "Probably tomorrow. What do we need to meet about?"

My response: "A few things. Your home loan request, existing loans, PPP, everything. It won't take long."

Q All right. And I guess the text message goes on you actually offer to drive out to meet him personally; is that right?

A Yes.

Q All right. Now, with that in mind, I'll ask you the question I asked before but stopped you. Did you actually meet with Mr. Crowther somehow to discuss his purchase of the boat?
A We ended up not being able to meet in person. We ended up having a phone conversation.
Q Okay. And what did you tell Mr. Crowther about the purchase of the boat?
A The conversation had multiple facets of it. But the main part of the conversation was regarding to a loan application for the purchase of a home that he had --
Q Let me stop you there before we go there. Let's go back the boat for a second. What was the discussion as it related to the purchase of the boat?
A The blunt statement that I asked him was, your loan is over $2 million. You're going to get audited. What are you going to do when you get audited?
Q How did Mr. Crowther respond?
A He very bluntly responded that he's going to prove that he used the funds for payroll. Over the approved period of time.
Q Okay. Pick up Government's Exhibit Number 23, if you would. Do you recognize that?
A I do.
Q What is it, sir?
A Again, a text message chain between Mr. Crowther and

myself.
Q And does it appear to be a true and accurate copy of a text message chain between you and --
A Yes, it does.
Q And, generally, do its contents relate to his use of the PPP loan?
A Yes.
MR. LEEMAN: How about -- let me -- okay.
Your Honor, at this point in time I'd ask that Government's Exhibit Number 23 be admitted into evidence.
THE COURT: All right.
Any objections?
MR. DICKERSON: One second, Your Honor. I think that's just a snapshot. I want to look at the full text.
(Counsel for the defense confer privately.)
MR. DICKERSON: We won't object to that being admitted, Your Honor.
THE COURT: Number 23 will be admitted and may be published.
(Government's Exhibit 23 admitted.)
(Evidence was published via the projector.)
BY MR. LEEMAN:
Q Mr. DeCicco, could you state what date this text message was sent and who the speakers are by identifying the color of their text bubbles?

A Sent on May 19th. Mr. Crowther is in dark blue, I'm in gray.
Q Okay. And Mr. Crowther says?
A Mr. Crowther says: "I'm going to move my personal money I had to purchase the boat over to my SanCap account."
My response: "Okay. Talk to Craig and make sure you guys are on the same page. Whatever you think is best."
Q Did he explain why he would want to move his personal money over to the SanCap account if there was no problems proving how much payroll he had spent?
A In a conversation over the phone before those text messages, when we were discussing it, and I stated what are you going to do when you get audited, and he said I'm just going to show that the funds were used for payroll. He also stated do you think it would be best if I could move money over to replace those funds? Would that look better? And my response was I don't see how that could be a bad thing, but please check with your CPA and your professionals before you do that.
Q All right. So your text here, it says -- could you read that?
A "Okay. Talk to Craig." Craig is his CPA.
MR. LEEMAN: May I have a moment, Your Honor?
THE COURT: You may.
(Mr. Leeman and Mr. Reichling confer privately.)

BY MR. LEEMAN:
Q Now, Mr. DeCicco, let me put up Government's Exhibit Number 22 again.
I had asked you to focus on the boat aspects of the conversation you had with Mr. Crowther. You had indicated you talked to him about the boat amongst other things. What were the other things that you met with him about that day?
A Around that same time, I had found out that he had an application in with one of my residential lenders at the bank for the purchase of a home.
Q Okay. Where was that Home?
A Saint James City, Florida.
Q And why did you need to speak with him about that?
A I wanted to have a discussion with him and tell him my thoughts and the bank's position on that loan application.
Q And did you have that discussion?
A Over the phone, yes.
Q And what was the substance of that discussion?
A The substance of the discussion, that we were going to be unable to do that loan for him.
Q Why?
A Because . . . . It's kind of a long story.
Q Well, let's break it into parts.
A Okay. The loan would need to be approved by my executive loan committee, as I stated yesterday. When you get

to a certain relationship size at the bank, over $2 million in loans like Mr. Crowther has, loans need to be approved by executive loan committee.

Rewind several, several months, when Mr. Crowther was buying out his partner, Mr. Adkins, in Target Roofing, I asked him how he was going to come up with the funds to make that happen, if he was going to need any money from the financial institution to do it.

Q Let me just stop you there, make sure we're following along. The funds to make what happen?

A The funds to acquire a hundred percent ownership in Target Roofing.

Q Okay. You had asked Mr. Crowther how he intended to do that.

A Yes. I'm assuming it wasn't going to be free.

Q Okay. Did Mr. Crowther tell you how he intended to pay off Mr. Adkins?

A Yes. Not in specific detail, but in generally, yes.

Q Okay. What was the generality?

A Generality was he did not need bank funds to do it, he was not coming to me for a loan, that he going to use personal funds, other funds in the business, he was going to sell his existing boat that he had at the time and use those funds, and that he was going to sell a property on Saint James City to --

Q Let me stop you there. A different property on Saint

James City?
A Yes.
Q And he was going to use these funds to pay off Mr. Adkins?
A As part of the purchase of the company.
Q Okay. So how does that factor into your decision to tell Mr. Crowther that the bank wasn't going to do this new loan he was seeking for?
A The bank -- Mr. Crowther needed approval by the bank to obtain a hundred percent ownership in Target Roofing. This was back in late 2019. So he had to get the bank's approval to do it.
When I seeked bank approval with my board of directors and my executive loan committee to do that, I had to articulate what the plan was going forward and how he was going to be able to facilitate that transaction.
In that meeting, I told them how he was going to do it based on the conversation that I just explained a minute ago.
Q Okay. And when you say you told the bank how Mr. Crowther was going to do it, were you saying he was going to use his personal funds, the sale of a boat, the sale of a different property in Saint James City, all to pay off Mr. Adkins?
A Yes.
Q All right. So how does that inform the decision to deny

Mr. Crowther for a mortgage loan later?
A I wasn't going to go back to loan committee and approve a new loan for the exact purpose that . . . it goes against what I was taking previously to loan committee as part of the plan to buy out Mr. Adkins. It makes . . . . It makes the situation look not . . . well.
Q So you were concerned that, instead of using his money to pay off debt owed to Mr. Adkins, he was instead going out and buying another house for himself?
A My board wouldn't have approved it, in my opinion, because, previously, a few months before, he said that he was going to sell a boat and sell a house to do it. Now, at that time, he had purchased a new boat, and now he wanted to purchase another house. It goes against the theory . . . .
MR. LEEMAN: Your Honor, may I just have a moment to make sure I got all the exhibits in correctly?
THE COURT: You may.
(Mr. Leeman and Mr. Reichling confer privately.)
MR. LEEMAN: Thank you, Your Honor. No further questions.
THE COURT: All right. Thank you.
Mr. Dickerson?
MR. DICKERSON: Thank you, Your Honor.
(Mr. Reichling retrieves evidence from the witness.)
MR. DICKERSON: Actually, can I put the exhibits

back?

THE COURT: Certainly.

MR. DICKERSON: Thank you.

(Counsel provides evidence to the witness.)

MR. DICKERSON: Here you go, sir.

THE WITNESS: Thank you.

MR. DICKERSON: May I proceed, Your Honor?

THE COURT: You may.

MR. DICKERSON: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. DICKERSON:

Q Hello, Mr. DeCicco. How are you doing?

A Good. Good morning.

Q My name is Brian Dickerson. I'm counsel for Mr. Crowther. I'm going to ask you some questions based on the government's questions that they asked you. If you can't hear my question, just let me know, with the shields and everything. I'll restate it, or try to make it more clear, or louder. I just want you to hear what I'm saying, and for you to understand what I'm asking. Okay?

A Yes.

Q Fair?

A Fair.

Q All right. I understand that Sanibel Captiva Bank -- and you guys go by the abbreviation SanCap; is that right?

A Yes.
Q So if I say SanCap, that's what I'm talking about.
SanCap issued a loan to Target Roofing pursuant to the PPP program; correct?
A Yes.
Q And that was a one-percent loan between SanCap and Target Roofing; correct?
A Correct.
Q And that was that $2,000 figure that we'll pull up here shortly. And do you know the loan number by chance?
A $2 million figure?
Q 2,087,000.
A Yes.
MR. DICKERSON: If I may approach and grab the other exhibit?
THE COURT: You may.
MR. DICKERSON: May I approach, Your Honor?
THE COURT: You may.
(Counsel provides evidence to the witness.)
BY MR. DICKERSON:
Q I've showed you what's been previously marked as Defendant's Exhibit I. Can you take some time to read that -- I mean just review it to see what it is, count the pages, and see if you're familiar with it at all?
A This is the large -- rather large loan application

package that we've discussed earlier on, signed several times by myself and Mr. Crowther.

MR. DICKERSON: Okay. One second.

Your Honor? Provide you a copy?

THE COURT: That's fine.

(Mr. Dickerson provides the Court with a copy of Defendant's Exhibit I.)

MR. DICKERSON: Thank you, Your Honor.

BY MR. DICKERSON:

Q So when you were mentioning, when the government was bringing you single documents, you kept talking about a loan package?

A Yes.

Q Is that the loan package?

A Yes. It appears to be the complete loan package of, I can't remember, 50 pages or so.

Q So is that a fair and accurate depiction of the loan package that Sanibel Captiva Community Bank had with Target Roofing, which is executed on April 14th, 2020?

A It is.

MR. DICKERSON: Your Honor, the defense would move Exhibit I into evidence.

THE COURT: Any objections?

MR. LEEMAN: Your Honor, may I briefly voir dire the witness?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. LEEMAN:

Q Mr. DeCicco, your answer was that it appears to be the complete loan package? Have you seen this exact exhibit before you've come in here today?

A I have digital copies of it saved on my desktop on my computer, so I would say yes.

Q Well, I'm asking you, there are multiple documents in here. Have you reviewed them all and compared them against whatever files you have at the bank?

A I've reviewed every document that we have at the bank.

Q And have you compared it to what you have in front of you here?

A No.

MR. LEEMAN: Your Honor, I'm not certain -- well, the government doesn't believe that that is a sufficient set of knowledge to establish that these are, in fact, the loan documents.

THE COURT: Do you care to be heard?

MR. DICKERSON: Your Honor, he just said that he has them on his computer, it looks like the loan documents, the entire package. We are providing the total loan package, not single documents. I can ask further questions of Mr. DeCicco.

THE COURT: Go ahead.

CROSS EXAMINATION

BY MR. DICKERSON:

Q Mr. DeCicco, take your time if you want, review that, and let me know if there's anything in that loan package before you that does not look like part of the loan package between Sanibel Captiva Community Bank and Target Roofing.

(Witness examines evidence.)

A Promissory note is there. Fee disclosure page is there. CARES Act disclosure is there. Statement regarding lobbying. Borrower certification. The SBA Form 1050 that we discussed earlier, which is the settlement statement, which attachment that we discussed earlier. The borrower resolution that we discussed earlier. The business purpose certificate that we discussed earlier. Anti-coercion insurance acknowledgment. Further assurance for compliance agreement. Representation notice and acknowledgment. The loan agreement that we discussed earlier. A W-9 form, standard tax document. A reporting acknowledgment. Receipt of this document. Additional documents for equal employment opportunity, equal treatment of clients. Standard -- looks like standard documents included in the package.

And then this looks to be part of the SBA Paycheck Protection Program forgiveness. A notice of forgiveness document. Another acknowledgment of receipt. Compliance agreement. And a loan forgiveness affidavit that we discussed

earlier.
Q And if you could, at the top of the pages, is there a designation, top left, as far as DocuSign, like a heading?
A Yes, there is.
Q And what is that?
A I'm not an expert with DocuSign. Again, that was a third-party company that we utilized to facilitate signing over a thousand of these loans in a very short period of time.
Q And so looking -- reviewing that entire documentation right there, and the header at the top, does that make you believe that is the loan package when you look at, as well, at the cover page? What's the cover page say?
A That is our cover page that we utilized. That is actually the field where we inputted each one of those documents, and it auto-populated through the loan document page -- package.
Q Do you have any concern that that is not the loan package between Sanibel Captiva Community Bank and Target Roofing?
A I would say it's accurate.
MR. DICKERSON: Your Honor, we'd move it into evidence.
MR. LEEMAN: No further objection, Your Honor.
THE COURT: Defense Exhibit I will be admitted and may be published.

(Defendant's Exhibit I admitted.)

(Evidence was published via the projector.)

BY MR. DICKERSON:

Q So when we look at this loan, the loan number, the SCCB loan number, that is . . . .

A That is the loan number as it appears on our books on our bank's system.

Q Sanibel Captiva Community Bank's loan number?

A Yes.

Q And the SBA loan number, that's the loan number assigned by the SBA for this loan.

A Correct.

Q So with regard -- I'm going to just call it 0251, the last four digits; is that right?

A Yes.

Q All right. With regard to loan 0251, term's one percent interest?

A Yes.

Q And if you need to look at it, I'll pull each page up, but two-year maturity rate?

A Two, which actually could be changed to five.

Q Why is that?

A Because the SBA provided additional further guidance later on down the road.

Q So a subsequent interim final rule changes?

A Yes. One of many.
Q When you say one of the many, how many were there?
A Roughly 50. But I'm not an expert on every one of them.
Q And did you have the time to review every one of them?
A Not in their entirety.
Q Okay. So this is the contractual documents between Sanibel Captiva Bank and Target Roofing.
A Yes.
Q These proceeds, the 2,098,700, are Sanibel Captiva Community Bank proceeds; correct?
A Yes.
Q Have there been any SBA loan proceeds with regard to this loan?
A Any SBA proceeds.
Q So Target Roofing with this loan.
A That is a Sanibel Captiva Community Bank loan guaranteed by the SBA.
Q Right. So there have been no SBA loan proceeds used for this Loan 3330251.
A Correct.
Q Thank you. With regard to this loan, we'll get to the documents, you've mentioned cover period a couple of times. Did that change?
A It did.
Q What's your understanding of how that changed?

A It's changed a few times since the program originated in April of 2020. At first it was an eight-week period that the funds must be used during. Then it changed to 24 weeks. And now it could be used between eight weeks and 24 weeks.
Q So again all these changing rules.
A Yes.
Q When is the first payment due on this loan, if you know?
A I believe we set all the maturity dates out seven months, on a specific date in April so it would just be easier for the bank to facilitate those all with our loan operations department.
Q So seven months from this April?
A Seven months from . . . . Excuse me. Seven months from April of 2020.
Q Okay.
A And then, later on, what happened was is that we got more, guidance where we can extend that a different period of time until the loan was either applied for forgiveness or wasn't applied for forgiveness, and then it became -- had to become a repay back as the loan terms of the loan in the loan agreement suggest.
Q All right. Can you speak up a little bit?
A I'm sorry.
Q Say that again?
A Can you ask the question again, please?

Q Yup. So I mean when is the loan payment due? The first loan payment on the Sanibel Captiva lone, when is the first payment due?
A We set the loan payments, I believe, to be due seven months after the origination of the loan.
Q Okay. So, with regard to the original loan, it would have been seven months after April 14th, 2020.
A Yes.
Q And then that has changed.
A It got extended.
Q And how did it get extended?
A We internally did that at the bank.
Q Okay. Were there any IFRs, interim final rules, that said that a time period after either the cover period terminates or a loan forgiveness application is filed?
A Yes.
Q And do you recall -- you know that specifically?
A Not specifically, no.
Q Okay. Do you know when this now loan first payment is due?
A Roughly November, 2021.
Q Okay. Okay. So there's no loan payments up to this point in time.
A Correct.
Q Has there been a forgiveness application filed by Target

Roofing for this loan to Sanibel Captiva Community Bank?
A No.
Q Has Sanibel Captiva Bank received any loan application with forgiveness documents, like payroll, employee information, seeking forgiveness of this loan?
A I don't believe so.
Q And so, as it stands with Sanibel Captiva Community Bank, this is a loan where the payments start November of 2021.
A Correct.
Q And if Target bank -- I mean Target Roofing wants to apply for forgiveness, they still can.
A Yes.
Q Do you understand that, under the rules, the borrower can still apply for forgiveness up to the last payment date of the loan?
A No.
Q Okay.
A I didn't understand that.
Q All right.
A And then the loan proceeds would be reimbursed? Is that what you're saying?
Q Based upon whether or not there is a forgiveness.
A Okay.
Q And it's your understanding that this -- since this is a loan on Sanibel Captiva Bank's books and records, and on the

Target Roofing's loan --
A This an asset of Sanibel Captiva Community Bank, and I'm assuming it's carried as a liability on Target Roofing's balance sheet.
Q And that's what I'm getting at. When Sanibel Captiva Bank is looking at Target Roofing, sole shareholder Casey Crowther, this loan is looked at as a liability for them; correct?
A Yes.
Q The bank hasn't defaulted Target Roofing on this loan; correct?
A No, we have not.
Q Do you see the bank as a victim of this loan?
A No.
Q There's been no injury to the bank from this loan.
A No.
Q Do you feel there was any misrepresentations by Target Roofing with regard to the SBA loan application?
A No.
Q No? I couldn't hear you, sir.
A No.
Q And I'm simply referring, if you can look to it, Exhibit 6 and Exhibit 8.
A The two applications?
Q Correct. Do you see -- was there any misrepresentation

in those documents from Target Roofing?
A No. The client, the borrower, filled out the application just as every one of our customers did, or had to.
Q And I'm going to get to that through those documents specifically, so we'll get that in a second.
Has the SBA provided any notice to Sanibel Captiva Bank that this guaranty by SBA is ineligible, or that the SBA will not guarantee this loan?
A No, they have not. Not to my knowledge.
Q And let's go to your knowledge. You said before there's one person above you at Sanibel Captiva Bank; correct?
A Correct.
Q And you're the one in charge of the loans that were disbursed based upon the CARES Act.
A (Witness nods head up and down.)
Q So if there's anybody else in the bank to know, it would be you and one other person?
A Correct.
Q So you're not aware of that at all.
A I'm not aware of it.
Q Are you aware of any demand by the SBA for repayment of the loan from Target Roofing to Sanibel Captiva Bank?
A No, I'm not.
Q Is Target Roofing in good standing with Sanibel Captiva Bank?

A Yes.
Q Is Casey Crowther in good standing with Sanibel Captiva Bank?
A Yes.
Q Now, you did mention that, through answering questions from Mr. Leeman, that you had this meeting with Casey Crowther in May of 2013.
A Yes. Phone conversation?
Q Yeah, your phone conversation. I know it wasn't a personal meeting. A phone conversation.
In that phone conversation, was there also discussion about selling of the Nalle Road property by Casey Crowther?
A Yes, there was.
Q And that Nalle Road property is his main residence; correct?
A It is.
Q And what did you understand about that?
A He also, in that time period, on that phone conversation, said that, over the past several months, his time -- times have changed, lifestyle changed a little bit, that the family was considering moving their residence out to Saint James City rather than being in North Fort Myers.
Q Okay. You know that didn't happen though; correct?
A Correct.
Q And going to your discovery of, as the government calls

it, the -- well, you actually said it, the rumor at Sanibel Captiva Bank that a boat was purchased from the Target Roofing account in April of -- I mean April of 2020; correct?
A Yes.
Q What did you do to confirm that rumor?
A I looked at the accounts, I looked at the wire information, I looked at where the wire was going. I actually know the business of where that wire was going because, actually, that's another customer of mine that owns that specific dealership.
Q And so you saw a wire going to Sara Bay Marina, and you thought it was a purchase of what?
A I assumed it was a purchase of a boat.
Q It wasn't anything that was deceiving, it was money going to a marina; correct?
A That's correct.
Q And you looked at the wire, and saw the marina, saw it on the account, so you knew he purchased a boat.
A I assumed so; yes.
Q You made that assumption.
A I made that assumption.
Q I guess you could purchase something else from a marina for that amount of money, but not much; correct?
A I don't know what else they sell other than boats.
Q Okay. And you also mentioned that you had known that

Casey Crowther had a history of buying and selling boats.
A That's correct.
Q And what is that knowledge?
A Just, since he's been a customer of mine since 2017, I could point back to three boats that he's bought and sold, and he's articulated to me that he's made money on all of --
MR. LEEMAN: Objection, hearsay.
MR. DICKERSON: Your Honor, it's the defendant's statement. We've already had -- the government asked this same witness for the defendant's statement.
THE COURT: Overruled.
BY MR. DICKERSON:
Q You can answer, sir.
A Since he's been a customer -- repeat what I just said?
Q Yes. And come up more to the mike.
A Since 2017, since he's been a customer of Sanibel Captiva Community Bank, I can point back to three boats that I know that he has told me . . . other than what he has told me, that he has bought and sold and made money on.
Q All right. And then you are aware of the sale of the boat in March of 2020.
A Yes.
Q And tell --
A That was one of the three that I just --
Q That's what I was assuming. Tell me what you know about

that boat sale.
A He told me he sold his boat.
Q Did he tell you for how much?
A Approximately?
Q Yeah.
A Three -- under $400,000.
Q But around 400,000?
A High three hundreds.
Q And did Mr. Crowther actually ask to use the bank's counting machine to count the cash that he received for that?
A Yes, he did.
Q And did he come in and use the bank's counting machine?
A Yes, he did.
Q And did you see the cash?
A He did.
MR. DICKERSON: May I take one second, Your Honor?
(Defense counsel confers privately.)
(Mr. Dickerson confers with government counsel.)
MR. DICKERSON: Your Honor, may I approach the witness?
THE COURT: You may.
(Counsel provides evidence to the witness.)
BY MR. DICKERSON:
Q Mr. DeCicco, I'm showing you what's been marked as Defendant's Exhibit Number 17. Do you recognize that photo?

A I recognize . . . the room. I recognize the office furniture. I recognize a box of money.
Q Is that the bank's counting machine?
A It appears to be.
Q And do you recall seeing this cash in this box?
A I saw it more spread out over the desk.
Q All right. If you look at the date on the top of the picture -- don't have to say what it is -- does that date coincide with when Casey Crowther took this money to Sanibel Captiva Bank, where you were located, and had the cash counted?
A Yes.
MR. DICKERSON: Your Honor, defense would move in Defense Exhibit E17 into evidence.
THE COURT: E17. Any objections?
MR. LEEMAN: No, Your Honor.
THE COURT: E17 will be admitted.
(Defendant's Exhibit E17 admitted.)
(Evidence was published via the projector.)
BY MR. DICKERSON:
Q So, as you just discussed, that's the bank's cash counting machine.
A Yes.
Q And that's the . . . the ladies and gentlemen of the jury, couldn't see the picture while we were talking, I just wanted to confirm. And that's the office and furniture at

Sanibel Captiva Bank?

A That's the private office that I walked Mr. Crowther in, and shut the door, and allowed him to use the cash counting machine.

Q And, when he came in, he had a box full of cash.

A A closed box in the lobby.

Q Do you know if those bands are from Sanibel Captiva Bank? Can you tell?

A I can't tell from that picture.

Q That's all right. But you're confident this is in Sanibel Captiva Bank, and that's the cash that was brought in by Mr. Crowther to count on March 24th.

A I am confident that that is the Sanibel Captiva office room that I walked Mr. Crowther in and allowed him to use the cash counting machine.

Q And he had a box.

A And he had a box.

Q Of cash.

A And then later, when he needed help, because it got jammed, and he asked me to come in, there was cash laid out that he was counting.

Q Okay. So that's what he was using the machine for, to count.

A Yes.

Q All right. And that is the cash from the sale of the

boat in -- the Yellow Fin boat in March of 2020.
A That's what he told me the cash was for. From.
Q Thank you.

THE COURT: Mr. Dickerson, why don't you find a convenient place for a morning recess.

MR. DICKERSON: This would be perfect, Your Honor.

THE COURT: This works?

MR. DICKERSON: Yes.

THE COURT: Let's take about 15 minutes for a recess. Again, please do not discuss the case among yourselves, or allow anyone to discuss it with you or in your presence. About 15 minutes.

(At 10:32 a.m., the jury was escorted from the courtroom.)

THE COURT: Be seated, please.

The two ladies sitting next to the man in the blue shirt. You both raise your hands. During various testimony, you started nodding your head in agreement with the testimony of the witness. You may not do that. If you do it again, I will have you removed from the courtroom. Okay?

All right. Fifteen minutes.

MR. DICKERSON: Thank you, Your Honor.

(At 10:33 a.m., court was recessed.)

