

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:22-cr-20290-BB-1

UNITED STATES OF AMERICA,

Plaintiff,

December 6, 2023
9:33 a.m.

vs.

ERIC DEAN SHEPPARD,

Defendant.

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TRANSCRIPT OF TRIAL DAY 7
BEFORE THE HONORABLE BETH BLOOM
UNITED STATES DISTRICT JUDGE
And a Jury of 12

Appearances:

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ON BEHALF OF THE GOVERNMENT: PAGE

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1 (Call to order of the Court, 9:33 a.m.)

2 THE COURT: Hi. Good morning to everyone.

3 Go ahead and have a seat for just a moment.

4 I believe the courtroom deputy is speaking with the
5 jurors about a schedule for the remainder of next week and the
6 beginning of the week of the 18th.

7 So our hope is that -- on our side, last night we
8 worked substantially to hopefully reschedule matters on the
9 13th, 14th and 15th, as well as the resetting -- which we'll
10 know in just a few moments -- of the case on the 18th and 19th.
11 So that would give us an additional five days.

12 MS. WEINTRAUB: Thank you, Your Honor.

13 MS. MARTINEZ: Thank you so much for that, Your Honor.

14 MS. WEINTRAUB: Judge, while we're waiting, may I
15 bring something up?

16 THE COURT: Yes. Of course.

17 MS. MARTINEZ: May I have counsel --

18 THE COURT: Oh. My apologies. I didn't know
19 Ms. Jimenez was out of the courtroom.

20 MS. MARTINEZ: We were -- we had called an
21 interpreter --

22 THE COURT: I thought Ms. Weintraub wanted to raise
23 something. So just one moment. Let's wait for Ms. Jimenez and
24 then we can address...

25 (Pause in proceedings.)

1 THE COURT: Is Ms. Jimenez outside?

2 MS. MARTINEZ: Your Honor, my understanding is that
3 she's in the restroom. And again, I apologize. She actually
4 needs to put on eyedrops, so I don't know if it's partly that.

5 THE COURT: Okay. Not a problem.

6 Could we address an item without Ms. Jimenez,
7 Ms. Martinez?

8 MS. MARTINEZ: I can certainly try, Your Honor.

9 MS. WEINTRAUB: Thank you, Judge.

10 Good morning, Judge. I know that the Court doesn't
11 want to rehear the 404(b); however, I know it's incumbent upon
12 me as a lawyer to put something on the record, if I might have
13 the Court's indulgence.

14 THE COURT: Certainly.

15 MS. WEINTRAUB: In addition to the Court's order that
16 I disagree with, respectfully, but I will respect, it's coming
17 at a time in the trial -- we're on Day 7 -- where there are so
18 many -- can the record reflect Ms. Jimenez is now present --
19 that there are so many uncharged tax violations that have come
20 in that we've objected to repeatedly. We've asked for a
21 limiting instruction at the time, and the Court denied that
22 request, and the Court advised that it would give a limiting
23 instruction at the end of the case.

24 Again, respectfully, Your Honor, in our opinion, it's
25 too little, too late. And we wish that the instruction had

1 been given at the time that all that evidence was coming in.
2 And it just seems that, on top of all the uncharged tax
3 violations and other crimes that has come into this jury, now
4 they're going to hear about more uncharged extrinsic evidence,
5 which I don't think the Court had foresight of when the Court
6 wrote its order.

7 And I would just remind the Court, obviously, of the
8 fact that, once the bell is rung, we will not be able to
9 un-ring it. There will be no curative instruction for what's
10 coming. And I know that the Court's order was based on the
11 representations that are in the pleading of the Government.

12 My problem, Your Honor, is I believe that the Court
13 left the door open that the Government still must lay a
14 foundation before that will come in of some sort. Because as
15 the Court wrote in its order, on Page 6 -- I mean, obviously
16 there has to be, as the Court wrote, quote: "There must be
17 sufficient proof to allow the jury to find the Defendant
18 committed the extrinsic act."

19 So I believe that the Court was saying -- this
20 Court -- that it was going to make a determination, if that
21 foundation was laid, if, in the Court's opinion, there would be
22 sufficient proof at that time before allowing that evidence in.
23 I might have misread the Court's order, but I'm looking for
24 some guidance. But that's where I was coming from yesterday.

25 And again, I apologize for my -- how shall I say --

1 perhaps aggressive argument yesterday. I apologize for my
2 demeanor at the end of the day, Judge. It was just very
3 disheartening. So I hope the Court accepts my apology. I have
4 the utmost respect for the Court, as I think you know. But I
5 am looking for guidance so that I'm not constantly objecting in
6 front of the jury either.

7 THE COURT: Well, your argument is in two pieces. One
8 is the easier one, and that is the Court contemporaneously
9 giving a cautionary instruction with regard to uncharged
10 crimes, other crimes, wrongs or acts. The second is the
11 allowance of testimony where the Government has not established
12 the underlying -- at least the argument is, the underlying
13 charges of wire fraud.

14 So let me have the Government respond first, if
15 there's any objection to the Court giving a cautionary
16 instruction to the jury before this next witness, if that is
17 the request, and then secondly with regard to the other issue.

18 MS. JIMENEZ: A cautionary instruction on what point?
19 I mean, I believe the Court was planning to give a limiting
20 instruction on the 404(b) evidence, which obviously is very
21 appropriate for the Court to do, and we would agree with that.
22 I don't know what sort of cautionary --

23 THE COURT: Well, cautionary, limiting, I think it's
24 one and the same. So I would ask Ms. Weintraub and Mr. Etra to
25 fashion an instruction that they believe is appropriate.

1 MS. JIMENEZ: Well, we have a 404(b) instruction in
2 the submitted jury instructions. I think the standard Eleventh
3 Circuit 404(b) jury instruction is the appropriate instruction
4 to give them so that they can put that testimony into context.

5 THE COURT: All right. And the other arguments?

6 MS. JIMENEZ: Your Honor, the documents that were
7 submitted with the loan applications were -- the supporting
8 documents were -- as the Court and the jury has heard
9 repeatedly, obviously, 941, Form 940, tax returns, all of which
10 were false. And they have been proven to be false from the IRS
11 records that were submitted in evidence, and they will further
12 be proven to be false from the testimony of Mr. Cupersmith,
13 which will tie it all together.

14 But there is evidence from the IRS expert witness --
15 his testimony, his records show that every single one of those
16 supporting documents that were tax documents in all --
17 submitted to all three lenders, PayPal, Northeast Bank, Cross
18 River Bank, were a hundred percent false. And then the
19 documents that were signed were necessarily forged because they
20 either didn't exist -- and the one that did exist, the 2019
21 HM-UP Development Alafaya Trails tax return, is different --
22 including the signature, is different from the one that was
23 submitted with the loan application.

24 THE COURT: And specifically, if you could walk the
25 Court through the description of the particular wire contained

1 in the Indictment that you believe supports the introduction of
2 the additional evidence to come and certainly is consistent
3 with the testimony that has been established with regard to the
4 argument of the IRS forms.

5 MS. JIMENEZ: Yes, Your Honor.

6 The wire fraud counts specifically -- now, there are
7 two -- or the -- Counts 1, 2, 3 relate to the EIDL loan
8 applications which have yet to be discussed. But there is --
9 Count 4 is the PayPal submission -- application submission that
10 was supported by, in part, Counts 5 and 6; a false and
11 fraudulent 941 return, which the IRS witness testified that
12 this company -- for the tax years at issue, which covers 2019,
13 2020, 2021, there were no 941s filed; and the 941s that were in
14 the loan application were for tax year 2020, four quarters of
15 them, all of which were false.

16 Count 6, February 26th, 2021, that tax return is false
17 and fraudulent. The IRS witness testified that there was no
18 tax return for tax year 2020 -- in their files for 2020. In
19 addition, this witness coming up will testify in support of
20 that in the sense that he will say that there was no company
21 owned by this Defendant that had any employees except for HM
22 Management and Development, which is a different company.

23 Then Count 7 is the application submission to
24 Northeast Bank -- well, through ACAP.

25 And then Count 8 was the false tax return submitted to

1 ACAP -- to Northeast Bank for tax year 2020. Again, the IRS
2 records indicate that there was no tax return filed as of 2022
3 for tax year 2020.

4 And then Count 9 is the Cross River testimony and
5 documents. And with Cross River, the application process --

6 MS. WEINTRAUB: Excuse me. I think there's a juror
7 present.

8 Oh, I'm sorry. I apologize.

9 MS. JIMENEZ: With Count 9 with Cross River, the
10 application process was such that you need to upload your
11 documents at the time you're providing your application
12 information. So everything went together in one transmission.

13 And so, in addition to the false information that was
14 submitted, the tax return, the 1065, and the 940 were also
15 submitted in that same transmission. And again, the IRS
16 testimony and records indicate that those IRS forms are false.

17 And of course, the tax return in Count 9, the tax
18 return in Count 8, and the tax return in Count 6 were forged.
19 They indicate -- they have like February 2020 -- I'm sorry --
20 February 2021 signature dates -- signatures and dates, when the
21 tax return -- and this witness, too, will testify the tax
22 return for these businesses were not prepared until the fall --
23 you know, any records would have been submitted to
24 Mr. Cupersmith in the fall and prepared in the fall.

25 THE COURT: All right. Anything further,

1 Ms. Weintraub?

2 MS. WEINTRAUB: Yes, Your Honor. I think I was -- I
3 apologize. I think I was misunderstood. Although that was
4 very helpful. But the Court, on Page 6 of its order, wrote:
5 "To be admissible, Rule 404(b) evidence, one, must be relevant
6 to an issue other than the Defendant's character; two, there
7 must be sufficient proof to allow a jury to find that the
8 Defendant committed the extrinsic act."

9 That's what I'm calling into question. And I was
10 merely asking --

11 THE COURT: But you're referencing IRS forms. And
12 other than the -- or tax returns. And other than the 1065, the
13 940, and the 941 that is specifically set forth and laid out in
14 the Indictment, you're referring and you're parsing out other
15 portions of Mr. Sheppard's tax returns. So that's why I asked
16 Ms. Jimenez to walk the Court through what evidence has been
17 presented by way of each of these nine counts of wire fraud.

18 To the extent that there are other portions of the tax
19 return that were admitted into evidence and referred to, that's
20 where the Court's cautionary instruction would come in.

21 So I believe that, if you are requesting a cautionary
22 instruction with regard to similar acts evidence, I'm happy to
23 give it to the jury with regard to evidence that may have come
24 in previously and evidence that may come in throughout the
25 course of this trial. And I'm happy to give it today, this

1 morning, before the Government calls its witness. But there
2 would be no basis at this point to not permit -- and I think
3 we're speaking specifically of Mr. Graff's testimony, whatever
4 it may be -- of disallowing that testimony.

5 MS. WEINTRAUB: I was merely asking if the Court is
6 still going to hold the Government to first laying a foundation
7 and the Court making the determination from an evidentiary
8 standard of whether or not there is sufficient proof for the
9 jury to find the Defendant committed the extrinsic act, as the
10 Court wrote in its order on Page 6.

11 And at the end of the Court's order, on Page 16, the
12 Court wrote, of course, to the extent that the Government fails
13 to set forth the foundation on Graff's testimony, objections
14 will follow and the Court will rule accordingly. So I'm just
15 bringing that to the Court's attention to --

16 THE COURT: I understand. But at this point, I
17 believe that your objections are preserved with regard to the
18 argument of precluding the testimony of Mr. Graff because of
19 the claim that the Government has not laid a sufficient
20 predicate. And I think the testimony that Ms. Jimenez has
21 recounted that are tied to the description of the wires and the
22 allegations of wire fraud are sufficient to permit Mr. Graff's
23 testimony.

24 The second issue is: Is the Defendant requesting a
25 cautionary instruction with regard to similar acts evidence?

1 MS. WEINTRAUB: Not at this time.

2 THE COURT: All right, then.

3 MS. JIMENEZ: Your Honor, we would like to move in
4 with the -- I guess the first witness this morning the
5 Truist/SunTrust bank records.

6 THE COURT: What exhibit number, please?

7 MS. JIMENEZ: They are Exhibit Number -- Composite 39,
8 and then 39-1 through 39-12. And then a separate account that
9 came later, which is Exhibit 40.

10 THE COURT: Is there any objection?

11 MR. ETRA: Yes, Your Honor. We agreed -- there was
12 certain checks that they want to use with this witness. We
13 agreed that those checks can come in. We would like to do this
14 as the -- deal with these issues as they come up.

15 THE COURT: But is there an objection to the
16 introduction of Composite Exhibit 39 and then 39-1 through 12?

17 MR. ETRA: Yes. It's all not yet shown that it's all
18 relevant, and we'll probably at some point agree to it, but
19 we're not at that point in the trial yet.

20 THE COURT: Well, don't you have the requisite
21 certification?

22 MS. JIMENEZ: Yes, we do, Your Honor.

23 MR. ETRA: We're not objecting on authenticity or
24 business records.

25 THE COURT: Then what would be the basis?

1 MR. ETRA: Well, there's a lot of checks in there, and
2 it's not necessarily clear that it all comes in. So --

3 THE COURT: But if, in fact, they are what they
4 purport to be, certainly relevant to this case, I'm not --
5 what's the legal basis of the objection?

6 MR. ETRA: Technically, 401 through 403. There's a
7 lot of checks in there, and they want to wholesale put
8 everything in. I'm not saying we won't agree to it at some
9 point. I'm just saying we're not at the point where -- there's
10 really no need for this witness --

11 THE COURT: So what is the unfair prejudice and what
12 specific check are you referring to?

13 MR. ETRA: There's checks going to all different kinds
14 of places.

15 THE COURT: Could you be specific with regard to 39-1
16 through 12.

17 MS. JIMENEZ: SunTrust, which is the bank that has the
18 accounts for HM Management, HM-UP Development Alafaya Trails,
19 HM Four. Essentially, the businesses of this Defendant are at
20 a bank.

21 MR. ETRA: We withdraw our objection.

22 THE COURT: All right. So 39 and 39-1 through 12 will
23 come in.

24 (Government's Exhibit 39 and 39-1 through 39-12
25 received into evidence.)

1 THE COURT: Sergio, do we have any issue with regard
2 to --

3 IT DEPARTMENT: I reset it, Judge. It seems like it
4 was working, but --

5 MS. MARTINEZ: It's not working well, Your Honor.
6 But -- he reset it and we're trying, but it's just sometimes
7 not responding.

8 THE COURT: Could you wait and let's see? Let's put
9 an exhibit -- are you talking about the focus -- the autofocus?

10 MS. MARTINEZ: No. No. I was actually just talking
11 about this. You see -- I apologize, Your Honor. I just was
12 trying to multitask.

13 THE COURT: Okay. So that is resolved.

14 Iris, do we have Liz? Did she speak with the
15 jurors -- oh, I didn't see you.

16 All right. Then let's discuss the jurors'
17 availability.

18 Liz?

19 COURTROOM DEPUTY: Okay. I did speak to them, and I
20 have -- some of them -- well, three of them have a couple of
21 issues, which I will delineate now. Juror Number 12, which is
22 Evelyn Zaldivar, says that she cannot be here the afternoon of
23 the 15th. Juror Number 3 is having issues with the 14th and
24 15th, but he can try and work some things out. But he will not
25 know until later this afternoon, if not tomorrow, because he

1 runs a business and he's trying to get people to come in at
2 different times. He has people coming in from out of town
3 regarding his business. But he will get back to me. That is
4 Teobaldo Rosell.

5 THE COURT: Okay. So just Juror Number 12 and 3?

6 COURTROOM DEPUTY: Juror Number 7, Madelin Marichal,
7 says that she cannot work past the 12th. She has health issues
8 and work issues. She actually has a scheduled doctor's
9 appointment tomorrow regarding surgery she had, and she does
10 not believe she can make it past the 13th -- the 12th because
11 she is not doing well.

12 MS. MARTINEZ: Which number was that?

13 COURTROOM DEPUTY: That is Juror Number --

14 THE COURT: What's her name?

15 COURTROOM DEPUTY: -- 7, Madelin Marichal.

16 THE COURT: All right. Anyone else?

17 COURTROOM DEPUTY: That's all we got. Everybody else
18 says that's all right. As long as they get notes and
19 everything, that that's fine.

20 THE COURT: And what about the 18th and 19th for
21 Jurors Number 3 and 12?

22 COURTROOM DEPUTY: Juror Number 3 says he has to,
23 again, look at his schedule. He says he may be able to work it
24 out for the 18th and 19th, but he needs to get back to me. He
25 needs time to work things out with his business.

1 THE COURT: All right. To the extent that other
2 jurors, including 3 and 12 -- well, if 3 can work out the 14th
3 and 15th, perhaps, Liz, we can kind of flip our morning of the
4 15th and just put everything on the afternoon and work in the
5 morning, would the parties be amenable to the extent that we
6 needed the 14th and 15th -- obviously we need the 18th and 19th
7 as well -- of excusing Juror Number 7, who has expressed that
8 she cannot work past the 12th?

9 MS. JIMENEZ: Yes, Your Honor, we would be agreeable.

10 THE COURT: On behalf of the Defendant?

11 MS. WEINTRAUB: Judge, I need to look at my jury
12 folder, which I don't have readily -- can we do this at the
13 lunch break?

14 THE COURT: Of course. We'll take it up at the lunch
15 break now that we know the schedule.

16 Any other issues before we continue this trial?

17 MS. JIMENEZ: One brief issue, Your Honor. We learned
18 that the Defendant contacted one of the witnesses who testified
19 last week and -- in a message that is to say unfriendly and
20 unwelcomed. And we would ask the Court to direct the Defendant
21 not to have any communication with any of the Government's
22 witnesses except through his counsel.

23 THE COURT: Wasn't this a witness that had already
24 testified?

25 MS. JIMENEZ: Yes, it was.

1 THE COURT: A witness that had been excused from his
2 or her subpoena?

3 MS. JIMENEZ: Yes.

4 THE COURT: All right. Response?

5 MS. WEINTRAUB: I have no idea what you're talking
6 about. Could you give me a hint?

7 MS. JIMENEZ: It was a message from your client to
8 Mr. Beirne.

9 MR. ETRA: Mr. Sheppard is telling me that Mr. Beirne
10 was texting him and he responded. I don't have any of this
11 information, Your Honor.

12 MS. JIMENEZ: Let's just -- I would like that --
13 certainly that he have no communication with witnesses who are
14 going to be testifying and any -- and I would request that
15 there be no contact with witnesses after they testify as well,
16 except through their counsel, until this trial is concluded.

17 THE COURT: Is there any objection to that admonition?

18 MR. ETRA: Your Honor, no, except that he works --
19 still works with one of the -- some of these people, and he's
20 still running his business. So that's always been the case
21 that they talk about -- you know, he's running his business.

22 MS. JIMENEZ: I think there's three individuals on the
23 Government's witness list who work for the Defendant. So as to
24 those three, he's...

25 THE COURT: All right. Well, at this point, there was

1 no court order that required Mr. Sheppard not to have any
2 contact. To the extent that Mr. Sheppard has an ongoing
3 relationship, professionally or otherwise, then certainly he
4 can continue that relationship. But in terms of witnesses that
5 there should be no reason for Mr. Sheppard to contact, then
6 certainly Mr. Sheppard shall have no contact with those
7 witnesses who are anticipated to be testifying in this trial.

8 MS. WEINTRAUB: Of course, Your Honor.

9 MS. JIMENEZ: Just to be clear, for the record,
10 it's -- Elva Baluarte, Maria Ataca, Jeanette Gonzalez are the
11 three individuals who work for the Defendant, who are on the
12 Government's exhibit list -- witness list. We ask that he have
13 no contact with any other Government witness, except through
14 his counsel, until this trial is over.

15 MS. WEINTRAUB: That's impossible.

16 THE COURT: I don't know how the Court --

17 MS. JIMENEZ: Except through his counsel.

18 THE COURT: Well, but --

19 MS. WEINTRAUB: One of them works --

20 THE COURT: But the Defendant is running a business.
21 So to the extent he shall have no contact in terms of
22 discussing any aspect of this case, I would agree. But a
23 wholesale prohibition against having any contact whatsoever,
24 I'm not certain where the nexus is.

25 MS. JIMENEZ: I said there are three who work for him

1 who would be excluded from this request. The others do not
2 work with the Defendant. Do not work --

3 THE COURT: Oh. I'm sorry. I thought you meant the
4 three that he was --

5 MS. WEINTRAUB: I misunderstood as well.

6 MS. JIMENEZ: No. The opposite.

7 THE COURT: Yeah. I misunderstood.

8 All right. And I think that that's appropriate.

9 MS. WEINTRAUB: Judge, just for the record, I would
10 also advise that -- and I think I brought it out on
11 cross-examination with Joe Beirne -- he texts Eric Sheppard
12 every day with prayer, and he initiated these texts. Eric
13 Sheppard did not initiate any texts. And I think this last
14 text was: "I don't want you texting me anymore. Don't contact
15 me."

16 THE COURT: Okay. Well, the Court's order is moving
17 forward. So if we can --

18 MS. WEINTRAUB: So we'd like him to be admonished as
19 well.

20 MS. JIMENEZ: Your Honor --

21 THE COURT: I don't -- I'm not going to admonish
22 anyone because there was no court order in terms of not having
23 any contact. But from this point forward, I believe that
24 Mr. Sheppard understands. And if he doesn't, then it's
25 incumbent upon Mr. Sheppard to ask counsel, and then you'll

1 address it before the Court.

2 Any other issues before we bring our jury in?

3 MS. MARTINEZ: Your Honor, just one moment. Defense
4 counsel provided me photos that they are going to show this
5 witness. And if you would just give me one moment to consult
6 with counsel to see if we can resolve an issue before bringing
7 the witness up.

8 THE COURT: All right. Certainly.

9 (Pause in proceedings.)

10 MS. WEINTRAUB: (Inaudible.)

11 (Court reporter interruption.)

12 THE COURT: The first alternate. Opdeweegh.

13 All right. That wasn't on the record. It was --
14 Ms. Weintraub asked about the first alternate, and the Court
15 responded accordingly.

16 Ms. Martinez, are you ready to proceed?

17 MS. MARTINEZ: Yes. I wasn't able to reach the
18 resolution, so I'm going to have an objection.

19 THE COURT: All right. Then lay the appropriate
20 predicate.

21 Is the Defendant ready to proceed?

22 MS. WEINTRAUB: Yes, Your Honor.

23 THE COURT: All right. Let's bring in the jury.

24 COURT SECURITY OFFICER: All rise for the jury.

25 (Before the Jury, 10:01 a.m.)

1 THE COURT: Hi. Good morning to each of you, Ladies
2 and Gentlemen.

3 Please be seated, everyone.

4 It's good to see each of you. I apologize for the
5 delay. The fault is all mine, and we are ready to continue.

6 If the Government will call its next witness.

7 MS. MARTINEZ: Your Honor, the United States calls
8 Maria Del Pilar Ataca.

9 (Pause in proceedings.)

10 THE COURT: Good morning.

11 Is the witness in need of an interpreter?

12 MS. MARTINEZ: Yes, Your Honor.

13 THE COURT: All right. Come on forward.

14 All right. May I have the name of the interpreter,
15 please?

16 THE INTERPRETER: Yes, Your Honor.

17 Claudia Ayala, A-Y-A-L-A. Thank you.

18 THE COURT: All right. If we can swear in the
19 interpreter first.

20 CLAUDIA AYALA, INTERPRETER, SWORN

21 COURTROOM DEPUTY: Thank you.

22 Could you please raise your right -- if she can stand
23 up, please.

24 MARIA DEL PILAR ATACA, GOVERNMENT WITNESS, SWORN

25 THE COURT: All right. Now, Ladies and Gentlemen,

1 before we begin, as you can see, Ms. Del Pilar Ataca is in need
2 of an interpreter to assist her in translating from English to
3 Spanish. Many of you may know the Spanish language. I need to
4 advise you that you are to rely on the official interpretation
5 by the interpreter. To the extent that there is a discrepancy,
6 you can certainly raise your hand and bring it to the Court's
7 attention by way of a note. Otherwise, you are to accept the
8 official translation and not your own interpretation of what
9 the testimony is.

10 All right. Let us proceed.

11 COURTROOM DEPUTY: Would you please state your name
12 and also spell it for the record.

13 THE WITNESS: (Through Interpreter.) Maria Del Pilar
14 Ataca, M-A-R-I-A, separate, D-E-L, separate, P-I-L-A-R,
15 separate, A-T-A-C-A.

16 COURTROOM DEPUTY: Thank you.

17 DIRECT EXAMINATION

18 BY MS. MARTINEZ:

19 Q. Good morning, Ms. Ataca.

20 A. Good morning.

21 Q. Ms. Ataca, do you know Mr. Eric Sheppard?

22 A. Yes.

23 Q. How long have you known Mr. Sheppard?

24 A. Around 21 years.

25 Q. What work have you done for Mr. Sheppard?

1 A. Could you clarify to me whether that has been during the 21
2 years or during some period of time?

3 Q. Yes. Could you explain what you did over the years before
4 you started working at the office.

5 A. Basically, I was doing the work of cleaning services.

6 Q. Where?

7 A. I began in a selling center in Miami Beach.

8 Q. And when did your job duties change?

9 A. Around 2011, 2012.

10 Q. And what did you begin to do then?

11 A. The working filing.

12 Q. And where did you do that work?

13 A. At Dr. Sheppard's office, which was located at 1200
14 Biscayne Boulevard.

15 Q. You said you began doing that work in 2011. Was that work
16 part-time or full-time?

17 A. Part-time.

18 Q. What hours would you work?

19 A. Usually beginning at two in the afternoon to six in the
20 afternoon.

21 Q. And during that time -- did there come a time that you
22 stopped working at that office?

23 A. In what period of time?

24 Q. Well, from 2011 to the present, did there come a time that
25 you stopped working in the office?

1 A. In the office at 1200 [sic] Biscayne Boulevard, yes.

2 Q. Did there come a time when you stopped working at the
3 office because of the COVID pandemic?

4 A. When there was the order for the shutdown in March 2020,
5 approximately, nothing was done. Nobody knew what to do.

6 Q. I'm sorry. I didn't understand the answer.

7 After -- when the pandemic started, did you continue
8 to go to the office?

9 A. During the first 15 days after the order of the government
10 to stop everything, I was out of the office during those 15
11 days. So -- and we remained home. And then after that I went
12 back to the office.

13 Q. So I think you indicated the first mandate was
14 approximately March of 2020, right?

15 A. Right.

16 Q. Okay. Now I'm going to ask you about your -- the office
17 before March of 2020. Okay?

18 A. Okay.

19 Q. Approximately, from 2018 to 2020, so let's say like
20 approximately two years, the two years before the pandemic,
21 describe what you would do at the office from two to five p.m.
22 or two to six p.m.

23 A. Basically what was filing -- I was working directly with
24 Mrs. Jeanette Gonzalez. She was the one who would indicate to
25 me like the daily assignments. That work would be making

1 copies, scanning documents, go to the bank, go to the FedEx
2 office, go to the post office, pick up the mail.

3 Q. You mentioned Jeanette Gonzalez. What was her job duties
4 at the office?

5 A. I exactly don't know.

6 Q. What did you observe?

7 A. She was the one giving me my work, but she was the one who
8 was handling the -- all the administrative aspect of the
9 office.

10 Q. Who else was in the office from 2018 to 2020? Who else did
11 you see there?

12 A. Mrs. Vanessa Gonzalez, Mr. Jeff -- Jeffrey Graff,
13 Mrs. Jeanette Gonzalez, of course. Occasionally Mr. Glenn
14 Sheppard was there. That's what I remember.

15 Q. Vanessa Gonzalez, who is she?

16 A. She was the lady sitting next to Mrs. Gonzalez. It is my
17 understanding that was her daughter who was also working in the
18 office.

19 Q. What were Vanessa Gonzalez's duties?

20 A. I don't know.

21 Q. What did you observe?

22 A. Well, she was working with the documents in the
23 administrative section. But exactly what she was doing, I
24 don't know.

25 Q. Was she helping her mother Jeanette?

1 A. I think so. I am not sure. I mean, she was there, but I
2 don't know exactly what she was doing -- what she was precisely
3 doing.

4 Q. Was she there every day of the week?

5 A. I would find her there at the moment in which I arrived,
6 yes.

7 Q. And was Jeanette there every day of the week?

8 A. Yes.

9 Q. You said that you also saw Glenn Sheppard. Who is
10 Mr. Glenn Sheppard?

11 A. Mr. Glenn Sheppard is Mr. Eric Sheppard's brother.

12 Q. And how frequently would you see him at the office from
13 2018 to 2020?

14 A. Not so often, because Mr. Glenn Sheppard was working more
15 on one of the projects.

16 Q. Can you explain to the jury what you mean by a project.

17 A. One of Mr. Sheppard -- Mr. Eric Sheppard's shopping
18 centers.

19 Q. Do you know what he was doing at the shopping center --
20 what Mr. Glenn Sheppard was doing at the shopping center?

21 A. No.

22 Q. Did you see anyone else? You said you saw Jeanette
23 Gonzalez. You saw her daughter Vanessa Gonzalez. You saw
24 Jeffrey Graff. And then sometimes you would see Glenn
25 Sheppard, not as frequently. Anyone else? Would Mr. Eric

1 Sheppard go to the office?

2 THE INTERPRETER: Counsel, did you say anyone else
3 when Eric Sheppard's --

4 MS. MARTINEZ: I'll rephrase my question. I'll make
5 it into two questions.

6 BY MS. MARTINEZ:

7 Q. Did you see Eric Sheppard there?

8 A. On occasion, yes.

9 Q. From 2018 to 2020, how frequently would he come into the
10 office? For example, how many times a week?

11 A. It could be -- well, sometimes I could meet him there
12 because I remind you that I was going always for a certain
13 amount of hours. It could be one, sometimes none. It could
14 have been two times a week.

15 Q. In addition to Mr. Sheppard and the people you have
16 mentioned, is there anyone else that you remember seeing them
17 at the office?

18 A. Yes. Sometimes Mr. Sheppard would have meetings, but I
19 don't know the names.

20 Q. Were there any people that came more than once?

21 A. Yes.

22 Q. And did you get to know them?

23 A. Yes. But I don't remember their names. I mean, I remember
24 the faces, but I don't remember their names.

25 Q. So going back to the duties that you had. You said that

1 you did filing. What type of documents did you file?

2 A. Usually the documents that Mrs. Gonzalez would give to
3 me -- usually these were the documents that were under the
4 project, the documents that were on the construction, or
5 invoices that had already been paid that were ready for filing.

6 Q. And were you the one that was organizing the files?

7 A. Yes.

8 Q. Did you also have to file tax documents?

9 A. In the office that was located at 12000 Biscayne Boulevard,
10 Mrs. Gonzalez would give me like a binder to organize a lot of
11 tax returns, several, and I had to put them in a binder.

12 Q. Again, I'm talking before you left the office, before the
13 pandemic. Did Ms. Jeanette Gonzalez, or Mr. Eric Sheppard, or
14 anyone ask you to do anything on a computer?

15 A. No.

16 Q. Did you do anything on a computer before March of 2020?

17 A. What I was doing on the computer was basically a list of
18 the files that I would have in order not to duplicate the files
19 and the tags in order to identify each binder.

20 Q. I'm going to go to after the pandemic began. Was there a
21 period of time that the office remained open after the pandemic
22 began? Was there a period of time that the office was still
23 open?

24 A. It wasn't open. When I arrived in the afternoon, I was
25 basically the only one there trying to accommodate the files.

1 Q. This is after the first two-week period when you were home
2 as well, right?

3 A. Correct.

4 Q. So then there was a time that you were the only one coming
5 into the office, right?

6 A. Usually I was the only one in my schedule.

7 Q. Do you know of anybody else coming in at a different time?

8 A. At some point I crossed paths with Mr. Jeff Vasilas and
9 Mr. Glenn Sheppard. They were doing -- packaging files and
10 binders in the morning. So that's why sometimes we would cross
11 paths when we would meet in the afternoon.

12 Q. Let me ask you about Jeff Vasilas. You hadn't mentioned
13 him before. Who is Jeff Vasilas?

14 A. He was one of the men who would go to the office -- I'm
15 sorry. He was working with Mr. Eric Sheppard.

16 Q. During what time period -- during what time period before
17 the pandemic did you see him at the office?

18 A. Could you be more specific with the time period?

19 Q. Sure. Let's say 2019. Was Mr. Jeff Vasilas -- did you see
20 him at the office in 2019?

21 A. I don't remember.

22 Q. Do you know where he normally worked?

23 A. I wouldn't be able to be exact on the answer.

24 Q. So you gave an example of him in 2020 helping to pack the
25 office; is that right?

1 A. Correct.

2 Q. Before that example, how often, if at all, would you see
3 him in the office?

4 A. Once in a while.

5 Q. So would you see him once every six months, once every two
6 months?

7 A. It could be once a month.

8 Q. And again, you don't know what he did?

9 A. No.

10 Q. So going back to -- what happened to the office after the
11 pandemic?

12 A. The office moved to Mr. Sheppard's house.

13 Q. What do you mean?

14 A. We -- well, literally the office had to be moved to
15 Mr. Sheppard's house. I worked at Mr. Sheppard's house.

16 Q. Did the office continue to be open or did they close out
17 the office?

18 A. It's closed. We don't work there.

19 Q. Do you remember approximately when it was closed?

20 A. Approximately in July 2020.

21 Q. From July 2020 forward, you were -- Mr. Sheppard --
22 actually, Mr. Sheppard was working at home from the beginning
23 of the pandemic, correct?

24 A. I don't know.

25 Q. Did you say that you were working with Mr. Sheppard after

1 the pandemic?

2 A. What I said was that I was working at Mr. Sheppard's house
3 after the office was closed.

4 Q. So between the start of the pandemic and the closure of the
5 office, I think you said that you were the only one that would
6 come into the office to get papers, correct?

7 A. In the -- during the times of two to six.

8 Q. Would you take any papers to Mr. Sheppard's home during
9 that time before the office closed?

10 A. I don't remember.

11 Q. Are you saying you never went to Mr. Sheppard's house
12 between the start of the pandemic and July of 2020?

13 A. No. What I am saying is that I don't remember taking
14 documents from the office to Mr. Sheppard's house.

15 Q. Did you have to have any meetings with Mr. Sheppard or do
16 anything at Mr. Sheppard's house before July of 2020?

17 A. I don't have any meetings with Mr. Sheppard because my work
18 is directly with Mrs. Jeanette Gonzalez.

19 Q. Did you go to Mr. Sheppard's house for any reason before
20 July of 2020?

21 A. Yes.

22 Q. What was the reason?

23 A. I worked for Mrs. Sheppard on Fridays from the afternoon
24 until night and Saturdays also at the same time from the
25 afternoon until night.

1 Q. Other than your work for Mrs. Sheppard from Friday to
2 Saturday, did you go to Mr. Sheppard's house during the week
3 before July of 2020?

4 A. I don't remember.

5 Q. What -- were your job duties only to go to the office from
6 March of 2020 to July of 2020?

7 A. Basically, that's what I did.

8 Q. Did you continue running errands?

9 A. Yes.

10 Q. Did any of those errands involve going to Mr. Sheppard's
11 house?

12 A. We are talking about the period of time between March and
13 July? We are still during that period of time, correct?

14 Q. Yes.

15 A. I repeat my answer once more. I don't remember.

16 Q. Do you know where Mr. Sheppard was during that time?

17 A. I don't know.

18 Q. Did you speak to him?

19 A. I don't remember.

20 Q. Do you know where Ms. Jeanette Gonzalez was?

21 A. When the pandemic started, Mrs. Gonzalez began to work from
22 her home.

23 Q. So you did not see her at the office from March to July of
24 2020, right?

25 A. Only on one occasion before the office at Biscayne

1 Boulevard was closed.

2 Q. And what was she doing at that time?

3 A. Packaging her things.

4 Q. From March to July of 2020, did you see Mr. Eric Sheppard
5 at the office?

6 A. On one occasion I crossed paths with him.

7 Q. And what was he doing?

8 A. He was getting out of the office. I was going in.

9 Q. After July of 2020, what happened with the office?

10 A. The office moved to Mr. Sheppard's house and I began
11 working with the same schedule that I was having at the office
12 in Mr. Sheppard's house.

13 Q. Where does Mr. Sheppard live? What's the address?

14 A. 180 Bal Cross Drive, Bal Harbour.

15 Q. And you continued to go from two to six to Mr. Sheppard's
16 home, Monday through Friday, after July of 2020, correct?

17 A. Correct.

18 Q. And your duties were the same as before?

19 A. Basically, yes. It's just that now since Mrs. Gonzalez
20 works from her home, then I have to go from time to time to her
21 home to be able to take documents there.

22 Q. And where was Mr. Sheppard after July 2020? Where was he
23 working during the week?

24 A. Most times -- most times I would not meet him. Sometimes
25 yes, and he was working from his home.

1 Q. Did you say: "Most times I did not meet him," or
2 "Sometimes I did not meet him"?

3 A. Sometimes I did not meet with him.

4 Q. Did Mr. Sheppard have an office space within his house for
5 him?

6 A. Yes.

7 Q. And did he have a computer?

8 A. Yes.

9 Q. Did you see him use that computer?

10 A. Yes.

11 Q. Did you do anything on Mr. Sheppard's computer?

12 A. Could you be more specific in your question, please, to do
13 something --

14 Q. Did you turn on Mr. Sheppard's computer and use it for any
15 reason?

16 A. No.

17 Q. Why did you need the clarification? Did you touch
18 Mr. Sheppard's computer?

19 A. Only on one occasion, when Mr. Sheppard asked me to do a
20 template.

21 Q. Can you explain to us what that was.

22 A. It's like an empty grid in Excel.

23 Q. Do you remember any columns or anything that was on that
24 grid in Excel?

25 A. No, because the only thing that I did was make the

1 template. I didn't put anything.

2 Q. Other than that, did you do anything else on Mr. Sheppard's
3 computer?

4 A. No.

5 Q. Did you do anything else -- now I'm talking about the time
6 period after you are working at the house. Did you do anything
7 else on any computer at Mr. Sheppard's house?

8 A. No.

9 Q. Did you do -- did you do anything related to any financial
10 matters at the house?

11 A. No.

12 Q. Other than -- you did do bank deposits and other bank
13 transactions?

14 A. Only deposits.

15 Q. And who would give you those deposits -- before -- before
16 July of 2020 who would give you those deposits and after July
17 of 2020 who would give you those deposits?

18 A. When we were at the Biscayne Boulevard office, it was
19 Mrs. Jeanette Gonzalez. When we went to Mr. Sheppard's house,
20 we received the checks from Mr. Sheppard's renters. And that's
21 what I did. I would grab the check and I would deposit it.

22 Q. When you were -- at the time that you were at the house,
23 July of 2020, did other people come to the house that -- you
24 said Jeanette Gonzalez did not come to the house; is that
25 right?

1 THE INTERPRETER: Ms. Jeanette Gonzalez didn't come to
2 the house, correct? That's the question, counsel?

3 MS. MARTINEZ: Yeah.

4 THE WITNESS: (Through Interpreter.) No.

5 BY MS. MARTINEZ:

6 Q. At any time?

7 A. In 2020, no.

8 Q. In 2021?

9 A. I don't remember.

10 Q. Who else worked at Mr. Sheppard's house?

11 A. My cousin Elva Jessica Baluarte. She's the one who works
12 in the house, if that's what you're referring to.

13 Q. Yes. I'll ask you about your cousin. Can you spell out
14 her name.

15 THE INTERPRETER: The interpreter just wants to
16 clarify.

17 THE WITNESS: (Through Interpreter.) Elva, E-L-V-A,
18 separate, J-E-S-S-I-C-A, separate, B-A-L-U-A-R-T-E.

19 BY MS. MARTINEZ:

20 Q. How long has your cousin worked for Mr. Sheppard?

21 A. For 22 years, approximately.

22 Q. Has she ever worked in the office?

23 A. Could you be more specific regarding the --

24 Q. Sure.

25 A. Because Mr. Sheppard's office is in his house, yes.

1 Q. Well, let me just -- I'm going to focus on this: What are
2 her duties?

3 A. Basically, cleaning.

4 Q. Cleaning Mr. Sheppard's house?

5 A. Currently, yes.

6 Q. So let me ask you: From approximately 2018 to July of
7 2020, what did Ms. Baluarte, your cousin, do for Mr. Sheppard?

8 A. The same.

9 Q. Clean Mr. Sheppard's home?

10 A. Yes.

11 Q. Monday through Friday?

12 A. Yes.

13 Q. And then you would come in on Friday evening and Saturday
14 to work for Mrs. Sheppard when your cousin was not working
15 then? She took a break?

16 A. I work on Friday nights and Saturday nights for
17 Mrs. Sheppard.

18 Q. Did you say your duties were cleaning also?

19 A. Yes.

20 Q. And during the time that you're working for Mrs. Sheppard,
21 your cousin has a break?

22 A. For Mr. Sheppard?

23 Q. Is she -- do you work at the house at the same time as
24 Ms. Baluarte?

25 A. From Monday through Friday, yes.

1 Q. Okay. But not when you come in to work for Mrs. Sheppard,
2 right?

3 A. Correct.

4 Q. So I think you said Ms. Baluarte cleaned the home before
5 the pandemic, correct?

6 A. Correct.

7 Q. After the office went to Mr. Sheppard's home in July of
8 2020, did Ms. Baluarte continue to clean the house, which now
9 included the office?

10 A. Yes.

11 Q. Did your cousin do any work on Mr. Sheppard's computer?

12 A. No.

13 Q. Did she have any duties or do anything on any computer in
14 Mr. Sheppard's house?

15 A. No.

16 Q. Again -- now, after July of 2020, in addition to your
17 cousin Elva Jessica Baluarte, did you see anybody else coming
18 to the house for purposes of Mr. Sheppard's business?

19 A. Mr. Jeff Vasilas was there.

20 Q. And let's break it down. From July to December of 2020,
21 approximately how frequently would you see Mr. Jeff Vasilas
22 there?

23 A. Frequently.

24 Q. Describe that to us. Once a week, less, once a month?

25 A. Two to three times a week, I would say.

1 Q. And what did he do when he went there?

2 A. I don't know exactly.

3 Q. Did you observe him meeting with anybody?

4 A. He would talk to Mr. Sheppard. Sometimes his wife would
5 go.

6 Q. Whose wife?

7 A. Mr. Vasilas's.

8 Q. And what did Mr. Vasilas's wife do?

9 A. She would talk to him outside.

10 Q. Talk to whom?

11 A. To Mr. Vasilas.

12 Q. So the only thing you saw Mr. Vasilas doing at the house
13 was talking to Mr. Sheppard and talking to his wife. Anything
14 else -- and let me clarify. Right. I meant to ask: You only
15 saw him talking to Mr. Sheppard and talking to Mr. Vasilas's --
16 let me rephrase again.

17 You only saw Mr. Vasilas talking to Mr. Sheppard or
18 Mr. Vasilas talking to Mrs. Vasilas. Is that what you said?

19 A. Yes.

20 Q. So right now you mentioned that Mr. Sheppard was at the
21 house working, that you sometimes saw Mr. Vasilas. Anybody
22 else related to Mr. Sheppard's business that you saw at the
23 house after July 2020 to 2021?

24 A. Yes. Sometimes Mr. Sheppard would have meetings.

25 Q. Did you recognize anybody from those meetings?

1 A. No.

2 Q. How frequent would Mr. Sheppard have a meeting -- in 2020,
3 during the pandemic, how frequently would he bring people to
4 his office for a meeting?

5 A. I remind you that I was only in the house from two to six.
6 During the time that I was in the house, I remember some, but I
7 would not be able to say exactly how many.

8 Q. Okay. So we have about six months from July to
9 December 2020. Would you say that there was three meetings in
10 six months, six meetings in six months? Any estimate you can
11 give us?

12 A. I don't know.

13 Q. And you don't remember anyone that you recognized?

14 A. No.

15 Q. Do you remember whether or not there was a meeting in 2020?

16 A. I don't remember exactly.

17 Q. When you describe it as a meeting, is it more than two
18 people, three people, four people? What is it that you're
19 describing?

20 A. The one that I remember, it was two people.

21 Q. And where did Mr. Sheppard meet with them?

22 A. In his office.

23 Q. And is that the office in the first floor?

24 A. Yes.

25 Q. That was Mr. Sheppard's home office, right?

1 A. Yes.

2 Q. And that's where he had his computer, correct?

3 A. Yes.

4 Q. There was another office in the house on the second floor,
5 correct?

6 A. Yes.

7 Q. That was Mrs. Sheppard's, correct?

8 A. Yes.

9 Q. You never used that computer either, right?

10 A. No.

11 Q. In 2021, do you remember anybody else coming to the house?

12 A. I don't remember.

13 Q. During the time that you worked for Mr. Sheppard, how were
14 you paid?

15 A. With a check.

16 Q. Before the pandemic, who would give you the check?

17 A. Before the pandemic?

18 Q. I said: "Before the pandemic."

19 A. Mrs. Jeanette Gonzalez.

20 Q. And after the office closed?

21 A. Mr. Sheppard would give me the checks at some point to be
22 able to facilitate and speed up the process. I would fill out
23 the checks for his signature and revision.

24 MS. MARTINEZ: Your Honor, just to clarify,
25 Government's Exhibit 39 has been admitted into evidence,

1 correct?

2 THE COURT: Yes. Yes. That's correct.

3 MS. MARTINEZ: I'm going to show the witness -- and
4 this is part of that exhibit. It's just I've identified it
5 with a different number because it's just two checks that I
6 pulled from it. So I would ask: Is there any objection to
7 Government's Exhibit 74, which I've previously provided to the
8 Defense?

9 MR. CAVALLO: No objection.

10 THE COURT: All right. It's part of the exhibit so
11 you may separately move it.

12 MS. MARTINEZ: Thank you, Your Honor.

13 BY MS. MARTINEZ:

14 Q. Ms. Ataca, do you recognize the check in Government's
15 Exhibit 74?

16 A. Yes.

17 Q. And is that an example of the checks that you were just
18 describing that you sometimes wrote out?

19 A. Yes.

20 Q. This particular check is made out to you, correct?

21 A. Correct.

22 Q. And what's the date?

23 A. June 25th, 2021.

24 Q. And the amount?

25 A. Eight hundred dollars.

1 Q. And from -- what company is the company that's paying you,
2 according to the check?

3 A. HM Management and Development, LLC.

4 Q. And how much are you getting paid on this check?

5 A. Eight hundred dollars.

6 Q. And who signed that check?

7 A. Mr. Eric Sheppard.

8 Q. And again, you stated -- did he give you permission to
9 write out the check?

10 A. Yes.

11 Q. I'm showing you part of the same Exhibit 74, a second
12 check. What's the date of this check?

13 A. June 25th, 2021.

14 Q. Did you also write this check?

15 A. Yes. It's my handwriting.

16 Q. And who signed it?

17 A. Mr. Sheppard.

18 Q. And to whom is this check written?

19 A. Elva Baluarte.

20 Q. That's your cousin that you described?

21 A. Yes.

22 Q. And how much is she getting paid?

23 A. One thousand two hundred and twenty-eight dollars.

24 Q. How frequently would you get paid the \$800?

25 A. Every other week.

1 Q. Do you recall getting paid by any different company other
2 than --

3 A. Yes.

4 Q. Do you remember the name?

5 A. Not the complete name. But one was Flagler, Alafaya
6 Trails.

7 Q. And were those checks also signed by Mr. Sheppard?

8 A. Yes.

9 Q. Now, again going back to the office in Mr. Sheppard's home,
10 what documents -- what documents from the office were -- that
11 were previously in the regular office -- what documents were
12 now in the home of Mr. Sheppard?

13 I'll redo the question. I'll redo the question.

14 What type of documents were in Mr. Sheppard's home
15 after July of 2020 when the office had been moved to his home?

16 A. When we were in the Biscayne Boulevard office, Mr. Sheppard
17 had an office. The documents from that office were moved to
18 his house, and those are the documents that I began to file.

19 Q. The documents that Mr. Sheppard had in his office before
20 the pandemic, were they moved to the portion of his house that
21 is his home office?

22 A. Correct.

23 Q. Were there any other documents that were taken somewhere
24 else?

25 A. The documents were taken to a storage, together with the

1 furniture.

2 Q. Did you ever have to go to storage to get some documents?

3 A. I have gone to the storage because Mrs. Jeanette Gonzalez
4 sometimes would ask me for documents that were at the storage.

5 Q. And where would you take them when Ms. Jeanette Gonzalez
6 would ask you for them?

7 A. To Mrs. Jeanette Gonzalez's home.

8 Q. Going back to the documents that you took -- or that were
9 taken to Mr. Sheppard's home. Did that include lease
10 documents?

11 A. In some cases, let's say a partial lease. It wasn't
12 complete.

13 Q. Did it include lease documents?

14 A. I repeat, in some cases it was a lease but not a complete
15 lease. It was partial. I don't have a copy of a complete
16 lease in Mr. Sheppard's house.

17 Q. I'm just trying to describe the type of records.

18 A. Yes.

19 Q. Did the records include invoices?

20 A. Yes.

21 Q. Did it include bank statements?

22 A. I'm sorry. I'm sorry. If you could clarify. Because with
23 that move, I am confused. Are you talking about the documents
24 that were moved to Mr. Sheppard's house? Correct?

25 Q. That's right.

1 A. Most of the documents that I filed are not complete.

2 Q. I'm just asking about the types of records. Here's my
3 question: Did it include any bank records?

4 A. I don't remember.

5 Q. Well, you were doing the filing, right?

6 A. Correct.

7 Q. What records do you remember were in Mr. Sheppard's home?
8 What type of records?

9 A. That were moved to Mr. Sheppard's house, plans, permits,
10 letters, some invoices. That's what comes to my mind right
11 now.

12 Q. As part of your duties, you said that you also would go to
13 the bank, correct?

14 A. Correct.

15 Q. Did you also have bank records at Mr. Sheppard's home?

16 A. Yes.

17 Q. Did you also have and see tax papers?

18 A. No. I don't remember.

19 Q. Do you remember seeing any forms that said "IRS"?

20 A. I remember a notice or a couple of notices that had the
21 letterhead saying IRS.

22 Q. Did you file those records?

23 A. Yes.

24 Q. And where were those records kept?

25 A. Together with the other files.

1 Q. In Mr. Sheppard's home office?

2 A. Correct.

3 Q. During the time that you were working for Mr. Sheppard,
4 were you -- did you get a W-2? Did they ever give you a W-2?

5 A. No.

6 Q. Were you a 1099 independent contractor?

7 A. Yes.

8 Q. From the beginning of the pandemic, March of 2020, to the
9 end of 2021, did you ever upload any documents into a computer
10 at the direction of anybody in Mr. Sheppard's home?

11 A. No.

12 Q. Do you know what the Paycheck Protection Program is, from
13 the Small Business Administration?

14 A. I heard on the news about a loan, but I did not know that
15 it was for small businesses -- I mean from the Small Business
16 Administration.

17 Q. Did you ever apply for any loan on behalf of Mr. Sheppard?

18 A. No.

19 Q. Did you ever communicate by email or phone or text with any
20 lender relating to a loan of Mr. Sheppard's?

21 A. No.

22 Q. Did you ever write any forms that were Internal Revenue
23 Service forms related to Mr. Sheppard's business?

24 A. No.

25 THE COURT: Ms. Martinez, let me know when it might be

1 a good time to give our jurors a break.

2 MS. MARTINEZ: One second, Your Honor. I might...

3 (Pause in proceedings.)

4 THE COURT: While Ms. Martinez is conferring, we're
5 going to go ahead and take a 10-minute recess.

6 COURT SECURITY OFFICER: All rise for the jury.

7 THE COURT: All right. We're on a 10-minute recess.

8 (Recess from 11:17 a.m. to 11:28 a.m.)

9 THE COURT: All right. Both parties ready to
10 continue?

11 MR. CAVALLO: Yes, Your Honor.

12 THE COURT: Oh. Hold on. My apologies. Mr. Sheppard
13 is not in the courtroom.

14 (Pause in proceedings.)

15 MS. WEINTRAUB: Apologies, Your Honor.

16 THE COURT: Not a problem.

17 Let me acknowledge the presence of the Defendant.

18 Are we ready to continue on both sides?

19 Ms. Martinez?

20 MS. MARTINEZ: Yes, Your Honor.

21 THE COURT: Ms. Weintraub?

22 MS. WEINTRAUB: Yes, Your Honor.

23 THE COURT: Have you concluded your direct or do you
24 have more?

25 MS. MARTINEZ: I just have two more questions, Your

1 Honor.

2 THE COURT: Okay. Let's bring in the jury.

3 COURT SECURITY OFFICER: Please remain standing for
4 the jury.

5 (Before the Jury, 11:29 a.m.)

6 THE COURT: All right. Welcome back, Ladies and
7 Gentlemen.

8 Please be seated.

9 And we'll continue with the direct examination.

10 BY MS. MARTINEZ:

11 Q. Ms. Ataca, do you remember being interviewed by FBI agents?

12 A. Yes. Telephonically.

13 Q. And that was approximately in June of 2023, right?

14 A. Right.

15 Q. And you willingly answered the questions of the FBI agents,
16 correct?

17 A. Correct.

18 Q. After that, did you obtain an attorney to represent you?

19 A. Correct.

20 Q. His name is Dan Rashbaum, right?

21 A. Right.

22 Q. And who's paying for your attorney?

23 A. I don't know.

24 Q. You don't know who's paying for your attorney?

25 A. No.

1 Q. It's not you?

2 A. Not directly.

3 Q. So before today I had the opportunity to meet with you once
4 with your lawyer, Mr. Rashbaum, right?

5 A. Right.

6 MR. CAVALLO: Objection, Your Honor. No personal
7 knowledge about meetings between the Government and her
8 attorney.

9 MS. MARTINEZ: Excuse me?

10 THE COURT: Was this individual present during those
11 meetings?

12 MS. MARTINEZ: Yes.

13 THE COURT: Overruled.

14 MS. MARTINEZ: No further questions, Your Honor.

15 THE COURT: All right. Cross-examination.

16 CROSS-EXAMINATION

17 BY MR. CAVALLO:

18 Q. Good morning, Ms. Ataca.

19 A. Good morning.

20 Q. During your testimony you referred to Eric Sheppard as
21 Mr. Sheppard, and I think even on one occasion Dr. Sheppard; is
22 that right?

23 A. No. I think that was an interpreting error.

24 Q. Understood. In fact, you call him Eric, correct?

25 A. That's correct.

1 Q. And it's the same with the other people you work with,
2 Jeanette Gonzalez, Mr. Graff, Vanessa Gonzalez. You're on a
3 first-name basis with all of these people, correct?

4 A. Correct.

5 Q. Early in your testimony you talked about how you started
6 out cleaning Mr. Sheppard's offices; is that right?

7 A. Correct.

8 Q. And I believe that lasted through approximately 2011?

9 A. Correct.

10 Q. Could you explain for the jury the circumstances of how you
11 switched from cleaning the offices to doing office work.

12 A. Yes. Of course. When Mr. Sheppard moved to the office at
13 12000 Biscayne Boulevard --

14 THE INTERPRETER: Let me just clarify.

15 THE WITNESS: (Through Interpreter.) When he moved to
16 the office in 2011, I was doing cleaning for him in that
17 office. But I noticed that he had already included the
18 cleaning service. And I spoke to him because I did not find
19 any sense in him paying for the same service twice. So I told
20 him that it was fine, that he already had the service and that
21 it wasn't necessary for him to pay me as well. And what he
22 said to me was: "No," and to speak to Mrs. Jeanette Gonzalez
23 because --

24 THE INTERPRETER: Just clarifying.

25 THE WITNESS: Because in the office, in his company,

1 there was a lot of work.

2 BY MR. CAVALLO:

3 Q. Just to clarify my understanding of your testimony, when
4 Mr. Sheppard moved into the office at 12000 Biscayne, there was
5 a cleaning service that came with that; is that right?

6 A. Correct.

7 Q. And rather than have you out of a job, he found a new job
8 for you, correct?

9 A. That's correct.

10 Q. Is Mr. Sheppard a good boss?

11 A. Absolutely. Yes.

12 MR. CAVALLO: Could you put up Q-1 just for the
13 witness, please.

14 BY MR. CAVALLO:

15 Q. Ms. Ataca, do you see the picture on your screen?

16 A. Yes.

17 Q. Okay. I'm going to have Keith go through these and pause
18 every few seconds. I just want to know if you recognize this
19 space and what it is. But I'll have him go -- there's only six
20 pictures. I'll have him spend a few seconds on each picture
21 and just scroll through.

22 A. That is Mr. Sheppard's office on Biscayne Boulevard.

23 Q. And that -- is that a different space in the same office?

24 A. That was the conference room that was next to
25 Mr. Sheppard's office.

1 The conference room.

2 The conference room.

3 MR. CAVALLO: I think that's the end, right?

4 BY MR. CAVALLO:

5 Q. Is this the office at 12000 Biscayne Boulevard?

6 A. Yes.

7 Q. Is this the office that you used -- the company used up
8 until COVID?

9 A. Yes.

10 Q. Are these pictures we've now looked at a fair and accurate
11 representation of what the office looked like in the period of
12 time right before COVID?

13 A. Yes.

14 Q. And is this the office space where you worked,
15 Mrs. Gonzalez worked, Mr. Graff worked, Mr. Sheppard was
16 periodically there -- is this the same office?

17 A. Yes. That is the office.

18 MR. CAVALLO: Your Honor, I'd move Q-1 into evidence.

19 MS. MARTINEZ: Your Honor, I have an objection I think
20 I need to state at sidebar.

21 THE COURT: What's the legal basis?

22 MS. MARTINEZ: Your Honor, the legal basis is, A,
23 cumulative, B, if you would look at the photos -- would the
24 Court like me to state that openly?

25 THE COURT: All right. Come on sidebar.

1 (At sidebar on the record.)

2 MS. MARTINEZ: Your Honor, I have no --

3 THE COURT: Hold on. Hold on. Let's just wait.

4 Everybody take a microphone, please.

5 All right.

6 MS. MARTINEZ: Your Honor, I have no objection to
7 three photos.

8 THE COURT: Okay.

9 MS. MARTINEZ: As you can see, these are different
10 rooms. My objection is to photos that appear staged of
11 documents. They're the same room.