AFTER RECESS

(At 10:52 a.m., court was reconvened.)

THE COURT: Both sides ready for the jury?

MR. LEEMAN: Yes, Your Honor.

MS. WAID: Yes, Your Honor.

THE COURT: Have the jury step in, please.

(At 10:54 a.m., the jury was escorted into the courtroom.)

THE COURT: You may proceed.

MR. DICKERSON: Thank you, Your Honor.

BY MR. DICKERSON:

Q So my next line of questioning, Mr. DeCicco, so we can have it flow, is I'm gonna talk about the individual loan documents that the government showed you; and when I talk about those documents, I just want you to confirm that document is within Exhibit I, the defense exhibit, the loan packet. Okay?

A Yes.

Q Thank you. If you would look at Exhibit 6, confirm that it's in the loan packet, and then I'll be talking to you about questions about Exhibit 6.

And if I could publish Exhibit 6, please.

A Exhibit 6 is the first loan application that was recalled.

Q Correct.

A Can you point out to me where it would be in my package?

Q It's not.

A Okay.

Q But I just wanted to confirm the applications are not part of the loan packet for Sanibel Captiva Bank; correct?
A Correct.
Q It wasn't a trick question, I just wanted you to answer.
A Still early.
Q If you would, though, look at Exhibit 6.
Now, is it your understanding that, if Target Roofing filed for forgiveness, and was granted forgiveness, then the SBA proceeds would be paid to Sanibel Captiva Bank for the loan forgiveness amount?
A Correct.
Q If Target Roofing just doesn't pay the loan that we're talking about, 0225, if they don't repay that loan, then SBA would then pay Sanibel Captiva SBA loan proceeds for the loan amount.
A We would exercise the guaranty option with the SBA.
Q And that guaranty option then does what?
A Ensure that the SBA would repay us for the funds that we lent to Target Roofing.
Q Okay. And then that would be SBA loan proceeds that is paid to Sanibel Captiva Bank. Correct?
A Yes.
Q All right. Exhibit 6, this is a SBA document; correct?
A Correct.
Q Form document.

A Yes.
Q Go Page 2. The government had you look at representations and authorizations, and they had you read, under, "I represent that," the third bullet point.
A Yes.
Q Are there any SBA loan proceeds involved, at all, with regard to being paid to Target Roofing for this loan?
A The proceeds of the loan is a loan with Sanibel Captiva Community Bank loan funds.
Q And that's what I'm getting at. They had you read the third bullet point. Third bullet point, if you can read that, sir?
A "All SBA loan proceeds will be used only for business purposes as specified in the loan application."
Q There are no SBA loan proceeds in this loan; correct?
A That's an SBA guaranteed loan. They are not loan proceeds.
Q All right. So that's correct?
A That is correct.
Q Thank you. And if you'd look now to Exhibit 8. That is the second application; correct?
A Correct.
Q And on these applications -- actually, I'm sorry. Go back to six. I apologize. Do you know -- I heard -- you were asked whether that is Casey Crowther's print name. Do you know

whether that's his signature?
A I don't. I'm not an expert in signatures.
Q And, in fact, I think you were exchanging e-mails with Mr. Crowther that Mr. Crowther was having other people on his team work on the application kind of like you were.
A There were several people copied on that e-mail.
Q Right. So you weren't working on this loan by yourself; correct?
A No.
Q You had several people; correct?
A Yes.
Q How many people did you have working on it?
A Mid thirties. About a third of our bank.
Q Very hectic time period; right?
A Yes.
Q You guys also had the home refinance surge that was going on at that same time?
A Yes.
Q Now going to eight. And again, this Exhibit 8 would not be in the Sanibel Captiva loan package; correct?
A Correct.
Q On eight, going to that second page and that third bullet point again, same language; right?
A Yes.
Q Same thing applies; correct?

A Yes.
Q Going to this signature, do you recognize that signature?
A Casey Crowther.
Q Do you know it's Casey Crowther's?
A Again, I'm not an expert in reading signatures.
Q I know. I'm just asking. I understand. But again, do you recall receiving an e-mail from someone at Casey Crowther's office -- I know it's going back, a lot of people, a lot of time. Do you recall receiving an e-mail from somebody on April 13th with this loan application?
A It may or may not have come directly to me. It probably went to one of my staff members that was assigned to be the relationship manager for Target Roofing during this time.
Q All right. Go back, look right up there, maybe that helps, the primary contact and e-mail address. To the right.
A Brad.
Q And who is Brad?
A Brad, I believe, was comptroller, or CFO, or involved with finance at Target.
Q And do you remember communicating in e-mail back and forth with Brad?
A He was on the e-mail chain.
Q All right. And so this application's April 13th; correct?

A Dated April 13th.
Q And the loan closed on what date? And if you need to look at Exhibit I, you can look at Exhibit I.
A Thank you. Fourteenth.
Q So it closed right back to back?
A Very quickly after.
Q Do you recall actually receiving this loan application at the end of the day on the 13th, in an e-mail?
A No.
Q Now let's look at Government's Exhibit 9. And what is that document, sir?
A It's the promissory note associated with the loan documents.
Q And it's in Exhibit I?
A It is in there.
Q Okay. Thank you. And this is the document that the bank had drafted?
A We hired a third-party attorney that specialized in SBA 7(a) lending to provide us, and we paid for that service, for a loan document package, which is Exhibit I.
Q Okay. And, because this was a new program with . . . whether it was going to be guarantied, or whether it was going to be forgiven; correct?
A Our bank did not have, nor did any bank have, any specialty knowledge for creating a loan doc pack for an SBA PPP

program, because it never existed.
Q Right.
A And they gave us very little knowledge at that time about how to fund the loan proceeds and how to create the loan package. So, to the best of our ability, with the limited information we had, that's the choice that myself and management made. We hired a third-party attorney to create those loan documents.
Q And so you learned, what, on the 27th/28th, the CARES Act, as far as the program being approved and passed by the President; correct?
A Of March?
Q Yes.
A Yes.
Q And you had until about what, April 3rd, to start implementing and accepting applications?
A Correct.
Q What was that time period like?
A Pretty hectic. Not much sleep.
Q Sorry? What did you say?
A Pretty hectic, not much sleep, and funneling a lot of requests, as you can imagine, from our clients, and non-clients as well.
Q And then you had to put the team together, it was your duty to put the team together to be able to handle this influx

of work.
A Yes.
Q And you said was it 700 or 800 applicants that petitioned you, Sanibel Captiva Bank received?
A In round one?
Q Yes.
A We did over 700 applications and approved loans, funded loans. Nearly $70 million.
Q All right. So round one, Sanibel Captiva loans out $70 million.
A Correct.
Q In a very short amount of time period.
A Yes.
Q Was that just all April, or did that go past April?
A I'm sure it was April and May.
Q And it was first come first served; right?
A Yes. There were actually two periods during round one. Round one had 349 million of available -- billion, excuse me -- 349 billion that did not last long, because the loan amounts could go up to $10 million. And, as you can imagine, the larger businesses took the vast amount of the money very quickly. And then the government issued -- Congress approved additional funds, and that dragged on a little bit longer, until that ended. And I don't remember the date that that ended.

Q Okay. But safe to say that you had a rush with everybody thinking this money was limited.
A Yes. There was a rush at the beginning.
Q And you don't have the loan documents, so you hire outside counsel to draft these documents.
A Yes; that was the decision that was made.
Q And Exhibit 9 is one of these documents.
A Yes.
Q If you would, what does Paragraph 1 -- just read it to the jury, make sure everybody can hear and see it.
A Promise to pay?
Q Yes.
A "In return for the loan, borrower promises to pay the order of lender the amount of $2,098,700.00 plus interest of unpaid principal balance and all other amounts required by this note."
Q Standard loan note --
A Very standard for a promissory note.
Q And then the second paragraph, is that standard language in a promissory note?
A This was very specific to this program.
Q Okay. And this is what you had as far, as received from your counsel, as far as the language; correct?
A They created this document.
Q Right. And that's what I'm saying, your lawyer created

this document.
A Yes.
Q And what does that significantly say as far as Paragraph 2?
A Loan forgiveness?
Q Yes.
A "Borrower may apply to lender for forgiveness of the amount due on this loan in the amount equal to the sum of the following costs incurred by the borrower during the eight-week period beginning on the date of first disbursement of this loan."
Q And then it has the A through D; correct?
A Correct.
Q And then what is the last paragraph?
A "The amount of loan forgiveness shall be calculated, (and may be reduced,) in accordance with the requirement of the Paycheck Protection Program, including provisions of Section 1106 of the Coronavirus Aid, Relief, and Economic Security Act, the CARES Act, not more than 25 percent of the amount forgiven can be attributed to non-payroll costs."
Q So do you understand that provision to be, if somebody, being an applicant, a borrower in this case, applies for forgiveness, they're not required to, but they may; correct?
A Correct.
Q And if they do apply for forgiveness, then it is

triggering the requirements of the Paycheck Protection Program, and specifically that last paragraph you read.
A That's what it says; yes.
Q And so if somebody doesn't apply for forgiveness, that paragraph, that section, doesn't even apply to that borrower.
A Correct.
Q And they're still responsible . . . .
A For the loan. For the promissory note.
Q Yeah, and Paragraph 1, promising to pay.
A Correct.
MR. DICKERSON: Sorry, Your Honor. Hit the wrong button.
BY MR. DICKERSON:
Q Reach for Government's Exhibit 14, please, sir. And again review that and see if that document is within Defendant's Exhibit I, the loan package.
A The loan agreement, yes, it's in this package.
Q And what -- tell the ladies and gentlemen of the jury what this loan agreement is.
A It spells out the terms of the loan.
Q And at this point in time it was still a two-year maturity; correct?
A Yes.
Q And that's why we have that term right there; correct?
A That's correct.

Q And that's changed.
A Yes.
Q To five years.
A It has.
Q But you don't need to have any writing to change the loan agreement for that, that's just going to be because the law has changed as it applies to five years.
A That's how I understand it.
Q Okay.
A That the updates to the interim final rule supersede the loan documents.
Q Okay. Go to Page 2, Paragraph 2, under, "Loan." What's your -- I mean, take your time to read it, I know you haven't read it, but take your time to read it, and let me know when you've completed it.
(Witness examines evidence.)
A Speaks specifically about forgiveness and what that process would look like if or when the borrower decides to apply for forgiveness.
Q And does it not state that . . . in which or all portion loan proceeds, on the third sentence down, will be forgiven provided the borrower has complied with all terms of the Act?
A That's what it says.
Q So again, not until that borrower actually submits for forgiveness that application, the supporting documents are

submitted and approved, is there any SBA proceeds pursuant to the CARES Act and the payment -- Paycheck Protection Program.

A That's what it says; yes.

Q For forgiveness, if you know, I'm sure you do, but what is the process of what a borrower does to seek forgiveness?

A At Sanibel Captiva Community Bank?

Q Correct.

A We have another third-party portal system of which the borrower submits specific information that's requested, certain basic information that's readily available. But the premise of it is primarily submitting payroll records if they are specifically only applying for forgiveness on payroll. If they are providing -- or, excuse me, if they are requesting forgiveness on that other 25 percent, which later changed to 40 percent, but if there are mortgage interest, or rent expense, or items like that that they're applying for, then they have to provide that information as well.

Q The backup data.

A The backup financial data to support the request that's being made.

Q So if a borrower were to file for forgiveness now, you just mentioned it's 60 percent payroll, 40 percent the non-payroll items.

A Yes. There is another interim final rule that changed that 75/25 split to 60/40.

Q Okay. And then, after you have that third-party portal accept the data, is it that third party reviewing for you, or is there someone internally in the bank that's reviewing it?
A Internal in the bank is reviewing. And then, once it passes with us, we submit to the SBA.
Q And then it's the SBA who then reviews it to determine whether it's forgiven or not.
A That is correct.
Q The bank, Sanibel Captiva Bank, they can't make the final decision, they just make the recommendation on what the bank has reviewed from the application for forgiveness submission.
A That is correct.
Q If you would look at Exhibit 13. And is that document in the loan packet?
A Yes.
Q And, with regard to that, is it the same -- this is a business certificate saying that, if the monies are used for the business purposes for the SBA Paycheck Protection Program, then it can be forgiven?
A Yes.
Q Thank you.
Exhibit 10, please, sir. That is the CARES Act disclosure; correct? That's what you have?
A Yes.

Q And is that within the Sanibel Captiva loan packet, Exhibit I?
A Yes.
Q Now, the prosecutor had you read and look at Paragraph 10. Do you remember doing that, where it says borrower will use proceeds for this PPP loan solely for?
A Yes.
Q Is that use tied to the CARES Act?
A Is that use tied to the --
Q That use, that limitation on use, tied to the CARES Act? It's called a CARES Act disclosure?
A It's in this disclosure, yes.
Q So if the applicant, now the borrower, was going to submit for forgiveness pursuant to the CARES Act --
A Yes.
Q -- then that's what they had to comply with.
A That's correct.
Q And it says borrower will use the proceeds; correct?
A Yes.
Q Paragraph 12. Just read that for yourself. And then I'll ask you a question.
(Witness examines evidence.)
Q Have you read it?
A Yes.
Q Paragraph 12, applying to if a borrower applied for

forgiveness, and used the proceeds improperly, what the SBA would do?
A Yes., it does.
Q And it says there that the SBA will direct borrower to repay those amounts; correct?
A That's what it says; yes.
Q And you're unaware of any demand, direction, by the SBA, to Target Roofing, to repay any amount back to Sanibel Captiva Bank.
A Correct.
Q Number 12. Government's Exhibit Number 12. Again, review and let me know if that's in Exhibit I, the loan packet.
A Settlement statement, yes, it is.
Q And this is an SBA form; correct?
A That's a standard Form 1050; yes.
Q And again, the use of proceeds in Exhibit 12 is discussing the use of proceeds if the borrower applied for forgiveness.
A Yes.
Q I'm going to go to 149. Same exercise. Look at it and let me know if it's in the packet.
A Loan forgiveness affidavit. Yes, it's in the package.
Q And again, this loan forgiveness affidavit is -- I mean, this was signed at the time of the actual loan closing; correct?

A Correct.
Q So there's been no submission of -- excuse me -- of loan forgiveness request at this time.
A No.
Q But this is affirming that, if there is an application for loan forgiveness, the person who executes this document is aware of the responsibilities if they seek forgiveness.
A Yes.
MR. DICKERSON: May I approach the witness, Your Honor?
THE COURT: You may.
(Counsel provides evidence to the witness.)
BY MR. DICKERSON:
Q I've shown you what's been marked as Exhibit J. Just take your time and look at it. It's five pages?
A Yes.
Q Do you recognize that document?
A I recognize it as a DocuSign, which is a third-party secure signature company that we utilized for this program.
Q And is that the DocuSign secured summary of when the loan, Exhibit I, was executed?
A Yes.
Q And is this a document that Sanibel Captiva Bank maintains in its normal course of business with the loan application?

A We have this maintained for all of our borrowers.
Q Every borrower, period, if they used DocuSign.
A If they used DocuSign. Which the vast majority of them did.
Q And during this time process, we go back to April, 2014, the question of were you inside, could you be with people, that was an issue; correct?
A Yes.
Q As far as coming straight to the bank and having someone do a closing in person.
A That is correct.
Q And was it that you -- the bank promoted using DocuSign during this time period?
A Yes. Absolutely. That, and I couldn't sign 800 sets of documents in a very short period of time.
Q Right. I was about ready to get to two things. Number one, you couldn't be at every closing.
A Correct.
Q And were you even in the office, or were you working from home during that time period?
A I was in the office the entire time.
Q You were working.
A Yes.
Q How about your staff, were they at home, or were they working remotely?

A It was a mixture.
Q The manner used in Exhibit J, the DocuSign, was enabling the bank to be able to get everybody to be able to participate and execute these loans in a timely fashion.
A Yes. And secure.
Q And tell me about the secure part. I missed that. That's a good point.
A I'm not a -- I don't have . . . I'm not a specialist in IT, by any means, but I know DocuSign is a secure way, and our IT department of our bank worked with our attorneys to make sure that we were doing it in a safe and secure way, and it was allowable for the PPP program.
Q The CARES Act actually said, for these loans, they could be done electronically.
A Yes, it does.
MR. DICKERSON: Your Honor, defense moves in Exhibit J.
THE COURT: Any objection?
MR. LEEMAN: Your Honor, at this moment there is an objection. It wasn't on the exhibit list. I also haven't heard a proffer of relevance. That would be the objection at the moment. We may withdraw it.
THE COURT: The objection is overruled. Exhibit J will be admitted.
(Defendant's Exhibit J admitted.)

MR. DICKERSON: May I publish, Your Honor?
THE COURT: You may.
MR. DICKERSON: Thank you.
(Evidence was published via the projector.)
BY MR. DICKERSON:
Q Now, Mr. DeCicco, this is the document we're talking about as far as the DocuSign; correct?
A Yes.
Q And it has the timestamp, signature as far as when Mr. Casey Crowther signed this on behalf of Target Roofing; correct?
A Yes.
Q And it shows . . . I'm not going to say. You tell me what that timestamp means to you.
A Exact time.
Q Okay. What does that mean?
A When he sent it and clicked those signature buttons.
Q Okay. And then what does viewed and signed mean?
A Can you point to it directly, please? Oh. Sorry. Viewed means -- I'd assume that means when he opened the document to view it. And signed it a very short period of time after. It does not take long to sign electronically.
Q So this is just open it, view it, and then you just go through and you click it; correct?
A If you choose to do it that way, yes.

Q And then what I'm showing you right there, that is your DocuSign electronic signature; correct?
A Yes.
Q And you access it on the same day, 4/14; correct?
A Yes.
Q And then that's when you viewed it, and then that's when you signed the document.
A Yes.
Q And same thing, you've been signing these things, you're going through, getting them done, because you have so many to do; correct?
A Yes.
Q And did you ever read the entire loan documentation, or did you rely upon the bank's counsel, and he was telling you what the documentation consisted of, and relied upon him?
A I read the majority of them, but I did not read everything word for word.
MR. DICKERSON: Okay.
May I have one second, Your Honor?
THE COURT: You may.
(Mr. Dickerson and Ms. Waid confer privately.)
MR. DICKERSON: Nothing further, Your Honor.
THE COURT: All right. Thank you.
Any redirect?
MR. LEEMAN: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. LEEMAN:

Q Mr. DeCicco, you took an oath yesterday before you sat down. Do you remember that?

A Yes.

Q Do you understand you're still under oath today?

A Yes.

Q Do you remember me asking you, if Mr. Crowther had told you he intended to buy a boat with PPP funds directly before the bank extend the loan, if the bank would have done it? Do you remember me asking you?

A Yes.

Q And do you remember your answer being no?

A I said I would advise against it.

Q No; I believe I asked you again, sir, and I clarified the question, and asked you, quite pointedly, whether the bank would have made the loan to Mr. Crowther knowing he intended to use the proceeds to buy a boat.

A You're correct, you did ask me that. And I said no.

Q He did ask you that?

A I said you did ask me that, and I said no.

Q All right. You stand by that; right?

A Yes.

Q All right. Let's can try to clear up some things here. You indicated, in your cross-examination, that you didn't believe Mr. Crowther made any misrepresentations to the bank in applying for the PPP loan; do I have that correct?

A Yes.

Q Pull up Government's Exhibit Number 6, please. Now, you know Mr. Crowther bought a boat directly with PPP proceeds; right?

MR. DICKERSON: Objection to the term, Your Honor.

THE COURT: You need to say that a little bit louder. I'm sorry.

MR. DICKERSON: Objection to the term, Your Honor. Objection to the term "PPP proceeds". The documents have the definition.

THE COURT: Overruled.

BY MR. LEEMAN:

Q You know Mr. Crowther did that, bought a boat, with PPP proceeds?

A I know Mr. Crowther bought a boat with loan proceeds that were wired out of an account where loan proceeds went into that account.

Q Okay. Let's try to be precise here. I'm not sure why we're changing the language up here. What proceeds were in that account besides PPP proceeds?

A No other funds.

Q So I'll ask you the question again, very simply. You know that Mr. Crowther used PPP proceeds to buy a boat.

Correct?
A Yes.
Q Exhibit 6. It's not showing up. Your bank voluntarily participated in the PPP program; correct?
A Yes.
Q It did that not because it was generous, it did it because it could make money doing so; correct?
A Yes.
Q And, in order to participate in that program, your bank was required to get certain things; correct?
A Yes.
Q One of those things was an SBA form application; correct?
A Yes.
Q And on that application, every one of them, a borrower makes certain certifications about what he will spend the money on; correct?
A Yes.
Q All right. Let's move to those certifications. Exhibit 6, zero zero two, certification: "The funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments." Do you see that, sir?
A Yes.
Q I said it accurately as it's contained in the document;

is that right?

A Yes.

Q "I understand that, if the funds are used for unauthorized purposes, the Federal Government may pursue criminal fraud charges." Do you see that, sir?

A Yes.

Q Okay. You explain to me -- explain to the jury, please -- how it is that your bank, which admittedly would not have made a loan had it known that he was going to buy the boat, doesn't believe that he made a misrepresentation vis-a-vis this language by buying a boat directly with PPP loan proceeds.

A Can you reword your question, please?

Q No, sir. Answer that question.

A If he would have said I'm going to take specific loan proceeds and take specific loan proceeds to purchase a specific boat, I would have said no.

Q If he had said he was going to take the funds he received from the PPP loan and use them to buy a specific boat, you would have said no.

A I would have not have approved the loan.

Q Okay. And he did that, and you know that; correct?

A Correct.

Q Okay. So let's move back to this representation again. You tell me -- you tell the jury, please -- in your own words, how it is that this is not a misrepresentation knowing he used the funds to buy a boat.

A I can't make that statement.

Q Well, you said it pretty easily, on cross-examination, that he didn't misrepresent anything to the bank, didn't you.

A I don't know if he had additional funds --

Q He's a big account holder at the bank, isn't he.

A He is.

Q His father is sitting right there. He owns CFS Roofing. You know him, don't you.

A I do.

Q A giant account holder at your bank. Right?

A Yes, sir.

Q You're trying to have it both ways, Mr. DeCicco.

A I don't think so, sir.

Q The bank, Sanibel Captiva Community Bank, isn't that right? It's a community bank?

A Yes.

Q And you don't think you're a victim because, at the end of the day, the community is going to have to pay for this boat. Is that fair?

MR. DICKERSON: Objection, Your Honor. There's nothing in evidence about that, at all, period.

THE COURT: Overruled. He may answer if he can.

A Can you please restate your question?

Q Tell the jury why you don't feel like a victim.
A Because I haven't been applied for for forgiveness yet on the loan.
Q Okay. So if someone comes into your bank, mortgage loan, let's just say a mortgage loan, comes in, lies their tail off in an application, but they're current on their mortgage payments, that's okay with you? Because they're current?
A It's not okay. But typically we would never know about it.
Q So is the point of not being a victim you haven't incurred a loss yet?
A Is that the definition? Is that what you're asking.
Q Sir, you called yourself not a victim, not me.
A The bank has not called this loan.
Q Does that mean the bank hasn't been defrauded in this case? Do you know what being defrauded means in a criminal sense, sir?
MR. DICKERSON: Objection, Your Honor, asking for a legal answer.
THE COURT: Overruled. He can say yes or no, and then, depending on what the answer is, give his understanding.
A No, I don't.
Q So how can you come and tell the jury you're not a victim in a criminal case?
A I can't answer that.

Q You didn't have a problem saying it, did you?

A That I don't feel as though I'm a victim in a criminal case?

Q Yes, sir.

A This is a loan.

Q This is a criminal case, sir.

A I understand.

Q How many loans do you have with Casey Crowther?

A Three? I believe?

Q You've got something like a $2 million mortgage loan on the property his property sits on; right?

A I do.

Q About $2 million outstanding?

A Yes, sir.

Q And that money is not guaranteed by the Federal Government, is it.

A No.

Q You got something like a $1.5 million line of credit for his business, that Target Roofing; right?

A Right.

Q That money is not guaranteed by the Federal Government, is it.

A No.

Q 300,000, roughly, home mortgage outstanding?

A That's correct.