12 THE COURT: Okay.

13 MS. MARTINEZ: Same room, but you're only taking
14 pictures of documents. Same room. Same room --

15 THE COURT: What's contained in the documents that you
16 claim is staged?

17 MS. MARTINEZ: No. I'm just saying it's cumulative
18 and it doesn't appear to be anything normal. For example, this
19 is a picture -- this is cumulative of this. And it's just
20 simply focusing on documents. It's unnecessary, cumulative,
21 and I don't think she's laid a proper foundation for this
22 picture.

23 I have no objection to that.

24 THE COURT: Where is it cumulative? They are two
25 different photographs and they are depicting two different

1 items.

2 MS. MARTINEZ: This is -- this is a picture of the
3 office and this is a picture --

4 THE COURT: Well, even the pillow is different. The
5 couch is different, where the phone is. I mean, it's not
6 cumulative.

7 MS. MARTINEZ: Your Honor --

8 THE COURT: There's different shots of the same
9 office. Is this what we needed to go sidebar for?

10 MS. MARTINEZ: Your Honor, it appears staged to me.

11 THE COURT: Staged in what manner? What is it within
12 the document -- what is it within the photograph that's
13 prejudicial?

14 MS. MARTINEZ: I don't know. But it's improper, I
15 think, to ask this witness to authenticate a picture that is
16 just taken purposefully to put pictures of documents on tables.

17 THE COURT: It's because there's documents on tables
18 that are not discernable?

19 MS. MARTINEZ: And it's cumulative. In other words, I
20 would ask them why that's necessary.

21 THE COURT: Response?

22 MS. MARTINEZ: This is my witness. They can do this
23 in their Defense case.

24 MR. CAVALLO: Your Honor, I don't see any way how this
25 is cumulative. As you've pointed out, the pictures are

1 different. I'm going to ask the witness if these -- again.
2 I've asked once, but I'll ask again if these are fair
3 representations of how the conference room looked in the
4 lead-up to COVID, if this is how Mr. Sheppard's desk looked.
5 You know, I don't see how it's cumulative. It's our case.
6 It's our evidence we're putting in. I don't -- just don't see
7 a basis to exclude it.

8 MS. MARTINEZ: Right. And it's our case in chief. So
9 they are trying to -- on cross-examination of a witness, this
10 is --

11 THE COURT: But this is the first time that you're
12 raising that, that they're trying to -- you want the witness to
13 to be called back in the Defendant's case in chief?

14 MS. MARTINEZ: No. No. No.

15 THE COURT: Then that issue is a non-issue, the
16 cumulative is a non-issue. And in terms of staging, there's
17 no -- you're not even offering anything other than your own
18 speculation.

19 MS. MARTINEZ: I would just ask: Why do they need to
20 document pictures?

21 THE COURT: Okay. The objection is overruled and the
22 documents are admitted into evidence as a cumulative exhibit.

23 (End of discussion at sidebar.)

24 THE COURT: What exhibit number is this, please?

25 MR. CAVALLO: Defendant's Q-1.

1 THE COURT: All right. In evidence.

2 (Defendant's Exhibit Q-1 received into evidence.)

3 MR. CAVALLLO: Thank you, Your Honor.

4 BY MR. CAVALLLO:

5 Q. So this should be the first picture in Composite Q-1 on the
6 screen, Ms. Ataca. Do you see it?

7 A. Yes.

8 Q. And this is a picture of Mr. Sheppard's office?

9 A. Yes.

10 Q. And you can kind of see down the hallway. Is that where
11 other people would have worked in the office, including
12 yourself?

13 A. Yes.

14 MR. CAVALLLO: You can go to the next picture.

15 BY MR. CAVALLLO:

16 Q. Again, this is a different view of Mr. Sheppard's desk,
17 correct?

18 A. Yes.

19 Q. Is this a fair and accurate representation of how
20 Mr. Sheppard's desk usually looks?

21 A. Yes.

22 MR. CAVALLLO: You can go to the next picture.

23 BY MR. CAVALLLO:

24 Q. This is an alternate view of an office space, correct, at a
25 different time?

1 A. Yes. Correct.

2 MR. CAVALLLO: You can go to the next picture.

3 BY MR. CAVALLLO:

4 Q. This is a picture of the conference room in the office?

5 A. Yes.

6 MR. CAVALLLO: Next picture.

7 BY MR. CAVALLLO:

8 Q. This is the -- an alternate view of the conference room
9 facing out the door?

10 A. Yes. Correct.

11 MR. CAVALLLO: Next picture.

12 BY MR. CAVALLLO:

13 Q. This is a picture of the conference room at a different
14 time, correct?

15 A. Yes.

16 Q. Ms. Ataca, is this picture a fair and accurate
17 representation of how the conference room looked in the office?

18 A. Yes.

19 Q. Is it safe to say that Mr. Sheppard is messy?

20 A. Yes.

21 Q. And does it seem to you like he always has -- he's doing a
22 million things at once?

23 A. Yes.

24 Q. When the pandemic COVID hit in March/April 2020, the office
25 stayed open until July. Was that your testimony?

1 A. In March we closed because of COVID, yes. After the 15
2 days, I continued working in the office.

3 Q. Was that time between the shutdown in July -- that time was
4 spent packing the office and preparing to move it, correct?

5 THE INTERPRETER: Counselor, do you mind repeating the
6 question? My apologies.

7 BY MR. CAVALLLO:

8 Q. Sorry. Yeah. The time between COVID and then July,
9 whenever it was you stopped working there, that was time spent
10 packing up and moving out of the office?

11 A. (In English.) That's correct.

12 Q. Were you involved in actually packing up the files?

13 A. (Through Interpreter.) Yes.

14 Q. And I think your testimony was some files -- you described
15 them in detail for the Government -- some files went to
16 Mr. Sheppard's house, but other files went to storage, correct?

17 A. Correct.

18 Q. And it was Mr. Vasilas and Glenn Sheppard who moved the
19 documents into storage, correct?

20 A. Yes. Correct.

21 Q. Now, when the office -- it gets confusing with the terms --
22 when the office turns into the home office, right, it starts
23 out Mr. Sheppard has an actual office space in his house,
24 correct?

25 A. Right.

1 Q. Over time, starting in the beginning of COVID, did the
2 office expand beyond just the office space on the bottom floor
3 of the house?

4 A. Absolutely. It's almost the whole first floor of the
5 house.

6 Q. There's tables and documents everywhere, correct?

7 A. Correct.

8 Q. And your job as file clerk got harder during COVID because
9 of the setup of the home office, correct?

10 A. Correct.

11 Q. And that was because of the ever-expanding home office,
12 plus you report to Jeanette Gonzalez, correct?

13 A. Correct.

14 Q. And Mrs. Gonzalez does not work out of the home office,
15 correct?

16 A. No.

17 Q. Correct?

18 A. Correct. Correct. She is not in the office that is in
19 Mr. Sheppard's house.

20 Q. I'm sorry to go backward at all. But before COVID,
21 Mr. Sheppard traveled a lot, correct?

22 A. Correct.

23 Q. Is it safe to say he spent more time traveling than he did
24 sitting in the office?

25 A. Yes.

1 MR. CAVALLO: Annie, I don't have a copy of 74. Could
2 I use yours?

3 (Pause in proceedings.)

4 MR. CAVALLO: Do you have this to put on the screen?

5 MS. MARTINEZ: Oh, no. No.

6 MR. CAVALLO: Could I use the ELMO?

7 BY MR. CAVALLO:

8 Q. You were shown this check by the Government, correct,
9 Ms. Ataca?

10 A. Yes.

11 Q. Mr. Sheppard signed this check, correct?

12 A. Correct.

13 Q. You filled out everything else, including, for example, the
14 bottom memo that says "payroll," right?

15 A. Correct.

16 Q. Was it common for you and Mrs. Gonzalez, and other people
17 you worked with, to refer to your payments as payroll?

18 A. Yes.

19 MR. CAVALLO: We could take that down. Thanks.

20 BY MR. CAVALLO:

21 Q. For the office work that you performed, you really did the
22 same things in the 12000 Biscayne that you did in the home
23 office, correct?

24 A. Yes, basically.

25 Q. With added tasks caused by COVID, such as delivering

1 documents to and from Jeanette Gonzalez?

2 A. Correct.

3 Q. And you were always paid by the companies for the office
4 work you performed, correct?

5 A. Correct.

6 Q. It wasn't like the companies just started paying you during
7 COVID?

8 A. No.

9 Q. You testified that on Friday night, Saturday, you
10 performed -- you worked for Mrs. Sheppard, correct?

11 A. I worked -- I worked for Mrs. Sheppard on Fridays and
12 Saturdays.

13 Q. Okay. And Mrs. Sheppard pays you separately for that work,
14 correct?

15 A. Yes.

16 Q. All of the payments you received from Mr. Sheppard's
17 companies are for office work that you performed, correct?

18 A. Correct.

19 Q. I noticed during your testimony you said you work typically
20 from two to six p.m., correct?

21 A. Correct.

22 Q. Before COVID, did you have another job in the morning?

23 A. Yes.

24 Q. What was that job?

25 A. (In English.) Housekeeper.

1 Q. That was housekeeping not for Mr. Sheppard. It was for
2 other people, correct?

3 A. (Through Interpreter.) Correct.

4 Q. And did you have a company or a d/b/a that you used for
5 that work?

6 A. Yes.

7 Q. What was the company or d/b/a -- what was it called?

8 A. MAC Services.

9 Q. MAC Services.

10 Okay. Did you ever apply for the Paycheck Protection
11 Program for MAC Services?

12 A. Yes.

13 Q. And you applied as an independent contractor?

14 A. Yes.

15 Q. You thought you might qualify so you tried applying,
16 correct?

17 A. Right.

18 Q. And this application was only for your independent
19 contractor work for MAC Services unrelated to Mr. Sheppard?

20 A. Correct.

21 Q. You didn't tell Mr. Sheppard you were applying for PPP with
22 MAC Services, did you?

23 A. No.

24 Q. And what happened? Were you accepted or rejected?

25 A. My application was rejected.

1 Q. So you never got any PPP money for your application as an
2 independent contractor?

3 A. No.

4 Q. But you did continue to get paid by Mr. Sheppard through
5 COVID, didn't you?

6 A. Yes.

7 Q. I believe you testified this morning that Mr. Vasilas was
8 frequently in the home office; is that correct?

9 MS. MARTINEZ: Objection. Misstates the testimony.

10 THE COURT: Overruled.

11 THE WITNESS: (Through Interpreter.) Correct.

12 BY MR. CAVALLO:

13 Q. And you're only there from two to six, correct?

14 A. Correct.

15 Q. And the Government asked you what kinds of things
16 Mr. Vasilas was doing in the home office, correct?

17 A. Correct.

18 Q. Now, when Mr. Vasilas was in the home office, you weren't
19 following him around the home office, were you?

20 A. True.

21 Q. You were busy doing all of the things that you're supposed
22 to be doing in the office, like filing, and that kind of thing,
23 and running errands to banks, correct?

24 A. Correct.

25 Q. So even from two to six you're not even always in the

1 house. You could be doing -- performing work functions outside
2 of the house, correct?

3 A. True.

4 Q. Mr. Vasilas had access to the home office, correct?

5 A. Correct.

6 Q. There is a gate near the house and there is a door through
7 the gate, correct?

8 A. Correct.

9 Q. That door is left unlocked, correct?

10 A. Correct.

11 Q. There is a side door into the home office, correct?

12 A. Correct.

13 Q. That door is left unlocked, correct?

14 A. Correct.

15 Q. You've seen Mr. Vasilas working in the home office,
16 correct?

17 A. I have seen Mr. Vasilas there, yes.

18 Q. And I believe you testified he'd even bring his wife and
19 dog to the house, correct?

20 A. Yes. I did say that I have seen the lady. I have seen the
21 lady.

22 MS. MARTINEZ: The dog.

23 BY MR. CAVALLO:

24 Q. Mr. Vasilas had access to the storage area, correct?

25 A. Yes. He moved the boxes. He moved the boxes during the

1 move, yes.

2 Q. So between access to storage and access to the home office,
3 Mr. Vasilas had access to the companies' business records,
4 correct?

5 A. Yes. Of course.

6 MR. CAVALLO: Just one moment, Your Honor.

7 THE COURT: All right. Certainly.

8 (Pause in proceedings.)

9 MR. CAVALLO: Just two more questions.

10 THE COURT: All right.

11 BY MR. CAVALLO:

12 Q. Jeanette Gonzalez, she works from her -- since COVID, she
13 works from her house?

14 A. Yes. Correct.

15 Q. And Mrs. Gonzalez lives in Hialeah?

16 A. Yes.

17 Q. And as part of your job responsibilities, you frequently
18 travel back and forth between Mr. Sheppard's home office and
19 Mrs. Gonzalez's house, correct?

20 A. Correct.

21 Q. I'm sorry, Ms. Ataca. You testified this morning that
22 one -- another one of your job functions is to deposit the rent
23 checks, correct?

24 A. Correct.

25 Q. Am I correct that the way that that works is you yourself

1 will go to a PO box where the rent checks are collected and
2 then take them and go to the bank, correct?

3 A. Correct.

4 Q. It doesn't involve Mr. Sheppard at all, correct?

5 A. No.

6 MR. CAVALLO: Nothing further.

7 THE COURT: All right. Any redirect?

8 MS. MARTINEZ: Yes, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. MARTINEZ:

11 Q. Ms. Ataca, you were asked about some photographs. Did you
12 ever take photographs in the office yourself?

13 A. No.

14 Q. Do you have any idea when the photos that you were shown
15 were taken?

16 A. No.

17 Q. Did you see anybody taking those photos?

18 A. No.

19 Q. Did you witness the -- any meeting in that conference room
20 that you were shown in the photos?

21 A. I have seen meetings in that conference room, but I haven't
22 participated in those meetings.

23 Q. And who was in that meeting?

24 A. Well, I'm talking in general terms -- many meetings --

25 Q. Let me ask you about --

1 A. -- along the years.

2 Q. Let me ask you about 2019.

3 A. I am not sure.

4 Q. 2020.

5 A. No. I'm not sure as to who participated specifically.

6 Q. You were shown a photo of what you identified as

7 Mr. Sheppard's desk.

8 A. Correct.

9 Q. Do you have any idea why anyone would look at

10 Mr. Sheppard's desk and take a picture of documents on top of

11 Mr. Sheppard's desk?

12 MR. CAVALLLO: Objection, Your Honor. Speculation.

13 THE COURT: Sustained.

14 BY MS. MARTINEZ:

15 Q. Do you --

16 MS. MARTINEZ: Your Honor, she was asked about these
17 photographs.

18 THE COURT: Yes.

19 MS. MARTINEZ: And she identified --

20 THE COURT: All right. Your next question, please.

21 BY MS. MARTINEZ:

22 Q. Did you see anyone in the office ever stand over a desk and
23 take pictures of papers that were on that desk?

24 A. No.

25 Q. Did you see anyone ever just standing over a conference

1 room and just taking pictures down -- looking at papers on the
2 floor?

3 A. No.

4 Q. Did Mr. Sheppard allow anyone to look at these papers, or
5 was it -- papers in his office, or was it just you and
6 Ms. Jeanette Gonzalez?

7 MR. CAVALLO: Objection, Your Honor. Calls for
8 speculation.

9 THE COURT: Overruled. If the witness knows.

10 THE INTERPRETER: I'm sorry. Counsel, do you mind?
11 BY MS. MARTINEZ:

12 Q. Yeah. So did Mr. Sheppard allow anyone to work with the
13 papers on his desk or was it limited to you for filing?

14 A. I don't know if Mr. Sheppard would allow that to that
15 person, and I wasn't working filing the documents that were on
16 top of Mr. Sheppard's desk.

17 Q. So how did you obtain the records that you filed?

18 A. Through Mrs. Jeanette Gonzalez.

19 Q. Did the papers that were on Mr. Sheppard's desk ever get
20 filed?

21 A. I don't know.

22 Q. You were asked about the check that you had written with
23 your name on it. Is it correct that you never received a W-2
24 for your work for Mr. Sheppard? Is that right?

25 A. Correct.

1 Q. And the person who signed the checks for you was always
2 Mr. Sheppard, correct?

3 MR. CAVALLLO: Objection, Your Honor. Leading.

4 MS. MARTINEZ: Your Honor --

5 THE COURT: Overruled. I'll allow it.

6 THE WITNESS: (Through Interpreter.) Correct.

7 BY MS. MARTINEZ:

8 Q. Who signed -- you had -- you were asked about whether
9 Mr. Eric Sheppard traveled. Where did he travel to?

10 A. I don't know exactly.

11 Q. While he was gone, would anybody else sign the checks?

12 A. I don't know.

13 Q. Did Mr. Sheppard allow anybody else to sign his checks?

14 A. I don't know.

15 Q. Did you ever receive a check by -- signed by somebody other
16 than Mr. Sheppard?

17 A. No.

18 Q. Who is your boss?

19 A. I work directly with Mrs. Jeanette Gonzalez.

20 Q. Is Mr. Sheppard your boss?

21 A. He is the owner of the company.

22 Q. He's the one who hired you, right?

23 A. He gave instructions to Mrs. Jeanette Gonzalez to hire me.

24 Q. I thought you just said on cross-examination that
25 Mr. Sheppard hired you.

1 A. No. What I said -- what I related was that when I was
2 working for Mr. Sheppard that he was paying twice for the same
3 service, he directed me to speak to Mrs. Jeanette Gonzalez
4 because there were other jobs that I could do in her office.

5 Q. Do you remember on cross-examination that you were asked
6 whether Mr. Sheppard was a good boss?

7 A. Yes.

8 Q. Is he your boss?

9 A. I don't consider him my direct boss. But he's the owner of
10 the company, so in the long run, yes.

11 Q. Is there anybody in the company who is Mr. Sheppard's boss?
12 Is anybody Mr. Sheppard's boss?

13 MR. CAVALLO: Objection, Your Honor. Calls for
14 speculation.

15 THE COURT: Sustained.

16 THE INTERPRETER: Is she going to respond to that?

17 MS. MARTINEZ: No. Don't. Don't.

18 THE INTERPRETER: Okay.

19 BY MS. MARTINEZ:

20 Q. Who is Ms. Jeanette Gonzalez's boss?

21 A. I do not know the exact organization chart of the company.

22 Q. Who directs you to go to Ms. Jeanette Gonzalez's house --
23 during the pandemic, who was directing you to go to her house
24 to do an errand?

25 A. Mrs. Jeanette Gonzalez would have called me.

1 Q. And you don't know whether Mr. Sheppard is Ms. Jeanette
2 Gonzalez's boss? You don't know that?

3 MR. CAVALLLO: Objection, Your Honor. Asked and
4 answered.

5 THE COURT: Sustained.

6 BY MS. MARTINEZ:

7 Q. In the office, before you went to the home office, before
8 you went to Mr. Sheppard's home, you indicated that there was
9 Jeanette Gonzalez, Jeff Graff, you, Vanessa Gonzalez, and Eric
10 Sheppard, correct?

11 A. Correct.

12 Q. Of those individuals, who was the boss?

13 MR. CAVALLLO: Objection, Your Honor. Calls for
14 speculation, beyond the scope of cross.

15 MS. WEINTRAUB: Irrelevant.

16 THE COURT: The objection is sustained.

17 BY MS. MARTINEZ:

18 Q. When you were at Mr. Sheppard's home after July of 2020,
19 you also indicated that you worked for Mrs. Sheppard, correct?

20 A. Could you clarify that question?

21 Q. You were asked about the fact that you also worked for
22 Mrs. Sheppard at the house, correct?

23 A. Uh-huh.

24 THE COURT: Is that a yes, Ms. Ataca?

25 THE WITNESS: (Through Interpreter.) I am a little

1 confused.

2 You're telling me that I work in the house in
3 Mr. Sheppard's office?

4 BY MS. MARTINEZ:

5 Q. After July of 2020, you're working at Mr. Sheppard's house,
6 correct?

7 A. Correct.

8 Q. And you also were working for Mrs. Sheppard on the
9 weekends, correct?

10 A. Correct.

11 Q. To your knowledge, was Mrs. Sheppard involved with
12 Mr. Sheppard's business?

13 MR. CAVALLO: Objection, Your Honor. Calls for
14 speculation.

15 THE COURT: If the witness knows. Overruled.

16 THE WITNESS: (Through Interpreter.) I don't know.

17 BY MS. MARTINEZ:

18 Q. Now, on cross-examination, you were asked about the
19 Paycheck Protection Program. Do you recall that?

20 A. Correct.

21 Q. And you had told me that you had heard about it in the
22 news, right?

23 A. Correct.

24 Q. And you do recall that I asked your attorney to please ask
25 you if you recalled anything about why your application was

1 denied. You recall that?

2 A. Yes.

3 Q. And your answer is that you don't know why, right?

4 A. I don't remember why.

5 Q. You were asked on cross-examination about Jeff Vasilas.

6 A. Yes.

7 Q. You remember that he died in July of 2021, right?

8 A. I know that he died. I don't remember the date.

9 Q. So let's clarify. When you said -- on cross-examination,
10 the word was used "frequently." Let's clarify. After
11 July 2020, from July 2020 to 2021 -- July 2021, let's say till
12 Mr. Vasilas died...

13 THE INTERPRETER: Yeah. Go ahead, Counsel.

14 MS. MARTINEZ: No. Go ahead.

15 BY MS. MARTINEZ:

16 Q. Did you see him at the house -- at Mr. Sheppard's house
17 more than once a month?

18 A. Yes. I could say that.

19 Q. How often in a month would Mr. Vasilas be there?

20 A. I could say between three times a week.

21 Q. And you were asked whether he could actually go into
22 Mr. Sheppard's separate home office, the separate space. Did
23 you say that he was going into Mr. Sheppard's separate private
24 office without Mr. Sheppard?

25 A. Yes.

1 Q. And why would he do that?

2 A. I don't know.

3 Q. Would anybody go into Mr. Sheppard's home office space
4 without Mr. Sheppard giving them permission?

5 MR. CAVALLO: Objection, Your Honor. Asked and
6 answered.

7 THE COURT: Sustained.

8 BY MS. MARTINEZ:

9 Q. You were asked on cross-examination about some kind of side
10 door. Are you saying that Mr. Vasilas had a key to
11 Mr. Sheppard's house?

12 A. I don't know whether Mr. Vasilas had a key.

13 Q. Would Mr. Sheppard allow anybody to go into his house
14 without his permission?

15 MR. CAVALLO: Objection, Your Honor. Speculation.

16 THE COURT: Sustained.

17 BY MS. MARTINEZ:

18 Q. Do you know if Mr. Sheppard allowed -- when you were in the
19 house, would he allow anyone to walk in, just anyone?

20 THE INTERPRETER: Anyone what?

21 MS. MARTINEZ: Anyone to walk into the house without
22 his permission.

23 BY MS. MARTINEZ:

24 Q. Did you ever see someone walking into the house without
25 Mr. Sheppard's permission?

1 MR. CAVALLO: Objection. Your Honor. Calls for
2 speculation.

3 BY MS. MARTINEZ:

4 Q. Did you ever see it?

5 THE COURT: If the witness knows based on her
6 observations.

7 THE WITNESS: There have been people who have gone in.
8 I don't know whether they had Mr. Sheppard's permission or not.

9 BY MS. MARTINEZ:

10 Q. Give me an example of someone you observed coming in.

11 A. Mr. Vasilas, for example.

12 Q. So you don't know -- you don't know -- was Mr. Vasilas
13 breaking and entering into Mr. Sheppard's home?

14 MR. CAVALLO: Objection, Your Honor.

15 THE COURT: Sustained.

16 BY MS. MARTINEZ:

17 Q. Was he entering -- are you saying you don't know at all
18 whether Mr. Vasilas had permission to be in the house but you
19 allowed it? You allowed it even though you have no idea
20 whether he had permission?

21 MR. CAVALLO: Objection, Your Honor. Argumentative.
22 Calls for speculation.

23 THE COURT: Sustained.

24 MS. WEINTRAUB: And asked and answered and beating a
25 dead horse.

1 BY MS. MARTINEZ:

2 Q. Anybody else that you saw? He's the only one that you saw
3 that you think might have come in, but you're not sure if they
4 had permission?

5 MR. CAVALLO: Objection, Your Honor. Asked and
6 answered.

7 THE COURT: Is there anyone else, Ms. Ataca, that you
8 saw?

9 THE WITNESS: (Through Interpreter.) Mr. Glenn
10 Sheppard.

11 BY MS. MARTINEZ:

12 Q. That's Mr. Sheppard's brother.

13 A. Yes.

14 Q. You've worked with Mr. Sheppard doing office work before --
15 outside of the house and then in the house since approximately
16 2011, right?

17 A. Correct.

18 Q. And during that time, from what you observed with your
19 eyes, did you see Mr. Sheppard allow others to just touch his
20 business papers without his permission?

21 MR. CAVALLO: Objection, Your Honor. Asked and
22 answered. Calls for speculation.

23 THE COURT: On the first ground, sustained.

24 BY MS. MARTINEZ:

25 Q. You were asked on cross-examination whether Mr. Vasilas

1 had, quote/unquote, access to Mr. Sheppard's business records.

2 A. Yes.

3 Q. Did you observe Mr. Vasilas with Mr. Sheppard's records
4 without Mr. Sheppard's permission?

5 MR. CAVALLO: Objection, Your Honor. Calls for
6 speculation.

7 THE COURT: Sustained. Rephrase, please.

8 BY MS. MARTINEZ:

9 Q. Did you observe Mr. Vasilas with Mr. Sheppard's business
10 records without Mr. Sheppard present? Did you observe that?

11 A. I don't remember.

12 Q. That, you don't remember. Okay.

13 You were asked on cross-examination about picking up
14 checks from a PO box.

15 A. Correct.

16 Q. And Mr. Cavallo, while cross-examining you, went on to ask
17 you whether -- that -- in a leading question, he asked you:

18 "So Mr. Sheppard had nothing to do with the depositing of the
19 checks." Do you remember that?

20 A. Yes.

21 Q. At whose direction are you depositing checks in
22 Mr. Sheppard's bank accounts?

23 MR. CAVALLO: Objection, Your Honor. Mr. Sheppard's
24 bank accounts?

25 THE COURT: Overruled.

1 THE WITNESS: (Through Interpreter.) I don't deposit
2 checks in Mr. Sheppard's personal accounts. These are the
3 companies' accounts. And originally we would do that from the
4 office on Biscayne Boulevard, so of course. So the one who
5 would give me those instructions would be Mrs. Jeanette
6 Gonzalez.

7 BY MS. MARTINEZ:

8 Q. Who controlled the company bank accounts? Was it
9 Mr. Sheppard or Ms. Gonzalez?

10 MR. CAVALLO: Objection, Your Honor. Calls for
11 speculation.

12 THE COURT: Sustained.

13 BY MS. MARTINEZ:

14 Q. Are you familiar with the work that Mr. Jeff Vasilas was
15 doing on a project in Orlando?

16 THE INTERPRETER: Who? Mr. Who?

17 MS. MARTINEZ: Jeff Vasilas.

18 THE INTERPRETER: Thank you.

19 THE WITNESS: (Through Interpreter.) Could you
20 specify what you're referring to when you say "familiar"?

21 BY MS. MARTINEZ:

22 Q. You're aware that Mr. Jeff Vasilas was working on a project
23 in Orlando, right?

24 A. Correct.

25 MS. MARTINEZ: No further questions, Your Honor.

1 THE COURT: All right. Is the witness excused?

2 MS. MARTINEZ: Yes, Your Honor.

3 MR. CAVALLLO: Yes, Your Honor.

4 THE COURT: Thank you, Ms. Ataca. You are excused.

5 (Witness excused.)

6 THE COURT: All right. And Ladies and Gentlemen, as
7 you can see it is 12:30. We will take our one-hour recess for
8 lunch. I'll see you back here at 1:30.

9 Have a pleasant lunch.

10 COURT SECURITY OFFICER: All rise for the jury.

11 (Jury not present, 12:30 p.m.)

12 THE COURT: All right. Have a pleasant lunch. I'll
13 see you at 1:30.

14 (Recess from 12:30 p.m. to 1:32 p.m.)

15 THE COURT: All right. Welcome back.

16 I trust that everyone had a pleasant lunch.

17 Let me acknowledge the presence of the Defendant.

18 Are both sides ready to continue?

19 MS. JIMENEZ: Yes, Your Honor.

20 MR. ETRA: Yes, Your Honor.

21 THE COURT: Could we see if we have all of our jurors
22 back.

23 And we have our next witness ready to go?

24 MS. JIMENEZ: Yes.

25 (Pause in proceedings.)

1 (Before the Jury, 1:33 p.m.)

2 THE COURT: All right. Welcome back, Ladies and
3 Gentlemen.

4 Please be seated, everyone.

5 And the Government's next witness, please.

6 MS. JIMENEZ: Yes, Your Honor.

7 The United States calls Jeffrey Graff.

8 THE COURT: All right. Is this Mr. Graff that's
9 already seated on the witness stand?

10 Sir, let me ask that you stand, raise your right hand
11 to be placed under oath.

12 JEFFREY GRAFF, GOVERNMENT WITNESS, SWORN

13 COURTROOM DEPUTY: Thank you.

14 Please be seated.

15 Could you please state your name and also spell it for
16 the record.

17 THE WITNESS: Jeffrey Graff. J-E-F-F-R-E-Y G-R-A-F-F,
18 as in Frank.

19 COURTROOM DEPUTY: Thank you.

20 DIRECT EXAMINATION

21 BY MS. JIMENEZ:

22 Q. Good afternoon, Mr. Graff.

23 A. Good afternoon.

24 Q. Were you subpoenaed to appear at this trial?

25 A. Yes, I was.

1 Q. Briefly tell the Members of the Jury your educational
2 background.

3 A. I got a bachelor's degree in finance from Florida State
4 University and a master's in accounting from Florida
5 International University.