Q Not guaranteed by the Federal Government?
A No.
Q You got an incentive to come in here and say you're not a victim, don't you.
A I don't look at it that way.
Q You don't look at it that way?
A Those loans are secured with hard collateral.
Q Let me ask you this. You've been -- okay, the loans are collateralized. Is it easy? Is it as simple as just going and taking the property and paying down the debt? Or do you have to go to court to do that?
A You have to go to court to do that.
Q Does that cost money?
A Of course it does.
Q Is it expensive?
A Yes.
Q Let's go through some more of these applications. Exhibit Number 8 I've put up again. I'm going to go to the second page. Again, Mr. Crowther represents the funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments. You read that; right?
A He made that representation, yes.
Q I would assume that same answers you gave before, about the boat not being included in that representation, apply here?

A Yes.
Q How about the CARES Act disclosures, Exhibit 10? You remember talking about that; right?
A Yes.
Q That document very specifically, at the top, says Target Roofing and Sheet Metal hereby represents and attests and certifies to Sanibel Captiva Community Bank, your bank, the following; correct?
A Yes.
Q Go down to Paragraph 10. Borrower will use the proceeds of this loan solely for, solely for, did you read that?
A Yes.
Q Does it say a boat anywhere in there?
A No, it does not.
Q Does it have any category that might cover a boat purchased in an individual's own name?
A No.
Q So explain to the jury how it is this isn't a misrepresentation to your bank.
A That appears to be a misrepresentation to my bank.
Q Now, you've talked a little bit about these documents might get changed by the CARES Act somehow; right? As new rules come out, things evolve, things change, the term changes, for instance, right, two years to five years, as an example?
A That's correct.

Q Has a single IFR come out and added a permissible use that would cover the purchase of a personally owned boat?
A No, sir.
Q So you tell me and the jury, given that your loan document very explicitly states how the money is to be used, and the CARES Act hasn't changed it, this isn't a misrepresentation?
A That appears to be a misrepresentation.
Q And your bank required these certifications, didn't it.
A We did.
Q Relied on it.
A Yes.
Q Needed them, in fact, to get a loan guaranty from the SBA.
A Those were our bank's loan documents; yes.
Q I understand. But you needed to get certain certifications from the borrower in order to get the loan guaranteed, didn't you?
A I'm not an expert in legal documents, sir.
Q Well, let me show you a document you signed. I think it's up in front of you. Government's Exhibit Number 7. You got it in front of you, sir?
A Yes, sir.
Q Do you recognize it?
A I do.

Q What is it?
A The lender application form.
Q Lender application form; is that right?
A Yes.
Q Who's that go to?
A The SBA.
Q All right. Who signed it?
A I did.
Q All right. True and accurate copy of something you signed?
A Yes.
Q And did you sign it in connection with this loan?
A Yes.
MR. LEEMAN: Your Honor, I'd ask to admit Government's Exhibit Number 7.
THE COURT: Any objection to seven?
MR. DICKERSON: No, Your Honor.
THE COURT: Number 7 will be admitted and may be published.
(Government's Exhibit 7 admitted.)
BY MR. LEEMAN:
Q Mr. DeCicco, let's just get the jury oriented here, I'm going to zoom in on the top of this thing.
(Evidence was published via the projector.)

BY MR. LEEMAN:

Q This is a form the bank submits; is that right?

A That's correct.

Q It submits -- what's the purpose, as you understand it, for submitting it?

A This accompanies -- after the bank, and after our credit staff reviews the documentation that we are provided, this is the document that is submitted to the SBA.

Q And do you get a loan number in return?

A An approval and a loan number.

Q All right. And you signed this document; is that right?

A Yes.

Q Okay. Down in Section E, we've got it on the screen up there, we have a radio button checked yes or checked no, depending on the situation. Do you see that?

A Yes.

Q Who checks those?

A The individual completing the application.

Q And that's you; right?

A I didn't specifically -- can I restate exactly what happened here? I did not specifically complete every one of these applications, and put my signature digitally on each of these. Somebody in my institution did.

Q All right.

A So yes.

Q If you haven't read every single one; correct?
A Yes.
Q But you did read at least one.
A Yes.
Q All right. You don't know whether you read this particular one.
A Correct.
Q But they're all the same.
A They are all the same.
Q And, in Section E, it says the applicant, which means who? The borrower?
A The borrower.
Q Has certified to the lender that, one, it was in operation on February 15th, 2020, and had employees, so on and so forth. We'll skip ahead to two. "Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant." So he had to represent to the SBA that you ensured that was true in order to get the loan.
A Yes.
Q This voluntary loan.
A Yes.
Q And then, Number 3, "The funds will be used to retain workers and maintain payroll, or make mortgage interest payments, lease payments, and utility payments."

You had to certify that to the SBA that the borrower had certified that to you. Correct?
A Correct.
Q Without being a victim. Your bank reported Mr. Crowther to law enforcement, didn't it, in this transaction.
A Are you asking if my BSA department reported Mr. Crowther?
Q I'm asking if your bank reported this to law enforcement.
A I don't have a connection within BSA in the bank. It's specifically set up like that in the hierarchal -- excuse me -- in the system. So I would not have known about it.
Q You do not know of it?
A I would not have known of it if somebody specifically reached out to law enforcement from a certain department in my bank.
Q Do you know that it happened?
A I assumed it had happened.
Q Why would a non-victim reach out to law enforcement?
A I don't know.
Q Let me ask you another question. This is going to go way back to something you said earlier, yesterday actually, very early on. You talked about the loans that your bank makes. Very few auto loans, I think you said; is that right?
A Yes. Very few auto loans compared -- very few consumer

loans in comparison to real estate loans.

MR. DICKERSON: Objection, Your Honor, outside the scope of cross.

THE COURT: Appears to be, but I can't tell yet. Why don't you ask the question, and we'll see.

MR. LEEMAN: I have two more questions. I think it will illuminate it, hopefully.

THE COURT: Okay.

BY MR. LEEMAN:

Q Do they make a similarly small amount of boat loans?

A We make a small amount of boat loans a year.

Q Okay. Are one-percent boat loans for $700,000 vessels something that are typical for your company?

A No, sir.

Q What would you consider that interest rate, low, high, extremely low?

A Extremely low.

MR. LEEMAN: May I ask co-counsel a question, Your Honor?

THE COURT: Certainly.

(Mr. Leeman and Mr. Dickerson confer privately.)

BY MR. LEEMAN:

Q I don't know the exhibit number. I believe there's an exhibit in front of you. It's a picture of a box of cash. Do you have that in front of you?

A Exhibit E17.
Q E17. Now, you saw the cash that day; right?
A Yes.
Q Didn't look -- wasn't in the box, but it was spread out before you somehow.
A Yes.
Q What's the date on that picture?
A March 24th is the date at the top line of the screenshot.
Q You thought it was roughly how much money?
A High $300,000 range. Because, when Mr. Crowther called me to ask to use the counting machine, I asked him.
Q All right. You remember the text message we discussed earlier, about him moving the cash from the sale of the boat that he had personally into a SanCap Bank account. Do you remember that?
A What exhibit is that? Please?
Q It's 23. I actually misstated it. But 23, take a look at it. Do you see that, sir?
A Yes.
Q My question to you is, either after seeing that 300ish looking thousand-dollar chunk of cash, or after this text message in May of 2020 in which he says he's going to move personal money he had to purchase the boat over, did Mr. Crowther ever move something like $300,000 or $700,000 in

cash over to Sanibel Captiva Bank to cover these?
A I don't know.
Q Did you find it strange that Mr. Crowther, with $300,000 in greenbacks, applied for a PPP loan how many days later, how many days after the photograph?
A Do I find that strange?
Q Yeah. Did you find it strange?
A No, I don't find that strange. I find . . . all of my customers applied for PPP loans.
MR. LEEMAN: All right.
Just a moment, Your Honor, for me to check my notes.
Thank you.
I don't have any further questions, Your Honor.
THE COURT: All right. Thank you.
Any recross, Mr. Dickerson?
MR. DICKERSON: Yes, Your Honor. I'll be brief.

RECROSS EXAMINATION

BY MR. DICKERSON:
Q Hello, sir. We discussed this before, but, based upon the government's questions, I'm going to, in a second, get the right exhibit -- Exhibit 10, CARES Act disclosure? May I have it published, please?
(Evidence was published via the projector.)
BY MR. DICKERSON:
Q Now, we talked about this is disclosing to the borrower

what the CARES Act is; correct?
A Yes.
Q And go down to Paragraph 11. That's talking about the 75/25, as far as what's needed for loan forgiveness; correct?
A Yes.
Q The CARES Act is discussing, if somebody submits for forgiveness, this, right here, the CARES Act disclosure, is what's allowable for forgiveness under the CARES Act; correct?
A Yes.
Q So it has nothing do with somebody buying a boat, or misrepresenting a boat, if they've never filed for forgiveness, because it's still just a loan; correct? Take your time. Read it.
A Based on that statement right there?
Q Yes.
A I'd say yes.
Q Okay. So, now, if someone bought a boat, and applied for forgiveness, and used the boat as forgiveness, that would be violating this provision; correct?
A I would certainly assume so.
Q Yes. So this is specifically to the CARES Act, disclosing to the borrower, if they applied for forgiveness pursuant to the CARES Act, what they can use the funds for.
A Yes.
Q Thank you.

Exhibit 7. Reading the entire document, specifically the top. The purpose of this is for the guaranty; correct? The purpose of Sanibel Captiva Bank, yeah, look at it, sir. Take your time. The purpose of seven, which this is your lender application form, the purpose of this is so Sanibel Captiva Bank, if there is either a forgiveness application or the borrower defaults, the bank then has the guaranty; correct?

A This accompanied every loan.

Q Right.

A These loans were done in accordance with the program so that they would be guaranteed.

Q Correct. And this is the bank's representation for the guaranty.

A Yes.

Q And the only time that the Sanibel Captiva Bank can invoke that guaranty is, one, if the borrower submits for forgiveness.

A I'm trying to think of another situation where the bank would invoke the guaranty prior --

Q I'll rephrase my question, because there is more than one. There is the loan forgiveness and if the borrower doesn't pay.

A That would be the next point. If the loan was not forgiven, and the first payment was missed, we could invoke the guaranty.

Q And there have been no payments missed on this loan; correct?
A Correct.
Q And there's been no forgiveness filed; correct?
A Correct.
Q So the guaranty doesn't kick in until one of those things happen, either application for forgiveness, approval by the bank, approval by SBA, then there's payment, being one; correct?
A I'm not a specialist to know if the loan is currently guaranteed or if it is only guaranteed upon the two items that you're talking about.
Q Okay. But there are no SBA loan proceeds in this loan at all.
A The loan was funded out of liquidity of Sanibel Captiva Community Bank.
Q Right. And Sanibel Captiva Community Bank does not receive any proceeds from the SBA unless there is either a forgiveness payment by SBA or a guaranty by SBA for this loan.
A The bank received a loan origination fee from the SBA.
Q Right. The bank received a fee, but that wasn't towards this loan. This didn't fund the loan.
A That is correct.
MR. DICKERSON: Okay. Nothing further, Your Honor.
THE COURT: All right. Thank you.

Any, I guess it would be re-redirect?

MR. LEEMAN: No, Your Honor.

THE COURT: All right. You may stand down. Thank you.

THE WITNESS: Am I excused, or will I be called again?

THE COURT: As far as I know, you are.

MR. DICKERSON: He is excused, Your Honor.

THE COURT: All right.

(The witness left the witness stand.)

THE COURT: Mr. Leeman, do you have a short witness, or do you want to break?

MR. LEEMAN: We don't have enough time, Your Honor; no.

THE COURT: Ladies and gentlemen, yesterday I gave you an hour and a quarter. I'm going to give you an hour now. Is that okay? Let's say 1:00 o'clock then, back, and we'll get started.

Again, please do not discuss the case among yourselves, or allow anyone to discuss it with you or in your presence. I'll see you at 1:00 o'clock. Have a nice lunch.

(At 11:56 a.m., the jury was escorted from the courtroom.)

THE COURT: All right. 1:00 o'clock.

MS. WAID: Thank you, Your Honor.

(At 11:57 a.m., court was recessed.)

NOTE TO SCOPIST: After recess.

AFTER RECESS

(At 12:59 p.m., court was reconvened.)

THE COURT: Both sides ready for the jury?

MS. WAID: Your Honor, we had one brief issue.

THE COURT: Yes.

MS. WAID: We saw that their State Department witness was out there, and we would just, for the record, like to object to the relevance of that witness.

THE COURT: Why don't you all have a seat, because this may not be as brief as advertised.

MS. WAID: I'm sorry.

THE COURT: Okay. You have to tell me what you anticipate the witness to be, because I don't understand it so far.

MS. WAID: Okay. So the government's theory is that Mr. Crowther made up 39 fake employees in order to get forgiveness. However, the bank witness just testified he never applied for forgiveness, and no documents of payroll were ever provided to the government for forgiveness, so -- at the bank. So the bank never actually received any payroll, or any application for forgiveness, so we really don't understand what the relevance of the State Department witness would be in relation to the fact that there is no forgiveness on the table here.

THE COURT: But this witness goes to the, I think it was 59 workers, or . . . .

MS. WAID: Thirty-nine.

THE COURT: Thirty-nine workers.

MS. WAID: The 39 workers are not charged in the superseding indictment, and I'm not exactly -- it's a theory that the government may have, but it's not supported by the evidence in the record as of yet. There was no forgiveness application, there were no records provided to the bank on behalf of any type of payroll, or anything of that nature. So what's the relevance of the 39 employees in relation to the government -- in relation to the case, in general, of Mr. Crowther applying for PPP loans?

THE COURT: All right. I guess, Mr. Leeman -- there's your counsel. I didn't see you.

MR. REICHLING: I'm sorry, Judge. I was pulling some exhibits. My apologies.

MR. LEEMAN: I guess I would first state that this issue was directly addressed in the motions in limine in which the Court has already ruled that the fake employee scheme is intrinsic to the fraud.

The second point I would raise is the government disagrees completely with the idea that it is somehow a defense to this case, legal or otherwise, that Mr. Crowther has not applied for forgiveness. The question is whether he made a misrepresentation that the bank relied upon, and just to prove a fraud charge that he hasn't applied for forgiveness is beside the point. So I think, if the Court accepts that premise, the entire argument falls apart for Miss Waid.

Third, Your Honor, this absolutely is intrinsic, and this is parroting on the first, again, the government alleges, in this scheme, what Mr. Crowther was attempting to do was ensure that the money he got would ultimately be forgivable. And a way to do that, Your Honor, and the way he did that, was to inflate his payroll numbers by adding 39 fake employees, also five family members who did not work at the company, and we believe we'll be able to prove that.

As it relates to the evidence that -- it's not a State Department witness, Your Honor, it's never been a State Department witness, although it is a Social Security Administration witness. He is a technical expert. That's his title within the administration. He is someone who understands all of the mechanics underlying how Social Security numbers are assigned, how they're rolled out.

His expected testimony is that the Social Security numbers associated with these 39 fake employees are all either unassigned to anyone in America, or mismatched with anyone on the cards themselves. And it's not a matter of a simple misspelling or something like that. They are completely mismatched. We believe that's probative of whether these people exist or not. It's not the only piece of evidence that we believe we can show these employees don't exist, it's one part of the evidence.

THE COURT: Where is the evidence of the 39 employees, or . . . claimed employees?

MR. LEEMAN: To be entered, Your Honor.

THE COURT: Okay. I just wanted to make sure I didn't miss something.

MR. LEEMAN: No, Your Honor. We intend to call the human resources manager who handled some of the paperwork for these employees, never saw them . . . . I think maybe -- what the government would consider the most probative evidence of it is these 39 individuals worked for two and three weeks each, depending on what group they were hired in. None of them ever cashed their paychecks, which we believe is strong evidence that they didn't exist. They were also hired and fired to do rather dubious description of a job, at least the government believes it's dubious. So many, many pieces of evidence the government intends to show that these people didn't exist.

THE COURT: All right. The objection to what I now understand to be a Social Security witness will be overruled.

MS. WAID: Your Honor, may I object to -- Mr. Leeman just termed him as an expert in what he does, and we've never received expert notice regarding anything.

THE COURT: I suspect that's true. And I suspect he's not going to do that in front of the jury.

MR. LEEMAN: Your Honor, his . . . I'm happy to have him not -- it is actually his title, but his job within the Social Security Administration, the role, he is one of many quote "technical experts". He does not intend to offer opinion testimony. I can instruct him not to state his job title, so perhaps the . . . you know, he's not being . . . . I can instruct him not to say that, Your Honor; but, if he's asked, and he says it, that is the truth. He is quote unquote, technical expert for the Social Security Administration.

THE COURT: I guess I didn't realize that was a literal title.

MS. WAID: And in addition to that, Your Honor, he's opining if they're real or fake. It's something that I couldn't give witness testimony to. I assume, Your Honor, you have many talents, but I assume you couldn't give testimony to. So that's the exact definition of an expert. His name is expert. So the government was well aware of that, and we haven't been provided notice.

THE COURT: All right. Make your objections as the testimony comes in, and we'll see.

But I would direct that you advise him that, unless asked specifically, by defense counsel, not to give his full title; that, if they asked, knowing what they know, I expect that's what they want to elicit, but you should not.

MR. LEEMAN: I'll go tell him right now, Your Honor.

THE COURT: Is he your next witness?

MR. LEEMAN: He is not, but Mr. Reichling is handling the next witness. I'll go tell him.

THE COURT: All right.

Have the jury step in, please.

(At 1:07 p.m., the jury was escorted into the courtroom.)

THE COURT: And the government may call its next witness.

MR. REICHLING: At this time, Your Honor, the government calls Kristen DiIorio.

THE COURT: Right up here, please.

COURTROOM DEPUTY: Good afternoon.

THE WITNESS: Good afternoon.

COURTROOM DEPUTY: Please raise your right hand.

Do you solemnly swear or affirm the testimony you are about to give in the case now before the Court will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

COURTROOM DEPUTY: Thank you very much.

If you would please walk over to the witness box and have a seat.

Once seated, would you please put your name on the record and spell it for us?

THE WITNESS: Okay.

COURTROOM DEPUTY: Thank you.

THE WITNESS: Where on the record is that?

MR. REICHLING: No; could you state and spell your name for the record, please?

THE WITNESS: Oh, absolutely. Kristen, K R I S T E N, DiIorio, D I I O R I O.

MR. REICHLING: And you can remove your mask if you feel comfortable.

Your Honor, may I approach just to drop one exhibit off? I've left exhibits on the stand.

THE COURT: You may.

(Counsel provides evidence to the witness.)

KRISTEN DIIORIO,

called as a witness by the Government, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. REICHLING:

Q Miss DiIorio, where do you currently work?

A Sanibel Captiva Community Bank.

Q And how long have you worked with Sanibel Captiva --

A About four years.

Q And what do you do for Sanibel Captiva Community Bank?

A I work as there office manager, the downtown Fort Myers

location.
Q And would that also somewhat be considered a branch manager?
A It would, yeah. Same thing.
Q And are you in charge of, you said, downtown branch?
A Correct.
Q And where is that located? Here in downtown Fort Myers?
A Yeah. Right in the Edison Theatre Building.
Q And have you served in that role for the four years you've been with Sanibel Captiva?
A I have.
Q And did you work at any other previous banks before you worked at Sanibel Captiva Community Bank?
A I have. I have been in banking 17 plus years. Prior to Sanibel Captiva, I worked with Florida Gulf Bank, and then went through the merge and became Iberian Bank.
Q What are your job duties, typically, as an office manager at the downtown Sanibel Captiva Bank branch?
A Sure. As a community banker, kind of first and foremost position is just to make sure we're there for our customers. We'll go to the customer's office when needed. Just be there, you know, open accounts, I do manage a staff, make sure operational bank foundations are in place.
Q Do you also handle wire requests for customers?
A I do, yes.

Q And account opening requests?
A I'm sorry?
Q Account opening requests?
A Yes.
Q And what about transferring funds between customers' accounts?
A Yes, I do.
Q Now, you said you manage a staff of individuals?
A I do, um-hum.
Q Who is Jennifer Briggs?
A She's my assistant branch manager.
Q And you supervise her?
A I do, um-hum.
Q Okay. Was Target Roofing a customer of Sanibel Captiva Bank?
A Yes.
Q And was Casey Crowther a customer of Sanibel Captiva Bank?
A Yes.
Q And, roughly, do you know how many accounts Target Roofing has With?
A I believe, currently, one.
Q Okay. Does Mr. Crowther have accounts with the bank as well?
A Yes.

Q Now, who's the owner of Target Roofing?
A Casey Crowther.
Q And were you also involved with the Paycheck Protection Program on behalf of Sanibel Captiva Bank?
A I was.
Q And what was your involvement?
A All the branch managers, when that rolled out, we were designated to be the . . . we were called the relationship managers, kind of to address -- because we worked with these customers day in and day out, it was just an easy transition for us to be the contact person throughout the process.
Q Did you select documents that were submitted for the PPP program?
A I did.
Q And were you assigned to Target Roofing's PPP application?
A I was, um-hum.
Q And I'd like you to take a look at Government's Exhibits 166 and 167 before you.
A Okay.
Q Do you recognize government's -- I'll let you finish taking a look at them. I'm sorry.
A Okay.
Q What's Government's Exhibit 166?
A 166. It looks like just the folks with Target Roofing

that I was in contact with to collect the information, just e-mails, some information off the checklist items that were needed to apply, where I was just requesting information and they provided them to me.
Q Are those a fair and accurate copies of e-mail -- what was the date of those e-mails? I'm sorry.
A April 6th, 20.
Q April 6th, 2020?
A Um-hum.
Q Is that a fair and accurate copy of e-mail correspondence that you received from individuals at Target Roofing on that date?
A Yes.
MR. REICHLING: Judge, at this time the government would move what's been previously marked as Government's Exhibit Number 166 in evidence.
THE COURT: Okay.
Any objections?
MS. WAID: Your Honor, it appears there are attachments to this e-mail that I'm not seeing. I would just inquire as to the -- we can see the attachments to the e-mail so it's a complete document.
MR. REICHLING: I can attach one of the attachments, but the exhibit does not have the attachments included with the e-mail correspondence, Your Honor.

THE COURT: I guess I'm confused as to whether the e-mail correspondence originally had attachments.

MR. REICHLING: There was an e-mail transmission that was transmitted that did have attachments. I'm going to talk about one of those attachments with Miss DiIorio, but those attachments aren't currently attached to Government's Exhibit 166.

THE COURT: And the defense wants them attached? Or wants them produced?

MS. WAID: I would like to see them, but I'm going to withdraw the objection. Let the e-mail in. That's fine.

THE COURT: 166 will be admitted then.

(Government's Exhibit 166 admitted.)

BY MR. REICHLING:

Q Miss DiIorio, you have already talked about attachments. I'm going to show you Government's Exhibit 166. If you'd take a look at that?

A You said six?

Q Maybe it's not there. I'm showing you what's already in evidence as Government's Exhibit 6. Was that attached to that e-mail that you received on April 6th, 2020?

A Yes.

Q And what is that?

A It's the application for that payment protection loan.

Q And who originally sent you that document from your

e-mail chain in Government's Exhibit 166?
A I'm reading it. It looks like from their HR department.
Q Now, did you also receive additional e-mails from Target Roofing that included additional PPP applications or documents?
A I know there was discussion. I don't have them in front of me. I would assume there was further e-mails with information.
Q I'd like you to take a look at Government's Exhibit 167. I believe that's before you. Take a look at it and let me know if you recognize it.
(Witness examines evidence.)
A I was listed on the e-mail. I don't recall getting it, because Kyle DeCicco kind of ran with it, but I was on the e-mail.
Q Is that a fair and accurate copy of an e-mail that you received on that date?
A I would say so, yes.
Q And is there an attachment? Multiple attachments?
A It looks like just the application?
MR. REICHLING: Your Honor, at this time the government would move what's previously been marked as Government's Exhibit 167 into evidence.
THE COURT: Any objection to 167?
MS. WAID: Sorry, Your Honor. We're just trying to -- there's a lot of attachments to this e-mail, and they're

only showing one; so I'm trying to figure out what else there might be that I can . . . .

We're going to object to incomplete on that, Your Honor.

THE COURT: The objection is the exhibit as currently formatted is incomplete?

MR. REICHLING: Yes, that's correct, Your Honor. It does include one attachment.

We can have a brief sidebar if Your Honor would like.

THE COURT: Are there other attachments?

MR. REICHLING: I can produce them, and they're voluminous, but the defense has copies of them. We're only seeking to introduce one of the attachments because it's relevant to the witness's testimony at this time.

THE COURT: All right. The Court will admit the exhibit as is; and then, if the defense wants to introduce the rest of it, of course, they may.

MS. WAID: Thank you, Your Honor.

THE COURT: So 167 will be admitted.

(Government's Exhibit 167 admitted.)

BY MR. REICHLING:

Q And what's that attachment, Miss DiIorio?

A The second application for the increase for PPP funds.

Q And what was the date of that application on the bottom of it?

A April 13th, 2020.

MR. REICHLING: Permission to publish, Your Honor?

THE COURT: You may.

MR. REICHLING: Thank you, Your Honor.

BY MR. REICHLING:

Q I'd like you to take a look at Government's Exhibit 167. It's also on that screen in front of you, if you'd like. And, of course, you have the actual physical exhibit in front of you.

This e-mail was sent to you and Mr. DeCicco, you stated.

A Correct.

Q And where was it send from?

A Brad North.

Q And what's the date of that?

A April 13th.

Q Who is cc'd in that e-mail?

A Casey Crowther and their HR department.

Q I'm going to go back to Government's Exhibit 166, because I didn't publish it, and I'd like to talk about it just briefly.

(Evidence was published via the projector.)

BY MR. REICHLING:

Q Was the e-mail we discussed earlier on April?

A It was, yes.

Q And who's it from again?

A It's from Evelyn Portinari with the HR department.
Q And who is cc'd on this e-mail?
A Brad North and Casey Crowther.
Q And we talked about the attachment that was on this e-mail. Was that the original PPP application that I think had a date of April 1st on it?
A Correct.
Q Okay. Now, other than collecting some of the documents we talked about here, I'd imagine you collected other documents for Target Roofing for the PPP program?
A Correct, um-hum.
Q Now, I'd like the talk you to about your involvement in opening up any accounts related to the PPP program. Do you recall that?
A I do.
Q And do you recall having correspondence with the defendant about what account he'd like his PPP funds to be deposited into?
A I do.
Q I'd like you to take a look the a Government's Exhibits 24, 25, and 26. And if I mistakenly didn't put them up there, please let me know.
A No; I've got them. Okay.
Q Could you briefly explain, without telling me the contents of those exhibits, what those -- what those exhibits

reference?

A Sure. It's just letting me know to put the PPP funds, once closed, into the main operating account.

Q Don't read from the documents. I'm just asking you, were these correspondence you had with Mr. Crowther about where he wanted funds to be deposited into?

A Correct.

Q And are Government's Exhibits 24, 25, and 26 fair and accurate copies of those correspondence that you had with the defendant back on that date?

A They are.

MR. REICHLING: Your Honor, at this time the government would move what's been previously marked as Government's Exhibits 24, 25, and 26 into evidence.

THE COURT: Any objections?

MS. WAID: No objection, Your Honor.

THE COURT: Exhibits 24, 25, and 26 will be admitted and may be published.

(Government's Exhibits 24, 25, 26 admitted.)

MR. REICHLING: Thank you, Your Honor. I'm going to publish Government's Exhibit 24.

(Evidence was published via the projector.)

BY MR. REICHLING:

Q And could you read out -- what's your original correspondence on this date? Is it contained toward the lower half of the e-mail on Government's Exhibit 24 or towards the top? And I'll zoom in on it, and you can tell me.

A It looks like toward the top. I apologize. In my e-mail it looks like -- same day, but mine was the lower mid form, and then the response was at the top.

Q And what's the date of this e-mail?

A April 10th, 2020.

Q And could you read what you sent to Mr. Crowther?

A Sure. "Good morning Casey. We received updated information on how the closings and fundings will be processed. Please read below and provide me with the funding account number at your earliest convenience. Once closed, you will receive immediate credit." And then, just, "Important. These loan funds will be electronically deposited into your SCCB account. Please provide me the account number you would like these funds deposited into. Each morning, I will get a list, and we'll notify you to expect an e-mail DocuSigned loan package within 48 hours or less so you can be on the lookout for the closing documents. The entire process is done electronically."

Q Is this e-mail referencing the first PPP application and approval by Sanibel Captiva Bank, do you recall?

A I don't recall, no.

Q Okay. What was Mr. Crowther's response to your e-mail? And I'm going to zoom in on it.

A He says to deposit it in the main operating account. Let me know what else you need and when to expect to close.
Q Now, Government's Exhibits 25 and 26, does Mr. Crowther then respond to you again after he sends that e-mail?
A Yes.
Q Is that located on Page 3 of the document before you? And the lower right-hand corner of each of these exhibits has a Bates number on it.
A It is, um-hum.
Q Is that the e-mail that I have -- the portion that I have zoomed in on?
A It is.
Q And what did he e-mail you back again?
A "Can you call me please?"
Q And did you call him?
A I did. Um-hum.
Q And do you recall what you all discussed?
A Yes. It was just about if there was an option, if we could open a separate account to put the PPP funds into.
Q And could you continue to explain that conversation with me? Did he tell you that he wanted the money to remain in the operating account, or did he want it to go somewhere else?
A He just asked if a separate account could be opened to put the funds into, which we were allowed to open a separate account to put the funds into. So he said he would just like

to keep it from, you know, other staff viewing the funds. So we went ahead -- you know, it was a quick conversation about if it's something we can do. We did it for a couple of customers that requested it, so it wasn't anything out of the ordinary --
Q I'm going to have you stop there. You said something about not having others view the account?
A Um-hum.
Q Why did he want it in another account?
A Just to keep it separate from the employees that had access to either on-line or other accounts.
Q And you're familiar with Target Roofing's other bank accounts that they have at Sanibel Captiva Bank?
A I am.
Q And do members of Target Roofing's work force have access to other accounts that Mr. Crowther has via Target Roofing?
A Yeah. I believe, at the time, there was one other person.
Q Now, this particular PPP account, however, was only going to be accessible to Mr. Crowther.
A Correct.
Q Now, Government's Exhibit 26, following this conversation with Mr. Crowther over the phone, did you send him documents that could be used to open the account?
A I did, um-hum.

MR. REICHLING: And I'll publish that.
(Evidence was published via the projector.)
BY MR. REICHLING:
Q Is this the e-mail you sent?
A It is, um-hum.
Q And can you read what you wrote, and also tell the jury the date and time that you sent that?
A Sure. The e-mail was September on Friday, April 10th, 2020, at 3:49. It says: "Hi Casey. Please sign where highlighted on the new account. I have updated your SBA file to indicate for the funds to go into this account. Let me know if you need anything else. Thank you."
Q Now I'd like you to turn to Pages 2 and 3 of Government's Exhibit 26. Are these the account opening documents that you sent to Mr. Crowther?
A They are.
Q What is the account agreement? What's its significant?
A It just lists who has ownership of the account and who can sign on the account.
Q Okay. And, according to your review of this document, who has authority on the account?
A Casey Crowther.
Q To the next page, Page 3, could you explain what the corporate authorization resolution is?
A That just designates who has what powers and authorities

on the account. So, if there was more than one signer, you can designate them specifically to be able to do only one thing.

Q Is there more than one signer, at least according to your review, of this document?

A No, there's not.

Q And could you read this by part, by who?

A Sure. By Target Roofing and Sheet Metal, Inc., PPP loan, and then 1841 Ortiz Avenue, Fort Myers, Florida, 33905.

Q You don't need to read anything else.

Now I'd like you to take a look at Government's Exhibits 27, 31, and 32. Do you not see 31 and 32 in front of you? Let me just make sure.

A Yeah, I don't think I have it.

(Counsel provides evidence to the witness.)

THE WITNESS: Okay.

BY MR. REICHLING:

Q Could you tell me what Exhibit 27 is? Government's Exhibit 27?

A It's an e-mail request to transfer funds to another individual.

Q Okay. Is that an e-mail that was sent to you?

A It was, um-hum.

Q And who was it sent by?

A Casey Crowther.

Q And is that a fair and accurate copy of the e-mail you

received from Mr. Crowther?
A It is.
MR. REICHLING: Okay.
At this time, Your Honor, the government would admit what's been previously marked as Government's Exhibit 27 in evidence?
MS. WAID: No objection.
THE COURT: Exhibit 27 will be admitted and may be published.
(Government's Exhibit 27 admitted.)
MR. REICHLING: Thank you, Judge.
(Evidence was published via the projector.)
BY MR. REICHLING:
Q Could you read this e-mail for me, please?
A "Can you transfer a hundred thousand to Steve Adkins? SanCap account __2271."
Q I'd like you to sort of walk me through a scenario in which a customer submits a wire request via e-mail. What is your typical standard of practice if you receive a wire request via e-mail from a customer?
A Um-hum. We have a couple different methods to set customers up, depending on how many wires they do. This request is pretty typical for a lot of our businesses. It would initiate us either receiving a signed request from them, or, based on what we have on file, which is called a wire

agreement, kind of sets the tone whether we can just send wires based on an e-mail and then with a callback verification, or they might have to sign a request and e-mail it to us in order to send it; but, by receiving this, this would prompt me to check and see if we have a wire agreement on file, which we do, and then to call the folks back listed as authorized confirmers, and confirm the dollar amount and their code word.

Q What did you do in response to receiving this e-mail from Mr. Crowther?

A I called Casey to confirm the dollar amount and the code word. And that was for a reason.

Q Let me just stop you there. Code word. Did this particular account that Mr. Crowther was requesting the funds to be wired from have its own unique wire pass code?

A It did.

Q And was it different from his other pass codes for other accounts?

A It was.

Q Okay. And can you explain Government's Exhibit 32 and what it is? It's already in evidence, I believe.

A So this is the wire form that generates from our wire software, so this is where we plug it into the system. It prints out this sheet, and then we have a second employee within the bank verify what we've entered in to ensure that it gets processed properly.

Q Referring -- is that Government's Exhibit 32 before you?
A It is, um-hum.
Q And there's handwriting on that exhibit?
A There is.
Q And whose handwriting is that?
A It's mine.
Q And did you make this handwriting at or near the time that you received this phone call -- or the time that you called Mr. Crowther to confirm the wire?
A Yeah. It would have been within an hour, I would say.
Q Now, during this discussion, did you ask Mr. Crowther what the purpose of the wire transfer was?
A Yes.
Q And is that standard practice when you confirm a wire request?
A If it's not listed on the e-mail or in the other form of wire request, then yeah, we are -- we do ask that.

MR. REICHLING: Okay. Your Honor, I'm going to publish Government's Exhibit 32. I believe it is in evidence. I believe it was admitted yesterday.

THE COURT: It is.

MR. REICHLING: Any objection?

MS. WAID: It's in evidence.

MR. REICHLING: That went in yesterday.

(Evidence was published via the projector.)

BY MR. REICHLING:
Q Now, could you go to the stop of the zoomed in portion? It says: "Signature, see attached wire agreement on file." What does that mean?
A That just tells my wire department that we don't have a signature because we do have a wire agreement on file, and then they'll look to the file to make sure we do.
Q And the date included there, is that the date that you entered the wire request into Sanibel Captiva's system?
A Correct, it is.
Q And if you look below that, it says wire purpose. Could you read what you wrote there?
A "Payroll transfer to partner."
Q And it's entered by whom?
A Me.
Q And I see: "If fax, call back info." Do you see that?
A This is just where we provide how we verified it. So I put: "Verified code word with Casey Crowther." And listed his phone number.
Q Are you familiar with Mr. Crowther's voice?
A I am.
Q And did he identify himself in that phone call, and you were familiar with his voice?
A I don't know that he said his name, but I've called him enough to know his voice and to know that that's his number.

Q Okay. Now, Government's Exhibit 31. Could you just briefly explain what that is?
A This is what would generate if you asked for a wire confirmation. It's just a confirmation e-mail.
Q Okay. And is this a record that is accessible and kept by Sanibel Captiva Bank?
A Correct, it is.
MR. REICHLING: I'm going to publish Government's Exhibit 31.
(Evidence was published via the projector.)
BY MR. REICHLING:
Q Does this document also contain what the purpose of the wire was?
A I believe it does. Yeah. This is more what we just plug in internally. But yes, it does notate payroll transfer.
Q To whom?
A It doesn't list it on our form.
Q But it says payroll transfer to, could you read the rest of that?
A I don't see it listed on this form.
Q If you look at the zoomed in portion of Government's Exhibit 31 that's on the screen to your left, or up on the screen behind you, you should take a look at it.
A Oh. Sorry.
Q Verify, next to that section?

A Yeah. Payroll transfer to partner.
Q And what's this verified thing about?
A That is the second employee verification; so that is one of the employees in my office, Cassie Spara, who just did the double-checking with the internal stuff to make sure that the funds were available, that we, you know, checked all the boxes on our end that we needed to before sending it.
Q If a customer has more than one bank account with Sanibel Captiva Bank, is it possible for them to transfer funds amongst their accounts?
A Absolutely, um-hum.
Q And do you have the capability of doing that as -- this might sound like a dumb question, but do you have the capability of doing that, yourself, since you're branch manager or office manager?
A I do.
Q And do customers request that you sometimes transfer funds amongst accounts that they have with Sanibel Captiva Bank?
A Yes.
Q I'd like you to take a look at Government's Exhibit . . . I think it's going to be . . . 28.
A Okay.
Q Do you recognize that e-mail?
A I do.

Q And is it a fair and accurate copy of an e-mail that you received from Mr. Crowther on April 26th, 2020? I mean April 22nd, 2020, sorry.
A Yes, um-hum.
MR. REICHLING: At this time, Your Honor, the government would move what's been previously marked as been government's 28 into evidence.
MS. WAID: No objection.
THE COURT: Twenty-eight will be admitted and may be published.
(Government's Exhibit 28 admitted.)
BY MR. REICHLING:
Q What was this e-mail about?
A It was a request to transfer funds from the PPP account into the personal checking account.
(Evidence was published via the projector.)
BY MR. REICHLING:
Q Could you just briefly read the e-mail that you received from Mr. Crowther?
A Yes. It says can you transfer $3,300 into my personal account ending in 3439. I want it for my PPP account. Let me know when it's done, please.
Q And what was the date of that e-mail?
A Wednesday, April 22nd, 2020.
Q Did Mr. Crowther, in the month of April, 2020, request

additional wire transfers from the PPP account, if you recall?
A I'm not sure if it was the month of April.
Q Okay. Well, do you recall a wire request in the month of April to a marina?
A I do.
Q And could you explain why you didn't handle that particular wire request?
A Yes. I was working from home at the time, and just didn't have the devices needed to process a wire from, so I forwarded it to my assistant branch manager to take care of.
Q And who was that?
A Jennifer Briggs.
Q And did she handle that request?
A She did.
Q I'll have you take a look at Exhibits 35, 36, 37, and 38.
A I might not have 35 and 36.
MS. WAID: Sorry, I didn't hear. What exhibits were they?
MR. REICHLING: 35, 36, 38, and 30 -- sorry.
MS. WAID: 35, 36, 38, and 30?
(Mr. Reichling and Ms. Waid confer privately.)
MS. WAID: Your Honor, we are going to object to 35, 36, 37, for lack of a proper foundation.
THE COURT: 35 and 36 are already in. 37 I don't

know anything about, so I don't think 37 has been offered yet.

MR. REICHLING: My apologies, Judge. It's 34, 35 . . . it's going to be 35, 36, and 37. And 35 and 36 appear to be in evidence at this time.

COURTROOM DEPUTY: Yes.

MS. WAID: Just for the record, Your Honor, they were admitted as business records, so our objection is for relevancy.

(Counsel provides evidence to the witness.)

BY MR. REICHLING:

Q Do you recognize Government's Exhibits 35 and 36?

A I do.

Q And what are they?

A It's our wire form that's generated from our software after we input it and the wire confirmation.

Q And what's Government's Exhibit 36?

A Thirty-six?

Q Yes, ma'am.

A It's the wire form that prints out once it's on our system.

Q And what do these particular documents reference?

A It references the bank it's going to, the beneficiary, the account we're taking it from, who authorized.

Q And does this document state the purpose of the wire?

A It does.

Q And what is the amount?
A This one is for 55,000.
Q And Government's Exhibit 36, what did you state it was?
A I'm sorry, for the dollar amount, or --
Q No, no. What's the document?
A The document is our wire form that prints up once we put it in our system.
Q Is that your handwriting that's on Government's Exhibit 36?
A It is.
Q And this is already in evidence, but I just want to confirm that you did fill out that form.
A I did.

MR. REICHLING: Permission to publish, Your Honor?

THE COURT: You may.

MS. WAID: We object to relevance, Your Honor.

THE COURT: Same ruling as before, I'm admitting it.

(Government's Exhibit 36 admitted.)

(Evidence was published via the projector.)

BY MR. REICHLING:
Q Could you state what the purpose of this wire was for?
A Materials.
Q And is that your signature there, next to, "Entered by"?
A It is.
Q And could you refer to: "If faxed, call back info?"

Could you read what you wrote there?
A Sure. I put: "Verified with Casey," at his phone number, with a dollar amount and code word.
Q And what is the date of this wire transfer?
A June 1st, 2020.
Q Now, Government's Exhibits, I believe it was 37 and 38, could you take a look at those?
A Okay.
Q What is Government's Exhibit 37?
A This was the initial e-mail request for Casey requesting the wire.
Q And is that the wire we just referenced in that wire form you filled out?
A It is.
Q And is this a fair and accurate copy of an e-mail that you received from the defendant on June 1st regarding that wire request?
A It is.
Q And is there an attachment to that e-mail?
A Yes, there is.
Q And just can you just briefly not state what's on that attachment but what it is?
A It's a copy of the bottom of a check.
Q And there's handwriting contained on Government's Exhibit 37. Could you explain whose handwriting there is, and

why there's handwriting on it?
A It's mine and Jennifer Briggs, my assistant branch manager, who was the second verifier. We just initial it so, when our wire department receives it, they know it's an authentic e-mail attachment from what we received.
Q And is this a fair and accurate copy of an e-mail you received from Mr. Crowther and wrote on on June 1st, 2020?
A It is.
MR. REICHLING: At this time, Your Honor, the government would move what's previously been marked as Government's Exhibit 37 in evidence.
THE COURT: Any objection?
MS. WAID: Same objection, relevance, Your Honor.
THE COURT: All right. Thirty-seven will be admitted.
(Government's Exhibit 37 admitted.)
(Evidence was published via the projector.)
BY MR. REICHLING:
Q Could you read the body of that e-mail?
A Yes. "Can you wire 55,000 out of my operating account to the attachment. It's for materials." Do you need me to . . . .
Q That's it. Sorry. And is this the attachment, is that -- what is that?
A It's a picture of a bottom of a check, and contains a

routeing number and account number.
Q And were these documents -- or was this e-mail and document used in your processing of that request?
A It was.
Q Now, Government's Exhibit 38, could you take a look at that?
A Okay.
Q And what is that?
A It's an e-mail from Casey just asking for wire confirmation. Something that shows that we sent the wire.
Q And does that wire confirmation for that wire transfer we just talked about?
A Are you -- I'm sorry, do you mind repeating that?
Q I'm asking the context of the e-mail. Is that e-mail referencing the wire transfer that you just testified about, the June 1st one?
A Yes.
Q And is it a fair and accurate copy of an e-mail exchange that you had with the defendant on that date?
A Yes.

MR. REICHLING: At this time, Your Honor, the government would move what's been previously marked as Government's Exhibit 38 into evidence.

MS. WAID: Same objection, relevance, Your Honor.

THE COURT: All right. That objection is overruled,

Exhibit 38 will be admitted.

(Government's Exhibit 38 admitted.)

MR. REICHLING: I'm going to publish Government's Exhibit 38, Miss DiIorio. I'd like you to go to the second page of that exhibit.

(Evidence was published via the projector.)

BY MR. REICHLING:

Q What is the date and time of that wire transfer? I mean, excuse me, e-mail.

A It was received on Monday, June 1st, 2020, at 9:55 a.m.

Q And can you read the body of that e-mail?

A It says: "Can you send me something that shows we made the wire? I want to show them something so the guys can pick material up now."

Q And is the first page of Government's Exhibit 38 your response?

A Yes.

Q Is that what I published here before the jury?

A Correct.

Q And who was the recipient of that wire, if you could say?

A Heather Mangus at J.P. Morgan Chase.

Q Now, I believe it's going to be Government's Exhibit 39. Actually, it's Government's Exhibit 30. My apologies.

A Thirty?

Q Yes, ma'am.
A Okay.
Q Could you take a look at Government's Exhibit 30, Pages 1 and 2, and just not read from the document, but state what it is?
A Sure. It's an e-mail sent from the comptroller just asking about wiring funds.
Q And could you look at the second page of that e-mail? Is that the attachment that was included with that e-mail?
A I would say yes. Yes.
Q And what is this for?
A It was a wire request to -- do you want me to --
Q Yeah, who is it to?
A Going to Steve Adkins for $150,000.
Q And what was the date of this wire transfer request?
A Looks like July 17th, 2020.
Q And is the defendant cc'd on this e-mail?
A Yes.
Q And is that a fair and accurate copy of an e-mail that you received on that date from the comptroller of Target Roofing?
A Yes.
Q And is the attachment a fair and accurate copy of the attachment that was included with that e-mail?
A Yes.

MR. REICHLING: Okay.

At this time, Your Honor, the government would move what is been previously marked as Government's Exhibit 30 into evidence.

MS. WAID: Objection, relevance, Your Honor.

THE COURT: That objection is overruled. Thirty will be admitted.

(Government's Exhibit 30 admitted.)

BY MR. REICHLING:

Q Miss DiIorio, could you explain this particular wire request and what it was for?

A I mean, the . . . . The purpose says note payment.

Q Okay. But, just generally, what was this -- who was this -- who are these funds to be sent to?

A Steve Adkins.

Q And what is the date of this request again?

A July 17th, 2020.

MR. REICHLING: Okay. I'm going to publish Government's Exhibit 30.

(Evidence was published via the projector.)

BY MR. REICHLING:

Q And I'm zooming in there on the body. Who is Larry Caudill?

A He's a comptroller for Target Roofing.

Q And have you . . . I guess, worked with Mr. Caudill in

dealing with account issues regarding any of Target Roofing's bank accounts that they have with Sanibel Captiva Bank?
A Yes.
Q Did there come a time that Mr. Caudill had inquired about accessing the PPP account?
A Yes.
Q And did he have access to the PPP account?
A Not at that time, no.
Q Now I'm going to go to the second page of this exhibit. What account number -- or what account was this wire coming from?
A Their operating account.
Q Their operating account. Who is "their"?
A Target Roofing's.
Q And is that the account ending in 1791?
A Correct.
Q And what is the amount of the wire?
A 150,000.
Q And who was it being sent to?
A Steve Adkins.
Q And what is the purpose of this wire?
A Note payment.
Q Is there anything in there that indicates it was for a payroll transfer?
A I don't see anything, no. And I don't recall.

Q Is that the section that references the purpose of the wire?
A Correct, it is.
Q Do you have Government's Exhibit 107 before you? I know it's already in evidence, but.
A I do, yes.
Q And can you take a look at that?
A Okay.
Q And what is that?
A It's our monthly account statement. Looks like this one's for the month of April, 2020.
Q And I'm going to publish it, because it's already in evidence.
(Evidence was published via the projector.)
BY MR. REICHLING:
Q And what account statement is that for?
A The one with the one title "PPP Loan".
Q Now I'm going to focus in on the bottom of that bank statement, and specifically I want to refer to the transaction dated 4/16/2020. It says: "Loan from Casey, $126,000." Did you enter in: "Loan from Casey"?
A I don't believe that was done in the bank. I think that was done in -- through their log-ins. But I couldn't say with a hundred percent certainty. I don't recall doing that.
Q Does Mr. Crowther have online account access to his bank

accounts, if you know?
A He does, um-hum.
Q And are clients like Mr. Crowther able to transfer funds amongst accounts using their online access?
A They are.
Q And is there any cap on how much money could be transferred back and forth between accounts, do you know?
A No. As long as their ownership is -- as long as they're owners on all accounts, they can do whatever amount as long as the funds are available.
Q Now, is the transaction dated April 21st, 2020, is that regarding the wire transfer you discussed earlier to Steven Adkins on 4/21/2020?
A Not the one we just discussed, but earlier.
Q Early early?
A Correct.
Q The one you discussed in the beginning of your testimony.
A Yes.
Q And what about the 4/22/20 transaction, is that the transfer of funds that you assisted Mr. Crowther with that he indicated he wanted to come from his PPP account?
A Yes.
Q And Exhibit 424 we haven't talked about, but what is that?