6 Q. Do you have any professional licenses?

7 A. Yes, I do. I have -- I'm a licensed CPA with -- my license
8 is inactive right now.

9 Q. Do you know Eric Sheppard?

10 A. Yes, I do.

11 Q. Do you see him here in the courtroom?

12 A. Yes, I do.

13 Q. Can you please identify him by his location and an article
14 of clothing that he's wearing.

15 A. He's sitting to my right, wearing a blue shirt and blue
16 tie.

17 MS. WEINTRAUB: Judge, we'll stipulate.

18 THE COURT: All right. Accept the stipulation and the
19 identification is noted.

20 BY MS. JIMENEZ:

21 Q. When did you first meet the Defendant, Eric Sheppard?

22 A. Probably 1977 or so. We played youth football together,
23 grew up together.

24 Q. When you were kids --

25 A. Yeah. We were seven years old.

1 Q. All right. Did you continue to know him after grade
2 school?

3 A. Yes. We went to junior high school and high school
4 together. I spent a lot of time at his house, and we were like
5 best friends growing up. We went to college together. We were
6 roommates, lived together for three years.

7 Q. After college and -- well, after college, briefly tell the
8 Members of the Jury your employment history.

9 A. After college, I started working at Barnett Bank, in their
10 credit department and in their management training program,
11 became a branch manager, and then went back to school and got
12 my master's degree in accounting, and started for Coopers &
13 Lybrand, one of the Big Six accounting firms at the time. And
14 then left there to go work for a couple of different auto
15 dealerships, AutoNation and the Braman Motor Company, Norman
16 Braman's company.

17 Q. What were you doing for the automobile companies?

18 A. For AutoNation I was in their internal audit department.
19 And for Braman Motors I was a corporate accountant.

20 Q. At some point were you hired by the Defendant to work for
21 him?

22 A. Yes.

23 Q. Approximately when did you go to work for Eric Sheppard?

24 A. About 2000, the year 2000.

25 Q. What were you hired to do?

1 A. I was originally hired to run the property management and
2 accounting for Eric's development company.

3 Q. What was the name of the development company?

4 A. WSG Development.

5 Q. So you were hired to do what kind of work there?

6 A. Run the property management side of the business and work
7 in their -- their -- kind of run the accounting department as
8 well.

9 Q. What was your position at the company?

10 A. CFO, chief financial officer.

11 Q. What type of business was WSG Development?

12 A. They were a real estate management company. And then they
13 formed different various partnerships to go out and develop
14 real estate into strip centers, commercial strip centers.

15 Q. As a CFO, was it your responsibility to prepare the tax
16 returns for the business?

17 A. No.

18 Q. Who prepared the tax returns for the business?

19 A. We had an outside accounting firm in Philadelphia that
20 prepared the tax returns.

21 Q. Who was the accountant at the accounting firm that prepared
22 the tax returns for the business?

23 A. Our primary contact was Neal Cupersmith. And then he had
24 various partners throughout the time we worked together.

25 Q. Was Neal Cupersmith the accountant for the company since

1 the time you joined the company?

2 A. Yes.

3 Q. That would have been approximately in the year 2000 he was
4 already their accountant?

5 A. Yes.

6 Q. Where was WSG Development located?

7 A. Our primary office originally was in Coral Gables, and then
8 we moved to Miami Beach.

9 Q. Now, today, do you still work for the Defendant?

10 A. I do not.

11 Q. How long did you work for Eric Sheppard?

12 A. About 20 years.

13 Q. When did you stop working for him?

14 A. April of 2020.

15 Q. Beginning of April, end of April?

16 A. First -- April 1st. March 31st was my last official day.

17 Q. What do you do now?

18 A. I'm the executive director at Temple Beth Sholom on Miami
19 Beach.

20 Q. What was -- let's go back to WSG Development. What was the
21 time frame when you were CFO of that company?

22 A. I was CFO from 2000 till about 2004.

23 Q. Did your position change at the company?

24 A. Yes. I moved from the accounting side of the business to
25 development. We had developers that left to form their own

1 company, and Eric asked me to go and finish some real estate
2 projects.

3 Q. Let me ask you about Neal Cupersmith. You said he was
4 already the accountant when you joined WSG Development. Did he
5 remain the accountant for the Defendant and his business or
6 businesses until you left in 2020?

7 A. Yes.

8 Q. So in 2004 what was the position that you held at the
9 business -- at the company?

10 A. Vice president of development.

11 Q. Did you have an ownership interest in the Defendant's
12 business?

13 A. Not in WSG Development, no.

14 Q. Did there come a time later when you had an ownership
15 interest in some of the Defendant's business?

16 A. Yes. In some of the real estate partnerships, or limited
17 liability companies. I was an owner of some of those.

18 Q. Okay. So with WSG Development were you employed as a W-2
19 employee?

20 A. Yes.

21 Q. Did there come a time when you were no longer a W-2
22 employee?

23 A. Yes.

24 Q. When was that?

25 A. Around 2008, 2009, with the major real estate collapse.

1 Q. And what were you after that point?

2 A. I was a 1099 independent contractor.

3 Q. And this was still with WSG Development?

4 A. At that time, yes. It was with WSG Development.

5 Q. Now, who made the decision to convert you from a W-2
6 employee to a 1099 contractor?

7 A. Eric Sheppard.

8 Q. At that time did WSG Development change? I mean, did the
9 size of the company change?

10 A. Yes. Eric let a large majority of the company go, and I
11 was one of the ones that was able to stay on.

12 Q. Were there other individuals who were to that point W-2
13 employees who were converted to 1099 contractors?

14 A. I don't remember.

15 Q. What happened to WSG Development?

16 A. A few years later, we had a group of real estate
17 partnerships that were part of a single loan, and the loan got
18 foreclosed on. So we wound up losing the majority of those
19 properties in foreclosure, and then we reformed the company
20 which became HM Management and Development.

21 Q. Did WSG Development go into bankruptcy?

22 A. WSG Development did not.

23 Q. But how did the company conclude or dissolve?

24 A. I don't know. It just ceased to exist after the
25 partnership -- after the actual real estate was foreclosed on.

1 Q. All right. And so, at some point, you began to work for HM
2 Management and Development, LLC; is that correct?

3 A. Yes.

4 Q. What type of business was HM Management and Development,
5 LLC?

6 A. It was a management company that managed real estate and
7 developed real estate.

8 Q. Did you continue to do essentially the same type of work
9 you were doing before with WSG Development?

10 A. Yes.

11 Q. Where was HM Management and Development located?

12 A. Started in Sans Souci, which was North Miami. And then we
13 moved to a building on Biscayne Boulevard in North Miami.

14 Q. What was the address?

15 A. 12000 Biscayne Boulevard.

16 MS. JIMENEZ: Can we please show -- actually,
17 Government Exhibit 1 is a State of Florida Department of
18 Corporations record, which is a certified public record. We'd
19 like to move it in. Let's not show it to the jury yet, please.

20 (Pause in proceedings.)

21 MS. JIMENEZ: I'd like to move it into evidence, Your
22 Honor.

23 THE COURT: Is there any objection?

24 MS. WEINTRAUB: I don't know what --

25 THE COURT: Exhibit 1.

1 MS. WEINTRAUB: I don't know what it is.

2 THE COURT: It's on the screen for you to review.

3 MS. WEINTRAUB: I have no objection. I don't know if
4 this witness is competent to testify to it, but I have no
5 objection to it.

6 THE COURT: All right. Without objection, admitted
7 into evidence.

8 (Government's Exhibit 1 received into evidence.)

9 THE COURT: You may continue.

10 BY MS. JIMENEZ:

11 Q. Showing you Government Exhibit 1.

12 MS. JIMENEZ: Could we go to the next page, please.

13 Stop.

14 BY MS. JIMENEZ:

15 Q. Do you know what this record is?

16 A. Yes.

17 Q. What is it?

18 A. It's the articles of organization for a limited liability
19 company, in this case HM Management and Development, LLC.

20 Q. All right.

21 MS. JIMENEZ: Can we go down.

22 BY MS. JIMENEZ:

23 Q. And the articles of incorporation indicate it was formed
24 when?

25 A. It was filed November 3rd, 2011.

1 Q. All right.

2 MS. JIMENEZ: Can we go down, please.

3 Stop.

4 BY MS. JIMENEZ:

5 Q. Now, you are listed here. What is your title?

6 A. Manager.

7 Q. What is the manager of the business?

8 A. Somebody who's authorized to act on behalf of a company.

9 Q. Did you have an ownership interest in this company?

10 A. Yes. I had a one percent ownership.

11 Q. Did you -- does that mean you received profits from this
12 company?

13 A. I did not receive profits from this company.

14 Q. All right.

15 MS. JIMENEZ: Let's go down, please.

16 BY MS. JIMENEZ:

17 Q. Did you --

18 MS. JIMENEZ: Continue.

19 BY MS. JIMENEZ:

20 Q. Did you remain manager of HM Management and Development for
21 a time?

22 A. Yes, I did.

23 MS. JIMENEZ: Keep going.

24 Continue, please.

25 Can we continue to 2018.

1 Okay. 2018.

2 BY MS. JIMENEZ:

3 Q. In 2018, were you still manager of HM Management and
4 Development?

5 A. Yes.

6 Q. And at this point it's located at the address you had
7 indicated, right?

8 A. Yes. 12000 Biscayne Boulevard.

9 Q. All right.

10 MS. JIMENEZ: Let's go to the next one.

11 Stop.

12 BY MS. JIMENEZ:

13 Q. In 2019, were you still manager of HM Management and
14 Development?

15 A. No, I was not.

16 Q. You said that HM Management and Development did the same
17 type of work that the previous entity was doing, right, WSG
18 Development. Was HM Management a construction company itself?

19 A. No.

20 Q. In the 2018 to 2020 time frame, before you left, what
21 properties did the Defendant own or have an ownership interest
22 in?

23 A. We -- there was a property in West Miami near FIU, the
24 Shops at Fontainebleau. And then there was a property in
25 Orlando. The Shoppes at Alafaya Trails.

1 Q. All right. The Shops at Fontainebleau, that is here in
2 Miami, Florida, right?

3 A. Correct.

4 Q. Did you -- do you remember who the main retailers were for
5 that shopping center?

6 A. Yes. That was Walmart and LA Fitness.

7 Q. What business entity owned that shopping center?

8 A. The ownership entity was CJUF Roman numeral III Flagler,
9 LLC.

10 Q. Now, with respect to that company that owned the shopping
11 center, did the Defendant own that business by himself or did
12 he have any partners?

13 A. He had a partner.

14 Q. Who was the partner?

15 A. Leon Wildstein.

16 Q. Do you know if the Defendant owned this business, CJUF III
17 Flagler, LLC, directly or were there other corporations in
18 between his ownership and the business?

19 MS. WEINTRAUB: Excuse me, Ms. Jimenez.

20 Judge, I have an objection on previously raised
21 grounds.

22 THE COURT: All right. It's preserved.

23 You may continue.

24 THE WITNESS: I'm sorry. Can you repeat the question?
25

1 BY MS. JIMENEZ:

2 Q. Yes. Were there any corporations that had ownership
3 between the direct ownership of the Defendant and Mr. Wildstein
4 and CJUF III Flagler?

5 A. Yes. There was sub-owners that the individuals owned as
6 their ownership. I don't know if I'm making that clear or not.

7 Q. So was CJUF Flagler owned directly by the Defendant and
8 Mr. Wildstein or were there other corporations --

9 A. No. There were other corporations.

10 Q. Do you know what they were?

11 A. HM Six was one of the entities and Wildstein Investments
12 was an entity as well.

13 Q. All right. All right. You mentioned the Shoppes at
14 Alafaya. Where were the Shoppes at Alafaya located?

15 A. Along Alafaya Trail in Orlando.

16 Q. What was the company that owned the Shoppes at Alafaya?

17 A. Ultimately, it was HM-UP Development Alafaya Trails, LLC.

18 MS. JIMENEZ: Can we show to the witness Government's
19 Exhibit 2. This is another certified public record from the
20 Department of Corporations. We'd like to move it in -- I'm
21 sorry -- the Department of State.

22 THE COURT: Any objection?

23 MS. WEINTRAUB: No, Your Honor.

24 THE COURT: Admitted into evidence.

25 (Government's Exhibit 2 received into evidence.)

1 MS. JIMENEZ: All right. Let's take a look at the
2 next page.

3 Keep going, please.

4 Keep going.

5 I'm sorry. Up.

6 No. Keep going down.

7 All right. Here.

8 BY MS. JIMENEZ:

9 Q. 2017, HM-UP Development Alafaya Trails, who was listed as
10 the manager of this company?

11 A. Eric Sheppard.

12 Q. All right.

13 MS. JIMENEZ: Let's go -- let's go -- keep going down.

14 Keep going. All right. And then 2020.

15 All right. Stop.

16 BY MS. JIMENEZ:

17 Q. So HM-UP Development Alafaya Trails, up until the point
18 when you left, was it -- was the manager still Eric Sheppard?

19 A. Yes.

20 Q. Now, that business, HM-UP Development Alafaya Trails, did
21 the Defendant own it by himself or did he have any partners?

22 A. He had partners.

23 Q. Who was the partner?

24 A. In this time frame we're referencing, Robert Kallman was
25 the individual through a company.

1 Q. K-A-L-L-M-A-N.

2 Do you know if there were -- as with CJUF Flagler,
3 were there any corporations that owned HM-UP Development
4 Alafaya Trails before reaching the true owners, Mr. Sheppard
5 and Mr. Kallman?

6 A. Yes.

7 Q. Do you know what those companies were?

8 A. One was HM Four, LLC. And then I think the other one was
9 WAPD Holdings.

10 Q. Who owned HM Four, LLC?

11 A. Eric.

12 Q. What about WAPD Holdings?

13 A. That was Robert's entry.

14 Q. That was Robert Kallman?

15 A. Yes.

16 Q. Was HM-UP Development Alafaya Trails a construction
17 company?

18 A. No.

19 Q. All right. What is HM Four?

20 A. HM Four is -- was just an owner of the ultimate partnership
21 that owned the real estate.

22 Q. That was the shopping center at Alafaya?

23 A. Yes.

24 Q. Okay. Did HM Four have any operations?

25 A. No.

1 Q. Did HM Four have any employees?

2 A. No.

3 Q. All right.

4 MS. JIMENEZ: I'd like to move in Government
5 Exhibit 5, which is the State of Florida Division of
6 Corporations record for HM Four.

7 THE COURT: Any objection?

8 MS. WEINTRAUB: No, Your Honor.

9 THE COURT: Admitted into evidence.

10 (Government's Exhibit 5 received into evidence.)

11 MS. JIMENEZ: All right. Go down, please.

12 Okay. Go down.

13 Stop.

14 BY MS. JIMENEZ:

15 Q. All right. For HM Four, we're looking at the 2020 -- I'm
16 sorry -- the 2012 filing. Who is listed as the manager for HM
17 Four?

18 A. I am.

19 Q. All right.

20 MS. JIMENEZ: Can we keep going.

21 Keep going to 2018, please.

22 All right. Let's stop here.

23 BY MS. JIMENEZ:

24 Q. In 2018, were you still the manager of HM Four?

25 A. Yes, I was.

1 Q. All right.

2 MS. JIMENEZ: Can we go to 2019.

3 BY MS. JIMENEZ:

4 Q. In 2019, were you still the manager of HM Four as of
5 May 1st, 2019?

6 A. I was not. No.

7 Q. Who was the manager?

8 A. Eric Sheppard.

9 Q. All right. Now, the Shoppes at Alafaya, what were the main
10 retailers?

11 A. Originally, the two main tenants were Toys "R" Us, Babies
12 "R" Us, and DICK'S Sporting Goods.

13 Q. Was there also a Mattress1One store?

14 A. There was. There was small shop space. Mattress1One was
15 one of the tenants.

16 MS. JIMENEZ: Could we show the witness Government
17 Exhibit 23-2, please.

18 BY MS. JIMENEZ:

19 Q. All right. Mr. Graff --

20 COURTROOM DEPUTY: Is this in evidence?

21 MS. JIMENEZ: It is not in evidence. It is not being
22 shown to the jury.

23 BY MS. JIMENEZ:

24 Q. Generally, what is it that we're looking at?

25 A. Kind of like an organizational chart showing the owners --

1 the ultimate owners of the Flagler property with LA Fitness and
2 Walmart as tenants, and the HM-UP Development property in
3 Orlando with DICK'S and Mattress1One in this case as tenants --

4 Q. Well, just generally what is it? Is it depicting the
5 ownership interest --

6 A. Yes. It's depicting the ownership of the properties.

7 MS. WEINTRAUB: I'm going to object. I'm going to ask
8 for a time frame when this is.

9 THE COURT: All right. Re-ask the question, please.

10 MS. JIMENEZ: Yes.

11 BY MS. JIMENEZ:

12 Q. In 2018 to 2020, before you left, does this chart depict
13 the ownership interest of HM-UP Development Alafaya Trails, HM
14 Management and Development, and CJUF III Flagler as you
15 understood them?

16 A. Yes.

17 Q. Does it fairly and accurately depict the ownership
18 interests of those companies at that time?

19 A. Yes.

20 MS. JIMENEZ: I'd like to publish this chart,
21 Government Exhibit 23-2, to the jury.

22 THE COURT: Any objection?

23 MS. WEINTRAUB: Yes, Your Honor.

24 First, I've never seen it before.

25 THE COURT: It's listed on the exhibit list.

1 MS. WEINTRAUB: Second, I don't know what the dots
2 are. I don't know what the arrows are pointing to. I don't
3 know who prepared this. I don't know when it was prepared.

4 THE COURT: All right. The witness has testified that
5 it fairly and accurately depicts the ownership interests. So
6 what --

7 MS. WEINTRAUB: My objection --

8 THE COURT: -- foundational prong has not been
9 established?

10 MS. WEINTRAUB: Your Honor, I don't understand what
11 the lines are going back and forth and how that's part of the
12 organizational chart.

13 THE COURT: Okay. The objection is noted. It's
14 overruled. The document will be admitted into evidence, and
15 you may show the jury.

16 (Government's Exhibit 23-2 received into evidence.)

17 BY MS. JIMENEZ:

18 Q. All right. Mr. Graff, looking at this chart, 23-2, what do
19 the dashes from HM Management and Development depict?

20 A. That HM Management and Development manages those entities
21 and properties but doesn't have a direct ownership in them.

22 Q. Is that your understanding?

23 A. Yes.

24 Q. All right. Now, there are other boxes that have lines or
25 arrows. What is your understanding of those other boxes?

1 A. The solid lines or arrows would be a direct ownership
2 interest.

3 Q. All right. And so can you explain for HM-UP Development
4 Alafaya Trails who were the owners?

5 A. WAPD Holdings, LLC, care of Robert Kallman and Eric
6 Sheppard and Jennifer Sheppard.

7 Q. All right. And then that's the entity that owned the
8 Shoppes at Alafaya; is that right?

9 A. Yes.

10 Q. And then, on the other side, CJUF III Flagler was owned by
11 whom?

12 A. Eric and Jennifer Sheppard and Leon Wildstein.

13 Q. And CJUF III Flagler owned the Fontainebleau Park Plaza
14 shopping center, right?

15 A. Yes.

16 Q. And for HM Management and Development, who were the owners?

17 A. Eric was the 99 percent owner and I owned one percent.

18 Q. As a one percent owner of that business, what authority did
19 you have over the business?

20 A. I had no authority over the business.

21 Q. Who had authority over that business?

22 A. Eric Sheppard.

23 Q. Well, let me ask you: With respect to HM Management and
24 Development, who was the boss of that company?

25 A. Eric Sheppard.

1 Q. What was or what is HM Six, LLC, if you know?

2 A. I believe HM Six was one of the owners of CJUF III Flagler,
3 LLC.

4 Q. What about Sheppard Flagler Holdings? Do you know what
5 that company is?

6 A. I know the name. It was in the ownership stack or
7 structure of the CJUF III Flagler, LLC chain.

8 Q. And who owned Sheppard Flagler Holdings?

9 A. I don't know officially.

10 Q. All right. Was there another company named HM-UP
11 Development Alafaya Trails TRU?

12 A. There was.

13 Q. Is that a separate company from HM-UP Development Alafaya
14 Trails?

15 A. Yes.

16 Q. What about Diamonds Forever or King of Diamonds? Did
17 you -- heard of those companies?

18 A. I've heard of King of Diamonds.

19 Q. What is that?

20 A. That was an entertainment club in Aventura, North Miami.

21 Q. Who owned that business?

22 A. I don't know who the owners were.

23 Q. Well, who -- based on working for Mr. Sheppard for 20
24 years, who was associated with that business?

25 A. Eric Sheppard and Jeff Vasilas.

1 Q. Did Jeff Vasilas work for HM Management?

2 A. No.

3 Q. Do you know what an EIN is?

4 A. I do.

5 Q. What is it?

6 A. It's an employer identification number.

7 Q. For each of these three companies, HM Management and
8 Development, LLC, HM-UP Development Alafaya Trails, CJUF III
9 Flagler, did they each have their own employer identification
10 number?

11 A. Yes.

12 Q. Were any of those businesses -- at any point when you
13 worked with Eric Sheppard was any of them ever doing business
14 as any of the other?

15 A. No.

16 Q. Was HM Management and Development ever -- I'm sorry. Was
17 HM-UP Development Alafaya Trails ever doing business as HM
18 Management and Development?

19 A. No.

20 Q. Or was HM-UP Development Alafaya Trails ever doing business
21 as CJUF III Flagler?

22 MS. WEINTRAUB: Judge, can we have a time frame?

23 THE COURT: Do you want to provide a time frame?

24 BY MS. JIMENEZ:

25 Q. At any point.

1 A. No.

2 Q. Was HM Management and Development ever doing business as
3 something called Construction Service X?

4 A. I'm sorry. One more time.

5 Q. Construction Service X, had you heard of this?

6 A. No. I've never heard of that business.

7 Q. What retailers were at the Alafaya Trails shopping center?

8 A. That was the DICK'S Sporting Goods, and the Toys "R" Us,
9 Babies "R" Us.

10 Q. Did you ever visit that location?

11 A. Yes.

12 Q. All right.

13 MS. JIMENEZ: Can we show the witness 4-1 through 4-3,
14 4-5 through 4-6 which are in evidence.

15 BY MS. JIMENEZ:

16 Q. Looking at 4-1, do you recognize that?

17 A. Yes. That's the storefronts of some of the tenants at
18 Alafaya Trails.

19 Q. All right.

20 MS. JIMENEZ: Can we show him 4-2.

21 BY MS. JIMENEZ:

22 Q. Is that the same location?

23 A. Yes. That's the same location.

24 Q. All right.

25 MS. JIMENEZ: 4-3.

1 BY MS. JIMENEZ:

2 Q. What is that?

3 A. That's the Toys "R" Us, Babies "R" Us store in Alafaya
4 Trails.

5 Q. Was that store replaced or did it begin to be replaced when
6 you were leaving?

7 A. Yes.

8 Q. By what business?

9 A. Burlington Coat Factory.

10 Q. All right.

11 MS. JIMENEZ: I don't know what number we were on, the
12 next one.

13 Oh. That's 4-3.

14 BY MS. JIMENEZ:

15 Q. Is that what that's a blurry picture of?

16 A. Yes. It's a blurry picture of the DICK'S Sporting Goods at
17 Alafaya Trails.

18 Q. All right.

19 MS. JIMENEZ: Could we show the witness 4-4, too,
20 without showing the jury for a moment. I don't think 4-4 is in
21 evidence.

22 BY MS. JIMENEZ:

23 Q. Looking at 4-4, do you recognize that photograph?

24 A. That looks to be the DICK'S Sporting Goods at Alafaya
25 Trails.

1 Q. Is that a fair and accurate representation of that -- of
2 DICK'S Sporting Goods at Alafaya Trails?

3 A. Yes.

4 MS. JIMENEZ: I'd like to move in Government
5 Exhibit 4-4, please.

6 THE COURT: Any objection?

7 MS. WEINTRAUB: No.

8 THE COURT: Admitted into evidence.

9 (Government's Exhibit 4-4 received into evidence.)

10 MS. JIMENEZ: All right. 4-6. Can we show him 4-6.

11 BY MS. JIMENEZ:

12 Q. All right. That's the sun shining on Mattress1One; is that
13 right?

14 A. Yes.

15 Q. Okay. Did you have any responsibilities involving the
16 retailers at the shopping center?

17 A. I negotiated one lease for the shopping center while I was
18 there.

19 Q. Which lease?

20 A. The tenant was called J-Petal.

21 Q. Generally, were you familiar with the leases that the
22 business had with the retailers at the Shoppes at Alafaya?

23 A. Generally, yes.

24 Q. What -- the lease that you negotiated with J-Petal, what
25 was the business entity that had that lease with J-Petal?

1 MS. WEINTRAUB: Can we have a time frame?

2 THE COURT: You want to narrow it down?

3 BY MS. JIMENEZ:

4 Q. In 2018, 2019.

5 A. You're asking me what the landlord's name was?

6 Q. Yes.

7 A. HM-UP Alafaya Trails Development, LLC.

8 Q. What about the leases with the other retailers at that
9 shopping center? Who did the retailers have their lease with,
10 what business entity?

11 A. I don't know. I mean, I need a little more specifics.

12 Q. So DICK'S Sporting Goods, Burlington Coat Factory, when it
13 was first coming in -- any other business that was at the
14 Shoppes at Alafaya that you saw or handled any leases from,
15 what was the business -- who was the landlord for those
16 retailers?

17 A. HM-UP Alafaya Trails, LLC.

18 Q. All right.

19 MS. JIMENEZ: Can we show the witness -- actually, I'd
20 like to move Government's Exhibits 26 and 27. They are leases
21 with the cert -- with a -- for the business record.

22 THE COURT: Twenty-six?

23 MS. JIMENEZ: And 27, yes.

24 THE COURT: Is there any objection?

25 MS. WEINTRAUB: Judge, I'm pulling it up right now.

1 MS. JIMENEZ: They have a business record
2 certification.

3 MS. WEINTRAUB: No objection, Judge.

4 THE COURT: All right. Admitted into evidence.
5 (Government's Exhibits 26 and 27 received into
6 evidence.)

7 MS. JIMENEZ: All right. Can we publish 26, just --
8 all right.

9 Let's go to -- all right.

10 BY MS. JIMENEZ:

11 Q. Showing you Government's Exhibit 26, the lease with DICK'S
12 Sporting Goods. With whom was that lease, what company?

13 A. HM-UP Alafaya Trails, LLC.

14 Q. All right.

15 MS. JIMENEZ: Can we show 27, please. The first page
16 sort of gives it away.

17 All right. Here. Stop.

18 BY MS. JIMENEZ:

19 Q. The lease with Burlington, when was that lease executed --
20 or dated, I should say?

21 A. October 28th, 2019.

22 Q. And who was the landlord?

23 A. HM-UP Alafaya Trails -- HM-UP Development Alafaya Trails,
24 LLC.

25 Q. And that was what, Burlington Coat Factory? Is that right?

1 A. Burlington Coat Factory, yes.

2 Q. All right.

3 MS. JIMENEZ: Can we show the witness 25. It's not in
4 evidence.

5 BY MS. JIMENEZ:

6 Q. All right. Mr. Graff, did -- did the large retailers, such
7 as DICK'S Sporting Goods and Burlington Coat Factory, have
8 their own lease agreements that they brought to the business?

9 A. Yes. They had their form leases.

10 Q. All right. Now, looking at Government Exhibit 25, do you
11 recognize the format of this lease?

12 MS. JIMENEZ: If you can show him the pages.

13 BY MS. JIMENEZ:

14 Q. Do you recognize the format of this lease?

15 A. Yes, I do.

16 Q. Why do you recognize it?

17 A. This was the standard form lease that we used over the
18 years at WSG Development and HM.

19 Q. And HM Management?

20 A. Yes.

21 MS. JIMENEZ: Could we just keep going.

22 BY MS. JIMENEZ:

23 Q. Did you have a tenant Mattress1One?

24 A. Yes.

25 Q. And that tenant had a lease with what company?

1 A. HM-UP Alafaya Trails, LLC.

2 MS. JIMENEZ: And let's go -- I'm sorry. If you can
3 jump back to the first page.

4 BY MS. JIMENEZ:

5 Q. So does this document depict the standard lease that your
6 business had with Mattress1One?

7 A. Yes.

8 MS. JIMENEZ: I'd like to move Government Exhibit 25
9 into evidence.

10 THE COURT: Any objection?

11 MS. WEINTRAUB: No, Your Honor.

12 THE COURT: All right. Admitted into evidence.

13 (Government's Exhibit 25 received into evidence.)

14 BY MS. JIMENEZ:

15 Q. All right. Now turning back to HM Management and
16 Development, what was your employment status with HM
17 Management?