A That's a wire that was performed on that date going to Sara Bay Marina.
Q Now, do you recall having a conversation with Mr. Crowther in the month of July concerning his desire to inquire, excuse me, about depositing cash?
A I do.
Q Okay. I believe you should have Government's Exhibit 173 in front of you? What is Government's Exhibit 173?
A It was my e-mail back to Casey Crowther in response to an inquiry he had over the phone about depositing cash into the bank.
Q And what's date of that e-mail?
A July 30th -- I'm sorry, July 31st, 20.
Q And is that a fair and accurate copy of an e-mail that you sent to Mr. Crowther on that date?
A It is.
MR. REICHLING: At this time, Your Honor, the government would move what's been previously marked as Government's Exhibit 173 into evidence.
MS. WAID: No objection.
THE COURT: 173 will be admitted and may be published.
(Government's Exhibit 173 admitted.)
BY MR. REICHLING:
Q Could you read what you wrote the defendant in that

e-mail?
A "Hi Casey. I have spoken with our internal auditors, and what we need for you to provide on the cash deposit is noted below: Name, occupation, and address of the purchaser of the boat, person who gave you the cash, explanation of the source of the cash, where did the cash originate from, information on the boat, make, model, VIN. If you can produce a bill of sale, that would take care of this part. If/when you get this information, we can coordinate a day for you to bring in the deposit. Please let me know if you have any other questions. Hope all went well with the closing."
Q Let me ask you, Miss DiIorio, would it have been your practice to wait days or weeks to send that to Mr. Crowther after he asked you for information about depositing cash?
A No.
Q Do you recall if you sent that the same day he asked you about depositing cash?
A I can't say. I think maybe next day.
Q And you're referring to a closing. What's that about?
A I think we might have done a wire for a closing on the day before. I don't recall the dates, but I'm assuming we did something that I knew about it, so.
Q Was it a wire for a closing on a house?
A I believe so.
MR. REICHLING: One moment, Your Honor. If I could

just confer with co-counsel real quick.

(Mr. Reichling and Mr. Leeman confer privately.)

BY MR. REICHLING:

Q Following receipt of this e-mail, or sending this e-mail on July 31st, 2020, do you recall if you handled the deposit of the cash that Mr. Crowther was referring to?

A No. No, nothing more was . . . done with it after that with me.

Q Okay. And do you recall if any large cash -- you were involved with depositing a large quantity of cash following the date of that e-mail?

A No, huh-uh.

MR. REICHLING: No further questions at this time, Your Honor.

THE COURT: All right. Thank you.

Ms. Waid, you may proceed.

MS. WAID: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. WAID:

Q Good afternoon, Miss DiIorio.

A Hi.

Q You testified, just a few minutes ago, about the PPP application that was submitted on behalf of Target.

A Um-hum.

Q Is that correct?

A Correct.

Q And, during that process -- is that better to hear? Okay.

During that process, you stated that you spoke to many people at Target; is that accurate?

A Yes. Correct.

Q Okay. And would you say that some of your primary contacts for getting all the documentation together, one was Brad North?

A Correct.

Q Okay. And the other person was Evelyn Portinari, who was the head of human resources; is that accurate?

A Correct.

Q So was it your understanding that the decision to make a PPP application was a management team decision?

A I never really thought about it that way. I just figured the direction -- you know, being Casey's team, they were just part of gathering the information on the checklist.

Q Okay. But the entire management team was involved in that process; is that accurate?

A Correct, um-hum.

Q Now I want to go to the separate accounts briefly.

A Um-hum.

Q The PPP regulations don't require segregation of funds, do they?

A No.
Q And where were you, at the time, as a bank, getting your guidance from?
A From our loan department. Kyle DeCicco kind of headed up that program with us.
Q And, at the time that this was all going on back, you know, late March early April, 2020, there was a lot of confusion regarding the PPP; correct?
A Correct.
Q And everything was going extremely fast; correct?
A Correct.
Q And you were processing about how many applications at that time?
A Personally, I was working with about . . . I mean throughout -- that was in the beginning, but, overall, throughout that first one, about 120 different customers I was working with.
Q Okay. There were two different accounts set up. On those accounts, is it accurate that the tax identification number is the same, and it's Target Roofing's?
A Correct.
Q So if the tax identification number on one corporate account is the same as the tax identification number on the other corporate account, would that be considered corporate funds?

A Correct, um-hum.
Q Now, you state that the -- at first, the PPP was only accessible to Mr. Crowther; is that right?
A Um-hum.
Q Okay. But clearly Brad North knew about the PPP amount of money; correct?
A I would assume so, since they were on a lot of the e-mails.
Q And actually brad North was on the -- was put down as the main contact on the PPP application; is that correct?
A I don't recall.
Q Can you -- would anything refresh your recollection?
A Okay.
Q I'm going to put -- it's already been entered into evidence as Government's Exhibit Number 6, I believe it is.
(Evidence was published via the projector.)
A Okay.
Q Do you see where it says primary contact?
A I do, yeah.
Q Okay. And can you please tell the jurors who that primary contact was?
A Sure. Brad North.
Q Okay. And Evelyn Portinari also had knowledge about not only the application, but the amount of money that was on that application; correct?

A Correct.
Q Okay. And, at some point in time shortly thereafter the funds were received for Target, the funds were moved into the operating account; is that true?
A Correct, um-hum.
Q And the payroll was normally processed out of that operating account; is that accurate?
A Correct, um-hum.
Q And in order to process payroll out of the PPP account, would they have -- would Target have to set up all new systems with their payroll company, which was WBS?
A If that's what they chose do, yeah, that would be one option.
Q Okay. So once the -- once it's transferred, Target actually uses all that money that's in the operating account to pay payroll; is that correct?
A Correct, um-hum.
Q And do you normally prepare the wires for Target's payroll?
A I do, um-hum.
MR. REICHLING: Objection, Your Honor, lack of foundation. Not lack of foundation, irrelevant.
THE COURT: Overruled at this point.
BY MS. WAID:
Q So you do normally prepare the wires for Target's

payroll, is that accurate?
A Um-hum.
Q And you know that the PPP program was a 24-week period; is that accurate?
A Correct, um-hum.
Q And, during that 24- week period, did you regularly prepare wires for payroll on behalf of Target?
A I don't -- I don't recall, at that time, if we were doing wires for payroll. I think maybe, originally, they were ACH'd, electronically taken from the account. More recently, they turned to doing wires for the payroll. I don't recall at that time, and . . . originally, around that timeframe, April/March of 2020, if we were doing wires at that time.
Q How many wires a week do you actually do for Target?
A A week? Two to three I would say.
Q I'm going to turn your attention and I'd ask to publish what's already been entered into evidence as government's 27.
Court's indulgence.
(Ms. Waid and Mr. Dickerson confer privately.)
BY MS. WAID:
Q For the record, this is actually Government's 31. It's already been put into evidence.
Now, this was the wire transfer to Steve Adkins; is that right?
A I'm sorry. Yes, it was.

Q Okay. And Steve Adkins was a business partner of Casey Crowther; is that correct?
A Correct.
Q And he was a prior owner of Target?
A Correct.
Q Mr. Adkins was also a client of Sanibel Captiva.
A Correct.
Q All right. So you know who Steve Adkins is; correct?
A I do, yes.
Q And you weren't concerned when you saw this request; correct?
A No.
Q And, in fact, didn't you assume, at the time, it was a permissible expense under the bonus structure portion of the payroll regs?
MR. REICHLING: Objection, Your Honor. Relevance.
THE COURT: Overruled.
A Sorry. Would you mind repeating that one more time?
Q Sure. At the time that this was presented to the bank, didn't you assume at the time it was a permissible expense under the bonus structure portion of the regs?
A Yes, I would say so.
Q I want to go now to the wire itself, Number 31. I'm sorry, the wire itself. Which has already been marked by the government and put into evidence. No not that. The wire

itself. All right.

So, when you were discussing the purpose of a wire.

A Um-hum.

Q The bank's required to obtain the password; correct?

A Correct.

Q The monetary amount; correct?

A Correct.

Q The amount and address for the attended transfer; correct?

A Correct, um-hum.

Q The bank asked for a purpose; is that right?

A Hum.

Q And does the bank approve or disapprove the purpose of a wire?

A No.

Q Does the bank verify the purpose of a wire?

A No.

Q Does the bank rely in any way upon the purpose of a wire?

A No.

Q The bank could request more information about the purpose.

A Um-hum.

Q Does that ever happen?

A Not typically.

Q Okay. So would you say that the purpose of a wire is akin almost to a memo line of a check?
A Correct, um-hum.
Q We can go back to 31.
(Evidence was published via the projector.)
BY MS. WAID:
Q Okay. So once you actually get all that information, Miss DiIorio, you actually pass on that information to others in the bank; is that accurate?
A Correct.
Q And where does that information go?
A Well, it will first go, if I have somebody in office that can approve my wire, I give the documents to them. They'll review any attachments to make sure whatever I've put into the system matches what was sent to us. They will confirm the dollar amount in our system, confirm it, and then scan it over to our wire department, which will have another kind of checks and balances to it.
Q So you actually take the information first; is that accurate?
A Correct, um-hum.
Q And then you send it to another bank employee, and that bank employee actually verifies that information; is that true?
A Correct.
Q And then it's sent to a third person in the bank; is

that correct?
A Correct.
Q And so they send it to a third person; is that accurate?
A Correct.
Q And that third person then verifies the origination of the wire, where the wire is going to; correct?
A I'm not quite sure what they -- I know they call us to verify the dollar amount again. They want to make sure it's received. They do fact checks and back end stuff. But yes, I'm assuming they do all that too.
Q So, before the wire leaves the bank, three people verify the wire; correct?
A Correct.
Q And, in this case, they verified that the money was actually going to Steve Adkins; correct?
A Correct.
Q Now, you stated that Larry Caudill is the comptroller; is that right?
A Correct.
Q And Mr. Caudill, as comptroller -- I don't know that the jury knows what that is. Could you actually explain what a comptroller is?
A Kind of like the bookkeeper. Kind of like the keeper of the books.
Q And, based upon that, the keeper of the books, would we

assume that Mr. Caudill has an accounting background; is that correct?
A I would assume.
MS. WAID: Can we please pull up what's marked and put into evidence as 37, please.
(Evidence was published via the projector.)
BY MS. WAID:
Q Showing you what has been put into evidence already as Number 30. Do you recall that e-mail?
A I do.
Q Okay. And that is a request for a transfer of funds; correct?
A Correct.
Q Okay. And can you please tell us where -- what account those funds came out of?
A This wire came out of the main operating account for Target Roofing.
Q Now, you opened many accounts for Mr. Crowther; is that true?
A Correct.
Q Okay. And at this time are all of those accounts -- do they remain in good standing?
A They do, um-hum.
MS. WAID: Thank you. No further questions.
THE COURT: Any redirect?

MR. REICHLING: Just briefly, Your Honor. Thank you.

REDIRECT EXAMINATION

BY MR. REICHLING:

Q I just have a couple brief follow-up questions.

Brad North, he didn't have access to that PPP account, did he?

A No.

Q And Evelyn Portinari, she also didn't have access to that PPP account; correct?

A Correct.

Q And Mr. Pavelo that we talked about, he didn't have access to that PPP account either.

A Correct.

Q Who was the only person that had access to it?

A Casey.

Q And was it at Casey's direction that you opened that up separately from his main operating account?

A Correct.

Q It wasn't your choice to open up a separate PPP account?

A Was it mine? No.

Q Now, the wire that was sent to Steven Adkins that we talked about at the beginning, that was sent from the PPP account; correct?

A Correct.

Q And you stated the purpose of the wire when it was sent

from the PPP account was for a payroll transfer to a partner; correct?
A Correct.
Q And then we talked about a later wire transfer that was sent in July from the main operating account of Target Roofing?
A Correct.
Q And what was it called then? What was the purpose then? I think it was a note payment; correct?
A Correct.
MR. REICHLING: No further questions, Judge.
THE COURT: Any recross?
MS. WAID: No thank you, Your Honor.
THE COURT: You may stand down. Thank you.
You may call your next witness.
(The witness left the witness stand.)
MR. REICHLING: The government calls Jennifer Briggs.
COURTROOM DEPUTY: Good afternoon. Would you please raise your right hand. Thank you.
Do you solemnly swear or affirm the testimony you are about to give in the case now before the Court will be the truth, the whole truth, and nothing but the truth?
THE WITNESS: Yes.
COURTROOM DEPUTY: Thank you very much. If you would, have a seat in the witness box. Once seated, would you please state your name and spell it?

THE WITNESS: Jennifer Briggs. J E N N I F E R, B R I G G S.

JENNIFER BRIGGS,

called as a witness by the Government, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. REICHLING:

Q Good afternoon, Miss Briggs. Where do you currently work?
A Sanibel Captiva Community Bank.
Q And how long have you worked there?
A Four years.
Q Four years?
A Yes.
Q I thought I heard 40, and I'm like there's no way you've worked there 40 years. What do you currently do at Sanibel Captiva Bank?
A I'm the assistant office manager.
Q And is that the equivalent of an assistant branch manager?
A Yes.
Q Are you at a particular location?
A Downtown Fort Myers office.
Q As an assistant branch manager, do you handle wire requests?

A Yes.

(Counsel provides evidence to the witness.)

MR. REICHLING: I've put before you Government's Exhibits 29, 33, and 34.

BY MR. REICHLING:

Q Let me ask you a question. Do you recall the e-mail contained on Government's Exhibit 29?

A Yes.

Q And what is that e-mail about?

A It's regarding a wire that we sent.

Q And what was the date of that wire? If it's on that e-mail.

A The date is April 24th, 2020.

Q And could you explain why you were included on this e-mail?

A Kristen sent me the wire. She was working from home, and she'd received a wire from Casey Crowther.

Q And are you -- in order to effectuate a wire transfer, does the bank employee need to be in the bank office?

A Yes.

Q And why is that?

A Because we have access to a separate e-mail, or our actual wire transfer system, that we have to input it on.

Q I'm going to publish Government's Exhibit Number 29. I believe it's already in evidence, Your Honor.

THE COURT: It's not.

MR. REICHLING: Oh, it is not. Okay. My apologies, then, Judge.

BY MR. REICHLING:

Q So you stated you recognize Government's Exhibit 29?

A Yes.

Q Is it a fair and accurate copy of the e-mail that you received from Miss DiIorio on that date?

A Yes.

Q There is handwriting on that form. Is that your handwriting?

A Yes.

Q And you also see there are the initials JB on that form. Are those your initials?

A Yes.

MR. REICHLING: At this time, the government would move what's previously been marked as Government's Exhibit 29 into evidence.

MS. WAID: No objection.

THE COURT: The Exhibit 29 will be admitted and may be published.

(Government's Exhibit 29 admitted.)

(Evidence was published via the projector.)

BY MR. REICHLING:

Q Is the portion of the e-mail located below, who is that

from? Towards the bottom of Government's Exhibit 29.
A At the bottom?
Q Yes, ma'am.
A It's from Casey Crowther.
Q The date of that e-mail?
A April 24th, 2020.
Q And what does it state?
A It says I need to post this today, please. Amount is $689,417. $689,417.
Q And is there an attachment to that e-mail that you have before you?
A Yes. That was the wire instructions of what we needed to send the wire to.
Q And was that the attachment that was on Mr. Crowther's original e-mail?
A Yes.
Q And are these the wire instructions?
A Yes.
Q Now, you stated that Miss DiIorio forwarded the request to you?
A Yes.
Q And, after you received this e-mail, what did you do?
A I had to . . . first off, I had to double-check his account to make sure the money was in the account. Oh, sorry, no. First I had to call him.

Q Let's back up a little bit. You stated first you had to call him?
A Yes.
Q And, by looking that the e-mail, it doesn't state which account the money was to come from.
A Correct. That's why I needed to call him first.
Q Could you just tell me what -- who you called and what you guys talked about?
A I had to call Casey. At the time, he was the only person on the wire agreement that we had in place for him to verify . . . he would need to tell me which account it needed to come out of. He had multiple accounts, so we needed to know which account it needed to come out of first. Plus, he had multiple wire agreements, so he would have different code words for different wire agreements. So he would need to give me the correct account number and the correct code word to correspond with that agreement.
Q And did this particular account that the funds were going to come from for the wire transfer have its own unique wire pass code?
A Yes, it did.
Q And, on Government's Exhibit 29, which I just had up, there's -- oh, shoot. Sorry. Government's Exhibit 29. There's handwriting here. Could you explain why your handwriting is on the e-mail itself?

A Yes. Because I needed to provide this e-mail when I sent it in with my . . . .

Q And we'll get to that.

A You know, with Exhibit 34, when I send that in with whoever I'm going to send this e-mail to confirm with me to verify all that, I had to send proof of his e-mail as well. So I needed to add in the account number that he wanted me to take it from. I also asked him the purpose of what our wire was going to be for.

Q And what was the purpose?

A He provided equipment purchase.

Q And the account number, that was the account number he had dictated to you over the phone?

A Yes.

Q And, once you heard this information, you wrote it down on the e-mail you stated.

A Yes.

Q Now, you referred to, I think, Government's Exhibit 34?

A Yes.

Q What is Government's Exhibit 34?

A That is the . . . . The wire that we actually -- or the paper that we print out from our wire transfer system that we actually input the wire on.

Q And is that the form that you filled out for this wire transfer?

A Yes.
Q And is your handwriting on that form?
A Yes.
Q And is it a fair and accurate copy of the wire transfer form that you had filled out on that date?
A Yes.
MR. REICHLING: I believe this exhibit is in evidence; but, if it's not, the government would move it into evidence at this time, Judge.
THE COURT: What number are you speaking of?
MR. REICHLING: My apologies, Your Honor. Government's Exhibit 34.
THE COURT: That's in.
(Evidence was published via the projector.)
BY MR. REICHLING:
Q Now, could you read the -- some of the stuff you wrote down here? First, instructions received. Could you explain how you received the instructions? Of course, we talked about that briefly. And then this message you stated here with verified code word?
A For . . . .
Q Just walk us through the process.
A Oh, of --
Q Of how you filled this out. Sorry.
A On Exhibit 34?

Q Yes, ma'am.
A Okay. What we would normally do when we go through and we receive this -- so, when I received this information from Casey, I called him to verify the account number that we're going out of, and the purpose of the wire. I also looked at the wire agreement that we were going to go out of to verify the code word, to make sure he gave me the correct code word to correspond with that wire agreement.
Q Okay. I'm going to stop you there. Is that your signature there on the entered by section?
A Yes.
Q And you wrote the purpose, again, is the equipment purchase?
A Yes.
Q Now, why do you ask the purpose of the wire when you are receiving a wire request from a customer?
A Just so . . . we are supposed to know what those funds are supposed to be going for.
Q Are you trained, at all, to question a customer's wire purpose that they provide to you?
A No. We never require them to give us proof of purchase or purposes of whatever the purposes are supposed to be for.
Q Okay. Now, Government's Exhibit 33, what is that?
A That is the confirmation of the wire, that it's sent; so if the customer would ever need proof of the wire, that's

everything that details all the information regarding the wire. So it has the information from his account, who it was went to, who the approvers were, who input the wire, who approved the wire, and people from our wire department as well.

Q And that's created after the wire has gone through?

A Yes.

MR. REICHLING: And I believe it's in evidence, Your Honor. I'm going to publish it at this time. It's Government's Exhibit 33.

THE COURT: It is.

(Evidence was published via the projector.)

BY MR. REICHLING:

Q And is this also contained, the purchase -- excuse me, the purpose of the wire?

A Yes.

Q And what does it state again?

A Equipment purchase.

MR. REICHLING: No further questions, Judge, thank you.

THE COURT: All right.

Cross-examination?

CROSS EXAMINATION

BY MS. WAID:

Q Good afternoon, Miss Briggs.

A Good afternoon.

Q Okay. I wanted to do a little bit about the purpose of the wire. You stated on direct that you actually ask the customer what the purpose of that wire is; correct?
A Yes.
Q Okay. And is there any effort by the bank to verify that purpose?
A No. We take whatever they give us and we write that down.
Q Okay. Is there any effort by the bank to approve the purpose?
A What do you mean to approve it?
Q Do you actually figure out what it's for in order approve it to make the wire?
A We don't require them to give us proof.
Q Okay. The bank doesn't rely on that purpose whatsoever, does it.
A Not that I'm aware of. We just ask them to tell us what it's for, and we add that into our filing.
Q So it's more of a memo for the customer; correct?
A And for us as well.
Q Okay. And would you liken it to the memo section of a personal check?
A Yes.
MS. WAID: I want to show you, now, what has been marked as Government's Exhibit Number 29. And is already into

evidence.

(Evidence was published via the projector.)

BY MS. WAID:

Q Now, on the second page of this document -- and do you have it in front of you right there?

A Um-hum.

Q Could you take a look at the second page of that document, please?

A Okay.

Q And could you tell the jury what it states on this document as to where the wire is being sent?

A It is being sent to Centerstate Bank of Florida, and the account name is Sara Bay Marina.

Q And Sara Bay Marina is specifically stated and provided to the bank by the customer; correct?

A Yes.

MS. WAID: Thank you.

I'd like to pull up what has already been put into evidence as Government's Exhibit Number 33.

(Evidence was published via the projector.)

BY MS. WAID:

Q Can you take a look at that, please?

A Um-hum.

Q All right. Now, you state that you actually take down the information; correct?

A Yes.
Q Okay. And you verify some numbers to make sure, one, that there's enough funds in the bank account; correct?
A Yes.
Q Verify which bank account it's coming out of; right?
A Yes.
Q And then you actually send it to the wire department; is that accurate?
A Yes.
Q And, once it gets to the wire department, does somebody there review it as well?
A Yes.
Q Okay. And what's the process in that -- who's reviewing your work?
A They are supposed to be reviewing the same things that I reviewed, that the account had the same -- had the amount of funds in the account; that, if there was a wire agreement on file, that we did notate on the form that there was a wire agreement, that it had been checked, that our code word had been checked, and if . . . if there had been something that had been signed, then the signatures had matched. And that we had all the proper information in there.
Q Okay. And was it your understanding, when you saw the word Sara Bay Marina, that this was actually going to a marina itself?

A I just input the information that -- that he had given us.
Q Okay. And then is there a third person that's in this process of verification?
A Yes.
Q Okay. And what does that person do?
A The second person who did my verification, their process was to verify that I had input all the information in correctly. They're supposed to check the account to make sure the funds were -- had the available funds, and that she looked at the information that I input, the correct account numbers, who it was going to, and that I put in the correct numbers as well.
Q Okay.
A And then it was sent to the wire department.
Q I apologize. I didn't mean to cut you off. So in this wire, itself, did you input this information, or did somebody input the information received from you?
A I input all the information. The second person verified the information I put in was correct, and then they sent it to the wire department, and the wire department reverified all the information that we input.
Q So three people from the Sanibel Captiva Community Bank actually review all of your wires; correct?
A Yes.

Q And, specifically, this one was reviewed by three people; is that accurate?
A Yes.
MS. WAID: Okay. Thank you. No further questions.
THE COURT: Any redirect?
MR. REICHLING: Just briefly, Judge.

REDIRECT EXAMINATION

BY MR. REICHLING:
Q Miss Briggs, Miss Waid made a -- asked you about the verifying by multiple people at the bank with the wire transfer process?
A Yes.
Q Are they verifying whether the defendant is using PPP money or not?
A No.
MS. WAID: Objection, Your Honor.
THE COURT: I'm sorry?
MS. WAID: I'm sorry. Retracted, Your Honor.
THE COURT: Okay. Go ahead.
BY MR. REICHLING:
Q What was your answer?
A No.
Q And were you in charge of overseeing whether a customer used PPP funds properly at all?
A No.

Q Okay. And did you feel you were to question Mr. Crowther's request requiring this wire transfer?
A No.
Q And you stated that you looked at other accounts to see if there were sufficient funds, and this was the only account that had sufficient funds for this wire transfer?
A Yes.

MR. REICHLING: No further questions, Judge.

THE COURT: Any recross?

(Mr. DeCicco Waid and Mr. Dickerson confer privately.)

MS. WAID: Nothing further, Your Honor.

THE COURT: You may stand down. Thank you.

You may call your next witness.

(The witness left the witness stand and left the courtroom.)

MR. REICHLING: Judge, at this time the government would like to publish Government's Exhibit 170, which has been stipulated into evidence.