18 MS. WEINTRAUB: Can we have a time frame?

19 BY MS. JIMENEZ:

20 Q. All of it.

21 A. I was a contractor, independent contractor.

22 Q. And then, specifically 2018, 2019, up to the time when you
23 left in 2020, what was your employment status?

24 A. Independent contractor.

25 Q. Who decided whether you were, for HM Management, an

1 independent contractor or a W-2 employee?

2 A. Eric Sheppard.

3 Q. How were you paid?

4 A. I was paid a consulting fee every other week, twice a
5 month.

6 Q. Was that paid to you or to your company?

7 A. I had a company. It was paid to the company.

8 Q. What's the name of the company?

9 A. Graffco, Corp.

10 Q. How often did you go to the office?

11 A. Every day.

12 Q. You were working full-time?

13 A. Yes.

14 Q. In that 2018 to 2020 time frame, did HM Management, as far
15 as you know, have any W-2 employees?

16 A. Yes, they did.

17 Q. Who was that?

18 A. Jeanette Gonzalez, Vanessa Gonzalez -- we call her Mari. I
19 don't know -- I think her real name her official name is Mary,
20 and a woman by the name of Elva -- Elba [sic].

21 Q. All right. Jeanette Gonzalez. What did she do for HM
22 management?

23 A. She was office manager, property manager, and bookkeeper.

24 Q. Does Jeanette Gonzalez have an accounting background?

25 A. No.

1 Q. What about Vanessa Gonzalez? Any relation to Jeanette
2 Gonzalez?

3 A. Yes. That was Jeanette's daughter. Is Jeanette's
4 daughter.

5 Q. What did Vanessa Gonzalez do?

6 A. She did all of the development assistance. She would help
7 call suppliers for materials or things that were needed for the
8 development construction process.

9 Q. Was Jeanette Gonzalez in the office every day, basically
10 most of the day, all day?

11 A. Yes.

12 Q. Same with Vanessa Gonzalez?

13 A. Yes.

14 Q. What about Mari? When was she there?

15 A. She usually came in the afternoon and stayed through the
16 end of the day.

17 Q. What did she do there?

18 A. She did a lot of filing -- copying and filing.

19 Q. What about Elva? Did she come to the office?

20 A. No.

21 Q. Who's Elva?

22 A. I've never seen her.

23 Q. Never saw her at HM Management, the office?

24 A. No.

25 Q. Did you handle the tax filings for HM Management, meaning

1 the filings of Form 941s, Forms 940, the tax withholdings,
2 those kinds of things?

3 A. No, I did not.

4 Q. Who did?

5 A. Jeanette.

6 Q. That's Jeanette Gonzalez?

7 A. Yes.

8 Q. Did you supervise Jeanette Gonzalez in relation to those
9 tax filings?

10 A. I did not supervise her, but I would help her if she needed
11 assistance.

12 Q. You helped her because she did not have an accounting
13 background; is that right?

14 A. Right.

15 MS. WEINTRAUB: Objection. Leading.

16 THE COURT: Sustained.

17 BY MS. JIMENEZ:

18 Q. Why did you help her?

19 A. A lot of information was pulled directly from the
20 accounting software. So if she --

21 Q. From what?

22 A. From our accounting software QuickBooks. So if she had
23 difficulty getting the information, I would help her get
24 through the screens to pull the information out.

25 Q. Who did Jeanette Gonzalez report to?

1 A. Eric Sheppard.

2 Q. Who at HM Management, if you know, decided whether Jeanette
3 Gonzalez was paid as a W-2 or as an independent contractor?

4 MS. WEINTRAUB: Objection, Your Honor.

5 THE COURT: And the basis?

6 MS. WEINTRAUB: Speculation, and it's hearsay, unless
7 he knows. But --

8 THE COURT: If the witness knows from his own personal
9 knowledge. Overruled.

10 THE WITNESS: Eric Sheppard.

11 BY MS. JIMENEZ:

12 Q. Who at the company decided whether Vanessa Gonzalez was a
13 W-2 employee or an independent contractor, if you know?

14 A. Eric Sheppard.

15 Q. Who at HM Management decided whether Elva was a W-2 or a
16 1099 independent contractor?

17 MS. WEINTRAUB: Same objection, Judge. He said he
18 doesn't even know who this is.

19 THE COURT: Overruled. The witness can respond.

20 THE WITNESS: Eric Sheppard.

21 BY MS. JIMENEZ:

22 Q. Based on your experience working alongside the Defendant
23 for 20 years, did Eric Sheppard know the difference between a
24 W-2 employee and a 1099 independent contractor?

25 MS. WEINTRAUB: Objection, Judge.

1 THE COURT: And the basis?

2 MS. WEINTRAUB: Speculation.

3 THE COURT: Sustained.

4 BY MS. JIMENEZ:

5 Q. Do you know whether the Defendant knew the difference
6 between a W-2 employee and a 1099 contractor?

7 MS. WEINTRAUB: Same objection. Same question, Judge.

8 BY MS. JIMENEZ:

9 Q. Do you know?

10 THE COURT: If the witness knows. Overruled.

11 THE WITNESS: Yes. He knew the difference.

12 BY MS. JIMENEZ:

13 Q. You worked for the Defendant for 20 years, starting in
14 approximately 2000, I think you said; is that right?

15 A. Correct.

16 Q. At what point in time did Jeanette Gonzalez join HM
17 Management and Development?

18 A. I don't know the exact year. She worked for the sales
19 company.

20 MS. WEINTRAUB: Objection, Judge.

21 THE COURT: The basis?

22 MS. WEINTRAUB: He just said that he doesn't know. He
23 was asked when, and the answer is: "I don't know."

24 THE COURT: Sustained.

25

1 BY MS. JIMENEZ:

2 Q. When did she, that you remember, start working at your
3 office at HM Management and Development?

4 A. 2008, 2009.

5 Q. Are you familiar with IRS Forms 940 and 941?

6 A. Yes.

7 Q. What are they?

8 A. The 941 is a quarterly payroll tax reporting form. And the
9 940 is the annual, which is a summary of the four quarters.

10 MS. JIMENEZ: Can we show the witness Exhibit 12-2,
11 please. It's in evidence.

12 BY MS. JIMENEZ:

13 Q. This is a 940 for 2018. Do you see the company?

14 A. HM Management and Development, LLC.

15 Q. Did you assist in preparing this document?

16 A. No.

17 Q. All right.

18 MS. JIMENEZ: Can we go to the second page.

19 BY MS. JIMENEZ:

20 Q. So do you see that it's signed?

21 A. Yes.

22 Q. All right. And who's indicated to be the signer of this
23 document?

24 MS. WEINTRAUB: Objection, Your Honor. The document
25 speaks for itself and he's not a handwriting expert.

1 MS. JIMENEZ: I said who --

2 THE COURT: The objection is overruled. The
3 document's in evidence. The witness may respond.

4 BY MS. JIMENEZ:

5 Q. Who does the document indicate signed this document?

6 A. Eric Sheppard.

7 Q. All right.

8 MS. JIMENEZ: Can we show him 12-3, please.

9 BY MS. JIMENEZ:

10 Q. Is this a 941 for 2018 for -- what is the company?

11 A. HM Management and Development, LLC.

12 Q. Did you help prepare this document?

13 A. No.

14 Q. Did you see these documents before today that you remember?

15 A. No.

16 Q. This Exhibit 12-3 and Exhibit 12-2, had you seen them
17 before?

18 A. I have not seen these documents before.

19 Q. So it indicates the number of employees at HM Management to
20 be how many?

21 A. Three.

22 Q. All right.

23 MS. JIMENEZ: Can we show the witness 12-5 and 12-6,
24 which are in evidence.

25

1 BY MS. JIMENEZ:

2 Q. Mr. Graff, have you seen these records before from the IRS?

3 A. No.

4 Q. As to 12-5 -- now, let me ask you this question: What is
5 your understanding of -- well, the individuals you indicated
6 were W-2 employees, whom you identified -- I believe you said
7 Jeanette Gonzalez, Vanessa Gonzalez, Mari, and Elva.

8 A. Yes.

9 Q. Is it your understanding that they were W-2 employees up
10 until the time --

11 MS. WEINTRAUB: Objection. Leading, Your Honor,
12 and --

13 THE COURT: Sustained. Rephrase.

14 BY MS. JIMENEZ:

15 Q. Let me rephrase the question. Up until what time -- what
16 time frame is your understanding that they were W-2 employees?

17 A. As long as I was there through the time I left.

18 Q. All right. All right. So I'm showing this record 12-5
19 which -- for 9 -- the Form 940, it indicates what as of
20 June 4th, 2022?

21 MS. WEINTRAUB: Judge, I'm going to object to this
22 line of questioning. The witness is not competent to testify.

23 THE COURT: Sustained.

24 BY MS. JIMENEZ:

25 Q. Do you know whether or not their status as W-2 employees

1 changed at any point?

2 A. I don't know that.

3 Q. If there were no 940s or 941s filed for these -- for the
4 company, whose decision was that?

5 MS. WEINTRAUB: Objection, Your Honor. It's a
6 hypothetical question that's being posed to the witness.

7 THE COURT: Sustained.

8 BY MS. JIMENEZ:

9 Q. Did you make any decision whether or not Jeanette Gonzalez
10 and the others you mentioned would have been converted -- were
11 converted from W-2 employees to --

12 MS. WEINTRAUB: Objection. It's assuming facts not in
13 evidence, Your Honor. This whole line of questioning --

14 THE COURT: Sustained.

15 BY MS. JIMENEZ:

16 Q. Did you, at any point, make a decision that Jeanette
17 Gonzalez should no longer be a W-2 employee?

18 MS. WEINTRAUB: Judge, objection.

19 THE COURT: If the witness was -- overruled.

20 MS. WEINTRAUB: He said that he was not involved in
21 the preparation of any of these.

22 THE COURT: And the question is -- I'm going to allow
23 the question.

24 You may answer the question, Mr. Graff.

25 THE WITNESS: I'm sorry. May you repeat the question,

1 please?

2 MS. JIMENEZ: Can you -- I'm sorry. Can you read the
3 question back, please.

4 (Question read back.)

5 THE WITNESS: No.

6 BY MS. JIMENEZ:

7 Q. Are you familiar with the State of Florida Department of
8 Revenue reporting of unemployment taxes or reemployment taxes?

9 A. Yes.

10 Q. Were you responsible for submitting those records and
11 information to the Florida Department of Revenue?

12 A. No, I was not.

13 Q. Who was?

14 A. Jeanette Gonzalez.

15 MS. JIMENEZ: Can we show Government Exhibit 16-1,
16 please.

17 BY MS. JIMENEZ:

18 Q. Did you supervise Jeanette Gonzalez in those tasks?

19 MS. WEINTRAUB: Objection. Asked and answered.

20 THE COURT: Sustained.

21 BY MS. JIMENEZ:

22 Q. On the filing of Florida Department of Revenue forms, did
23 you supervise her?

24 MS. WEINTRAUB: Objection, Your Honor. Asked and
25 answered.

1 THE COURT: Sustained.

2 MS. JIMENEZ: I didn't ask that question.

3 (Pause in proceedings.)

4 BY MS. JIMENEZ:

5 Q. For the business -- HM Management and Development Alafaya
6 Trails, CJUF III Flagler, did those businesses have any wage
7 employees during the time that you worked with Eric Sheppard?

8 A. No, they did not.

9 Q. Did any of the Defendant's businesses have any W-2
10 employees during the time that you worked with the Defendant,
11 except for HM Management and Development?

12 A. No.

13 (Pause in proceedings.)

14 BY MS. JIMENEZ:

15 Q. Who went to the office besides yourself, Jeanette,
16 Vanessa --

17 MS. WEINTRAUB: Objection, Your Honor. Leading.

18 THE COURT: Sustained. Rephrase.

19 BY MS. JIMENEZ:

20 Q. Who went to the office -- besides the individuals whom
21 you've already mentioned, did others go to the HM Management
22 office regularly?

23 A. Glenn Sheppard would come regularly, if he wasn't in the
24 field.

25 Q. Did you know a Joe Beirne?

1 A. Yes.

2 Q. Did he come to the office?

3 A. No. He was in Orlando.

4 Q. Did you see someone by the name of Jeff Vasilas come to the
5 office?

6 A. I did.

7 Q. What did he go do at the office?

8 A. Again, Jeff was involved with the King of Diamonds. And as
9 he and Eric were getting involved in that business, he would do
10 some of that work here. And then toward the end of my tenure,
11 before the office closed for COVID, Jeff was there doing work
12 on behalf of buying out supplies and materials for the
13 Burlington Coat Factory conversion.

14 Q. Did HM management have an accounting department?

15 MS. WEINTRAUB: Can we have a time frame?

16 MS. JIMENEZ: 2018, 2019, 2020.

17 THE WITNESS: It did not have an accounting
18 department. It had a bookkeeper.

19 BY MS. JIMENEZ:

20 Q. And did it have anyone who did the accounting work for the
21 business?

22 A. Can you help me define "the accounting work."

23 Q. Well, whatever the accounting -- aside from a bookkeeper of
24 one person, was there anyone who did accounting work?

25 MS. WEINTRAUB: Judge, the question has been asked and

1 answered, I believe.

2 THE COURT: Overruled. I'll allow it.

3 THE WITNESS: Jeanette would do the day-to-day
4 bookkeeping. And any detailed accounting work, journal
5 entries, and things like that would normally be done by
6 Cupersmith's office.

7 BY MS. JIMENEZ:

8 Q. Did HM Management and Development have a comptroller?

9 A. No.

10 Q. Ever?

11 A. No.

12 MS. JIMENEZ: Can we show P-1, please, Defense Exhibit
13 P-1.

14 Can we have the ELMO, please?

15 (Pause in proceedings.)

16 MS. WEINTRAUB: Judge, I object to this. I object to
17 it even being shown to the witness.

18 THE COURT: Let me hear what the question is. It's
19 only being shown to the witness.

20 MS. JIMENEZ: This is in evidence, Your Honor.

21 THE COURT: All right. Then certainly it can be shown
22 to the jury.

23 MS. WEINTRAUB: Judge, this is in 2021. It's an
24 email. It's hearsay for this witness.

25 THE COURT: All right. It's in evidence. Let me hear

1 what the question is.

2 MS. JIMENEZ: Okay. We'll come back to this.

3 (Pause in proceedings.)

4 BY MS. JIMENEZ:

5 Q. I asked you about Neal Cupersmith. For which companies was
6 Neal Cupersmith the accountant?

7 A. All of them except for the King of Diamonds.

8 Q. Was Neal Cupersmith also the Defendant's personal
9 accountant?

10 A. At one point he was. I don't know how long he was, though.

11 Q. How many companies did the Defendant have during the time
12 that you worked for him?

13 A. A lot. I don't know the number.

14 Q. Who provided the -- who provided the company's books to
15 Neal Cupersmith to prepare tax returns?

16 A. Jeanette Gonzalez.

17 Q. At what time of the year would that happen, when you were
18 there, say, 2018, 2019?

19 A. It would vary. It would be some time between March and
20 September if we filed an extension on the tax returns.

21 Q. Well, did you normally file an extension?

22 A. A lot of times extensions were filed, yes.

23 Q. What does that mean? When an extension is filed, when do
24 you file the return?

25 A. I believe it's by September 15th.

1 MS. JIMENEZ: Let's show -- go back to the table and
2 show 17-8 for a moment.

3 BY MS. JIMENEZ:

4 Q. Mr. Graff, in 2019, did --

5 MS. JIMENEZ: Let's skip this one.

6 Let's go to 18-3, please.

7 BY MS. JIMENEZ:

8 Q. All right. In 2020 --

9 MS. JIMENEZ: Can we expand this.

10 THE COURT: Thank you.

11 BY MS. JIMENEZ:

12 Q. The very top of this document, 18-3, indicates a labor
13 report of HM-UP Development Alafaya Trails. In 2020, before
14 you left, this report, January --

15 THE COURT: I can't hear.

16 BY MS. JIMENEZ:

17 Q. -- were there any wage employees at HM Management and
18 Development Alafaya Trails?

19 MS. WEINTRAUB: Judge, excuse me. I would object.
20 This chart starts in May of 2020, and this witness had already
21 left.

22 THE COURT: The objection is sustained.

23 MS. JIMENEZ: It says: "Printed report
24 January 19, '20."

25 THE COURT: But you're asking the witness a question

1 and you're referring to a document. Does the witness -- I
2 understand it's in evidence, but does the witness know about
3 this document? Is the witness relying upon this document? Why
4 don't you ask the question --

5 MS. JIMENEZ: That's fine, Your Honor.

6 THE COURT: -- and see if the witness has the
7 knowledge.

8 MS. JIMENEZ: Let's go to 19-4.

9 Let's go down to the bottom.

10 (Pause in proceedings.)

11 THE COURT: All right. Ms. Jimenez, if you need to
12 use the ELMO, then we're going to need to take a break so that
13 we can look at the output, and it might interrupt your
14 presentation. So --

15 MS. MARTINEZ: Well, we can do that at the break.

16 THE COURT: Okay. So you don't need it now?

17 MS. JIMENEZ: Whenever the break is, we can do that.

18 No. No. I'm sorry. Go to the fourth quarter -- I'm
19 sorry. Go to the first quarter, which is the last page of
20 the -- okay. Go up.

21 I'm sorry. Keep going.

22 Can we go to the first quarter.

23 Just -- I'm sorry. Keep going down.

24 Keep going.

25 It's not scanned in right.

1 Okay. This bottom one, go down to this wage report,
2 please.

3 Okay. Can you expand.

4 All right. Graff.

5 BY MS. JIMENEZ:

6 Q. Says: "See Graff, January 21st, 2021." Did you have any
7 wages that you were paid by HM Management and Development
8 Alafaya Trails?

9 A. I was not paid wages.

10 Q. Any withholdings?

11 A. No.

12 Q. Were you paid -- okay.

13 MS. JIMENEZ: Can we get the paper copy of 19-14.

14 All right. And 19-16, please. I'm going to need that
15 paper copy, but 19-16.

16 Okay. Let's go down. This is a record that is in
17 evidence with PayPal.

18 Can we go down, please.

19 BY MS. JIMENEZ:

20 Q. Okay. Here, do you see your name about two-thirds of the
21 way down?

22 A. Yes, I do.

23 Q. Is that your Social Security number, Mr. Graff?

24 A. No, it's not.

25 Q. All right.

1 (Pause in proceedings.)

2 MS. JIMENEZ: We can take that off the screen.

3 BY MS. JIMENEZ:

4 Q. Okay. Do you know Eric Sheppard's phone number?

5 A. His cell phone number? Yes, I know it.

6 Q. What is it?

7 A. (305) 582-5529.

8 Q. What was the email address of Eric Sheppard that he used,
9 if you know?

10 A. Yes. Eric.sheppard10@gmail.com.

11 Q. Where does Eric Sheppard live? Do you know his address?

12 A. 180 Bal Cross Drive, Bal Harbour, Florida.

13 Q. All right.

14 MS. JIMENEZ: Can we -- I have a certified copy of a
15 driver's license. I'd like to move that into evidence,
16 Government Exhibit 6.

17 THE COURT: Any objection?

18 MS. WEINTRAUB: No objection, Judge.

19 THE COURT: Admitted into evidence.

20 (Government's Exhibit 6 received into evidence.)

21 MS. JIMENEZ: Could we scroll down.

22 All right. Go up.

23 BY MS. JIMENEZ:

24 Q. Who is -- do you know someone named Jennifer Sheppard?

25 A. Yes.

1 Q. Who is Jennifer Sheppard?

2 A. Eric's wife.

3 Q. Was Jennifer Sheppard involved in the business of Eric
4 Sheppard, HM Management and Development, or HM-UP Development
5 Alafaya Trails, CJUF III Flagler, the shopping centers?

6 MS. WEINTRAUB: Objection, Your Honor. If he knows.

7 THE COURT: If he knows. Overruled. You may answer
8 the question.

9 THE WITNESS: She was not.

10 (Pause in proceedings.)

11 BY MS. JIMENEZ:

12 Q. Who was working at HM Management in March of 2020, when the
13 COVID pandemic began?

14 A. Myself, Jeanette, Vanessa Gonzalez, Glenn Sheppard. And
15 then we had other people. Carlos Diaz was there. That was the
16 majority -- I think that was everybody.

17 Q. Who is Carlos Diaz?

18 A. He did security and property management for us.

19 (Pause in proceedings.)

20 MS. JIMENEZ: Sorry, Your Honor. I need a moment.

21 (Pause in proceedings.)

22 MS. JIMENEZ: All right.

23 THE COURT: Ladies and Gentlemen, how is everyone
24 doing? Are we in need of a break?

25 All right. Let's go ahead and take a 10-minute recess

1 please.

2 COURT SECURITY OFFICER: All rise for the jury.

3 (Jury not present, 2:42 p.m.)

4 THE COURT: All right. We're on a 10-minute recess.

5 (Recess from 2:42 p.m. to 2:57 p.m.)

6 THE COURT: All right. Let me acknowledge the
7 presence of the Defendant.

8 Please be seated for just one moment. And that is
9 because this may be the last recess before we adjourn for the
10 evening, and I want to make sure that we have addressed the
11 issue with regard to the jurors' availability for the new dates
12 that have been provided.

13 Ms. Weintraub, I know you stated you wanted some time
14 to discuss that with your client.

15 MS. WEINTRAUB: I discussed it with my team. I did
16 50 percent. If you give me two seconds, I could do that right
17 now.

18 (Pause in proceedings.)

19 MS. WEINTRAUB: Okay, Judge. We're good.

20 MR. ETRA: We consent to the dismissal of Juror 12 in
21 favor of an alternate.

22 THE COURT: Well, I actually think it was Juror Number
23 7 who could not work past the 12th because of her medical
24 issues.

25 MS. WEINTRAUB: Correct.

1 THE COURT: And that's Madelin Marichal.

2 MS. WEINTRAUB: Judge, I'm -- they sit in different
3 seats, and it makes me a little --

4 THE COURT: Well, her name is Madelin Marichal.

5 MS. WEINTRAUB: Is it the blonde woman that's sitting
6 in the back? Is that who it is? I just want to make sure I'm
7 looking at the right juror.

8 THE COURT: I'm sorry? We're talking about Juror
9 Number 7, Madelin Marichal. And the courtroom deputy is
10 advising that she sits --

11 COURTROOM DEPUTY: She sits on the top corner.

12 MS. WEINTRAUB: The second seat?

13 COURTROOM DEPUTY: Yeah.

14 MS. WEINTRAUB: Yeah, I'm good.

15 COURTROOM DEPUTY: All the way at the top on the end.

16 THE COURT: All right. So the parties are in
17 agreement that Juror Number 7, Madelin Marichal, will be
18 excused for cause because of her inability to work past the
19 12th, which means that alternate Lodewijk Opdeweegh, will
20 become a member of the panel.

21 Is the Government agreeable to that?

22 MS. JIMENEZ: Yes, Your Honor.

23 THE COURT: And the Defendant is agreeable to that?

24 MS. WEINTRAUB: Yes, Your Honor.

25 THE COURT: All right. And with regard to Juror

1 Number 3, who was going to attempt to resolve the issues with
2 the 14th and 15th, Liz, have we resolved that issue?

3 COURTROOM DEPUTY: Okay. So he says that he needs
4 either the 14th or the 15th. He can -- he needs like at least
5 one day because he does all the payroll, and he has his own
6 company so he has to do all of his payroll. So he can either
7 do the 15th -- if he can have the 15th at least, and he'll give
8 you all of the 14th. He can stay 12, 13, and 14 --

9 (Court reporter interruption.)

10 COURTROOM DEPUTY: -- sorry -- 12, 13, and 14. But he
11 would need the 15th.

12 THE COURT: Okay. And we're going to give him a half
13 day on the 15th because we're accommodating Juror Number 12.

14 COURTROOM DEPUTY: He can't do half a day the 15th.
15 He needs the whole day.

16 THE COURT: If that's the issue, that he's doing
17 payroll, then the Court will accommodate by giving him a
18 portion, but we're not going to take the whole day off.

19 COURTROOM DEPUTY: There's something else. His wife
20 his stage four cancer, and he takes and drives her everywhere.

21 THE COURT: That's different than the payroll issue.

22 COURTROOM DEPUTY: Right. Well, that's also another
23 issue. He's been getting people to help, but he needs at least
24 one day to be able to rearrange everything for the 18th and
25 19th.

1 MS. WEINTRAUB: Oh, my God.

2 THE COURT: Okay. To maintain Juror Number 3 on the
3 jury, would the parties be amenable, since Juror Number 12
4 stated that she might have a problem being here the afternoon
5 of December 15th, of agreeing not to be in session on
6 December 15th to accommodate that juror?

7 On behalf of the Government?

8 COURTROOM DEPUTY: I can ask him again, see if he can
9 take half a day only, but...

10 THE COURT: Do you want to check on 12 and 3 while the
11 parties are -- those are the two that you told us this morning.

12 COURTROOM DEPUTY: The one that needs the afternoon of
13 the 15th, she's leaving on a flight.

14 THE COURT: Okay. So we would only be in session on
15 the morning of the 15th. So would the parties be amenable
16 to -- because we have to accommodate Juror 12. So would the
17 parties be amenable to not being in session on Friday,
18 December 15th, in order to accommodate Juror Number 3?

19 On behalf of the Government?

20 MS. JIMENEZ: And then do we have any days the
21 following week, if needed?

22 THE COURT: I think we were going to check on the 18th
23 and 19th.

24 COURTROOM DEPUTY: 18th and 19th, everybody's good.

25 THE COURT: Okay. Parties in agreement?

1 On behalf of the Government?

2 MS. JIMENEZ: I suppose. I mean, I don't know what
3 choice we have.

4 THE COURT: All right. On behalf of the Defendant?

5 MS. WEINTRAUB: Yes, Your Honor.

6 THE COURT: All right, then.

7 Then, at the end of the session, I will sign an order
8 excusing Juror Number 7.

9 And are there any issues that we need to address
10 before we bring the jury back? On behalf of the Government?

11 MS. JIMENEZ: No, Your Honor.

12 THE COURT: On behalf of the Defendant?

13 MS. WEINTRAUB: No, Judge.

14 THE COURT: All right. Let's bring the jury back in.

15 COURT SECURITY OFFICER: All rise for the jury.

16 (Before the Jury, 3:01 p.m.)

17 THE COURT: All right. Welcome back, Ladies and
18 Gentlemen.

19 Please be seated, everyone.

20 And we'll continue with the direct examination of
21 Mr. Graff.

22 BY MS. JIMENEZ:

23 Q. Mr. Graff, at the office at HM Management did you have your
24 own office?

25 A. Yes.

1 Q. Did Jeanette Gonzalez have her own office?

2 A. She shared an office with Vanessa Gonzalez.

3 Q. Did you -- could you observe what others in the office were
4 doing during the course of the day?

5 A. Could I observe them?

6 Q. Yes.

7 A. If my door was open, I could see what was going on outside
8 my office. But I couldn't see through the walls, no.

9 Q. Did you have interaction, for instance, with Jeanette
10 Gonzalez during the course of the day?

11 A. Yes.

12 Q. Did you have interactions with Vanessa Gonzalez during the
13 course of the day?

14 A. Yes.

15 Q. Did you ever observe -- let's see -- 11, 12 years -- did
16 you work alongside Jeanette Gonzalez for about 11 or 12 years?

17 A. Sounds about right. Yes.

18 Q. Did you ever observe her to perform a work-related task
19 that she was not authorized to perform?

20 A. No, not -- I mean, she wouldn't go rogue, if that's what
21 you're asking me.

22 Q. Correct.

23 A. I mean, she would do her normal daily tasks with or without
24 supervision, but nothing out of the ordinary.

25 Q. Who does she work for?

1 A. Eric Sheppard.

2 Q. What about Vanessa Gonzalez? Did you ever -- and how long
3 was Vanessa Gonzalez in the office when you were there? I mean
4 how many years?

5 A. Might be five.

6 Q. Before you left. Five. Did you ever observe Vanessa
7 Gonzalez perform any work-related tasks that she was not
8 authorized to perform?

9 A. No.

10 Q. Who does she work for?

11 A. She reported to both Jeanette and Eric.

12 Q. Did you ever see Jeanette Gonzalez fill out any tax
13 returns, income tax returns for the business?

14 MS. WEINTRAUB: Objection. Asked and answered.

15 THE COURT: Overruled. I'll allow it.

16 THE WITNESS: No.

17 BY MS. JIMENEZ:

18 Q. Did you ever see Vanessa Gonzalez fill out any income tax
19 return?

20 A. No.

21 Q. Would -- as part of Jeanette Gonzalez's responsibilities,
22 would she have any reason to fill out an income tax return for
23 any of the businesses of the Defendant?

24 MS. WEINTRAUB: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MS. JIMENEZ:

2 Q. Did Jeanette Gonzalez have any responsibilities relating to
3 any income tax return of the businesses of the Defendant?

4 MS. WEINTRAUB: Objection, Your Honor. No personal
5 knowledge.

6 THE COURT: If the witness knows. I'll allow it.
7 Overruled.

8 THE WITNESS: She would submit the information -- she
9 would supply the information to Neal Cupersmith's office for
10 them to prepare the tax returns.