THE COURT: All right. Let's get the witness so she can leave. Thank you.

MR. REICHLING: Your Honor, at this time the government would be moving to admit Government's Exhibit Number 170. I believe it's been stipulated to by both the government and defendant as -- entry as Government's

Exhibit 170.

THE COURT: All right. Let me get there. All right. You may.

MR. REICHLING: Permission to publish, Your Honor?

THE COURT: You may.

MR. REICHLING: I'm going to read from Government's Exhibit 170 when we publish it here in a moment. Sorry.

(Evidence was published via the projector.)

MR. REICHLING: The filing is called, "Stipulation Regarding Interstate Nature of Certain Money Transfers."

The United States of America and the defendant, Casey David Crowther, agree that the following matters are proven for all purposes in the trial and all further proceedings in the case of United States versus Casey David Crowther, Case Number 2:20-CR-114-JES-MRM, and that no evidence need be offered or presented by the United States at trial or any further proceedings to prove the following:

"1, the $100,000 wire transfer from account ending in 6781 on April 21st, 2020, as described in Count 3 of the second superseding indictment, was a monetary transaction that involved the transfer of funds by, through, or to a financial institution in a way that affected interstate percent, and;

"2, the $689,417 wire transfer from account ending in 6781 on April 24th, 2020, as described in Count 4 of the second superseding indictment, was a monetary transaction that involved the transfer of funds by, through, or to a financial institution in a way that affected interstate commerce.

"So stipulated this 18th day of March, 2021."

And the document is signed by Nicole Hughes Waid, attorney for defendant, Casey David Crowther, defendant, and Michael Leeman, Assistant United States Attorney.

And at this time, Your Honor, the government would call its next witness, Heather Mangus.

THE COURT: All right.

MS. WAID: Your Honor, in a normal situation, I'd ask for a sidebar before the witness comes.

THE COURT: Can we do it on the headphone?

MR. DICKERSON: Yes, we can.

AT SIDEBAR

THE COURT: Okay. Can both of you hear me?

MR. REICHLING: I can hear you, Your Honor.

THE COURT: All right.

Mr. Dickerson?

I'm going to fix this, we're going to do it the old fashioned way. We're going to take a recess so we can do it in court.

Please do not discuss the case amongst yourselves, or allow anyone to discuss it with you or in your presence. About 15 minutes. Or maybe a little bit more, since I have to discuss things with the lawyers. 20 minutes.

(At 2:46 p.m., the jury was escorted from the courtroom.)

THE COURT: All right. Be seated please.

Now, Mr. Dickerson.

MR. DICKERSON: Stand or seated?

THE COURT: You can be seated if you're comfortable.

MR. DICKERSON: I'm fine.

THE COURT: Okay.

MR. DICKERSON: Your Honor, Miss Mangus is going to be proposed by the government to talk about the horse wire for the . . . I think it's 3837. Specifically, the government has proffered, as we know in the pleadings, that the government believes that they have a theory that, because the purpose of the wire to the bank did not exactly match what is actually either purchased or what the government believes the purpose is, that that is, and somehow intrinsic to the underlying Count 1 and Count 2, 3, and four.

But I think it's quite clear from hearing the witnesses that just were on the stand, that the bank does not care what the purpose is. Specifically, the bank does not rely upon it, the bank does not verify it, they do not care about it. It is just like the memo on your check. So it's basically what he, Casey Crowther, is selecting to put as a purpose for him to know later what the wire is.

The government wants to bring, and we object to the relevancy, admitted for authenticity, the information about the wire is related to what Miss Mangus is going to testify to as to the purchase of a horse, which is, on the wire, says materials.

This is June 1st, from the operating account. There is nothing to do with the PPP program, PPP money, nothing at all, and it doesn't correlate back to anything that is wrong because the government's last two witnesses on the subject, said that the purpose of the wire does not matter to the bank, so therefore it should not matter to the jurors in this case to have to hear this and try to decipher, all right, we're here on a wire in April, April, now we hear an operating account on June 1st, we're hearing an operating account wire on July 17th.

So this is not about the operating account, this is about the government, when they had their opening, trying to say Casey Crowther lies, so they're trying to use their theory of the case that Casey Crowther lies about purposes of wires for which the bank does not rely upon to try to taint this jury, and the prejudice is overwhelming any probative fact.

THE COURT: Mr. Reichling?

MR. REICHLING: Yes, Your Honor. If I may, I've got a few points to make here.

First, Your Honor, obviously, we've talked about the two wire transfers regarding the wire agreement to Steve Adkins and regarding the boat. Both were -- they were both represented to the bank for purposes of concealing the use of PPP funds for equipment purpose and for a payroll transfer to a partner, which we've established this wasn't a payroll transfer to Mr. Adkins.

We also have evidence from Mr. DeCicco who testified that, in mid May, he questioned Mr. Crowther about his use of PPP funds; and, following that conversation, which was in mid to . . . mid-ish May, it was May 19th, Mr. Crowther, who still was under -- operating under the assumption that he needed to spend PPP money within eight weeks, and this June 1st date is within that eight-week period, requested a wire transfer from the main operating account that now had commingled PPP funds within it.

In that wire transfer request to the bank, he actually submitted an e-mail to Miss DiIorio, who has testified about the document, requesting a wire transfer for materials. And he also followed that up with an e-mail, after the wire went through, that asked Miss DiIorio can you send me proof that the wire went through, which is actually the confirmation of the wire, which included the purpose of the wire, and he stated in that e-mail could you send me proof of the wire so that I can have my guys pick up the materials?

The government believes this was another concealment by the defendant of his use of PPP funds, and I believe it's probative regarding other concealments of wire transfers, namely the April 21st wire and the April 24th wire. Doesn't matter whether the money was moved over out of the main operating account, Mr. Crowther was still within this eight-week period of time in which he had to use PPP money towards PPP related purposes; and additionally, Your Honor, he had been questioned by the bank on May 19th, by Mr. DeCicco, about his use of PPP funds.

So we believe that this additional misrepresentation to the bank about the purpose of the wires probative to his concealment of use of PPP proceeds, and we believe it should be entered.

Additionally, Your Honor, the reason why the government entered the July 17th wire transfer that was directed by Mr. Crowther to Miss DiIorio for -- not by Mr. Crowther, by Larry Caudill, and Mr. Crowther was on that e-mail, was to show that, on July 17th, when Mr. Caudill was requesting the wire transfer from Mr. Crowther, the purpose of that wire so happened to be what it really was, which was a note payment, which was the real purpose of the first wire on April 21st.

So it's to show that, at the time Mr. Crowther submitted this wire request back on the 21st of April, it was done to conceal his use of PPP funds. And that's why we entered that later July 17th wire transfer letter that was sent to the same person, for the same purpose, for the same reason but the purpose was stated what its real purpose was which was a note payment on that July 17th wire transfer.

MR. DICKERSON: If I may, Your Honor, if that's the government's new theory, the biggest problem with that is that materials isn't forgivable, nor is it allowable, nor is there any testimony here, before this Court, showing that it is. But it's not allowable. So if that's their new theory, that oh, the wire is misrepresented because he's going to make this a forgivable expense, materials aren't forgivable, and it's from the operating account. So then that motion should just be denied -- I mean their argument should be denied because it's not material and isn't an allowable expense.

Moreover, you've heard it here, Your Honor, today, Mr. DeCicco said there has been no forgiveness filed. So if he has not filed for forgiveness, he is not invoking that he is using any of these expenses for forgivable expenses. So, therefore, any of these theories that the government is trying to push forward as being related, all it is doing is confusing everybody, because the materials for this June 1 wouldn't be allowable, wouldn't be forgivable if, the big if, Mr. Crowther ever filed for forgiveness.

So there is no intrinsic, there's no 404(b), this is just prejudicial, this is just the government, like they said in their opening, trying to say, because he is a liar, we're going to try to put this all in one case. And it is not relevant, and it is prejudicially harmful for what the government is trying to do to paint this picture about Mr. Crowther instead of just the facts of the application, which you heard, is what they're using, they're saying the application, the loan documents, is the fraud for the false documents, and the bank fraud coming from PPP. There's no PPP money in this account, or in this transaction at all.

THE COURT: All right. To the extent the objection is to preclude the testimony of the witness in general, that objection and that request will be denied. The Court finds that the testimony is relevant, it takes place during the scheme to defraud time period as set forth in the second superceding indictment. It may or may not ultimately prove successful for the government, but it's, in my view, relevant and not unduly prejudicial.

The fact, apparently it's going to be established, is that it was listed as materials, and turns out what he purchased, unlikely can be labeled as materials. As I understand it, it was a horse. So the Court will deny the request to preclude that testimony.

At to the specific items that may come up, you should make your objection to any specific items. I'll give a general objection to the witness as she testifies, but there may be some matters outside of what we discussed that are objectionable, and I'll leave it up to you to make those calls.

Okay. Fifteen minutes.

(At 2:56 p.m., court was recessed.)

AFTER RECESS

(At 3:15 p.m., court was reconvened.)

THE COURT: All right. Both sides ready for the jury?

MR. DICKERSON: Yes, Your Honor.

MR. REICHLING: Yes, Your Honor.

THE COURT: Have the jury step in, please.

(At 3:15 p.m., the jury was escorted into the courtroom.)

THE COURT: You may call your next witness.

MR. REICHLING: At this time, Your Honor, the government calls Heather Mangus.

COURTROOM DEPUTY: Good afternoon.

THE WITNESS: Hello.

THE COURT: Please raise your right hand.

Do you solemnly swear or affirm the testimony you are about to give in this case now before the Court will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes.

COURTROOM DEPUTY: Thank you very much. If you would, Miss Mangus, walk over to the witness box and have a seat. And, once you're seated, if you would state your name, and spell your full name for the record.

THE WITNESS: Okay.

COURTROOM DEPUTY: Thank you.

HEATHER MANGUS,

called as a witness by the Government, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. REICHLING:

Q Could you state and spell your name for the record, please?

A Heather Mangus, H E A T H E R, M A N G U S.

Q And, Miss Mangus, what do you do for a living?

A I'm a construction superintendent and a realtor.

Q And do you also own horses?

A I do.

Q And how many horses do you currently own?

A I think nine?

Q Okay. And where do you live?

A Williston, Florida.

Q And for the members of the jury that don't know, is that up near the Ocala area?

A Yes.

Q Isn't that generally referred to as horse country, or am I off on that?

A Yes, that's correct.

Q Let me ask you this. You mentioned that you were a

construction superintendent?
A Um-hum.
Q Do you by any chance own a company that sells roofing materials?
A No, I do not.
Q Have you ever sold roofing materials?
A No.
Q And have you ever sold construction materials?
A No.
Q And does your husband do that?
A No.
Q Now, do you recall having contact with an individual named Casey Crowther about the purchase of a horse?
A Yes.
Q And do you recall when about that was?
A Last year. May.
Q And could you just briefly explain to the jury how you were contacted by Mr. Crowther?
A Mutual friends contacted me, saying that his wife was looking for a horse to try to make the NFR and different barrel races. And they came up to our arena in Williston, and tried him, and the vet check on him, and purchased him shortly after.
Q I jumped ahead a little bit. What is barrel racing?
A It's an event where do you a cloverleaf pattern around three barrels for timed event.

Q And do you do barrel racing?
A Yes.
Q And do you know if Mr. Crowther's wife is a barrel racer as well?
A Yes.
Q Generally, how much does a barrel racing horse cost?
A Oh, it can vary. Different expenses. Anywhere from five to 200,000. Five grand to 200,000.
Q Now, this particular horse that I think you mentioned the Crowthers were looking at, what was its name?
A Fame Time.
Q And did they end up buying the house from you?
A They did.
Q And was that on June 1st, 2020?
A Yes.
Q How did they pay for the horse?
A Wire transfer.
Q And what was the cost of the horse?
A 55,000.
Q And just so I have this correct, was the horse's name Materials, or Roofing Materials?
A No.
Q What was?
A Fame Time.
Q No further questions at this time, Judge.

THE COURT: All right.

Mr. Dickerson?

CROSS EXAMINATION

BY MR. DICKERSON:

Q Good afternoon, Miss Mangus.

A Hi.

Q I represent Mr. Crowther. I own horses, as well.

So how much was this horse?

A 55,000.

Q And, in your opinion, this horse is worth 55,000?

A Absolutely.

Q Great horse?

A Yes.

Q You'd buy it again?

A Yes.

Q And NFR, you mentioned NFR, what is that?

A National Finals Rodeo. You qualify. You have to run to win money to qualify to go there.

Q So you just need a good horse to do that; correct?

A Yup.

MR. DICKERSON: Thank you.

THE COURT: Any redirect?

MR. REICHLING: No, Your Honor.

THE COURT: You may stand down. Thank you.

(The witness left the witness stand and left the courtroom.)

THE COURT: You may call your next witness.

MR. REICHLING: At this time, Your Honor, the government would call -- I'm sorry.

At this time the government would call Colleen Clark.

THE COURT: Right up here, please.

COURTROOM DEPUTY: Good afternoon. You can stop.

Good afternoon.

THE WITNESS: Hi.

COURTROOM DEPUTY: Would you please raise your right hand?

Do you solemnly swear or affirm that the testimony you are about to give in the case now before the Court will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

COURTROOM DEPUTY: Thank you very much. If you would walk this way, and have a seat in the witness box.

And if you would, once seated, state your name, and the spelling.

THE WITNESS: Colleen Clark. C O L L E E N, C L A R K.

THE COURT: I'm going to ask you to move the microphone either closer to you or you closer to it.

THE WITNESS: Okay.

THE COURT: Thank you.

THE WITNESS: You're welcome.

COLLEEN CLARK,

called as a witness by the Government, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. REICHLING:

Q Miss Clark, where do you currently work?

A Work Force Business Services.

Q And what is Work Force Business Services?

A We are a payroll, a PO company.

Q And what do you do for Work Force Business Services?

A I'm the VP at payroll operations records custodian.

Q And what -- is there a particular industry that WBS provides payroll services to generally?

A Primarily construction.

Q And was Target Roofing at one time a payroll client of WBS?

A Yes.

Q And was that during the years of 2017 through 2020?

A Yes, sir.

Q Now, generally speaking, I'd like to ask you some general questions about payroll, and how things work with WBS and the clients that need payroll services.

Generally, how does the adding of people to the payroll for a business typically work?

A They are provided enrollment forms. They then have the employees fill them out, and they return them to us.
Q And are these Work Force Business Services enrollment forms that you mentioned?
A Yes.
Q Now, does WBS have a database that retains information concerning employees for a business, and other pertinent information?
A Yes.
Q And what's that database called, if you know?
A Our particular one is PayPlus.
Q Now, if an employee is fired by the employer who is your client, how is that typically done?
A Different ways. If they're a web client, the person at the client's office would put the information in, we receive it via e-mail. Or you could just receive it from the client in an e-mail rather than going through our database.
Q And do your clients typically have different types of payroll periods?
A Because it's construction, most of them are weekly.
Q Was Target weekly -- Target weekly. Was Target Roofing's payroll period weekly, biweekly, or monthly?
A Weekly.
Q And, generally, for payroll, specifically with Target Roofing, how would that work? Could you explain what the

payroll company's involvement is in working between both the company that you service and the employees at the company?

A In regards to how the payroll's reported?

Q How it's paid to the actual employees that work for the company.

A We receive the payroll, obviously, we produce the checks that have our names on them, we then get them to the client, whether it be Fed Ex, or courier, or they could even pick it up.

Q And is the client, the employer, supposed to pay you for the payroll checks that you cut for these employees?

A Yes. When we -- some clients are on a direct debit, some clients pay by company check.

Q And how did Target Roofing pay?

A Company check.

Q And could you explain, with Target Roofing specifically, when did you typically need the payroll numbers in by from the company to generate payroll checks for employees?

A I believe they were a Wednesday web in. They webbed their payroll in on Wednesday, we delivered the checks, I believe, on Friday. They had a Friday check date.

Q So, just an example, to pay for last week's payroll, for instance, if last week was the payroll period, you would need their payroll numbers by -- today is Wednesday, I believe.

A Right. Normally, like their pay period, most clients

would end on Sunday. You know, but they don't actually work on Sunday, but say Sunday. They collect the hours, report them to us on Wednesday, then we cut the checks and get them to them by Friday.
Q And that's how it was done for Target Roofing; correct?
A Yes.
Q Now, when an employee is added to Target Roofing's payroll, does WBS retain record of employees that have worked for their various companies that they service?
A Yes.
Q And, for Target Roofing, was that the case?
A Yes.
Q Now I'd like you to take a look, I believe it's going to be Government's Exhibit 146.
A Okay.
Q What is Government's Exhibit 146?
A Basically a roster of all the employees that have been enrolled through Target Roofing to WBS.
Q And is that a document that you generated in accessing data that is contained in this database you were referring to?
A Yes.
Q And is this a fair and accurate copy of the payroll roster -- excuse me, the personnel roster for Target Roofing and Sheet Metal?
A Yes, sir.

Q And is this information information that is kept in WBS's ordinary course of business?
A Yes.
Q And what time periods does this include? Does it include 2017 through 2020?
A Yes. It starts with 1/2/17, and ends 9/2/20.
Q And these are all employees that have worked for Target Roofing at some point in time.
A Yes.
Q And is this a fair and accurate copy of this personnel roster?
A Yes.
MR. REICHLING: At this time, Your Honor, the government would move what's been previously marked as Government's Exhibit 146 into evidence.
MS. WAID: No objection, Your Honor.
THE COURT: 146 will be admitted and may be published.
MR. REICHLING: Thank you, Your Honor.
(Government's Exhibit 146 admitted.)
BY MR. REICHLING:
Q Now, I know the type on this is very small, but I want to direct your attention to Page 5 of the document, and in the lower right-hand corner of each page there is a Bates number, so if you look at Page 5.

A Okay.
Q Give me one moment here to get into my computer.
In looking at Page Number 5, and specifically in the month of May, was there a . . . a hiring of quite a few people during that May period?
A Yes, sir.
Q And, roughly, could you count how many people were added, beginning on May 6th up until May 22nd? Roughly.
(Witness examines evidence.)
A Thirty-six? I might have missed some. The font is very small. Till May 26th?
Q May 22nd. Through May 22nd.
A Forty-seven.
Q Forty-seven?
A Um-hum.
Q I'd like you to start on 5/6. Can you identify whether an individual named Margaret Crowther was added to the payroll on that date? Or added to the roster, excuse me, of employees for Target Roofing? And you can look at what's contained on --
A I see it. Yes. She's Employee 635.
Q And what about Anne Peters?
A Right below her, yes.
Q Dannielle Crowther?
A Below Anne.
Q And then there was an Aaron Robinson that was added on

5/8?
A Below Dannielle.
Q And then I see a Thomas Doman on 5/12 and a Donald Peters on 5/12?
A Yes.
Q Were there quite a few employees that were added on 5/15? I don't want you to have to count out. Are those the employees up there that I have shown up on the big screen there?
A Yes.
Q And does that extend onto Page 6?
A Yes.
Q And was there another addition of employees on 5/22?
A Yes.
Q And 5/18, I believe there's one employee?
A 5/18 there is one employee, yes.
Q Now, you stated that, when an employee -- one of your clients, who is an employer, right, Target Roofing --
A Yes.
Q -- wants to add a person to the payroll, what do they usually submit to WBS?
A An enrollment form.
Q Are there any tax documents included with that enrollment form?
A Yes. The W-4.

Q And does WBS also maintain records regarding what each employee is paid while they work for Target Roofing?
A Yes.
Q And does WBS also handle requests if an employee wants direct deposit?
A Yes. If it's available to the client, yes, we do.
Q And does Target Roofing have both employees that receive direct deposit and also checks, if you know?
A I'm not sure on that. I know that they are checks.
Q Okay. Now, I'd like you to take a look at Exhibit Number 64, which is right there on the ledge.
A Okay.
Q And I know it's quite a few documents. I'll have you just briefly go through them, take as much time as you need, but --
A Okay.
(Witness examines evidence.)
A Okay. They're enrollment forms.
Q And are there also forms there that are the -- some -- some may be in there for requests to have direct deposit?
A Yes.
Q And are there also records in there concerning record of termination of these employees?
A Yes.
Q And are there also records pertaining to each one of

these employees concerning a summary of pay?

A Yes.

Q And are there also some copies of a few checks that were issued by WBS to these individuals?

A Yes.

Q Are these records that WBS retains in its ordinary course of business?

A Yes, sir.

Q And, when you receive these documents, are they entered and recorded at or around the time that you receive them?

A Yes.

Q And are they fair and accurate copies of the enrollment form, the employment form, direct deposit form, termination e-mails -- or records, summary of pay, copies of some checks, and details of pay and taxes for individuals that were on Target's payroll during this May, 2020, period?

A Yes.

Q And they're fair and accurate copies of those documents?

A Yes, sir.

MR. REICHLING: At this time, Your Honor, the government would move what's been previously marked as Government's Exhibit 64 into evidence.

THE COURT: Any objections?

MS. WAID: No oh, Your Honor.

THE COURT: Sixty-four will be admitted and may be published.

MR. REICHLING: Thank you, Your Honor.

(Government's Exhibit 64 admitted.)

BY MR. REICHLING:

Q Now, I want to go through this document with you.

A Okay.

Q As I indicated to you, there are Bates Stamp numbers in the bottom right-hand corner of this exhibit.

A Okay.

Q So, as I go through the document, I'm going to be referred to page number, and those are the page numbers located on the Bates Stamp numbers.

A Okay.

COURTROOM DEPUTY: Are you ready?

MR. REICHLING: With regards to -- not yet. I will be in a second though. Thank you.

BY MR. REICHLING:

Q With regards to Pages 11 through 14, what do they contain?

A Eleven is Anne Peters' pay information, starting with check date 5/15. Continue on to 12?

Q Yeah. Tell me the weeks that she was employed there.

A Check date 5/22, check date 5/29, check date 6/5.

Q And what was her weekly salary? Before taxes, if it's --

A Each check was $1,780.
Q Now, with regard to Pages 25 through 28, what are those documents of?
A Forty-five is a W-4 for Aaron Robinson. I'm sorry, through what page?
Q Twenty-five through 28, I believe?
A I'm sorry, twenty-five?
Q Yes, ma'am.
A Twenty-five is Margaret Crowther's, check date 5/15, 5/22, 5/29, and 6/5.
Q And what is her weekly salary from that document?
A For each check was $1,900.
Q And I'd like you to look at Pages 37 through 40.
A Okay. Thirty-seven is Dannielle Crowther, check date 5/15, 5/22, 5/29, and 6/5.
Q And what was her weekly salary?
A $1,840.
Q Now I'd like to direct you to Pages 50 to 53.
A Page 50 is Aaron Robinson, Check 5/15, 5/22, 5/29, 6/5.
Q And what was his weekly pay?
A Weekly, $1,848.
Q And Pages 63 to 65, who was that for?
A I'm sorry, the numbers again?
Q Pages 63 through 65.
A Sixty-three is Donald Peters.

Q And what is his weekly salary?
A 1,850.
Q And is that what I'm showing up here, at least one of them, for one of the pay periods?
A Yes. That's check date 5/22. That's Page 63.
Q Now I want to direct your attention just to briefly go through Pages 66 through 263. Just page through them real quick.
A Okay.
Q Are these payroll records concerning the additional employees that had been added on 5/15 and 5/22? And I'll let you take your time to go through it, if you need, to answer your question.
A On the first one that you refer to, Page 64, he's date stamped on 5/15, so he was entered 5/15.
Q Can you identify this date stamp? It's actually a physical stamp; correct?
A Yes; it's actually the person that entered this into our database.
Q Would that be the date that the individual received the enrollment application from Target Roofing?
A It could be, but for us it's the day we received it from Target Roofing.
Q And is that the date you entered into your system?
A Yes.