11 BY MS. JIMENEZ:

12 Q. Was that the extent of her role relating to the income tax
13 returns of the businesses?

14 MS. WEINTRAUB: Could we have a time frame?

15 MS. JIMENEZ: Any time.

16 THE COURT: All right.

17 THE WITNESS: Yes. That's the extent of her
18 involvement.

19 MS. WEINTRAUB: Could we have a specific time frame?

20 BY MS. JIMENEZ:

21 Q. In 2018, in 2019, or in 2020 before you left, did Jeanette
22 Gonzalez -- or really from 2010 or 2009, up until 2020 when you
23 left, did Jeanette Gonzalez have any responsibilities relating
24 to income tax returns beyond what you just described, which is
25 supplying records to Mr. Cupersmith's office?

1 A. No, she did not.

2 Q. During the time that you have known the Defendant, and
3 during the time you have worked alongside the Defendant, have
4 you had occasion to observe his handwriting?

5 A. Yes.

6 Q. Multiple times?

7 A. Yes.

8 Q. Many times?

9 A. Hundreds of times.

10 MS. WEINTRAUB: Objection, Your Honor. Can we find
11 out the last time that he observed that?

12 THE COURT: Hold on. You have the opportunity for
13 cross-examination. The objection is overruled. You may
14 continue.

15 THE WITNESS: Hundreds of times.

16 BY MS. JIMENEZ:

17 Q. Did you have occasions to observe the Defendant's
18 signature?

19 A. Yes.

20 MS. JIMENEZ: Can we pull up D-6 here for a moment.

21 Did I say D-6?

22 Just -- hold on a second.

23 Exhibit 6. Exhibit 6, please.

24 Go on down to the next pages.

25 COURTROOM DEPUTY: Is this all in evidence?

1 MS. JIMENEZ: It is. Yes.

2 THE COURT: It's in evidence.

3 BY MS. JIMENEZ:

4 Q. You said you've had occasion to observe the Defendant's
5 signature multiple times. Is that fair to say?

6 A. Yes.

7 Q. Were your checks signed by the Defendant?

8 A. Yes.

9 Q. Based on your observations, was the Defendant's signature
10 always exactly the same?

11 MS. WEINTRAUB: Objection, Your Honor.

12 THE COURT: Basis?

13 MS. WEINTRAUB: Leading.

14 THE COURT: Overruled. I'll allow it.

15 THE WITNESS: No. There were variations.

16 MS. JIMENEZ: All right. Can we pull up Government
17 Exhibit 39-9, please.

18 BY MS. JIMENEZ:

19 Q. All right. If you could take a look at this -- Page 1 of
20 39-9. It's a check from whom to whom?

21 A. From HM-UP Development Alafaya Trails, LLC, paid to the
22 order of HM Management and Development, LLC.

23 Q. What's the date of this check?

24 A. June 1st, 2020.

25 Q. In the first quarter of 2020, did HM-UP Development Alafaya

1 Trails have any payroll?

2 A. No.

3 Q. Did you become aware whether the Defendant applied for a
4 PPP loan in April of 2020?

5 A. No.

6 Q. The handwriting on this check, whose handwriting is it?

7 A. Eric Sheppard's.

8 Q. Did you have occasion to observe the Defendant's writing of
9 numbers --

10 A. Yeah.

11 Q. -- when you worked with him?

12 A. Yes.

13 Q. What about the numbers on this check? Whose handwriting is
14 that?

15 A. Eric Sheppard's.

16 Q. And the signature?

17 A. Eric Sheppard.

18 MS. JIMENEZ: Can we go to the next check, please --
19 or the next document.

20 BY MS. JIMENEZ:

21 Q. Looking at this check, is this the Defendant's handwriting?

22 A. No, it is not.

23 Q. Does the handwriting look familiar to you?

24 A. Looks like Jeanette Gonzalez's handwriting.

25 Q. What about the signature? Whose signature?

1 A. It looks like Jeanette signing Eric's signature.

2 MS. WEINTRAUB: Judge, I'm going to object, move to
3 strike, unless I can voir dire him.

4 THE COURT: You'll have an opportunity to
5 cross-examine. Overruled, and the request is denied.

6 BY MS. JIMENEZ:

7 Q. Did the Defendant have it signed different ways at
8 different times?

9 A. Yes.

10 Q. Were there occasions when Jeanette Gonzalez signed for the
11 Defendant?

12 MS. WEINTRAUB: Objection, Your Honor.

13 THE COURT: And the basis?

14 MS. WEINTRAUB: No personal knowledge, unless --

15 THE COURT: If the witness knows. Overruled.

16 THE WITNESS: Yes. Eric authorized her to sign.

17 BY MS. JIMENEZ:

18 Q. So my question is: Do you know of any instance when
19 Jeanette Gonzalez signed for Eric Sheppard when she was not
20 authorized or directed to sign for him by Eric Sheppard?

21 A. No, I don't.

22 MS. JIMENEZ: Can we go to the next one, please.

23 BY MS. JIMENEZ:

24 Q. What kind of bank record is this?

25 A. It's a withdrawal ticket.

1 Q. What's a withdrawal ticket, do you know?

2 A. When you go to the bank and withdraw money from an account
3 in person.

4 Q. Do you recognize the handwriting?

5 A. Yes. It looks like Eric Sheppard's handwriting.

6 Q. All right.

7 MS. JIMENEZ: Can we go to the next one, please.

8 BY MS. JIMENEZ:

9 Q. This is another withdrawal ticket; is that right?

10 A. Yes.

11 Q. And what is the date? Can you make out the date?

12 A. January 15, 2020.

13 Q. Do you recognize the handwriting?

14 A. Yes.

15 Q. Whose handwriting?

16 A. Eric Sheppard.

17 Q. All right.

18 MS. JIMENEZ: Can you leave this somewhere -- here,
19 yes.

20 Can we go to Exhibit 19-8, please, Page 7. This is a
21 PayPal record from 2021.

22 BY MS. JIMENEZ:

23 Q. Looking at this document, which is in evidence, Exhibit
24 19-8, second quarter 2020 941, do you recognize the handwriting
25 in the box, in the upper box?

1 A. Yes. It's Eric's handwriting.

2 Q. All right.

3 MS. JIMENEZ: Put it back.

4 BY MS. JIMENEZ:

5 Q. What about the numbers written on this page? Do you
6 recognize the numbers?

7 A. The handwriting of the numbers?

8 Q. Yes, the handwriting of the numbers.

9 A. Yes.

10 Q. Right, not the actual figures.

11 MS. JIMENEZ: Can you pull it out.

12 BY MS. JIMENEZ:

13 Q. Whose handwriting is that?

14 A. Eric's.

15 Q. In -- this is actually second quarter of 2020. But let me
16 ask you: First quarter of 2020, when you were still at HM
17 Management, did HM-UP Development Alafaya Trails have 70
18 employees?

19 A. No.

20 Q. Did it have any employees?

21 A. No.

22 MS. JIMENEZ: Can we go to the second page of 19-8
23 here.

24 BY MS. JIMENEZ:

25 Q. Looking at the handwriting on this page, do you recognize

1 the handwriting?

2 A. Yes.

3 Q. Whose handwriting?

4 A. Eric Sheppard's.

5 Q. What about the signature? Do you recognize the signature?

6 A. Yes.

7 Q. Whose signature?

8 A. Eric's signature.

9 Q. All right.

10 MS. JIMENEZ: Can we go to -- on the left side, can we
11 go to the withdrawal ticket before it.

12 All right. Here.

13 All right. So let's go down to the next two -- to
14 Page 11 of this record.

15 Actually, let's stop here.

16 BY MS. JIMENEZ:

17 Q. This one on this page, is the handwriting the same or a
18 little bit different?

19 MS. WEINTRAUB: Objection, Your Honor.

20 THE COURT: And the basis?

21 MS. WEINTRAUB: Leading.

22 THE COURT: Overruled.

23 THE WITNESS: It looks different.

24 BY MS. JIMENEZ:

25 Q. Does it look to you like the Defendant's handwriting?

1 A. Not overly.

2 Q. I'm sorry. Not what?

3 A. It does not overly look like the Defendant's handwriting.

4 Q. Are you sure or unsure?

5 MS. WEINTRAUB: Objection, Your Honor.

6 THE COURT: Sustained.

7 BY MS. JIMENEZ:

8 Q. Do any of the numbers look familiar?

9 MS. WEINTRAUB: Objection, Your Honor. He's already
10 answered the question.

11 THE COURT: With regard to the numbers, I'll allow it.

12 THE WITNESS: Some of the numbers look consistent with
13 Eric's handwriting.

14 MS. JIMENEZ: All right. Let's go to Page 11, the
15 next document.

16 BY MS. JIMENEZ:

17 Q. Here. This is first quarter 2020. HM Development Alafaya
18 Trails, you were at HM Management at that time; is that right?

19 A. Yes.

20 Q. Did HM-UP Development Alafaya Trails have 68 employees?

21 A. No.

22 Q. Any employees?

23 A. No.

24 Q. Do you recognize the handwriting on this page?

25 A. That looks like Eric's handwriting.

1 Q. What about the numbers?

2 A. The numbers look like Eric's handwriting as well.

3 MS. WEINTRAUB: Judge, excuse me. I'm going to
4 object. I don't know if that's an identification. I don't
5 know what that is, but it looks like --

6 THE COURT: Hold on. What's the legal basis of the
7 objection?

8 MS. WEINTRAUB: The witness is not competent to
9 testify as such.

10 THE COURT: Based on his personal knowledge, the
11 witness can certainly give a layperson's opinion based on his
12 experience with the Defendant. Overruled.

13 MS. WEINTRAUB: Most respectfully, Your Honor, he is
14 testifying and qualifying the --

15 THE COURT: You'll have an opportunity to
16 cross-examine.

17 You may continue.

18 MS. JIMENEZ: Go to the second page of that document,
19 please.

20 BY MS. JIMENEZ:

21 Q. Do you recognize the handwriting?

22 A. Yes.

23 Q. Whose handwriting is it?

24 A. Eric Sheppard's.

25 Q. What about the signature? Do you recognize the signature?

1 A. Yes. That's Eric's signature.

2 Q. All right.

3 MS. JIMENEZ: Can we look at on the ELMO here --

4 (Court reporter interruption.)

5 MS. JIMENEZ: I'm sorry.

6 Yes. Can we look at the ELMO, Defense Exhibit P-1
7 here. This is a record in evidence.

8 BY MS. JIMENEZ:

9 Q. Down here, February 11th, 2021, from Eric Sheppard. Do you
10 recognize that email address?

11 MS. WEINTRAUB: Your Honor, I'm going to object to
12 this witness even being questioned about this. This was a year
13 after he left. He could have no personal --

14 THE COURT: Yeah. Without reference to the exhibit,
15 why don't you ask the predicate question. Sustained.

16 BY MS. JIMENEZ:

17 Q. In 2020, before you left, did HM Management and Development
18 have an accounting department?

19 A. No. It had a bookkeeper.

20 Q. In 2020, before you left, did HM Management, or HM-UP
21 Development Alafaya Trails, or any of the Defendant's companies
22 that you know of have a comptroller?

23 A. No.

24 Q. All right.

25 MS. JIMENEZ: Can we go to Sunbiz Record 1, Exhibit 1.

1 BY MS. JIMENEZ:

2 Q. You were -- you testified you were manager of HM Management
3 and Development up to 2018 and then no longer in 2019; is that
4 right?

5 A. Yes.

6 Q. And was that the same case for the other company, HM Four,
7 where you were manager of that company through 2018 and no
8 longer in 2019?

9 A. Yes.

10 Q. Were there other of the Defendant's companies on which you
11 were listed as the manager up through 2018 and then no longer
12 after 2018?

13 A. Yes.

14 Q. Did something happen in -- you know, between 2018 and 2019
15 that caused that?

16 A. Yes.

17 Q. What happened?

18 MS. WEINTRAUB: Your Honor, I would object on previous
19 404 grounds.

20 THE COURT: Overruled.

21 THE WITNESS: My name and a position was used as a
22 sponsor for a visa application, a work visa application for
23 someone that I had no knowledge or didn't approve of my name
24 being used. So I asked my name to be removed from every one of
25 the companies as manager.

1 BY MS. JIMENEZ:

2 Q. What is it that you learned about being used as the sponsor
3 on a visa application?

4 MS. WEINTRAUB: Objection. Hearsay.

5 THE COURT: Sustained.

6 BY MS. JIMENEZ:

7 Q. What company was it that you were listed as being the
8 sponsor on a visa application?

9 A. HM Management.

10 Q. HM Management and Development?

11 A. Yes.

12 Q. When you say your name was used as the sponsor, who used
13 it?

14 A. So I received --

15 MS. WEINTRAUB: Objection, Your Honor.

16 THE COURT: With regard to -- sustained. Rephrase,
17 please.

18 BY MS. JIMENEZ:

19 Q. All right. What is it that -- well, who did you learn that
20 this happened from? From whom did you learn that this
21 happened?

22 A. The billing office of the law firm that was representing
23 the person applying for the visa.

24 Q. All right. What is it that you learned?

25 MS. WEINTRAUB: Objection, Your Honor.

1 THE COURT: Sustained.

2 MS. JIMENEZ: Can we show the witness Government's
3 Exhibit 50-1.

4 MS. MARTINEZ: We need to go to counsel's table and
5 remove -- there we go.

6 MS. JIMENEZ: Yes. Sorry. Counsel's table.

7 That's okay. We don't need to do that.

8 Can we show the second page of this.

9 BY MS. JIMENEZ:

10 Q. Mr. Graff --

11 MS. JIMENEZ: And the third page, the signature page.

12 BY MS. JIMENEZ:

13 Q. Mr. Graff, do you recognize this document?

14 A. Yes.

15 Q. What is it?

16 A. It was an engagement letter that was signed with my name
17 engaging the law firm to represent the person applying for the
18 visa.

19 Q. And who was engaging the law firm, based on this letter?

20 MS. WEINTRAUB: Objection, Your Honor.

21 BY MS. JIMENEZ:

22 Q. What company was engaging --

23 THE COURT: Sustained.

24 BY MS. JIMENEZ:

25 Q. -- the law firm?

1 A. HM Management and Development, LLC.

2 Q. And was your signature on this letter?

3 A. My name was on there. It's not my signature. I did not
4 sign the letter.

5 Q. Well, is there a signature represented as your signature on
6 this letter?

7 A. Yes.

8 Q. Did you sign the letter?

9 A. I did not.

10 Q. Did you hire this law firm to -- on behalf of HM management
11 to represent someone -- to sponsor someone for a visa?

12 A. No, I did not.

13 Q. Do you recognize --

14 MS. JIMENEZ: Can I move Government Exhibit 50-1 into
15 evidence?

16 THE COURT: Any objection?

17 MS. WEINTRAUB: Yes, Your Honor.

18 THE COURT: And the basis?

19 MS. WEINTRAUB: We don't know who signed it. The
20 foundation has not been met. It's not properly identified.
21 The foundation's not been made and it's irrelevant. It is also
22 403.

23 THE COURT: All right. With regard to establishing
24 the requisite foundation, why don't we lay that.

25

1 BY MS. JIMENEZ:

2 Q. Do you recognize the handwriting of your purported
3 signature?

4 A. That looks like Eric's handwriting.

5 Q. Eric Sheppard's handwriting?

6 A. Yes.

7 MS. JIMENEZ: I'd like to move Government's
8 Exhibit 50-1 into evidence.

9 MS. WEINTRAUB: Objection, Your Honor.

10 THE COURT: And the basis?

11 MS. WEINTRAUB: Number one, it's still hearsay. And
12 number -- the document. And number two is "looks like" does
13 not make a foundation of accurately and swearing under oath.
14 So I would still object.

15 THE COURT: Okay. All right. The objection is noted.
16 It's overruled. It will be admitted into evidence.

17 (Government's Exhibit 50-1 received into evidence.)

18 BY MS. JIMENEZ:

19 Q. All right. This is -- what are we looking at, Page 7 of
20 what?

21 A. (No verbal response.)

22 Q. Mr. Graff, what are we looking at?

23 A. Oh.

24 Q. This is Page 7 of what document?

25 A. The engagement letter.

1 Q. What is an engagement letter?

2 A. That was engaging the firm -- hiring the law firm to
3 represent the person applying for the visa.

4 Q. Is that HM Management hiring the law firm?

5 A. HM Management and Development, LLC hiring the person.

6 Q. All right. So the signature block for HM Management and
7 Development indicates what name?

8 A. Jeffrey Graff.

9 Q. And the title?

10 A. Manager.

11 Q. And the date?

12 A. May 10th, 2018.

13 Q. And did you sign this document?

14 A. I did not.

15 Q. Did you authorize anyone to sign this document?

16 A. I did not.

17 Q. You recognize the signature or the handwriting as
18 Mr. Sheppard's. Did you authorize Mr. Sheppard to sign --

19 MS. WEINTRAUB: Object to the form of the question.

20 THE COURT: Sustained.

21 BY MS. JIMENEZ:

22 Q. Did you authorize Mr. Sheppard to sign this letter on your
23 behalf?

24 A. No.

25 MS. JIMENEZ: Can we go to the front of the letter.

1 BY MS. JIMENEZ:

2 Q. All right. Were you provided any other documents relating
3 to this visa application that had your purported signature?

4 A. Yes.

5 Q. What were those documents?

6 A. I believe they were the actual application and a letter to
7 the Mexican Consul or something like that.

8 Q. A letter to the Mexican Consulate asking or --

9 MS. WEINTRAUB: Objection, Your Honor.

10 THE COURT: Sustained.

11 BY MS. JIMENEZ:

12 Q. And those documents that you were provided, did they have
13 your signature?

14 A. Yes.

15 Q. Did you actually sign those documents?

16 A. No, I did not.

17 MS. WEINTRAUB: Objection, Your Honor. I don't know
18 what documents we're referring to now.

19 THE COURT: Ms. Jimenez?

20 MS. JIMENEZ: Can we show the witness Government
21 Exhibit 50-2 and 50-3.

22 MS. MARTINEZ: Witness only.

23 MS. JIMENEZ: Can we just show them side by side, 50-2
24 and 50-3, please.

25 All right. Let's go to the first page.

1 BY MS. JIMENEZ:

2 Q. All right. 50-2, have you seen this document before?

3 A. Yes.

4 Q. What is it?

5 A. It's a Notice of Entry of Appearance as Attorney or
6 Accredited Representative.

7 Q. Does it have your name on this document?

8 A. Yes.

9 Q. And this document -- is this a government form?

10 A. Yes.

11 Q. What government department is it?

12 A. Department of Homeland Security.

13 Q. All right.

14 MS. JIMENEZ: Can we go to the signature page on 50-2.

15 BY MS. JIMENEZ:

16 Q. All right. Does that -- is that document signed? Does it
17 have a signature?

18 A. Yes.

19 Q. Is that purported to be your signature?

20 A. Yes.

21 Q. Did you sign that document?

22 A. No.

23 Q. Did you authorize anyone at HM Management or anyone else to
24 sign this document?

25 A. No.

1 MS. JIMENEZ: Can we go to 50-3 here -- and actually,
2 50-2, can we move that into evidence?

3 THE COURT: Is there any objection?

4 MS. WEINTRAUB: Objection, Your Honor.

5 THE COURT: And the basis?

6 MS. WEINTRAUB: It's hearsay, number one. Number two,
7 the signature has not been identified as who has done that, and
8 I don't believe the witness has identified that it was done by
9 the Defendant, and I don't believe he will.

10 THE COURT: Well, I agree in terms of the third part,
11 but that goes to the weight as opposed to its admissibility.
12 The objection is noted. It's overruled. It will be admitted
13 into evidence.

14 (Government's Exhibit 50-2 received into evidence.)

15 MS. JIMENEZ: All right. Could we just -- 50-2, could
16 we go to the first page.

17 BY MS. JIMENEZ:

18 Q. All right. So it's a Notice of Entry of Appearance
19 submitted by the Department of Homeland Security; is that
20 right?

21 A. Yes.

22 Q. Did you have any knowledge about this document --

23 A. No.

24 Q. -- before you received it?

25 A. No.

1 Q. All right. And then the signature --

2 MS. JIMENEZ: Let's go down to the signature.

3 BY MS. JIMENEZ:

4 Q. Do you recognize the handwriting on that signature?

5 A. No.

6 Q. And you did not sign it, correct?

7 A. Correct.

8 MS. WEINTRAUB: Excuse me, Ms. Jimenez. Is this part
9 of the same document?

10 THE COURT: This is part of 50 -- is this 50-3 or
11 50-2?

12 MS. JIMENEZ: 50-2 -- oh.

13 MS. WEINTRAUB: These are not part of the same
14 document.

15 THE COURT: That's correct. This is 50-3. Take that
16 off the screen.

17 MS. JIMENEZ: I was going to discuss both first.

18 THE COURT: All right. Let's continue.

19 MS. JIMENEZ: All right. 50-2.

20 All right. 50-2. Yes.

21 MS. MARTINEZ: This one is in evidence. Do you want
22 to show it to --

23 MS. JIMENEZ: Yes. This one's in evidence.

24 BY MS. JIMENEZ:

25 Q. All right. Having worked at the Defendant's office for 20

1 years, and with Jeanette Gonzalez for 12 of those years, do you
2 know whether -- do you know whether Jeanette Gonzalez would --
3 or someone at the office would sign a document --

4 MS. WEINTRAUB: Objection, Your Honor.

5 BY MS. JIMENEZ:

6 Q. -- relating to a visa application --

7 MS. WEINTRAUB: Objection.

8 BY MS. JIMENEZ:

9 Q. -- for the company without the authorization or direction
10 of the Defendant?

11 THE COURT: The basis of the objection?

12 MS. WEINTRAUB: It's calling for a hearsay response.
13 It's asking about whether Jeanette Gonzalez knew. It's a third
14 party. It's irrelevant.

15 THE COURT: Sustained. Rephrase.

16 BY MS. JIMENEZ:

17 Q. Having worked alongside Jeanette Gonzalez for 12 years, do
18 you know whether she would sign a document or sign your name on
19 a document without being directed to do so by the Defendant?

20 MS. WEINTRAUB: Same objection, Your Honor.

21 THE COURT: Sustained.

22 BY MS. JIMENEZ:

23 Q. Have you ever seen Jeanette Gonzalez sign your name on any
24 official HM Management document?

25 MS. WEINTRAUB: Judge, I'm going to object as

1 irrelevant if Jeanette signed Mr. Graff's name.

2 THE COURT: Overruled. I'll allow it.

3 THE WITNESS: No.

4 BY MS. JIMENEZ:

5 Q. Have you seen or known of anyone at the office signing your
6 name without your authorization aside from this document?

7 A. No.

8 Q. All right.

9 MS. JIMENEZ: Can we go to 50-3, please, just for the
10 witness.

11 BY MS. JIMENEZ:

12 Q. All right. What is this 50-3?

13 A. This was a letter to the embassy and the Mexican Consulate.

14 Q. The US?

15 A. Consulate Non-Immigration Visa Unit.

16 Q. All right. In Mexico. The US Embassy in Mexico, correct?

17 A. Yes.

18 Q. This letter has your purported signature, correct?

19 A. Yes.

20 Q. And what company is purportedly providing this letter?

21 MS. WEINTRAUB: Objection. Hearsay.

22 THE COURT: Yeah. Right now, it's not in evidence.
23 Sustained.

24 BY MS. JIMENEZ:

25 Q. All right. Let's go to your signature. Have you seen this

1 letter before?

2 A. Yes.

3 Q. All right. Is your name on the signature block here?

4 A. Yes.

5 Q. And your signature -- your purported signature here, is it
6 on this document?

7 A. Yes. Yes. Sorry.

8 Q. Did you sign this document?

9 A. No, I did not.

10 Q. Did you know anything about it before it was provided to
11 you?

12 A. No, I did not.

13 MS. JIMENEZ: I'd like to move Government's
14 Exhibit 50-3 into evidence.

15 THE COURT: Is this part of 50-1? Is this all part of
16 the same issue?

17 MS. JIMENEZ: I was trying to put it all together,
18 yes.

19 MS. WEINTRAUB: It's not part of the same exhibit.

20 THE COURT: All right. Is there any objection?

21 MS. WEINTRAUB: Yes, Your Honor.

22 THE COURT: And the basis?

23 MS. WEINTRAUB: I'm sorry. I didn't mean to speak.

24 THE COURT: And the basis?

25 MS. WEINTRAUB: It's hearsay. It hasn't been tied to

1 the Defendant, and it's irrelevant, and it's 403.

2 THE COURT: Sustained.

3 BY MS. JIMENEZ:

4 Q. Did you authorize the Defendant or anyone at HM Management
5 to sign for you?

6 A. No.

7 Q. Do you know of any occasion when the individuals who work
8 for the Defendant have signed your name?

9 A. No.

10 MS. WEINTRAUB: Objection. Asked and answered.

11 THE COURT: Sustained.

12 BY MS. JIMENEZ:

13 Q. All right. Do you know what the visa application was for?

14 A. I'm sorry. Can you say that again? I didn't hear you.

15 Q. This visa application, do you know what it was for?

16 MS. WEINTRAUB: Objection. Irrelevant.

17 THE COURT: If the witness knows. Overruled.

18 THE WITNESS: It was for someone --

19 MS. WEINTRAUB: Objection if it's relying on -- the
20 document speaks for itself and it's hearsay.

21 THE COURT: Well, this is part of 50-1 and 50-2; is
22 that correct?

23 MS. JIMENEZ: Yes, Your Honor.

24 THE COURT: Overruled.

25 THE WITNESS: It was to bring -- it was to get a work

1 visa for someone working for the club ultimately.

2 BY MS. JIMENEZ:

3 Q. For what club?

4 A. The King of Diamonds club.

5 Q. All right. Now, did you confront the Defendant about the
6 use of your name and your signature on these documents without
7 your authorization?

8 A. Yes, I did.

9 Q. What did the Defendant tell you?

10 A. He got angry at me, and told me he has to clean up the mess
11 that I made.

12 Q. And did anything happen after that? Did the Defendant do
13 anything after that that you are aware of?

14 A. Yes. He wrote a letter to the attorney representing the
15 person applying for the visa and explained away what had
16 happened.

17 Q. Were you provided that letter?

18 A. Yes.

19 Q. Who provided you that letter?

20 A. Eric did.

21 MS. JIMENEZ: Can we show the witness 50-5, please.

22 BY MS. JIMENEZ:

23 Q. Do you recognize this document?

24 A. Yes.

25 Q. What is it?

1 A. This is the letter that Eric wrote to the law firm.

2 Q. All right.

3 MS. JIMENEZ: Can we go to --

4 BY MS. JIMENEZ:

5 Q. Is it signed?

6 MS. JIMENEZ: Let me go to the signature page.

7 THE WITNESS: Yes.

8 BY MS. JIMENEZ:

9 Q. Is it signed?

10 A. Yes.

11 Q. Is that the Defendant's signature?

12 A. Yes.

13 MS. JIMENEZ: All right. I'd like to move
14 Government's Exhibit 50-5 into evidence.

15 THE COURT: Any objection?

16 MS. WEINTRAUB: Yes.

17 THE COURT: I'm sorry?

18 MS. WEINTRAUB: Hearsay, relevance, 403.

19 THE COURT: Okay. On each -- the objection is noted.
20 On each ground, overruled. Admitted into evidence.

21 (Government's Exhibit 50-5 received into evidence.)

22 MS. JIMENEZ: All right. Can we go to the first page.

23 BY MS. JIMENEZ:

24 Q. March -- do you see the date on there?

25 A. Yes, I do.

1 Q. March 8, 2019?

2 A. Yes.

3 Q. Is that approximately when you had this discussion with the
4 Defendant?

5 A. Yes.

6 Q. All right.

7 MS. JIMENEZ: If we can go to the first paragraph,
8 please.

9 Let me go to the next paragraph, the paragraph
10 numbered 1.

11 BY MS. JIMENEZ:

12 Q. Can you read that first sentence, please.

13 A. "From the first conversation, it was always represented and
14 100 percent the fact that," parenthesis "I, Eric Sheppard, is
15 the 99 percent owner member of HM Management, LLC,"
16 quote/unquote, "company."

17 Q. Can you read the next sentence.

18 A. "Eric Sheppard has complete and unwavering authority to
19 make all decisions and bind the company."

20 Q. Okay. Can you read the rest of that.

21 A. "In one instance not related to all this matter, Mr. Jeff
22 Graff was named manager for company, and it was reflected on
23 Sunbiz.org. Inadvertently, Mr. Graff's name was never removed
24 from manager, but the request to the State of Florida is in
25 process."

1 Q. Did you make a request to the State of Florida to remove
2 you as manager or did Sheppard?

3 A. I made a request to the corporate attorney to have my name
4 removed.

5 Q. All right.

6 MS. JIMENEZ: Can we go to the next numbered
7 paragraph.

8 BY MS. JIMENEZ:

9 Q. "Engagement Letter." Is that the letter that -- where the
10 law firm was being hired --

11 A. Yes.

12 Q. -- with your purported signature?

13 A. Yes.

14 Q. All right. Okay. Can you read the first two sentences.

15 MS. WEINTRAUB: Judge, I'm going to object. And the
16 document is in evidence, number one. It speaks for itself.
17 Number two, I would ask that he not be able to cherrypick the
18 sentences. Either read the whole thing or don't.

19 THE COURT: All right. It's in evidence. It's on the
20 screen. You may continue.

21 MS. JIMENEZ: All right. Thank you.

22 BY MS. JIMENEZ:

23 Q. Can you read that first sentence.

24 A. "The engagement letter executed was inadvertently executed
25 by my office for the fact that Mr. Graff's name was supposed to

1 be removed and not the signature."

2 Q. And the next sentence?

3 A. "In fact, the letter should have said: 'Eric Sheppard,
4 majority member.'"

5 Q. Okay. Now, was the engagement letter the document where
6 you recognized the Defendant's handwriting as your signature?

7 A. Yes.

8 Q. All right. So in the middle of this paragraph, so we don't
9 read more -- take up that much more time: "I instructed the
10 person at the time." Can you read that sentence.

11 A. "I instructed the person at the time to sign Eric Sheppard
12 in print, not signature of mine," parenthesis, "sign for
13 Mr. Sheppard."

14 Q. And then the next sentence.

15 A. "I forwarded the engagement letter without even looking at
16 the signature, so that would ultimately be my inadvertent
17 mistake."

18 Q. All right.

19 MS. JIMENEZ: Can we go back.

20 All right. Can we go -- I'm sorry -- to the next
21 page.

22 Okay. Paragraph 3.

23 BY MS. JIMENEZ:

24 Q. All right. Can you read that first sentence, please.

25 A. "Mr. Jeffrey Graff," quote/unquote, "Jeff, to my knowledge,

1 owns a company named Graffco, LLC. Jeff's company is paid --
2 is a paid consultant for each month from HM Management and
3 Development, LLC.

4 "Graffco and Mr. Graff individually was not and is not
5 an employee of the company. Mr. Graff is not the chief
6 financial officer and not involved or has any say of any hiring
7 or firing of any employees of the company. He is strictly a
8 consultant."

9 Q. All right.

10 A. "Due" -- continue?

11 Q. Yes. Go ahead.

12 A. "Due to the confusion of the Sunbiz.org posting Jeff as
13 manager of company, along with the back-and-forth of which
14 company was to employ her, somehow Mr. Graff's name was
15 executed. But in no event was the execution," parenthesis,
16 "regardless of the wrong signature block, ever intended to
17 misrepresent or act in bad faith. The signature was supposed
18 to be in print," parenthesis, "as signed for."

19 Q. All right.

20 MS. JIMENEZ: Go back. And then...

21 Okay. Let's go to just -- Paragraph 5 here.

22 BY MS. JIMENEZ:

23 Q. All right. Can you read the first sentence.

24 A. "The company, 100 percent through my approval and full
25 authority, sponsored Ms. Nidia Ahumada for the work visa in

1 June 2018 submitted by your firm for Ms. Ahumada."

2 Q. All right. Can you read: "I personally was not in town."

3 A. "I personally was not in town, as I was on vacation and
4 instructed people by telephone while hiking on a mountain. So
5 obviously a misunderstanding occurred."

6 Q. All right. And then the next sentence.

7 A. "There in no shape or form was any intention or bad faith
8 with the signature mistake, just misunderstanding and careless
9 by office staff."

10 Q. All right. And then was it at some point thereafter that
11 you requested to have your name removed as manager from the
12 Defendant's companies?

13 MS. WEINTRAUB: Objection. Leading.

14 THE COURT: Overruled. I'll allow it.

15 THE WITNESS: Yes.

16 BY MS. JIMENEZ:

17 Q. All right. Now, in March of 2020, how much longer did you
18 stay with HM Management?

19 A. I left officially March 31st, 2020.

20 Q. All right.

21 MS. JIMENEZ: We can take this off the screen.

22 MS. WEINTRAUB: Judge, I'm going to object. And I
23 don't know if Ms. Jimenez meant to misspeak or -- but if in her
24 question she's asking March of 2020: "How long did you stay
25 after," and he says: "I left March 31st, 2020," and it implies

1 that he stayed. It was a year earlier. It was 2019, not 2020.

2 THE COURT: All right. Do you want to clarify with
3 the witness?

4 MS. JIMENEZ: I asked him: "In March of 2020 -- how
5 long did you stay at the company as of March of 2020?"

6 THE COURT: Okay. All right. Let's continue.

7 BY MS. JIMENEZ:

8 Q. Did you, in March of 2020, have any discussions with the
9 Defendant about applying for some type of COVID relief program?

10 A. I don't know if it was actually called COVID relief at that
11 time, but there was a disaster relief loan we talked about.

12 Q. What did the Defendant tell you at that time?

13 A. That we should apply for the loan because we knew tenants
14 weren't going to be paying rent in the Alafaya shopping center.

15 Q. Did you assist him in that regard?

16 A. Yes.

17 Q. Now, were you interviewed by the FBI back in July of this
18 year in connection with this case?

19 A. Yes, I was.

20 Q. At that time, were you asked generally if you had assisted
21 the Defendant in submitting any applications for the PPP
22 program?

23 A. Yes, I was asked.

24 Q. What did you say --

25 A. I said that --

1 Q. -- that you recall?

2 A. I recall saying something along the lines of that we had
3 tried to apply but the system kept crashing so we never
4 actually formally applied.

5 Q. All right. Was it the case that you did assist the
6 Defendant in applying for some sort of disaster relief program?

7 A. Prior to me leaving, yes.

8 Q. Did you have any -- was there -- all right. So what was it
9 in March -- what is it that you did for the Defendant?

10 A. We applied for a disaster relief loan, an economic
11 disadvantage loan in the name of HM Four.

12 Q. What business entity was it for?

13 A. HM Four.

14 Q. Now, was this an Economic Injury Disaster Loan that you
15 applied for?

16 A. I don't remember the exact title, but it was that type of
17 loan.

18 Q. All right. Did you discuss at that time with the Defendant
19 whether or not HM Four was a business that had suffered an
20 economic injury?

21 A. Yes.

22 Q. What did the Defendant say about that?

23 A. To apply in the name of HM Four.

24 Q. To go ahead and apply in the name of HM Four?

25 A. Yes.

1 MS. JIMENEZ: Can we show the witness Government's
2 Exhibit 50-7.

3 BY MS. JIMENEZ:

4 Q. 50-7 -- what is 50-7?

5 A. It's an email from me to Eric.

6 MS. JIMENEZ: Does this go on -- this exhibit goes on?
7 Can you just scroll through for a moment.

8 BY MS. JIMENEZ:

9 Q. What are all of these records?

10 A. It looks to be email communication during the application
11 process between Eric and myself.

12 Q. So these are emails between you and the Defendant?

13 A. Yes.

14 MS. JIMENEZ: I'd like to --

15 BY MS. JIMENEZ:

16 Q. Do you recognize these emails as conversations between you
17 and the Defendant?

18 A. Yes.

19 MS. JIMENEZ: I'd like to move Government Exhibit 50-7
20 into evidence, please.

21 THE COURT: Is there any objection?

22 MS. WEINTRAUB: No, Your Honor.

23 THE COURT: All right. Admitted into evidence.

24 (Government's Exhibit 50-7 received into evidence.)

25

1 BY MS. JIMENEZ:

2 Q. All right. This one on March 23rd, 2020, what are you
3 sending him?

4 A. The actual loan application form.

5 Q. For?

6 A. HM Four, for the loan for the economic injury.

7 Q. Had you had any discussion before you sent him this form?

8 A. Yes.

9 Q. What was the discussion?

10 A. That we should be applying for it under HM-UP because that
11 was the entity that actually had the economic damage.

12 Q. You mean HM-UP Development Alafaya Trails?

13 A. Yes.

14 Q. What was the Defendant's response?

15 A. He wanted us to apply in the name of HM Four.

16 Q. All right.

17 MS. JIMENEZ: Okay. Can we go to the next email,
18 please.

19 BY MS. JIMENEZ:

20 Q. And then you write the Defendant, and what do you say?

21 A. "Here is the SBA PFS form. If you complete -- if you
22 complete and email back, I can upload it. There's a form that
23 Kallman's entity has to complete. Remember, please review the
24 application, especially Page 3, where I try to explain the
25 loss."

1 Q. Who is Kallman?

2 A. Eric's partner, Robert Kallman.

3 Q. And what do you mean by: "Please review the application,
4 especially Page 3, where I tried to explain the loss"?

5 A. Eric tried to explain to me how the damage -- how to
6 explain the damage to the entity, and I tried to put that into
7 the application. So I wanted him to approve the way it was
8 written.

9 Q. All right.

10 MS. JIMENEZ: I think those documents are 50 -- is
11 that 50-12?

12 BY MS. JIMENEZ:

13 Q. Did you attach the document to the email?

14 A. I did.

15 (Pause in proceedings.)

16 MS. JIMENEZ: If I could just have a moment here.

17 (Pause in proceedings.)

18 MS. JIMENEZ: No. This is not the one.

19 Oh, I'm sorry. 50 -- it's 50-9.

20 MS. MARTINEZ: Right. You're asking to show it to the
21 witness?

22 MS. JIMENEZ: To the witness.

23 All right. Can you scroll through 50-9 for the
24 witness, please.

25

1 BY MS. JIMENEZ:

2 Q. Do you recognize these documents?

3 A. Yes.

4 Q. What are they?

5 A. Looks to be the loan application that we submitted.

6 Q. Are those the attachments to your emails?

7 A. One of them, yes.

8 Q. All right.

9 MS. JIMENEZ: Can we -- we'd like to move 50-9 into
10 evidence.

11 MS. WEINTRAUB: No objection.

12 THE COURT: Is there any objection?

13 MS. WEINTRAUB: No, Judge.

14 THE COURT: All right. Admitted into evidence.

15 (Government's Exhibit 50-9 received into evidence.)

16 MS. JIMENEZ: All right. Can we go to Page 7 of 50-9.

17 BY MS. JIMENEZ:

18 Q. All right. This indicates rental properties, lost rents of
19 what amount?

20 A. 348,000.

21 Q. Who provided that figure?

22 A. Eric.

23 MS. JIMENEZ: Could we go to Page 8, please.

24 Page 8.

25

1 BY MS. JIMENEZ:

2 Q. All right. On this page you've got the applicant's legal
3 name, which is HM Four; is that right?

4 A. Yes.

5 Q. All right.

6 MS. JIMENEZ: Go back out.

7 BY MS. JIMENEZ:

8 Q. Did HM Four have any employees?

9 A. No.

10 MS. JIMENEZ: Can we go back out. The bottom lists --
11 highlight the bottom half, or the bottom third.

12 BY MS. JIMENEZ:

13 Q. All right. On Box Number 12, it indicates: "Employees
14 pre-disaster, 100." Did HM Four have a hundred employees?

15 A. No.

16 Q. Why is this filled out with that figure?

17 A. That's the number I was told to put.

18 Q. By whom?

19 A. Eric Sheppard.

20 Q. How many employees did HM Four have?

21 A. Zero.

22 Q. Did you advise the Defendant that HM Four did not have
23 employees?

24 A. Yes.

25 Q. What did he tell you?

1 A. "Put the hundred."

2 Q. All right.

3 MS. JIMENEZ: Can we go back to 50-7.

4 All right. Page -- go to the next page.

5 BY MS. JIMENEZ:

6 Q. All right. Okay. On this page, the date of this is
7 March 24th. What is the document that you're attaching?

8 A. A request for transcripts from the IRS -- of tax returns
9 from the IRS.

10 Q. Okay.

11 MS. JIMENEZ: Can we go to 50-8, please.

12 MS. MARTINEZ: Just for the witness?

13 MS. JIMENEZ: Yes. Just for the witness. 50-8.

14 Can you scroll through so the witness could see.

15 BY MS. JIMENEZ:

16 Q. Do you recognize these documents?

17 A. Yes.

18 Q. What are they?

19 A. They're the complete -- they're the completed requests for
20 transcripts of tax returns to the IRS.

21 Q. Did you provide these forms to the Defendant in that email
22 for him to fill out?

23 A. Yes.

24 Q. Did he fill them out?

25 A. Yes.

1 Q. Did he provide them back to you?

2 A. Yes.

3 Q. Are these the forms that he provided filled out back to
4 you --

5 A. Yes.

6 Q. -- in connection with that application?

7 A. Yes.

8 Q. All right.

9 MS. JIMENEZ: Can we publish 50-8.

10 All right. Stop here.

11 BY MS. JIMENEZ:

12 Q. What is a 4506-T?

13 A. Request for Transcript of Tax Return.

14 Q. And to whom was this form going to be submitted?

15 A. The SBA.

16 Q. And what would this form authorize the SBA to do?

17 COURTROOM DEPUTY: I'm sorry, Counsel. Is this to be
18 published?

19 MS. JIMENEZ: It's published, yes. It should be
20 published. I'm sorry --

21 THE COURT: Yeah. 50-8 I do not see in evidence.

22 MS. JIMENEZ: Oh, okay. Did I just say --

23 MS. MARTINEZ: It's not.

24 MS. JIMENEZ: I was moving too quickly.

25 I'd like to move 50-8 into evidence, Your Honor.

1 THE COURT: Is there any objection?

2 MS. WEINTRAUB: No, Your Honor.

3 THE COURT: All right. Admitted into evidence.

4 (Government's Exhibit 50-8 received into evidence.)

5 BY MS. JIMENEZ:

6 Q. All right. On this page, 4506-T -- what is a 4506-T?

7 A. It's the Request for Transcripts of Tax Returns.

8 Q. And so whom is this request being made?

9 A. To the Small Business Association.

10 Q. Well, let me back up.

11 MS. JIMENEZ: Can you just go back. Go to the next
12 page.

13 All right. Here. Stop.

14 BY MS. JIMENEZ:

15 Q. This document that we're looking at right now for the
16 business HM Four, who filled this out?

17 A. Eric Sheppard.

18 Q. All right. And then did you receive this from Mr. Sheppard
19 to provide to the SBA?

20 A. Yes.

21 Q. And then this is provided to the SBA for what purpose?

22 A. For them to get the tax returns.

23 Q. So does this authorize the SBA to turn around to the IRS
24 and request this specific tax return, the 1065, from the IRS?

25 A. Yes.

1 Q. For that business?

2 A. Yes.

3 Q. For the tax years indicated --

4 MS. JIMENEZ: Can you pull back. Can we -- Line
5 Number 9 provides the years.

6 BY MS. JIMENEZ:

7 Q. For those years; is that right?

8 A. Yes.

9 Q. Now, in 2015 and 2016 and 2017, if you know, who was the
10 accountant for HM Four?

11 A. Neal Cupersmith's office.

12 Q. Neal Cupersmith?

13 A. Yes.

14 MS. WEINTRAUB: Objection. That's not what he said.

15 THE COURT: I'm sorry. Do you want to repeat your
16 answer?

17 MS. WEINTRAUB: I'll withdraw it.

18 THE COURT: All right. Certainly.

19 MS. JIMENEZ: Can you go back. Can you go to the next
20 one -- the next page.

21 All right. Stop here.

22 BY MS. JIMENEZ:

23 Q. This business is what?

24 A. HM-UP Development Alafaya Trails.

25 Q. So did Mr. Sheppard execute a 4506-T for HM Development

1 Alafaya Trails?

2 A. Yes.

3 Q. For tax return 1065?

4 A. Yes.

5 Q. What does this authorize the SBA to do?

6 A. Request the tax returns from the IRS.

7 MS. JIMENEZ: Can you go and show -- indicate the date
8 range as well.

9 BY MS. JIMENEZ:

10 Q. All right. And the date range that the SBA is being
11 authorized to obtain tax returns from the IRS is for tax year
12 2015, 2016, 2017; is that right?

13 A. Yes.

14 Q. In those years, do you know who was the accountant for the
15 tax returns -- the 1065 income tax returns of HM-UP Development
16 Alafaya Trails?

17 A. Neal Cupersmith.

18 Q. All?

19 MS. JIMENEZ: Right. Can we go back.

20 Go to the next one, please.

21 BY MS. JIMENEZ:

22 Q. All right. And is this for Eric Sheppard?

23 A. Yes.

24 Q. And is Mr. Sheppard now authorizing the SBA to get a tax
25 return for him, his 1040?

1 A. Yes.

2 Q. For the tax years identified?

3 A. Yes.

4 Q. All right. Okay. Same tax years, right?

5 A. Yes.

6 Q. All right. And these forms were executed on what date?

7 What is the date on the bottom?

8 A. March 24th, 2020.

9 Q. Did you also obtain tax returns to provide with this loan
10 application?

11 A. Yes.

12 Q. Which company's tax returns? Do you remember?

13 A. I think HM Four's, but I don't remember offhand.

14 MS. JIMENEZ: Can we go back to the emails. The --
15 hold on -- Exhibit 50-7.

16 Okay. Can you go down.

17 Okay. Stop.

18 BY MS. JIMENEZ:

19 Q. Okay. So you indicate here that he's going to need the tax
20 return for HM Four. Do you see that?

21 A. Yes.

22 Q. Okay.

23 MS. JIMENEZ: Let's go to the next email.

24 BY MS. JIMENEZ:

25 Q. All right. March 26th, 2020. Can you read this -- who is

1 sending this email to you?

2 A. Eric.

3 Q. What does he tell you?

4 A. "Jeff, attached is the HM Four, LLC executed tax return.

5 Please let this email serve as full authority via myself as

6 managing member that you can download this attachment and

7 upload and send," parenthesis, "along with the SBA government

8 application," close parenthesis, "to the government for the

9 grant or loan for HM Four, LLC.

10 "WAPD Holdings, along with myself as the owner of HM

11 Four, LLC, have discussed and approved the submittal package.

12 I'm asking to send the return and package as a non-party with

13 zero liability, for any reason whatsoever, as an individual."

14 Q. If you know, why is the Defendant writing you this, telling
15 you that you have zero liability for any reason whatsoever?

16 A. I didn't feel comfortable sending the application for HM

17 Four. I felt it should have been for the entity that had the

18 economic -- that actually had the economic loss. And Eric was

19 authorizing me to do this.

20 MS. WEINTRAUB: And where is that?

21 MS. JIMENEZ: All right. Can you go to the next
22 email.

23 Is there another email?

24 All right. Are there -- so there are tax returns

25 attached. Are there any other emails?

1 Okay. Next page.

2 It's repeating.

3 BY MS. JIMENEZ:

4 Q. All right. So did you send the -- the loan package to the
5 SBA?

6 A. Yes.

7 Q. And did you have any other involvement with that loan
8 application?

9 A. No.

10 Q. Do you know what happened with that loan application?

11 A. No.

12 Q. All right. And then, on March 30th, the Defendant writes
13 to you. What is he providing you?

14 A. A mutual friend of ours who is a tax attorney received the
15 government information on the CARES Act loans, and he forwarded
16 us just the PDFs, you know, the information on those loans.

17 Q. All right.

18 MS. JIMENEZ: Go back.

19 MS. WEINTRAUB: Oh. No objection to this.

20 MS. JIMENEZ: So next email. Any --

21 THE COURT: This is part of the emails already in
22 evidence, correct?

23 MS. JIMENEZ: Yes.

24 MS. WEINTRAUB: Thank God.

25

1 BY MS. JIMENEZ:

2 Q. And then here these documents, these CARES Act documents,
3 who's providing them to you?

4 A. Eric forwarded me this email.

5 Q. And the email has attachments with CARES Act information;
6 is that right?

7 A. Yes.

8 MS. WEINTRAUB: Excuse me, Ms. Jimenez. Are the
9 attachments in evidence as well?

10 MS. JIMENEZ: They are, yes.

11 MS. WEINTRAUB: Yes?

12 MS. JIMENEZ: Yes. Well, I mean, they're not in
13 evidence, but they are...

14 BY MS. JIMENEZ:

15 Q. So they're a series of documents that the Defendant
16 provided to you by the CARES Act; is that right?

17 A. Yes.

18 Q. All right. Did you leave the business shortly thereafter?

19 A. Yes, I did.

20 Q. When you left HM Management at the end of March of 2020
21 were you owed any money?

22 A. Yes, I was.

23 Q. What were you owed?

24 A. It was about one month's consulting fee, plus I had put
25 some company expenses on my credit card. So it was about 15 or

1 16,000 dollars.

2 Q. What company's expenses did you put on your credit card?

3 A. There were multiple, between the properties we owned, as
4 well as the King of Diamonds club.

5 Q. All right. Were these expenses that were salaried or
6 expected to be paid? Did you expect to be paid?

7 A. Yes.

8 Q. Did the Defendant pay you the money that he owed you?

9 A. No.

10 Q. Did you ask him to pay you?

11 A. I did.

12 Q. You did?

13 A. Yes, I did.

14 Q. What did he tell you?

15 A. He didn't answer.

16 Q. Did the Defendant tell you that he had received some PPP
17 money and Economic Injury Disaster Loan funds and could pay you
18 back the money that he owed you?

19 A. No, he did not.

20 Q. Your salary and other compensation?

21 A. No.

22 Q. Did you learn at some point after you left that the
23 Defendant had been arrested in connection with this case?

24 A. Yes.

25 Q. When was that?

1 A. I believe it was in July of --

2 MS. WEINTRAUB: Objection. Relevance.

3 THE COURT: Sustained.

4 MS. JIMENEZ: One moment, Your Honor.

5 (Pause in proceedings.)

6 MS. JIMENEZ: Can we show the witness one more exhibit
7 please, 50-6.

8 COURTROOM DEPUTY: Is this only for the witness?

9 MS. JIMENEZ: Yeah -- yes, please.

10 BY MS. JIMENEZ:

11 Q. Mr. Graff, do you recognize this document?

12 A. Yes.

13 Q. What is it?

14 A. It was an email that I sent to the corporate attorney to
15 have my name removed as the manager of various entities that
16 were listed on Sunbiz.

17 Q. Did you copy the Defendant on this email?

18 A. Yes.

19 MS. JIMENEZ: I'd like to move this exhibit into
20 evidence.

21 THE COURT: Any objection?

22 MS. WEINTRAUB: Yes, Your Honor. It's hearsay.

23 THE COURT: Sustained.

24 MS. JIMENEZ: It's not offered for the truth.

25 MS. WEINTRAUB: It's also irrelevant.

1 THE COURT: Then -- if it's not offered for the truth,
2 then it is. The objection is sustained.

3 (Pause in proceedings.)

4 MS. JIMENEZ: So Your Honor, the -- if we can go back
5 to Exhibit 50 -- the last email or the email set -- 50-7, the
6 last page.

7 THE COURT: All right.

8 MS. JIMENEZ: All right. So these documents are
9 attachments to the email. I'd just like to move them in.

10 BY MS. JIMENEZ:

11 Q. And generally, Mr. Graff, what were these?

12 A. These were just general information about the CARES Act
13 loans.

14 Q. And they were -- these records were provided from whom to
15 whom?

16 A. They were provided by a mutual friend of ours to Eric.

17 Q. And then how did -- and who did you get them from?

18 A. Eric.

19 Q. All right.

20 MS. JIMENEZ: I'd just like to move the attachments
21 into evidence as well.

22 THE COURT: Any objection?

23 MS. WEINTRAUB: No objection, Judge.

24 THE COURT: All right. Admitted as well.

25 MS. JIMENEZ: Just for the record, those are

1 Government's Exhibit 50-12.

2 (Government's Exhibit 50-12 received into evidence.)

3 MS. JIMENEZ: I don't have any other questions of the
4 witness.

5 THE COURT: Okay. Cross-examination.

6 MS. WEINTRAUB: Judge, can we take a five-minute
7 comfort break?

8 THE COURT: Yes. Of course.

9 Let's go ahead and take a five-minute comfort break.

10 MS. WEINTRAUB: Sorry.

11 COURT SECURITY OFFICER: All rise.

12 (Jury not present, 4:11 p.m.)

13 THE COURT: Okay. We're on a five-minute recess.

14 (Recess from 4:11 p.m. to 4:18 p.m.)

15 THE COURT: All right. Let me acknowledge the
16 presence of the Defendant.

17 Are both sides ready to continue?

18 MS. WEINTRAUB: Yes, Your Honor.

19 MS. JIMENEZ: Yes, Your Honor.

20 THE COURT: All right. Let's bring in the jury.

21 COURT SECURITY OFFICER: Remain standing for the jury.

22 (Before the Jury, 4:18 p.m.)

23 THE COURT: All right. Welcome back, Ladies and
24 Gentlemen.

25 Please be seated, everyone.

1 And at the conclusion of the day, we will discuss the
2 schedule, and I appreciate your patience.

3 We'll begin with the cross-examination.

4 MS. WEINTRAUB: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. WEINTRAUB:

7 Q. Mr. Graff, my name is Jayne Weintraub. We've never met
8 face to face, have we?

9 A. No, we have not.

10 Q. We have spoken twice on the phone, have we?

11 A. Yes.

12 Q. And I have spoken with you with your lawyer, Barry Wax?

13 A. Correct.

14 Q. Now, you've known Eric Sheppard your whole life
15 practically, right?

16 A. Yes.

17 Q. You grew up together?

18 A. Yes.

19 Q. Since you're small kids, right?

20 A. Yes.

21 Q. You walked at his wedding?

22 A. I did.

23 Q. You know his family. You know Jennifer and their daughter
24 Jordan?

25 A. I do.

1 Q. Fair to say that you have been involved and been supported
2 by Eric's businesses almost all your life?

3 A. One more time?

4 Q. Sorry?

5 A. Can you say that one more time?

6 Q. Sure. You've been working for Eric Sheppard -- for over 20
7 years you worked for him?

8 A. Yes.

9 Q. You're a successful and well-educated guy, aren't you?

10 A. That's an opinion. But yes, I'm well-educated.

11 Q. For HM Management, would you say that it's a fair statement
12 you have coordinated and supervised construction draws and
13 construction accounting for 36 superstores nationwide?

14 A. No.

15 Q. No?

16 A. No.

17 Q. Would you say that you joined -- when you joined HM
18 Management, it was as a chief financial officer?

19 A. No.

20 Q. Mr. Graff, I'm going to show you, and only you, M-49, and
21 ask if that's something that you're familiar with.

22 A. Yes.

23 Q. It is your biography, isn't it?

24 A. It is.

25 Q. And you wrote it, didn't you?

1 A. Yes.

2 MS. WEINTRAUB: Your Honor, I'd move M-49 into
3 evidence.

4 THE COURT: Is there any objection?

5 MS. JIMENEZ: Objection. Relevance -- hearsay,
6 relevance.

7 MS. WEINTRAUB: Let me see if I can go a little
8 further --

9 THE COURT: All right.

10 MS. WEINTRAUB: -- and ask a few more questions.

11 BY MS. WEINTRAUB:

12 Q. Mr. Graff --

13 A. Yes.

14 Q. -- it says on this biography that you wrote -- and I quote:
15 "Mr. Graff was the director of accounting for superstore
16 construction. Mr. Graff coordinated and supervised
17 construction draws and accounting for the 36 superstores
18 nationwide."

19 Did you write that?

20 A. I did.

21 Q. You wrote, "In April" --

22 A. May I explain?

23 Q. Excuse me?

24 A. May I explain?

25 Q. There's no question. No.

1 MS. JIMENEZ: The witness would like to explain why he
2 said that.

3 THE COURT: The question calls for a yes-or-no
4 response. If you need to explain your answer, you may
5 certainly do so.

6 BY MS. WEINTRAUB:

7 Q. Mr. Graff, you also wrote your "duties included, and
8 currently include, development, management of, and accounting
9 for the company's one-million-plus square feet of commercial
10 properties." Did you write that?

11 A. Yes.

12 Q. Was it true?

13 A. Yes.

14 Q. "Mr. Graff is also responsible for coordinating and
15 accounting for the projects in the acquisition, development,
16 and construction phases." Did you write that?

17 A. Yes.

18 Q. Is it true?

19 A. I don't believe that it's -- I don't believe this is fully
20 accurate.

21 Q. But this is what you wrote and put out to the public as
22 your biography, did you not?

23 A. Yes.

24 Q. And you don't believe it's fully accurate?

25 A. Correct. May I explain?

1 Q. What would you like to explain, why you lied?

2 A. No.

3 Q. Then I don't have any other question about it.

4 MS. JIMENEZ: Your Honor, the witness would like to
5 explain his answer.

6 THE COURT: The question calls for a yes-or-no
7 response. If you need to explain your answer, you may
8 certainly do so.

9 THE WITNESS: So the first reference you made to
10 construction of superstores, that was my job at AutoNation, not
11 with -- not with WSG Development or HM Management.

12 BY MS. WEINTRAUB:

13 Q. And other than that, it says: "In April 2000, Mr. Graff
14 joined HM Management as chief financial officer." You wrote
15 that, did you not, sir?

16 A. Yes.

17 Q. Is that true or not true?

18 A. We joined WSG Development, which became HM Management.

19 Q. Your "duties have included, and currently include
20 development, management of, and accounting for the company's
21 one-million-plus square feet of commercial properties." Is
22 that true?

23 A. Development and management and accounting for the
24 companies, yes.

25 Q. And that's Eric Sheppard's companies, correct, that you're

1 referencing, not AutoNation?

2 A. That is Eric Sheppard's companies, correct.

3 Q. And you were "also responsible for coordinating and
4 accounting for the projects in the acquisition, development,
5 and construction phases." Is that accurate?

6 A. Yes.

7 Q. And that was of Eric Sheppard's properties?

8 A. Correct.

9 Q. Now, you were a CPA, right?

10 A. Yes.

11 Q. You had your master's in tax?

12 A. No.

13 Q. You did not have your master's in tax?

14 A. No.

15 Q. Have you ever represented that you had a master's in tax?

16 A. No.

17 Q. Now, the first -- why did you let your CPA license expire?

18 A. I wasn't using it for any practical purpose, and I didn't
19 want to have to continue paying for the continuing education.