Q Could you just continue to go through those and just confirm that those employees were added on 5/15 or 5/22? And I'm going to publish an example of this Bates Stamp you were referring to. Is that the stamp there, in the lower right-hand corner?
A Yes.
Q And is this an enrollment form for a Julio Chopin? You can look at what's on the projector.
A Um-hum. Yes. Or . . . . Yes.
Q And the next page of this document, what's this information that's entered here on the second page of the enrollment form?
A His name, the date that he filled it out, his date of birth, his address, and his Social Security number.
Q And were W-4s also provided to you for these employees?
A No. That would be Page --
Q Well, just in general, for all these employees that are in there, do you receive W-4s on their behalf?
A Yes.
Q And why do you do that?
A Because when we're calculating their net pay, you need that information to take out the taxes for federal taxes.
Q And, on Page 3 of the application, could you explain what I'm zooming in on here? And you can look on the screen.
A That one is just giving that he's being paid ten dollars

an hour, he's part-time, his name, who he works for, and his duty, which is office and clerical.
Q Were many of these, if you know, most, if not all of these employees that were added on 5/15, were they added as office clerical employees?
A Yes.
Q Now, the employees that were added on 5/22, were their job descriptions referred to as roofing?
A I'd have to look.
Q Go ahead and look.
A Okay. Beginning with -- yes, one on Page 185. And they then begin as a roofing job.
Q Okay. Let me ask you this. When WBS became aware of the hiring of the individuals on 5/15, did they reach out to Target Roofing, if you know?
A Yes.
Q And do you know why?
A Yes. Basically, it's a little unusual to have that many people hired at one time under 8810, which is clerical. And our -- because we do construction, everything is driven off of the work comp code, so we just like to make sure we have everybody correct in the work comp code.
Q And were you told what office duties these individuals were doing?
A Yes.

Q And what were they doing?
A Shredding papers.
Q Now, I'd like to just direct your attention to what's on the screen there. We talked about the termination notification. Is that an e-mail that's received by WBS when an employee is terminated?
A Through our -- the PayPlus database, yes.
Q And do you retain a copy of that notification that an employee has been fired?
A Yes.
Q And could you explain what the termination date is for Mr. Daniel Mejia?
A June 5th, 2020.
Q And the date it was entered?
A Well, the date we received it was June 16th.
Q And let me ask you this. All those employees that are contained in Government's Exhibit 64, were they all fired on June 5th -- or termination date were all June 5th, 2020?
A I would have to look through them all, but the information . . . appears to be they're all 6/5.
Q And let me ask you this. With regards to the employees -- with regards to paychecks and issuing paychecks, does WBS maintain records concerning payroll checks that are issued to employees?
A Yes.

Q And who is the bank that WBS banks with to issue payroll checks?
A Bank of America.
Q I'd like you to take a look at Government's Exhibit 65, which I think is before you. Do you recognize what that document is?
A Yes.
Q And what is it?
A It's an information from the bank showing some outstanding checks.
Q And that's a reconciliation summary of some sort?
A Yes; that the finance department works with. To reconcile the bank statement.
Q Okay. Does the records contained in Government's Exhibit 65 fairly and accurately depict the records of WBS concerning the status of payroll checks that WBS has with these particular employees?
A Yes.

MR. REICHLING: At this time, Your Honor, the government would move in what's been previously . . . what's been identified as Government's Exhibit 65.

MS. WAID: No objection.

THE COURT: Sixty-five will be admitted and may be published.

(Government's Exhibit 65 admitted.)

MR. REICHLING: Thank you, Your Honor.

BY MR. REICHLING:

Q Now, what does this document reflect, if you take a look at it? What does it show?

A These are checks -- it has the issue date, so it's starting with 5/22. And it's showing the amounts of the checks, the individual it was paid to, and that this -- whenever this document was drawn, that the checks are outstanding. They haven't been run through.

Q And generally, if you could just give an average, what's the typical check for, on average, for these individuals, the amount?

A The net amount, after the taxes . . . .

Q And what's that amount, just on average? Is it around $900?

A 900.

Q And are these checks for the individuals that were added to Target Roofing's payroll on 5/15 and 5/22?

A I recognize some of the names. Yes.

Q Were those checks ever cashed or deposited in your review of this document?

A No.

Q Would you think that is unusual, that an employee would not cash their check?

A Yes.

Q Okay. And roughly how many pages are on this document?
A Eleven.
Q And roughly how many employees are listed on each pay? On each page.
A Nine.
Q Nine?
A Um-hum.
Q So that's what, what's the math on that?
A A hundred.
Q Around a hundred paychecks that aren't cashed?
A Um-hum.

MR. REICHLING: One moment, Your Honor.

(Mr. Reichling and Mr. Leeman confer privately.)

MR. REICHLING: No further questions at this time, Your Honor.

THE COURT: All right. Thank you.

Miss Waid, you may cross.

MS. WAID: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. WAID:

Q Good afternoon, Miss Clark.
A Hi.
Q My name is Nicole Waid, and I represent Mr. Crowther.

Miss Clark, did you just state that there were approximately a hundred paychecks that aren't cashed?

A Yes.
Q So it's actually not that unusual for an employee not to pick up their paycheck; correct?
A I'm sorry, can you repeat that? I'm sorry.
Q Before, you stated on direct that it was unusual for an employee not to pick up paychecks; correct?
A Not to cash them, yes.
Q Not to cash them.
A Yes.
Q But then you stated that there were about a hundred that haven't been cashed. Right?
A Correct.
Q So it's actually not that unusual for them not to be cashed.
A It's unusual for someone not to want to be paid for three weeks.
Q Okay. But there's a hundred, still, that haven't been cashed.
A Yes.
Q Where is that money now?
A In WBS's bank account.
Q Okay. So the payroll company still has the money, and is holding onto that money; correct?
A Correct.
Q You stated, earlier, that WBS processes payroll for

companies; right?
A (Witness nods head up and down.)
Q And what kind of companies do you process payroll for?
A Basically just construction.
Q So just everything in the construction world; correct?
A Yeah. Practically. Drywall, all kinds of.
Q I'm sorry?
A Drywall companies, concrete companies, roofing companies.
Q So you know a lot about the construction business then; is that accurate?
A Yes.
Q And Target Roofing actually does roofing in Southwest Florida; is that right?
A Yes.
Q So they are an actual part of the construction business; is that right?
A Yes.
Q Okay. And you would agree, in the construction business, that payrolls fluctuate on a pretty normal basis; correct?
A Weather conditions, yes.
Q Okay. Weather conditions, right. Or, I'm sorry, for the record, you just have to say yes or no.
A Oh. Yes. Yes.

Q And if a new project is taken on by the company, that project could require a hundred new people, five new people, 12 new people; correct?
A Correct.
Q So it's constantly changing on almost a weekly or a monthly basis; is that right?
A Yes.
Q All right. And workers come and go.
A Yes.
Q And based on your knowledge of the construction business in Southwest Florida, would it be accurate to say that there are a lot of migrant workers, and people from other countries who come and actually work on the roof -- for the roofing company?
A I would not know where they came from. I would only see their driver's license information.
Q Okay. So you don't have actual knowledge of who is being hired by Target Roofing.
A Not until we receive the enrollment form.
Q Okay. Now, you stated, before, on the personnel records. I'd like you to look at G-146, Government's 146. Could you pull that up for me, or just look at it for me?
A Okay. Hold on.
Q I know that it's tiny, so I apologize, because I can't read it.

A Okay.
Q And you had stated, the government had asked you, from May 6th to May 22nd, there are approximately 47 people hired?
A Of 2020.
Q Of 2020, ma'am, yes.
A Yes, ma'am.
Q And, from 5/26, May 26th, 2020, until September 2nd, 2020, would it be accurate to say that there are about 53 employees hired? Just real quick.
A Yes.
Q And, on June 19th, could you look at that date?
A Yes.
Q Were there 11 people hired in one day?
A Yes.
Q Okay. And again, the reason that that could be is because the numbers and the projects for construction companies fluctuate on almost a daily basis; correct?
A Yes.
Q Are you the relationship manager for Target Roofing?
A No, ma'am.
Q So would you know that Target Roofing is actually a family business?
A No, ma'am.
Q And, in your experience, would it be unusual for a family business to hire family members?

A Is it unusual? No.
Q Thank you. Now, you stated that you got concerned, WBS got concerned, the company, when all of a sudden of 8810's were hired. Can you just remind the jury what's an 8810?
A That's a person that's in a clerical position. Behind a desk, or . . . .
Q Okay. And that was in approximately May, 2020; correct?
A Of when the -- yes.
Q Okay.
A The ones from May 15.
Q All right. And, in May, 2020, we were still really in the middle of a global pandemic. Is that accurate?
A Yes.
Q And construction sites, some of them were still closed down; is that right?
A I wouldn't be able to answer that. I . . . . Our business stayed pretty level.
Q So you just did the payroll.
A Yes.
Q But it's correct, or accurate, that we were in the middle of global pandemic; correct?
A Yes.
Q And many people were staying home and doing clerical type of work; correct?
A Yes.

Q And lot of businesses actually hired people to do clerical work to stay home; is that accurate?
A Yes.
Q Okay. And you also stated that a Target employee told you that these people were actually shredding. Is that accurate?
A Yes.
Q And did you speak to this person from Target?
A No.
Q Okay. Who did?
A Tracy Wetter.
Q And do you know who Tracy spoke to?
A Evelyn.
Q Evelyn whom?
A Portinal, the HR person from Target.
Q Okay. Evelyn Portinari?
A Portinari.
Q So Tracy spoke to Evelyn Portinari; correct?
A Correct.
Q Okay. And you've never spoken to Casey Crowther.
A No.
Q Okay. And, to your knowledge, Tracy didn't speak with Casey Crowther regarding the shredding, either, did she?
A I do not know. She had told me she spoke to Evelyn.
Q And isn't it true that WBS actually sent somebody to

verify the 39 employees?
A I believe they talked on the phone. They did not physically go there.
Q And when you say you believe, what is your basis for your belief that they spoke on the phone to somebody and didn't go there?
A I saw that -- I had information that he had just made a phone call and didn't go to the job site.
Q Where did you get that information from?
A Our CSS person. Customer service person.
Q And when they said -- so that person told you that they had a conversation with Target regarding the nine employees.
A Yes. He was trying to set up an appointment, but I guess it wasn't -- the times weren't matching.
Q And again, this is during COVID; correct?
A Correct.
Q Now, again, you actually stated that the primary purpose of your company is you're payroll a company; correct?
A Payroll and work comp.
Q So we're going to get into some payroll records, okay?
A All right.
Q I'm going to show you what's been marked as Defense Exhibit C8 and C9.
A Okay.
(Counsel confer privately.)

BY MS. WAID:
Q Do you have an employee named Mario at WBS?
A That might be the CSS. Do you have last name?
Q No worries. We'll get it.
A Okay.
(Counsel confer privately.)
MS. WAID: Okay. Permission to approach, Your Honor?
THE COURT: You may.
MS. WAID: Thank you.
(Counsel provides evidence to the witness.)
BY MS. WAID:
Q After you've looked at them, just let me know. And whenever you're ready. Take your time.
A Okay.
(Witness examines evidence.)
A Okay.
Q Are you familiar with Defense Exhibit C8?
A Yes. It's a report that our system generates.
Q When you say, "our system," do you mean the system from your company?
A Yes.
Q And that's WBS?
A Yes.
Q And what's WBS stand for again?
A Work Force Business Services.

Q Okay. And see the 2019 payroll records?
A Okay.
Q Is that what you are looking at?
A I'm looking at this first one, Exhibit C8, the pay period -- the first page is pay period ending 12/29/19. That's C8.
Q Okay.
A It's basically just listing all the checks for that pay period, and the check date, which is in 2020. Their pay rate, their hours, the last four digits of their social, their hire date and their term day. And then all the deductions for that particular gross amount.
Q Okay. And were these documents prepared in the ordinary scope of the business of your company?
A Yes.
Q Where are these documents stored after they're prepared?
A They're just in our database. You go in, and you put a date that you need to reference, and it will pull them.
Q Okay. And is it a regular part of your business to keep and maintain records of this type?
A Yes.
Q And are these documents of this type kept under the custody and control of WBS?
A Yes.
MS. WAID: Your Honor, we'd like to move in the

payroll records for 2019 as Defense Exhibit C8.

THE COURT: Any objection?

MR. REICHLING: No, Your Honor.

THE COURT: C8 will be admitted.

(Defendant's Exhibit C8 admitted.)

BY MS. WAID:

Q Now, Miss Clark, could you please take a look at C9?

A Okay. Okay.

Q Okay. Are you familiar with Defense Exhibit C9?

A Yes, ma'am. It's basically a check summary. It's beginning with pay period ending 12/23/18, with the first check date of this being 1/4/2019, and it runs all the way through . . . to check date 12/27/19.

Q Okay. And were these documents prepared in the ordinary scope of the business?

A Yes, ma'am.

Q And where are these documents stored?

A In our database. By date range.

Q Sorry.

A WBS's date range, or database by date range.

Q Is it a normal part of your business to keep these records?

A Yes, ma'am.

Q And are these records the type that would be kept under your WBS's custody and control?

A Yes, ma'am.

MS. WAID: Okay.

I'd like to enter in C9.

MR. REICHLING: No objection, Judge.

THE COURT: C9 will be admitted.

(Defendant's Exhibit C9 admitted.)

BY MS. WAID:

Q Thank you. And does Mr. Mario Curia work for WBS?

A He might be one of our CSSs, our customer service people that go out and do job site. I'm not familiar with all them.

Q So you wouldn't be sure if Mr. Curia actually did an on-site visit. You have no knowledge of that; correct?

A Correct.

MS. WAID: Court's indulgence, Your Honor.

(Ms. Waid and Mr. Dickerson confer privately.)

MS. WAID: No further questions. Thank you.

THE COURT: Any redirect?

MR. REICHLING: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. REICHLING:

Q Miss Waid asked about whether it's unusual concerning the checks going uncashed or deposited. I wanted to direct your attention back to Government's Exhibit 65, which was that Bank of America record.

A Okay.

Q I just wanted to verify, these were checks that were issued to those employees we talked about for the pay periods of, I believe it's -- well, 5/22, 5/29, and 6/5?
A That's the issue date, so I think that probably would have been --
Q The pay period before?
A Yes. So we have check date 5/22, 5/29, and we stop at 6/5.
Q And so that's three weeks of paychecks that were issued to these people? These individuals we talked about that were added on 5/15 and 5/22?
A I'm going to look at the 5/22.
(Witness examines evidence.)
A Yes.
Q And so, for a three-week period, almost a hundred paychecks were not cashed or deposited?
A Correct.
Q Is that unusual?
A Yes.
Q And, among those listed individuals, was there an Agustin Castillo and I'll direct your attention to, I believe it's going to be . . . . The top of Page 9 of that exhibit. Is there an Agustin Castillo listed?
A Yes.
MR. REICHLING: No further questions, Judge.

THE COURT: Any recross?

MS. WAID: Nothing, Your Honor.

THE COURT: You may stand down. Thank you.

(The witness left the witness stand and left the courtroom.)

THE COURT: You may call your next witness.

MR. LEEMAN: The United States calls Evelyn Portinari, Your Honor.

COURTROOM DEPUTY: If you would come this way.

Good afternoon. Would you please raise your right hand?

Do you solemnly swear or affirm the testimony you are about to give in the case now before the Court will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes.

COURTROOM DEPUTY: Thank you very much. If you would have a seat in the witness box, and, once you're seated, if you would speak into the microphone and tell us your name, and spell it for us.

You can take your mask off only if you feel comfortable.

THE WITNESS: All right. Evelyn Portinari.

EVELYN PORTINARI,

called as a witness by the Government, and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LEEMAN:

Q Good afternoon, ma'am. Would you spell your last name for the record, please?
A Yes. P, as in Paul, O R T I N A R I.
Q Miss Portinari, are you employed?
A Yes.
Q By whom?
A Target Roofing and Sheet Metal.
Q What do you do for Target Roofing and Sheet Metal?
A I am the director of human resources.
Q How long have you been the director of human resources?
A Almost three years.
Q And how long have you been with Target Roofing?
A Almost three years.
Q So director of human resources the whole time?
A Correct.
Q What do you do as the director of human resources?
A Handle anything that has to do with our personnel, with our employees. Hiring, firing, benefits, that sort of thing.
Q When you say anything related to that, with respect to hiring, what some of your typical duties?

A Placing ads when we're looking for people, conducting initial phone interviews for office employees. New-hire paperwork for the office side of things.
Q Filling out or -- what do you with respect to new-hire paperwork?
A Submitting it to our payroll company, providing it to the new employee that's being hired.
Q How about firing?
A Yes; I do assist with that.
Q Okay. What type of things do you do with that?
A You know, typically the manager of that employee will handle the firing, and I'm there as a witness to provide whatever documentation is needed.
Q All right. You were working there back in May of 2020; is that right?
A That's correct.
Q Do you recall a time in that month when Target Roofing hired five individuals who were related to Mr. Crowther?
A Yes.
Q Can you explain the circumstances surrounding the hiring of those five individuals?
A I was informed, by Mr. Crowther, that we needed to be hiring those five employees. And so, from there, I handled that.
Q Did he say what they were going to do?

A No.
Q Did you ever find out what they did?
A No.
Q Did you ever see them working in the office?
A No.
Q Let me ask you a little bit, Target Roofing, does it have sort of an office job site? A corporate office, I guess, is a better description?
A Yes. We have an office.
Q Where is that at?
A It's at 1841 Ortiz Avenue.
Q All right. And is that where the clerical staff for the business would work?
A Yes.
Q Could you describe it? What it actually looks like? To the jury?
A Sure. So the building is broken up. We have office space, and then behind our office space is an open warehouse, which is considered our shop, where we do all of our metal fabrication. And then, on the back of the property, we have a house that stores inventory and other items.
Q All right. I mean, how many -- how many offices within the office space are we talking about?
A There's about 15 to 20 offices, and then there's cubicles.

Q Okay. How many cubicles would you estimate?
A Probably about 12 to 15.
Q Okay. Are all the offices and cubicles sort of in the same area?
A No. The cubicles are in the back of the office space. And then all of the offices are on the outer walls and then in the center.
Q All right. Well, I'm going to put up something that has been previously entered into evidence, and I'm hoping you might explain some of it. I guess, first, are you familiar with a woman named Anne Peters?
A Yes; I know who she is.
Q Okay. Who is Anne Peters?
A She is Mr. Crowther's mother-in-law.
Q Was Miss Peters hired by Target Roofing in May of 2020?
A Yes.
Q And, in front of you, ma'am -- actually, Madam Deputy, could I get the document displayed?
(Evidence was published via the projector.)
BY MR. LEEMAN:
Q In front of you, ma'am, there's a picture of an exhibit that's already been admitted. I'm going to zoom in on a portion of it and ask you if you recognize it.
A Yes.
Q What is it that we're looking at there?

A It's part of the new-hire pack.
Q Okay. For who?
A Anne Peters.
Q All right. And does it indicate on there what Miss Peters' rate of pay was to be?
A Yes.
Q And what was it?
A 1780 salary.
Q Okay. And when you say salary, what does that mean? A weekly salary?
A Correct.
Q Okay. And does the document indicate what date Miss Peters was hired on?
A 5/11.
Q And before you said -- I want to make sure it applies to Miss Peters -- you have no idea what Miss Peters did at the company.
A Correct.
Q And you never saw her work there.
A Correct.
Q Did you ever ask?
A No.
Q Did you ever see her in the office? Working?
A No.
Q Did you ever see her in the office at all?

A Yes.
Q During the time period she was hired?
A I'm not sure.
Q All right. Margaret Crowther, are you familiar with that name?
A Yes.
Q Who do you know Margaret Crowther to be?
A She's Mr. Crowther's wife.
Q Okay. Was she hired in May of 2020?
A Yes.
Q Do you know what she did for the company?
A No.
Q Were you ever told what she did -- as the human resources director of the company, what she did?
A No.
Q Did you ever see her working at the company during the timeframe of her employment?
A No.
Q Did you know if she was actually out of the state at the time she was working at the company?
A No.
Q Okay. If you'd look up, I always have problems when it's my turn. I zoomed in on Page 18 of Exhibit 64. It's in front of you, ma'am. It's highlighted, a certain section of that page. Do you recognize that?

A Yes.
Q Okay. What are we looking at?
A That would be part of the new-hire pack.
Q Okay. And this is the new-hire packet for what employee?
A Margaret Crowther.
Q And does it indicate what her rate of pay was?
A Yes.
Q And she was hired to do what? Or excuse -- what was the rate of pay?
A 1,900 salary.
Q And does this document indicate a hire date?
A Yes.
Q What is that?
A 5/11/2020.
Q A little bit about these documents. Are you the one who created them, or how exactly do these documents -- did they come into your possession as the human resources manager?
A Yes.
Q And then what did you do with them after you get those documents?
A Printed them, processed them, and sent them over to our payroll company.
Q Which was called what?
A Work Force Business Solutions.

Q So how do these documents get to you?
A They came through a hiring portal called BirdDogHR.
Q Were you working with anybody, explaining how to use the portal, to get the documents uploaded?
A The documents were already uploaded.
Q Oh, I'm sorry. Give me a brief idea of how the portal looks to someone trying to get these documents to you.
A Sure. So an e-mail address is entered into the BirdDog system, and a link is then sent to the person's e-mail. From there, the person will click on the link and follow the instructions to fill out the new-hire application.
Q Okay. Are you familiar with a woman named Dannielle Crowther?
A Yes.
Q Who is that?
A That would be Casey's sister.
Q Okay. Was Dannielle Crowther hired by Target Roofing in May 2020?
A Yes.
Q As the human resources director, do you know what she did for the company?
A No.
Q Did you ever see her at the company, working?
A No.
Q Did you ever see her at the company during the time

period of her employment at all?
A No.
Q I'll refer you back up to the screen, Miss Portinari. It shows Government's Exhibit 64, Page 32. This is new-hire paperwork for Miss Dannielle Crowther; is that right?
A Correct.
Q Her rate of pay on a weekly basis was?
A 1,840.
Q Are you familiar with an individual named Aaron Robinson?
A Yes.
Q Who do you know Mr. Robinson to be?
A Mr. Crowther's brother-in-law.
Q Was Mr. Robinson hired by Target Roofing in May 2020?
A Yes.
Q Did you ever see Mr. Robinson work for -- well, do you know what Mr. Robinson did for Target Roofing?
A No.
Q Were you ever told of what his duties were -- as the HR director of this company, what his duties were?
A No.
Q Did you ever see him working at Target Roofing?
A No.
Q Did you ever see him, at all, during the time period of his employment?

A No.
Q If you look back up at the screen, I've got Exhibit 64, Page 44, ask you if that's new-hire paperwork, or at least one page, for Mr. Aaron Robinson?
A Yes.
Q Does it indicate what his weekly salary was?
A Yes.
Q And what was it?
A $1,840.
Q Have you ever heard the name Donald Peters?
A Yes.
Q Do you know who Mr. Donald Peters is?
A Yes. He's Mr. Crowther's father-in-law.
Q Was Mr. Donald Peters hired by Target Roofing in May, 2020?
A Yes.
Q Did you ever see Mr. -- well, do you know, were you ever told, what Mr. Donald Peters, as the HR director of this company, was hired to do?
A No.
Q Did you ever see Mr. Donald Peters working for the company?
A No.
Q Did you ever see him, at all, at the Target Roofing office during the time period of his employment?

A No.
Q I've zoomed in on Page 64 -- excuse me -- Page 57 of Exhibit 64. I'd ask you, Miss Portinari, is that a copy of a page of the new-hire paperwork for Mr. Donald Peters?
A Yes.
Q And I've been referring to this individual as Mr. Donald Peters. The paperwork refers to Donald Peters, Jr. Have we been talking about the same individual, despite the junior?
A Yes.
Q How much does it indicate that Mr. Donald Peters, Jr. was paid on a weekly basis?
A 1,850.
Q Now, I believe we just went through five individuals. Were those individuals terminated on some effective date?
A Yes.
Q Do you know what that date was?
A Not off the top of my head.
Q Let me show you. Were they all terminated effective the same date?
A I don't know without looking at my records.
Q All right. Zooming in on an e-mail here that was obtained from WBS in Exhibit 64, does that tell you the date Miss Anne Peters was terminated?
A Yes. June 5th.
Q I've moved to Exhibit 64, Page 21, zoomed in on some of

the content. Does that page indicate which date Miss Margaret Crowther was terminated?
A Yes.
Q What date?
A June 5th.
Q Moving to Exhibit 64, Page 34, does that page indicate which date Dannielle Crowther was terminated?
A Yes.
Q And what date was that?
A June 5th.
Q All of 2020; is that right?
A That is correct.
Q Moving to Exhibit 64, Page 47. Does this document indicate when Mr. Aaron Robinson was terminated from Target Roofing?
A Yes.
Q And what date was that?
A June 5th, 2020.
Q Moving to Page 59 of Exhibit 64, I'm going to zoom in on the content for you to see, Miss Portinari. Does that record indicate which date Mr. Donald Peters was fired? Terminated, I should say?
A Yes.
Q What date was that?
A June 5th, 2020.