20 Q. And so you just gave it up?

21 A. Yes.

22 Q. Did you have a master's in accounting?

23 A. Yes.

24 Q. Yes?

25 A. Yes.

1 Q. Now, there came a time when -- let's see. The first few
2 years you worked for Eric Sheppard, you were the CFO, right?

3 A. Yes.

4 Q. And then there came a time when you gave that up because
5 you wanted to be on the development side?

6 A. There was both a need and a want. Eric needed me on the
7 development side, and I wanted to be on the development side.

8 Q. And you incorporated Graffco?

9 A. Later on.

10 Q. And that's a company, by the way, of you and your wife?

11 A. Yes.

12 Q. And Graffco is a consulting company, correct?

13 A. Yes.

14 Q. And that was a way that you could do your developing, and
15 look for developments for yourself, and still work for Eric; is
16 that right?

17 A. That's not why Graffco was formed, no.

18 Q. But is that what happened?

19 A. Graffco became a company and I primarily did the work at
20 WSG and HM.

21 Q. When did Graffco become a company?

22 A. I think around 2009, 2010.

23 Q. When you decided that you wanted to be on the development
24 side, and not on the accounting side anymore, was that to give
25 you an opportunity to do developing on your own?

1 A. No.

2 Q. No? You were not going to develop your own projects?

3 A. No.

4 Q. Now, you were paid \$150,000 a year. Is that what you told
5 the Government?

6 A. Yes.

7 Q. And they asked you what you were paid, right?

8 A. They asked me? Is that what you said?

9 Q. They asked you what you were paid, and you told the FBI
10 that you made 150,000?

11 MS. JIMENEZ: Objection. This is outside the scope of
12 direct and irrelevant.

13 THE COURT: Overruled. I'll allow it at this point.

14 THE WITNESS: Yes.

15 BY MS. WEINTRAUB:

16 Q. And you did not tell the Government that in addition to the
17 \$150,000 that Mr. Sheppard paid you that you also had a car
18 lease, correct?

19 A. Correct.

20 Q. And the car lease was for a new BMW 5?

21 A. Depended on the year. It ranged between a 3 and an X5.

22 Q. Because you got to turn them in and upgrade them?

23 A. Yeah.

24 Q. And he always paid for the deposit and the monthly lease?

25 A. Yes.

1 Q. That was part of your compensation?

2 A. Correct.

3 Q. And that came out to about another 25, 27,000 dollars a
4 year?

5 A. Okay. I didn't do the math, but okay.

6 Q. Your car payment was \$877 a month, wasn't it?

7 A. I don't remember.

8 Q. Do you remember how much the deposit was?

9 A. Various -- we put deposits at various times.

10 Q. And you also got health insurance from Mr. Sheppard, didn't
11 you, for you and your wife?

12 A. Yes, I did.

13 Q. And for your family, yes?

14 A. I believe so, yes.

15 Q. And that -- well, believe so or you know so?

16 A. Yes. My kids were still young, under the age -- yes.

17 Q. And that also was about \$27,000 a year, wasn't it?

18 A. Again, I wasn't involved in the payments, but that could be
19 possible.

20 Q. Do you want to see it or do you deny it?

21 A. I don't deny it.

22 Q. Okay. So in fact, you were making almost \$200,000 a year
23 of compensation from Mr. Sheppard, weren't you, with the car
24 and the insurance, right?

25 A. Yes.

1 Q. Okay. Now, also as part of your compensation with
2 Mr. Sheppard, there were occasions when he gave you some equity
3 in part of the deals that he was working on, correct?

4 A. That's correct.

5 Q. And you never put money into a deal, did you?

6 A. No.

7 Q. You never -- you yourself never scouted and found the
8 property, correct?

9 A. No, that's not correct.

10 Q. You did -- you found the property and developed it?

11 A. Yes.

12 Q. And what property was that?

13 A. WSG Arundel, LLC and WSG Hanover, LLC.

14 Q. And it's your testimony that you found and developed both
15 of those yourself without Eric Sheppard?

16 A. No. That's not my testimony. I found those deals, put
17 them together with Eric's backing.

18 Q. And you got 10 percent of that, didn't you?

19 A. Of those deals, yes.

20 Q. And that was another hundred thousand dollars when it was
21 sold, was it not? One was a hundred, one was 122,000, correct?

22 A. I don't think -- one of them wasn't sold while I was still
23 there.

24 Q. Did you get a hundred thousand dollars when it was?

25 A. The one that was sold, probably yes.

1 Q. And the 122,000, are you saying that you did not get that?

2 A. I don't know which one you're referencing.

3 (Pause in proceedings.)

4 BY MS. WEINTRAUB:

5 Q. Now, you didn't guarantee any of the loans for those deals,
6 did you?

7 A. No.

8 Q. I mean, in other words, you didn't take any risk. All the
9 risk went to Eric Sheppard, right?

10 A. I believe for the permanent loans, the end loans, once the
11 projects were built, all guarantees were joint and several for
12 standard carve-outs, so I did have a portion of the liability.

13 Q. Essentially, it was your job to manage the property
14 project, correct?

15 A. Yes.

16 Q. And that's what you got paid for?

17 A. Yes.

18 Q. And on top of getting paid to do that job, you also enjoyed
19 some of the equity that we just talked about, right?

20 A. For certain projects, yes.

21 Q. Now, on the WSG Hanover deal, you got a distribution, we
22 just said, of a hundred thousand dollars, right?

23 A. Yes.

24 Q. Put up zero money, correct?

25 A. Yes.

1 Q. And on your K-1 you showed the hundred thousand, right?

2 A. Yes.

3 Q. Now, one of the partners of Eric at the time was somebody
4 named Robert Kallman, right?

5 A. Yes. But I don't know about -- if he was in Hanover or
6 not. I don't remember.

7 Q. Are you familiar with Robert Kallman?

8 A. Yes.

9 Q. Very simply, wasn't there a problem between you and Robert
10 Kallman over a mistake that you made and he didn't want to pay
11 you the full amount that you initially were promised?

12 A. I don't remember it being over a mistake that I made.

13 Q. Do you remember having a dispute or a disagreement with
14 Robert Kallman about it? And I believe it was on the Arundel
15 deal.

16 MS. JIMENEZ: Objection. Relevance, Your Honor.

17 THE COURT: Sustained.

18 BY MS. WEINTRAUB:

19 Q. Didn't you go to Eric Sheppard to help you --

20 MS. JIMENEZ: Objection.

21 BY MS. WEINTRAUB:

22 Q. -- with Robert Kallman to get money?

23 MS. JIMENEZ: Objection. Same objection.

24 THE COURT: Can you focus on the time frame, please.

25

1 MS. WEINTRAUB: Sure.

2 BY MS. WEINTRAUB:

3 Q. When was this -- this was after you left the company,
4 wasn't it, that this money had to be paid?

5 A. Yes.

6 Q. And so, right after you left the company, you were still
7 asking for Eric's help and he's still giving it to you?

8 A. Yes.

9 Q. And you went to Eric for help. He went to Kallman, and
10 resolved it for you, right, and you wound up getting money?

11 A. I got some of it, not all of it.

12 Q. And when you sat with the Government, and you spoke with
13 them, you only told them about the \$150,000. You never
14 mentioned this other money either, did you?

15 A. Correct.

16 Q. Mr. Graff, it was a pretty good deal working for Eric for
17 20 years, wasn't it?

18 A. I enjoyed my time.

19 Q. Now, we talked a little about Jeanette Gonzalez, right?

20 A. (No verbal response.)

21 Q. Yes?

22 A. Today?

23 Q. Yes.

24 A. Yes.

25 Q. Now, when you worked for Eric in the Miami Beach office on

1 41st Street -- do you remember that?

2 A. I do.

3 Q. And Eric referred to the accounting department as

4 Ms. Soriano and Addy Sosa, right?

5 A. There was a lot of people when we were in the Miami Beach
6 office, yes.

7 Q. And the accounting and bookkeeping was done by Denise
8 Soriano and Addy Sosa, right?

9 A. Primarily, yes.

10 MS. JIMENEZ: Time frame? When? I'm sorry. When was
11 this?

12 MS. WEINTRAUB: In the Miami Beach office.

13 MS. JIMENEZ: Time?

14 THE COURT: All right. Can we narrow down the time?

15 THE WITNESS: Can I narrow down the time? Are you
16 asking me to narrow down the time?

17 BY MS. WEINTRAUB:

18 Q. Do you know when that was when you worked with Addy Sosa
19 and Denise Soriano?

20 A. Probably came around 2004, 2005.

21 MS. JIMENEZ: Objection, Your Honor, irrelevant.

22 THE COURT: Overruled. I'll allow it at this point.

23 BY MS. WEINTRAUB:

24 Q. And even when there were a lot of people working, there was
25 no comptroller officially, was there?

1 A. No.

2 Q. And the books were always done by people that were
3 qualified to do the books, and they had you to ask questions if
4 they needed, right?

5 A. I did not have interaction with Denise and Addy at that
6 time on any accounting matters.

7 Q. Eventually, Jeanette took that over, right -- took that job
8 over?

9 A. Yes.

10 Q. And she became the bookkeeper for Eric's companies in about
11 2014?

12 A. Sounds right.

13 Q. And for the following many years, you worked pretty closely
14 with Jeanette, didn't you?

15 A. Yes.

16 Q. She learned how to do the books from people before her, but
17 you're sitting pretty close to her and she's always asking you
18 questions, right?

19 A. She learned the accounting from Addy, who was still there
20 for awhile.

21 Q. And you were familiar with -- she did the books on
22 QuickBooks, right?

23 A. Yes.

24 Q. QuickBooks is a software application or --

25 A. Yes. An accounting software.

1 Q. -- program?

2 A. Yeah. An accounting software program.

3 Q. And you're familiar with QuickBooks, right?

4 A. Yes.

5 Q. And you're familiar with how the QuickBooks and reports are
6 kept for Eric Sheppard's companies, aren't you?

7 A. I don't know if I understand the question.

8 Q. There have been times when you've asked Jeanette Gonzalez
9 to generate a QuickBooks report for you for one reason or
10 another; isn't that right?

11 A. Yes.

12 Q. And she's done that?

13 A. Correct.

14 Q. Was it Jeanette's role at HM Management and Development to
15 generate QuickBooks reports?

16 A. Yes.

17 Q. Now, there were also actual physical filing cabinets,
18 right, at HM Management and Development offices?

19 A. Yes.

20 Q. Do you agree that every project involves a lot of paper?

21 A. Yes.

22 Q. Every project, even though things are done electronically,
23 wind up being in these huge binders, right?

24 A. We had folders for the property and binders for the
25 accounting.

1 Q. And was part of Vanessa's job to do the filing early on?

2 A. Yes.

3 Q. And did there come a time when Mary Ataca also came to help
4 with the filing and other tasks that needed to be done?

5 A. I don't know Mary's last name. But if you're talking about
6 Mari, yes, that's her.

7 Q. Thank you.

8 A. Uh-huh.

9 Q. Back to the QuickBooks records. You could run different
10 kinds of reports on QuickBooks, right?

11 A. Yes.

12 Q. They're kept in the regular course of Eric Sheppard's
13 businesses, yes?

14 A. They are -- I mean, we use QuickBooks Online, which was a
15 cloud-based version. So the reports are stored in the company
16 files.

17 Q. And the entities CJUF or Alafaya, they are all kept
18 separate with different QuickBooks dividers or different entity
19 programs, right?

20 MS. JIMENEZ: Objection. Can we talk about time
21 frame?

22 THE COURT: Let's narrow it down, please.

23 MS. WEINTRAUB: Well, to quote the Government:
24 "Ever."

25 THE COURT: I'm sorry?

1 MS. WEINTRAUB: The Government often said, when I was
2 asking for time frame: "Ever."

3 THE COURT: And I asked Ms. Jimenez to narrow down.
4 So if we can just narrow down the time frame.

5 BY MS. WEINTRAUB:

6 Q. From 2015 on, to your knowledge, were the books kept --
7 each company was kept separately?

8 A. Yes.

9 Q. Jeanette Gonzalez processed checks, yes?

10 A. Yes.

11 Q. She wrote checks?

12 A. Yes.

13 Q. She reconciled the bank statements?

14 A. Yes.

15 Q. Now, you said I think on direct that Jeanette Gonzalez
16 didn't do anything with the CPAs or to help prepare taxes. Do
17 you remember that line of questioning?

18 A. Yes. But I don't think that I said that.

19 Q. Okay. Because Jeanette did help preparing tax returns,
20 right?

21 A. She submitted the information to the accounting firm.

22 Q. Correct. So she would give the accountants whatever they
23 asked for?

24 A. Correct.

25 Q. She would give them -- or reconcile bank statements?

1 A. Yes.

2 Q. Whatever the expenses and the ledgers that had to be
3 separated and reflected properly -- she gave them all of her
4 books, right?

5 A. Correct.

6 Q. So that the tax returns could be prepared properly by the
7 CPAs?

8 A. Yes.

9 Q. Now, the CPAs, that's Neal Cupersmith's office. He
10 originally worked with Eric Sheppard 20, 25 years ago, right?

11 A. Yes.

12 Q. And they remained the accounting firm until Eric's arrest,
13 right?

14 A. I know they were there when I left. I don't know how long
15 they stayed --

16 Q. Well, even until -- well, from the time you got there till
17 the time you left, it was Neal Cupersmith's firm that did the
18 accounting for all of Eric's businesses; is that correct?

19 A. Yes.

20 Q. And there were about 28 different business entities that
21 tax returns had to be generated on. You knew that, right?

22 A. I don't know the exact number. There were a lot.

23 Q. Plus, he had personal income tax returns to do?

24 A. Yes.

25 Q. Plus, you know that Cupersmith also did the family's tax

1 returns, including Jennifer's, right?

2 A. I don't know that.

3 Q. Okay. Now, the Government showed you a lot of documents
4 and asked you, I guess, to be their expert on Eric's
5 handwriting. Do you remember those documents?

6 A. Yes.

7 Q. Now, you and I have spoken, right?

8 A. Yes.

9 Q. And you and I have spoken with your lawyer on the phone as
10 well, right?

11 A. Correct.

12 Q. And after the first time you met with the Government, you
13 hired a lawyer?

14 A. I don't know if it was after the first time, but yes.

15 Q. And --

16 MS. WEINTRAUB: M-34, Chris.

17 BY MS. WEINTRAUB:

18 Q. And let's look at some of these documents. Looking at -- I
19 have it marked as M-34. Do you see it in front of you?

20 A. Yes, I do.

21 Q. Do you remember being asked about this document?

22 MS. WEINTRAUB: I don't remember what exhibit it is.

23 MS. JIMENEZ: Which number, please?

24 MS. WEINTRAUB: I'm asking for the exhibit number.

25 THE COURT: Is M-34 in evidence?

1 MR. CAVALLO: I'm double-checking.

2 MS. MARTINEZ: It may be in evidence as a Government
3 exhibit, but we just need the number.

4 MS. WEINTRAUB: It is in evidence. I --

5 THE COURT: All right. If we can just identify it for
6 the record as the exhibit number.

7 Does the Government have any objection -- you know the
8 exhibits. Is this part of the Government's exhibits? Is there
9 an objection to the introduction of M-34?

10 MS. MARTINEZ: It appears to be a Government exhibit,
11 Your Honor. We're just looking for the --

12 MR. CAVALLO: Your Honor, it's Exhibit 19-16.

13 THE COURT: Thank you.

14 All right. Then you may continue.

15 BY MS. WEINTRAUB:

16 Q. Mr. Graff, as you sit here under oath, are you swearing to
17 this jury that that's Eric Sheppard's handwriting that you see?

18 MS. MARTINEZ: You didn't show him that.

19 THE WITNESS: That looks to be Eric Sheppard's
20 handwriting to me.

21 BY MS. WEINTRAUB:

22 Q. Let's stop with -- we are being very equivocal. Because
23 you've said things like: "Well, I feel like it's Eric's
24 signature," right? You said that?

25 MS. JIMENEZ: Objection. He hasn't said that here.

1 THE COURT: The objection is sustained. You may
2 continue.

3 BY MS. WEINTRAUB:

4 Q. Do you remember saying: "It feels like Eric's signature"?
5 Yes or no?

6 A. I don't remember.

7 Q. Do you remember speaking with the FBI agent on
8 September 14th?

9 A. I don't remember the exact dates.

10 Q. Does it sound familiar that it was in the middle of
11 September?

12 A. Yes. That's possible.

13 Q. Do you remember -- and who was at that meeting? Let's see.
14 FBI Sarah Halleran was at that meeting? She's sitting right
15 there at the Government's table, right?

16 A. Yes.

17 Q. The prosecutor was there. Assistant US attorney
18 Ms. Jimenez and Ms. Martinez, both of them were there, right?

19 A. Yes.

20 Q. And do you remember saying that the signature, quote -- and
21 I'm quoting: "Feels like Eric Sheppard's signature"?

22 A. Yes.

23 Q. So when you said: "It feels like," do you remember then
24 speaking with me with your lawyer and we talked about not
25 speculating? Do you remember that?

1 A. Yes.

2 Q. And do you remember talking about whether or not you would
3 be able to swear under oath that, in fact, you believe there's
4 no doubt that's Eric's signature? Do you remember that?

5 A. Yes.

6 Q. And what did you say?

7 A. In certain cases I could. In certain cases I could not.

8 Q. And do you remember what you said about this document, that
9 you could not swear that it was Eric's signature?

10 A. I don't remember that.

11 Q. You also said that the handwritten document, which is
12 Exhibit --

13 MR. CAVALLO: It's the same exhibit.

14 BY MS. WEINTRAUB:

15 Q. Showing you the second page. You said to the FBI that the
16 handwritten names were not like Eric's. Do you remember that?

17 A. Yes.

18 Q. But the Government didn't ask you that when she was just up
19 here a half hour ago, right?

20 A. No.

21 Q. You also advised the Government that, as to the numbers --
22 you said the letters were not Eric Sheppard's, and you said the
23 handwritten numbers didn't appear to be. Do you remember that?

24 A. Yes.

25 Q. You also didn't tell that to the Government when they were

1 up here a little while ago, did you?

2 A. Not if they didn't ask.

3 Q. You told the Government that you were unsure and you did
4 not know whether or not the handwriting shown --

5 MS. WEINTRAUB: M-44 and 46 --

6 BY MS. WEINTRAUB:

7 Q. -- were Eric's handwriting. Do you remember that? I'll
8 show you the document.

9 MR. CAVALLLO: Just for the witness.

10 MS. WEINTRAUB: Can we pull up 44 and 46.

11 Okay. I must have it wrong. If I can have a minute,
12 Judge.

13 (Pause in proceedings.)

14 MS. WEINTRAUB: Go to the signature.

15 MS. JIMENEZ: This document's not in evidence.

16 MS. WEINTRAUB: I don't know what exhibit it is. But
17 I have it marked, Your Honor, as our Defense Exhibit M-35.

18 THE COURT: All right. Let's lay the appropriate
19 foundation. If it's not in evidence, showing the witness only,
20 please.

21 BY MS. WEINTRAUB:

22 Q. Do you remember being shown this document?

23 A. By the Government?

24 Q. Sorry?

25 A. By the Government or now?

1 Q. Yes. By the Government. Did I ever show you any document?

2 A. I'm just looking at it now. Sorry.

3 Yes.

4 Q. That's confusing. Okay. Stop.

5 Did the Government show you this document? It is a
6 lease, and it says -- in the bottom right-hand corner -- there
7 are numbers in red -- "SHEPP 589." See that?

8 A. I do.

9 Q. Did the Government show you this?

10 A. They did.

11 Q. Did they ask you if you thought that was Eric's signature?

12 A. They asked me that.

13 Q. They did not?

14 A. They did ask me that.

15 Q. And what did you tell them?

16 A. That does not look like Eric's signature.

17 Q. Do you know the handwriting of other workers --

18 MS. WEINTRAUB: You can take that down, Chris.

19 BY MS. WEINTRAUB:

20 Q. Do you know the handwriting of other workers that were
21 working in the business?

22 A. Not overly well.

23 Q. Sorry?

24 A. Not overly well.

25 Q. Do you know Glenn Sheppard's handwriting?

1 A. I'd have to see something to recognize it but not offhand.

2 Q. Have you ever seen him sign something on a regular basis to
3 recognize it?

4 A. Not on a regular basis, no.

5 Q. How about Carlos Granda? Have you ever seen him sign
6 things?

7 A. Don't know who that is.

8 Q. How about Jeff Vasilas? You ever see him sign things?

9 A. No.

10 MS. WEINTRAUB: Now, can you bring up 19-16 again. Go
11 up with the other people.

12 BY MS. WEINTRAUB:

13 Q. By the way -- so Jeanette Gonzalez would keep -- would know
14 your Social Security number, right?

15 A. I don't know if she'd know it by heart, but she would have
16 access to it.

17 Q. I didn't ask you if she knew it by heart. She has the
18 records of it, right?

19 A. I would assume so, yes.

20 Q. She has your home address?

21 A. Yes.

22 Q. Now, since there would be records of your Social Security
23 number, you're not saying that it was Eric Sheppard that put
24 the wrong Social Security number there, especially since you
25 don't think the numbers are his, right?

1 A. I'm saying that's not my Social Security number.

2 Q. Okay. But you're not swearing to this jury that you think
3 that Eric Sheppard wrote that, right?

4 A. No.

5 Q. Is that correct?

6 A. That's correct. Sorry.

7 Q. No. I apologize. The truth is, is that you don't know who
8 signed that document or wrote that document, do you?

9 A. No.

10 Q. And you don't know who submitted that, do you?

11 A. No.

12 Q. And sitting here, without guessing and without speculating,
13 you can't swear or say that Eric Sheppard would have told
14 anybody to do that, can you?

15 A. Say that one more time so can I follow you. I'm sorry.

16 Q. Sure. Sitting here, without speculating, you're not saying
17 under oath -- it's not your testimony that Eric must have told
18 somebody to write that and put the numbers down wrong?

19 A. Yes. Correct.

20 Q. And the lease that we looked at before, the same thing.

21 You recognize that's not Eric's signature. You don't know who
22 signed it, do you?

23 A. No, I don't.

24 Q. And you don't know if whoever forged Eric's name had
25 permission to do that, do you?

1 MS. JIMENEZ: Objection.

2 THE WITNESS: I don't.

3 MS. JIMENEZ: What does that have to do with this
4 document? Are we talking about this document?

5 THE COURT: I don't think it's referring to the
6 document. Is that the objection?

7 MS. JIMENEZ: Yes. I don't know which document she's
8 talking about.

9 MS. WEINTRAUB: We can take this document down, Judge.
10 I apologize if there was a -- and put back the lease, which
11 is --

12 MR. CAVALLO: The lease should only go to the witness.

13 THE COURT: All right.

14 BY MS. WEINTRAUB:

15 Q. Looking at M-35 again, you already testified a few minutes
16 ago that you don't believe that's Eric's signature on that
17 lease, right?

18 A. Right.

19 Q. And my question to you is: You don't know who forged his
20 name, do you?

21 MS. JIMENEZ: Objection. That's not what he said.

22 THE COURT: Sustained.

23 BY MS. WEINTRAUB:

24 Q. Do you know who wrote that name?

25 A. No.

1 THE COURT: Ms. Weintraub, I just want to remind you
2 that one of the jurors needs to leave at precisely five
3 o'clock.

4 MS. WEINTRAUB: Then, respectfully, Judge, can we
5 break?

6 THE COURT: At the appropriate time that you're ready
7 to break.

8 MS. WEINTRAUB: I think this is -- I think this is
9 fine.

10 THE COURT: All right.

11 Then, Ladies and Gentlemen, we will certainly be
12 respectful of your time.

13 Now, I understand that Liz has spoken with each of
14 you. And I am going to ask that Juror Number 7, Ms. Marichal,
15 if you will remain in the courtroom.

16 But with regard to the remainder of the members of our
17 jury, the schedule will be as follows. Recall that we will not
18 be in session tomorrow or Friday. On Monday, December 11th, we
19 will start right at nine a.m., and it will be a full day from
20 nine to five with the appropriate breaks.

21 On Tuesday, December 12th, we'll begin at 9:30. It
22 will be a full day from 9:30 to five p.m. On Wednesday,
23 December 13th, we will begin at ten a.m. and we will conclude
24 at five. And on Thursday, December 14th, we'll begin at
25 9:30 and we'll conclude at four p.m. And to be respectful of

1 two of the jurors, we will not be in session on December 15th.

2 Okay. So I have given you the schedule. Let me also
3 remind you that, as we adjourn -- and I will not see you until
4 Monday, December 11th -- you are not to discuss this case with
5 anyone. You are not to receive any additional information.
6 You're not to read about reports that there may be about the
7 case. Everything learned about the case is learned in this
8 courtroom.

9 I would ask that you place your juror notes in the
10 jury room that will remain locked.

11 Have a wonderful rest of the week and weekend, and I
12 will see you on Monday, December 11th, at nine a.m.

13 And Ms. Marichal, if you'll remain in the courtroom.

14 COURT SECURITY OFFICER: All rise.

15 (Jury not present, 4:58 p.m.)

16 THE COURT: All right. Go ahead and have a seat,
17 everyone.

18 Ms. Marichal, I was informed by the courtroom deputy
19 that you are unable to work past December 12th. When I did
20 first ask you about your time commitments, obviously we didn't
21 anticipate that we would need to continue through that week.
22 So as a result, based on the hardship that it would place on
23 you, we have agreed to excuse you.

24 Now, having said that, Ms. Marichal, the trial is
25 ongoing. You are not to discuss this case with anyone, nor

1 permit anyone to speak with you. At this point, you are
2 excused with the thanks of the Court, but I want to ensure that
3 the Court's admonition applies, even though you are excused as
4 a juror, and the courtroom deputy will advise you at the
5 conclusion of the case. And then at that point obviously there
6 would be no further order from this Court.

7 All right. The courtroom deputy will give you further
8 instructions. I would ask that -- at this time, that you go
9 through the jury room because Liz Gariazzo is back there, and
10 she will speak directly to you.

11 Thank you, Ms. Marichal. And you are excused with the
12 thanks of the Court.

13 COURT SECURITY OFFICER: All rise.

14 THE COURT: Thank you, Ms. Marichal.

15 (Juror Number 7 excused, 5:00 p.m.)

16 THE COURT: All right. Go ahead and have a seat.

17 Once again, Mr. Graff, we will see you on Monday,
18 December 11th, at nine a.m. Since you are still on the witness
19 stand, you're not to discuss your anticipated testimony, the
20 testimony of any individual, or any aspect of the case. And I
21 will see you on Monday, December 11th, at nine a.m. All right,
22 sir?

23 THE WITNESS: Okay.

24 THE COURT: Are there matters that we need to address
25 at this time before I see the parties here on Monday,

1 December 11th?

2 MS. WEINTRAUB: Witnesses on Monday, Judge.

3 THE COURT: All right. Ms. Jimenez or Ms. Martinez,
4 if you can advise the Court, following Mr. Graff's testimony,
5 who will the Government be calling on Monday, December 11th?

6 MS. JIMENEZ: Yes, Your Honor. The Government will be
7 calling Neal Cupersmith, Brent Motes, Nelia Palancar.

8 THE COURT: Do you believe that will take us through
9 the day?

10 MS. JIMENEZ: Unfortunately, I do.

11 THE COURT: All right, then. Are there any issues
12 with regard to particular exhibits?

13 And let me just remind the parties that the purpose of
14 conferring before the pretrial conference and listing exhibits
15 by way of filing the exhibit list on the docket is so that the
16 parties are expected to review the exhibits ahead of time and
17 be prepared to make any objections. So with regard to any
18 exhibits that have been listed, if you will confer tomorrow,
19 Friday, or certainly before December 11th, so that the Defense
20 is well aware of the exhibits that will be introduced. All
21 right?

22 MS. WEINTRAUB: Yes, Your Honor.

23 MS. JIMENEZ: Yes.

24 THE COURT: Is there anything further that we need to
25 address? On behalf of the Government?

1 MS. JIMENEZ: No, Your Honor.

2 THE COURT: On behalf of the Defendant?

3 MS. WEINTRAUB: No, Judge. Just on a personal note, I
4 would say happy holiday.

5 THE COURT: And to you as well. To everyone, a happy
6 holiday season.

7 Let me also remind you that you have free use of the
8 conference rooms. And the court security officer will lock the
9 courtroom, as well as the conference room, so you do not need
10 to take any of the items. They'll remain secure. Okay.

11 MR. ETRA: Thank you.

12 MS. WEINTRAUB: Thank you.

13 THE COURT: Take good care. Have a nice evening.

14 (Proceedings adjourned at 5:02 p.m.)
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25

1 UNITED STATES OF AMERICA)

2 ss:

3 SOUTHERN DISTRICT OF FLORIDA)

4 C E R T I F I C A T E

5 I, Yvette Hernandez, Certified Shorthand Reporter in
6 and for the United States District Court for the Southern
7 District of Florida, do hereby certify that I was present at,
8 and reported in machine shorthand, the proceedings had the 6th
9 day of December, 2023, in the above-mentioned court; and that
10 the foregoing transcript is a true, correct, and complete
11 transcript of my stenographic notes.

12 I further certify that this transcript contains pages
13 1 - 221.

14 IN WITNESS WHEREOF, I have hereunto set my hand at
15 Miami, Florida, this 25th day of February, 2025.

16
17 /s/Yvette Hernandez
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