Q Okay. All those records appear to be accurate to you; right?
A Yes.
Q Were you ever provided an explanation for why these individuals, these five individuals, needed to be terminated?
A No. Just that they weren't working for us.
Q Who provided you that explanation?
A Mr. Crowther.
Q Casey Crowther.
A Correct.
Q Okay. In May of 2020, were there any other instances in which large -- well, let me just ask you, were there any instances in which large batches of people were hired by the company, outside of these family members?
A Yes.
Q How many instances were there?
A Two.
Q Okay. Do you remember when? I'm -- is it fair to refer to them as two hirings of batches of employees?
A No. Yes.
Q Okay. When was the first batch hired?
A I'm not sure the exact date.
Q Okay. Second batch either, you're not sure the exact date?
A Correct.

Q If you saw the hiring paperwork, would that, perhaps, refresh your memory?
A Yes.
Q Let's talk about the batches. Do you at least remember the first batch, if you don't remember the exact date they were hired on?
A Yes.
Q How did this batch of employees come to your attention?
A Their new-hire paperwork was either given to me or left on my desk. But at some point it came into my office.
Q Do you remember who it was from?
A No.
Q Okay. And what did the new-hire paperwork say?
A What do you mean?
Q Well, was it filled out?
A Some of it, yes.
Q Okay. So there were some blanks?
A Yes.
Q Were there any -- what were you to do with it?
A I needed to process it to send it over to the payroll company.
Q Okay. So how could you do that if there were blanks?
A Wherever there were blanks, I filled in the missing information from whatever was provided.
Q Where did you get the missing information from?

A From the new-hire packet.
Q Were you provided any documents to . . . identification type documents to fill out the paperwork?
A I was provided documentation documents; yes.
Q Okay. And what type of documents were those?
A They were Social Security cards and green cards.
Q And who gave you those?
A They were given to me by Mr. Crowther.
Q Okay. So you don't remember exactly how you got the application or the new-hire paperwork itself; but the documents, the Social Security cards and the green cards, were given to you by Mr. Crowther?
A Um-hum.
Q And they actually existed. They were cards.
A That is correct.
Q Okay. Now, this first batch of employees, did Mr. Crowther ever tell you what they were being hired to do?
A Yes.
Q What did he say?
A They were being hired to shred documents.
Q At that time, you had worked at the company for roughly how long?
A Two and a half years.
Q All right. And in the two and a half years you had worked there, had you ever hired a large batch of people to

shred documents before?
A No.
Q In the time since then, have you known the company to hire a large number of people to shred documents?
A No.
Q Did you ever see any of these individuals who were hired to shred documents?
A No.
Q Do you know where documents may have been that they were shredding?
A They were in the house that's at the back of the property.
Q Okay. So do you know if those documents got shredded?
A I believe so.
Q Did you ever see anybody working out there, shredding documents?
A No.
Q Is this a house that you see as you go to your car when you're coming in in the morning or leaving at night?
A Yes.
Q Okay. You didn't see anybody milling around, carrying away garbage bags, or a shredding truck parked outside, anything like that?
A No.
Q Let me ask you, actually, how does Target handle its

shredding needs on a sort of day-to-day basis?
A Each individual department would handle that on a day-to-day.
Q You actually have shredders in the office?
A Yes.
Q You don't hire a company to come do it, do you?
A No.
Q Shred as you go, essentially?
A Correct.
Q All right. So let me get to the document. Was there anything, as someone who was the human resources director of the company, that struck you as unusual about hiring this batch of employees to shred papers?
A No.
Q There was nothing out of the ordinary about doing that?
A No.
Q Totally normal for you to hire a large batch of people for the company?
A We do hire people in groups; yes.
Q But not to shred papers.
A Correct.
Q Was it abnormal for Mr. Crowther to be so involved?
A Yes. At the time.
Q What do you mean at the time?
A He was very involved prior, when we were working on a

hurricane up in Panama City.
Q Okay. But that was a sort of one-off time where he was super involved in the hiring process?
A Correct.
Q So this is another instance where it's happened, but you would characterize that as unusual; is that fair?
A Sure.
Q All right. I'm going to move to -- I asked you before, if I could show you a document, if that might refresh your recollection about when the first batch of employees was hired. I'm going to show you 64 -- Exhibit 64, Page 66. It will be on the screen in front of you.
Do you recognize that document, at least generally?
A Yes.
Q All right. And what is that? Is that another piece of new-hire paperwork?
A That's correct.
Q Is there something on there that might refresh your memory about the date of the highering?
A No.
Q Do you see the stamp at the bottom, CDC May 15th, 2020?
A Yes.
Q Does that mean anything to you?
A No.
Q Okay. How about on Page . . . . Well, I'll just move

on past it, I guess.

How about Page 71?

I've got a problem here. I actually don't know how to turn this document not sideways. Hold on.

May I have a moment, Your Honor?

THE COURT: You may.

BY MR. LEEMAN:

Q All right. Miss Portinari, the second batch of individuals that were hired, how were they presented to you?

A Again, I was either given or the new hire packets were left on my desk.

Q Okay. So you don't have specific recollection of how you got the packets?

A No.

Q You . . . how about were the packets filled out?

A Some of the information was filled out, and whatever wasn't, I filled in the rest.

Q Okay. And how did you do that?

A Based on what was given to me in the packet.

Q Okay. Were you provided any type of identification documents for these individuals?

A Yes.

Q Okay. What types of education identification documents were you provided?

A Social Security cards and green cards.

Q Okay. And did you -- who did you receive this from?
A From Casey Crowther.
Q Actual cards again.
A Yes.
Q All right. Did Mr. Crowther tell you what that second batch of employees was being hired to do?
A I believe they were all roofers.
Q Okay. Did he tell you that they were roofers?
A The paperwork's all filled out that way, so yeah, they were roofers.
Q Okay. Did you ever see any of them?
A No.
Q Not one.
A No.
Q Did you ever see any of the first batch of employees?
A No.
Q Not one.
A No.
Q Okay. I want to, if I could -- I believe, in front of you, you should have a document -- nope, you do not. I have it right here. I'll bring it to you if the Court will permit me.
THE COURT: You may.
(Counsel provides evidence to the witness.)
BY MR. LEEMAN:
Q Okay. Ma'am, I don't know if you've had a chance to the

look at it. Have you been able to take a look at Government's Exhibit 150?
A No.
Q All right. If you'll take a look at it, and when you're done, tell me if you recognize it.
(Witness examines evidence.)
A Yes, I do recognize them.
Q Okay. What is it, ma'am?
A They are the permanent resident cards and Social Security cards for the employees.
Q Okay. Is that the permanent residence card and Social Security Card for each of the employees in those two batches we have been discussing?
A I believe so.
Q Okay. And these documents were provided to you by Mr. Crowther.
A Correct.
Q How did they end up sort of in this scanned format?
A I photocopied them.
Q Do they appear to be true and accurate copies of what you photocopied that was provided to you by Mr. Crowther?
A Yes.
MR. LEEMAN: Your Honor, the government would seek to introduce Government's Exhibit 150 at this time.
MS. WAID: No objection.

THE COURT: 150 will be admitted.

(Government's Exhibit 150 admitted.)

MR. LEEMAN: May I publish, Your Honor?

THE COURT: You may.

(Evidence was published via the projector.)

BY MR. LEEMAN:

Q I'm going to zoom in on the first page. Uriel Cardenas. There's a Social Security Card and a United States of America permanent resident card; is that right?

A That's correct.

Q And the Social Security Card is unsigned; is that right?

A That's correct.

Q Just go through the pages here. Agustin Castillo, another employee hired by Target Roofing; is that right? Page 2?

A Yes.

Q And his Social Security Card is unsigned; is that right?

A Correct.

Q Jesus Chanta, another person hired by Target Roofing in one of those batches; is that right?

A Correct.

Q Social Security Card is unsigned; isn't that right?

A Correct.

Q Is there a single signed Social Security Card in this packet?

A I'm not sure. I don't believe so.
Q Go ahead and look.
A That's correct.
Q Correct that there are no signed Social Security cards.
A Yes.
Q I'm going to just zoom in on a fingerprint here and see if you can see. Do you see what appears sort of like a lighter imperfection in the fingerprint that's contained on the ID card? In the middle?
A No.
Q I believe you can see my mouse up there. Can you see it moving around? See where I'm circling?
A Yes.
Q The lighter gray space? How about this. Do you also see this sort of darker gray bar here, curving over the top of the white area?
A Yes.
Q It's a fingerprint; right? That's what that is on that card?
A Yes.
Q Move on to somebody else's fingerprint. You tell me if you see the same sort of dark bar, same white area on the same part of the fingerprint. Do you see that, ma'am?
A Yes.
Q I'll move on to somebody else's. Do you see that sort

of same dark bar, same imperfection, same light spot in the middle?

A Yes.

Q I'll just pick a random one here, just move on. Just go to Page 17, see if it still exists. Got a sort of black rounded bar above a white imperfection?

A Yes.

Q These people came in at two different times; is that right?

A Correct.

Q One to shred paper, which has never happened in your time of being a human resources director; right?

A Correct.

Q Another time, perhaps for roofing; right?

A Correct.

Q You never saw them.

A Correct.

Q They all show up with Social Security cards and . . . lawful permanent resident cards, green cards; right?

A Correct.

Q Nobody showed up with a driver's license?

A No.

Q Nobody showed up with a Florida ID card?

A No.

Q Lawful permanent residents can get driver's license's

right?
A I'm not sure on that.
Q Okay. Everybody showed up with the exact same looking paperwork. Didn't seem unusual to you?
A No.
Q Okay. These 39 individuals, were they terminated all at one time?
A Yes.
Q What date?
A I believe June 5th.
Q Could I refresh your memory if I got back to a document?
A Yes.
Q Let me show you -- let me -- sorry about that. Zoom in here. Showing you an exhibit that had been entered earlier, Exhibit 64, I just went to Page 129, to show employee Luis Rivera. Is that an employee that was hired during that period?
A Without his hire date, I'm not sure. I can look through his paperwork.
Q How about looking through the termination date. What's the termination date of that individual?
A June 5th, 2020.
Q Just go to Page 32 of Exhibit 150. What's that employee name, ma'am?
A Luis Rivera.
Q Does comparing those two documents remind you the date

that all of these individuals were fired?
A Yes.
Q And what was that date?
A June 5th, 2020.
Q All right. Were you ever provided, as the human resources director of this company for three and a half years, an explanation for why these individuals were fired?
A I was told we didn't need them anymore.
Q Shredding was presumably done?
A Yes.
Q Okay. How about the roofing project? Was there some roofing project that wrapped up at about that time?
A I'm not sure.
Q These people's hours, how were they provided to you?
A They were provided to me by Casey Crowther.
Q Okay. Is that typical, Mr. Crowther handling individual employees' hourly submissions?
A He was overseeing them, so yes. It goes by whoever is overseeing those people.
Q He was overseeing the paper shredding process?
A Yes. I believe so.
Q Okay. But how does it work? How many roofers, approximately, did Target Roofing employ at the time? You don't have to give us an exact number.
A Probably well over a hundred.

Q Okay. How many of the hundred would Casey Crowther handle turning over their hourly work reports to you?
A None unless he was in charge of that group.
Q So this was a special Casey Crowther project?
A Correct.
Q And these roofers, the roofers that were hired in the second superseding batch, were special Casey Crowther roofers that he provided the hours for?
A Yes.
Q Show you one more thing here, Government's Exhibit 151 in front of you. Take a look at it, tell me if you recognize it.
(Witness examines evidence.)
A Yes.
Q What is it? And don't read it to me, just kind of tell me generally what it is.
A It's an e-mail correspondence from Casey to the rest of the management team.
Q Okay. Is he talking to you too?
A He's talking directly to me.
Q Okay. He's talking directly to you. Is it a true and accurate copy of an e-mail that you received?
A Yes.
Q Okay. And, generally speaking, does it relate to PPP money?

A Yes.

MR. LEEMAN: Okay.

Your Honor, at this point in time I'd ask to introduce Government's Exhibit Number 151 into evidence.

THE COURT: Any objections?

MS. WAID: No objection, Your Honor.

THE COURT: 151 will be admitted.

(Government's Exhibit 151 admitted.)

MR. LEEMAN: May I publish it, Your Honor?

THE COURT: Yes.

(Evidence was published via the projector.)

BY MR. LEEMAN:

Q Miss Portinari, I'm going to start at the bottom, because I think that's the most recent part of the -- the oldest part of the e-mail; right? Is that right, ma'am?

A Yes.

Q Okay. So what's the date of the e-mail I've highlighted here, starting at the bottom?

A May 28th, 2020.

Q And the sender is?

A Casey Crowther.

Q And he's writing to who?

A To me.

Q Okay. And what does he say?

A "Evelyn, can you please get us all together for a meeting tomorrow. They changed the rules, and no longer need to spend all money in eight weeks. Need to change some strategy up immediately."

Q All right. Did you set up a meeting?

A I believe so.

Q Okay. Do you remember what the change in strategy was?

A We had been allowing -- having our employees work a good amount of overtime to get through a bunch of work that we had on the books. And so, when the rulings changed, we pulled back on the amount of overtime that people were working.

Q Was there any discussion of firing any of these special project employees?

A Not that I recall.

Q Not that you recall.

A (Witness shakes head side to side.)

Q Did you think of it when they were later terminated on June 5th, 2020?

A No, I hadn't thought about that.

Q How much do you make at Target Roofing? Weekly.

A Weekly?

Q Yeah.

A A little over a thousand.

Q A little over a thousand? The five family members that were hired and you never saw working at the office made close to double what you made, didn't they. The director of human resources.

A Yes.

Q Now, during the time period that was mentioned at some point in this case, during the time period, were you actually working in the office?

A Yes.

Q So you were coming in every day.

A Yes.

Q Even though it was coronavirus time.

A Yes.

Q Did you have anything that kept you . . . that you couldn't move around within the office? I mean, it's coronavirus time. I'm just wondering was there some reason that you didn't go out much?

A Yes.

Q Okay. Let's talk about that. Go ahead.

A All office staff were moved into their own individual offices, and separated out. Doors would remain shut at all times, and we were meeting via Zoom and communicating that way.

Q Okay. How about -- Zoom meetings. So you guys were having Zoom meetings?

A Zoom or Google Hangouts.

Q Did you ever see Margaret Crowther taking part in a work meeting on Google Hangouts?

A No.

Q Aaron Robinson joining a Zoom call?
A No.
Q Donald Peters, Google Hangouts, Zoom?
A Donald Peters, Jr.? No.
Q Donald Peters, Jr. Same question. That's a no?
A No.
Q The individuals that I showed you, that were hired in the two batches, were they paid via direct deposit or paid via checks?
A Checks.
Q Do you know what happened to their paychecks? How would they get their checks, or how would an employee normally get their checks at Target Roofing?
A Which question are you asking?
Q The last one. Sorry. How would an employee normally get their checks at Target Roofing?
A From their manager. So checks will come in to me, I will divide them out by department, and then they're disbursed to those department managers.
Q Okay. How about these checks for these 39 people?
A They were given to Mr. Crowther.
Q All right. Do you have any idea what happened to those checks?
A Yes.
Q Okay. What happened to them?

A Those checks were recently given back to me.
Q Recently?
A Yes.
Q Okay. Like since the time this case has been pending?
A Yes.
Q Okay. Who gave them back to you?
A Mr. Crowther.
Q How many did there appear to be?
A A lot.
Q For each of these employees we're talking about here?
A Yes.
Q What did he ask you to do?
A They were submitted to the State of Florida.
Q Okay. Did you actually -- are the checks in envelopes --
A Yes.
Q -- when they were provided to you?
A Yes.
Q Did you actually have to open the envelopes up?
A Yes.
Q Did you actually see a physical check?
A Yes.
Q Still there?
A Yes.
Q Uncashed?

A Yes.
Q What does it mean to submit it to the State of Florida? Why would you do that?
A It's for unclaimed funds.
Q Mr. Crowther tell you why?
A He said that they weren't picked up.

MR. LEEMAN: I don't have any further questions, Your Honor.

THE COURT: Okay. Miss Waid, what's your preference, depending on the extent of your anticipated cross?

MS. WAID: It's going to be a while, Your Honor, so.

THE COURT: Okay. That makes it easy.

We'll break for the evening. Again, 9:00 o'clock, I assume, works for everyone? All right.

Please do not discuss the case among yourselves, or allow anyone to discuss it with you or in your presence. Don't watch any news, read any newspaper, or read any other source of media, as there may well be coverage of the case again. And again, have a good evening. I'll see you at 9:00 o'clock tomorrow.

(At 4:59 p.m., the jury was escorted from the courtroom.)

THE COURT: The witness may be excused until tomorrow.

(The witness left the witness stand and left the courtroom.)

THE COURT: All right. Counsel, how are we doing in terms of timing, and progress?

MR. LEEMAN: I think . . . . I think the timing is going well, Your Honor. I think we're -- I think a part of the issue the government's having right now is we have -- we do have some witnesses who have traveled here for the mortgage fraud part of this case. They've traveled across the state, and they've been sitting in hotel rooms now for a couple days. We're holding them off, putting on other parts of this.

That's really the -- what's hanging on out there. That's what might sort of drive the length of the trial, is a decision on that issue. Certainly, they're crawling down our backs, too, to tell them what's gonna happen. But obviously we're at the mercy of the Court on that. But that's what is driving it.

I do feel like we will finish this week, almost regardless of how the Court rules on that issue.

THE COURT: Well, let me ask you, have you presented the evidence that you think I need to know as a predicate for deciding the mortgage fraud admissibility?

MR. LEEMAN: Yeah. If I may, Your Honor, just briefly consult?

THE COURT: Sure.

The rest of you may be seated if you wish.

(Mr. Leeman and Mr. Reichling confer privately.)

MR. LEEMAN: Your Honor, the only thing -- I think it probably technically is presented in that -- a number of bank statements have been entered which would show the flow of money. They haven't been published yet. We intend to get into those with sort of a summary exhibit witness. So it hasn't really been aired, I guess, so, no, it hasn't been presented to you.

Mr. Reichling is certainly the guru on the dates about those things. If you would entertain hearing him again -- the documents I don't think are going to change, no matter . . . you know, they are what they are. And so I don't know if the Court would prefer to do it that way. Otherwise, I don't suspect the Court will really see the documents until tomorrow, obviously, when Miss Knott testifies.

THE COURT: Well, I'm ready to rule now, but I want to give you the opportunity to get all the evidence in that you think I need to know. If it helps you to have me rule now for your witnesses, either they know or they don't know.

MR. LEEMAN: Yes, Your Honor.

THE COURT: But I'm only going do this once.

MR. LEEMAN: We understand, Your Honor. I think we've made our position clear. We'll respect the Court's ruling. The evidence I don't tink is going to change what we said. So we'll respect the Court's ruling.

THE COURT: All right. And make sure I'm sure -- make sure I'm correct about this. It's the government's position that you do not intend to offer any evidence with regard to the guilty plea.

MR. LEEMAN: That is right, Your Honor.

THE COURT: That portion of the motion is really moot.

MR. LEEMAN: It's moot insofar -- a couple things could happen in a trial where I think a guilty plea might theoretically might become relevant evidence; if Mr. Crowther testifies, for instance, something like that.

THE COURT: And right, and you talked about character witnesses. Apart from that.

MR. LEEMAN: Yes, Your Honor. We don't intend to use it at this time.

MR. REICHLING: And, Your Honor, just to clarify, I'm sorry to butt in. I just wanted Your Honor to know that the transaction, itself, is in evidence, just the simple fact that there was a transaction for a home, and that Mr. Crowther had looked to get a mortgage from Sanibel Captiva Bank. But other than that, there's nothing involving the mortgage process, so to speak, with the witnesses that would testify.

THE COURT: And there's nothing about the fraud or the alleged fraud part of it.

MR. REICHLING: Yes, judge.

THE COURT: I'm ready to rule on the defendant's motion with regard to the guilty plea. I'm in agreement with the government in the sense -- and the defendant -- that that should not be admitted, at least with the caveat that that may change if the defendant were to testify, for example, or if there were to be, potentially, character witnesses, the Court may change. But at this point the Court would grant that aspect of the motion, and would direct the government not to attempt to enter into evidence anything about the guilty plea without prior approval of the Court.

With regard to the portion of the motion dealing with the exclusion of the mortgage fraud facts, the Court does not find that the mortgage fraud fact part of the government's presentation would be intrinsic to this case, and I'm not prepared and I will not introduce it as 404(b) evidence. I find it to be unduly prejudicial and, frankly, unnecessary, in terms of it not being intrinsic; and, in my view, the prejudicial value outweighs any probative value that that fraud may have in connection with the fraud charged in the counts before the Court. So the Court would effectively grant that motion.

Again, that may change, I suppose, if the defendant were to testify; so my order will be that the government may not seek to introduce that mortgage fraud evidence absent prior approval of the Court.

So if you think the case changes, you can reraise it, but at this point the Court would not allow that.
MR. LEEMAN: Thank you, Your Honor.
THE COURT: So what's your bottom line now?
MR. LEEMAN: Yeah. I think, on . . . .
MR. REICHLING: I mean, depending on how long the cross-examination is of the witness who was on the stand as we left today, I believe the government has two additional witnesses that it would present. One would be a relatively short witness, which is, I believe, the Social Security witness that we talked about earlier, Judge. And then the final witness could be somewhat lengthy. I don't anticipate it to be very lengthy, a summary exhibit witness to just summarize the bank records.
THE COURT: Would you anticipate resting by tomorrow afternoon?
MR. REICHLING: Yes, Judge. Depending, of course, on how long cross-examination will be. But yes.
THE COURT: So, to the extent that the defense has anything, looks like your target time is tomorrow afternoon. And do you know, at this point, whether you'll have witnesses or not?
MS. WAID: I believe we're going to have two at this time, Your Honor.
THE COURT: All right. And would you anticipate

going into Friday, then, with those witnesses?

MS. WAID: I would anticipate most likely going into Friday, but definitively being done by Friday.

THE COURT: So we may well get this to the jury with closing arguments Friday?

MS. WAID: That's the hope. And I think it's more than likely that that will occur.

THE COURT: All right. I would . . . .

MS. WAID: There might be three, but I still anticipate being done by Friday.

THE COURT: All right. I would suspect, then, we may do a charge conference tomorrow, at the conclusion of the day. I don't know if either of you have taken a look at the bank fraud jury instruction. I'm still kind of struggling with that language, but I think we'll probably get to it tomorrow, in terms of talking about jury instructions.

I do need to talk to Mr. Crowther for a minute, since we're getting close to the end.

Mr. Crowther, you have a constitutional right not to testify in the case. As you heard me tell the jury, a defendant doesn't have to do anything, literally. So you certainly don't have to testify. You also have a constitutional right to testify if you wish to to do so. Whether you testify or not is your decision, and yours alone.

You may be seated. That's fine, sir.

It's your choice, and yours alone. Your attorneys will give you their best advice, but the bottom line is you get to decide. It's one of those very important calls. You don't have to decide right now, but we're getting toward the end of the case, so at some point you will be called upon to decide, and I'm not going to ask you again. If your attorneys call you, I'll assume you've made the decision to testify. But if they don't call you, I'll assume that you've made the decision not to.

First of all, do you understand what I've said?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Any questions about that?

THE DEFENDANT: No, Your Honor.

THE COURT: Any problem with, if you're called as a witness, I'm going to assume you want to do that; if not, I'm going to assume you do not want to do that. Is that clear?

THE DEFENDANT: Yes, Your Honor.

THE COURT: All right.

Any other advice anyone wants me to give counsel -- not give counsel, but give Mr. Crowther? I'll do that after the case. Let me try that again.

Any other advice that anyone wants me to give Mr. Crowther with regard to the Fifth Amendment?

MS. WAID: No, Your Honor.

MR. LEEMAN: No, Your Honor.

THE COURT: I'm not sure the government has standing, really, but all.

Right. Unless there's something else, we'll be in recess until 9:00 o'clock tomorrow morning.

MR. DICKERSON: Thank you, Your Honor.

MS. WAID: Thank you, Your Honor.

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(At 5:09 p.m., court was recessed, to be reconvened at 9:00 a.m., on Thursday, March 25, 2021.)

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